INTERNAL SECURITY AND JUDICIAL COOPERATION

The EU and Counter-terrorism: Next Steps

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Several years after bombs claimed over 250 lives in London and Madrid, Europeans still face risks from terrorism. Recent events in Afghanistan, India and Pakistan have served as a reminder to western governments and their allies that Islamist terror cells remain active worldwide and continue to plot attacks at home and abroad. The growing strength of jihadist cells in North Africa, close to the EU's borders, as well as in Yemen and the Horn of Africa, causes concern. And the United States still views the EU's passport-free Schengen area as a potential haven for militants planning new attacks against America.

The EU has no direct role in ensuring the internal security of its member states. Its institutions are not actively engaged in the day-to-day business of preventing terrorist attacks: their chief contribution is to ensure that the legal and practical structures for counter-terrorism cooperation are robust and effective. Terrorism is one of the main priorities of the G6, an internal security vanguard made up of the interior ministries of Britain, France, Germany, Italy, Poland and Spain. Almost all these countries feel threatened by terrorism and have elaborate national counter-terror systems. That means they have agencies and resources specifically dedicated to gathering counter-terrorism intelligence; can respond rapidly in the event of a terrorist attack to protect civilians and infrastructure; and, to some degree, have integrated counter-terrorism priorities into their foreign policies.

Amongst the other EU countries, Denmark and the Netherlands also feel threatened and have similar security set-ups as regards terrorism. But the rest of the member states have less developed counter-terror capabilities and rely on normal law enforcement and intelligence-gathering. Thus, a central purpose of the EU's work on counter-terrorism is to help protect those member countries which feel threatened, by raising the internal security standards of all. The EU did agree on a common strategy in 2005 in which the member states categorised their common counter-terrorism efforts under the headings 'prevent', 'protect', 'pursue' and 'respond'. But the strategy was mostly intended to show how the EU's existing responsibilities were relevant to national counter-terrorism efforts, both before (prevent and protect) and after (pursue and respond) an attack. These objectives include

regulating to protect civilian infrastructure and secure hazardous materials, helping to fight cross-border crime, improving border security and trying to speak with one voice in foreign policy.

Since 2001, EU interior ministers have harmonised the definition of terrorism (essential for police to pursue terrorists across borders), as well as making it a crime across Europe to recruit or train terrorists. Agreed in the aftermath of 11th September, a 'European arrest warrant' has dramatically accelerated and simplified the extradition of suspects between member states, as seen in some high-profile terrorism cases. Experts from the EU's Joint Situation Centre (SitCen) – a body composed of national intelligence experts seconded to Brussels – brief EU policy-makers about the latest terrorist trends and risks on an ongoing basis.

Modern states no longer control communications or utilities, such as power and water in the way they once did. Therefore private sector cooperation is indispensable to cope with modern security threats. Businesses may find it unpalatable and expensive, but counter-terrorism regulations can make people safer by reducing the opportunities for terrorists to develop low-tech weapons or to target travellers and tourists. The main goal for EU countries is to make the single market as 'terrorism-proof' as possible. That includes agreeing European legislation to track and control the movement of explosive substances like ammonium nitrate (the principal substance used in numerous terrorist bombings); setting down common safety requirements for airports and other transport hubs; and attempting to ensure that privately-owned infrastructure can withstand foreseeable emergencies.

Terrorist cells need considerable sums to maintain their organisations long enough to plan and carry out serious attacks, and to recruit and radicalise others. Contrary to popular belief, substantial amounts of terrorist funding still go through the formal banking system. Consequently, EU money-laundering laws require private sector workers, such as bankers, lawyers and accountants, to file reports about suspicious activity to the local authorities whenever they suspect terrorist groups may be moving funds. EU interior ministry officials also maintain two terrorism blacklists, updated every six months. One list incorporates Al-Qaeda and Taliban members already blacklisted by the UN Security Council, and another deals with other terrorist organisations from Europe, the Middle East, Latin America and Asia. Individuals and groups on these lists have had their bank accounts frozen and their travel rights suspended (however, the way groups are added to or deleted from these lists has provoked controversy).

Traditional foreign policy seems absent from European counter-terror efforts. For example, the EU has neither the capabilities nor the political will to deploy a military mission in support of counter-terrorism objectives, unlike NATO in Afghanistan. Partly, this is because the EU's clout in hard power is even weaker than in internal security. But more fundamentally,

terrorism is a difficult subject for EU foreign ministers because of the deep divisions between European countries over the Iraq war, and the war on terror more generally. Controversies over the extraordinary rendition of terrorist suspects, 'targeted' killings of suspected Al-Qaeda operatives and abuses at the Abu Ghraib prison and Guantánamo detention camp ensured that collective EU efforts remained low-key and limited in scope.

The United States has moved away from the 'global war on terror' concept to a more multilateral approach, emphasising a return to the conventions of international law and engagement with key partners such as the EU, United Nations and mainstream Muslim forces. President Obama's decision to close the Guantánamo Bay detention centre represents a huge opportunity for the EU to deepen security cooperation with the United States in the coming years. The EU and United States should agree on a joint strategy on internal security in areas where they have shared concerns arising from terrorism, organised crime and unmanaged migration. The strategy could be agreed at an EU-US summit expected under Spain's EU Presidency in 2010. The part of the strategy that deals with counter-terrorism should include cooperation on threat assessment; and better cooperation between the FBI and Europol, as well as between the CIA and SitCen. The accord would also incorporate current EU-US efforts to forge agreements on the sharing of passenger information, data protection and the monitoring of international financial transactions. More broadly, the main point of the strategy should be to agree on joint foreign policy priorities where these are linked to the threat of terrorism.

Pakistan must be at the forefront of these priorities. The fluctuating political and security situation there is a constant source of concern for western policy-makers. Al-Qaeda and a resurgent Taliban both have sanctuaries in Pakistan's tribal borderlands. The country is simultaneously facing open warfare with the Taliban in its 'federally administered tribal areas', and other Islamist extremists who have carried out a number of major attacks in urban areas. In the worse case scenario, it is not inconceivable that Pakistan – and its nuclear weapons – could fall into the hands of extremist political forces. Nevertheless, despite these risks, on a per capita basis the EU gives 20 times as much aid to Nicaragua as it does to Pakistan. EU countries have gone some way to addressing this imbalance by setting aside €5 million of the EU 'Stability Instrument' for counter-terrorism efforts in Pakistan, but this is tiny compared to what some member states give individually.

A second priority should be the Middle East peace process. Arguably, no other issue feeds Muslim resentment towards the West more than the Israeli-Palestinian conflict. Political conditions for a settlement do not look good: Israel's Prime Minister, Benjamin Netanyahu, has spent his career opposing concessions to the Palestinians. Meanwhile, the Palestinian territories were disastrously split in 2007, when Hamas asserted control over Gaza. Nonetheless, President Obama raised the political stakes in June 2009. In a well-received speech to the 'Muslim world' in Cairo, Obama committed the United States to a fresh push for a sustainable, two-state settlement to which Netanyahu has been compelled to respond.

The EU has a role to play in this shifting game. France and Britain – member states with a colonial history in the region – are happy to direct much of their diplomatic effort on this issue through EU structures. Yet, despite being the largest single aid donor to the Palestinian Authority, the European Commission's regional office there lacks even an Arabic-speaking spokesperson in a part of the world where Al-Jazeera serves as "the Parliament of the Arabs", according to one British official. The establishment of a European External Action Service (EEAS) would do much to give EU diplomatic efforts in the region more capability and visibility (discussed below). To support US efforts, the EU should embrace Israel with 'tough love' – it should make clear that it is keen to deepen bilateral relations and provide full assistance for peace talks, but insist on the need for Israel to recommit fully to the peace process.

Turkey should be another priority. The country has become more popular in the Arab world due to its refusal to cooperate with the United States invasion of Iraq and its Prime Minister's very public protest against the 2008 Israeli incursion into Gaza. During the same period, Turkey's relations with both the United States and EU have worsened. The EU, meanwhile, must continue membership negotiations with Turkey, since a unilateral suspension would permanently sour relations. To most European Muslims, Turkish membership would send a powerful message about the viability of a moderate European Islam. EU countries should clamp down on the European organisation of the Partiya Karkerên Kurdistan (PKK), an ethno-nationalist group already on the EU's list of outlawed terrorist organisations. That would help ensure greater cooperation from the Turkish security services in preventing extremist attacks in EU countries.

In Africa, both the EU and United States would be more effective if they sponsored counter-terrorism efforts in regions. The Europeans need to work with the countries of North Africa and the Sahel desert region, such as Niger and Mali, which are vulnerable to penetration by Al-Qaeda's new presence. This fragile region is a potential future sanctuary for Al-Qaeda: it is already being used to host camps to train terrorists and insurgents. These are amongst the poorest nations on earth and are ill-equipped to confront extremist agitation; governments there already struggle to cope with a mass of problems like organised crime, and the smuggling of drugs, weapons and people. Meanwhile, the United States should focus its efforts on East Africa and the Horn of Africa, including Sudan and Somalia.

Governments on both sides of the Atlantic are now more aware of the need to counter extremist propaganda with better media and communications strategies. Some even train and assign counter-terrorism bloggers to challenge extremist narratives in internet chat rooms. In general, media and communications strategies are needed to undermine the narratives that sustain Islamist terrorism. For example, instead of overtly linking democracy promotion and counter-terrorism – a linkage which undermines both causes – the West should concentrate instead on the promotion of free media, economic reform and direct development aid to anti-corruption efforts in Middle Eastern and African countries.

Next steps in EU internal security

The EU faces three pressing challenges in internal security, each of which has important implications for national counter-terrorism policies. The first problem is the most immediate: how to reconcile the European Parliament – a hitherto toothless critic now empowered with co-decision rights under the Lisbon Treaty – to the member states' counter-terrorism agenda? To wield such powers effectively the Parliament needs to demonstrate to interior ministries that it is a serious, thoughtful partner in internal security matters.

Hence, over the period 2010-2011, a major priority of the EU Presidency will then be to establish political ground rules with the European Parliament. The Trio Presidency should begin a frank dialogue with the European Parliament's civil liberties committee, proposing the Parliament to establish a separate Internal Security Committee to vet legislation: this committee would audit proposed laws for their effectiveness, while the Parliament's Civil Liberties Committee would continue to scrutinise EU legislation for its impact on freedoms. Equally the EU Presidency should begin a dialogue with the Parliament laying the ground for political compromise on issues MEPs care deeply about, such as the protection of personal data. Concurrently, the Trio Presidency should encourage the European Commission to take forward plans to 'terror proof' the Single Market.

The Lisbon Treaty will also make the European Commission a real actor in internal security matters by giving it greater powers to propose new laws and sanction member states which fail to implement agreed legislation. It would also establish an EU Internal Security Committee – or COSI – involving SitCen, Europol, Eurojust and EU's border agency Frontex. The potential powers of COSI should not be over-stated: it would be concerned with day-to-day security issues, and would not be a policy-maker or strategy setter on anything like the scale of United States National Security Council. But the committee could mitigate the coordination problems currently experienced by existing agencies.

Central to solving the foreign policy conundrum is the second challenge of bringing leadership and direction to the EU's expanding system of bodies involved in internal security matters. Despite its counter-terrorism strategy, the EU's institutions have had to eke out a role for themselves in this area almost on a case-by-case basis, leaving a messy, frequently overlapping system of committees, agencies and legal frameworks. Little wonder that De Kerchove's predecessor, Gjis de Vries, resigned in frustration in spring 2007. One idea would to merge the jobs of the next European Commissioner responsible for internal security matters with the current post of counter-terrorism coordinator. That post will be an anachronism in the post-Lisbon era.

The final challenge is whether the EU can speak with one voice on the foreign policy aspects of internal security, given that member states face different levels of threat from terrorism and cross-border crime. Despite the fact that there is increasingly an external aspect to European

internal security cooperation, great uncertainly remains as to 'who speaks for Europe' in negotiations affecting domestic security. The EU could ensure that internal security issues, like terrorism, feature more prominently in general EU agreements with other countries. For example, the EU's new Central Asian Strategy contains only vague references to how the EU will work with countries in the region to deal with terrorism-related issues, the movement of dangerous substances, organised crime, and illegal immigration. The Spanish Presidency should also take advantage of a change of approach in the United States on counter-terrorism to seek a new EU-US agreement in 2010 on a range of internal security matters, from the exchange of passenger and financial data to police cooperation and foreign policy priorities related to counter-terrorism.

The new EEAS established by the Lisbon Treaty will merge the parts of the EU's foreign policy machinery currently based in the European Commission, the Council of Ministers and some 140 overseas missions. The EU's High Representative for Foreign Affairs and Security Policy, who will serve as the head of the new service, should ensure that a senior EEAS official is appointed as special representative for internal security. This person should also sit on COSI. If the EEAS is established, SitCen will for the first time be able to task the EU missions overseas to collect counter-terrorism intelligence, if requested to do so by the member states.