The European Union's Increasing Role in Foreign Policy Counterterrorism

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Abstract

Since 9/11, the role of the European Union (EU) in counterterrorism has expanded rapidly. Most of the developments were internally derived and would affect only EU Member States and countries on the EU's periphery. However, over the past few years, the EU has become increasingly involved in counterterrorism outside its borders. Although it still has a long way to progress before being recognised as a counterterrorism actor of note, the EU has demonstrated a commitment to include counterterrorism related initiatives into its foreign policies. Analyses of the EU's foreign policy counterterrorism have focused on narrow definitions of foreign policy. It is necessary to distinguish between the external dimension of counterterrorism and foreign policy counterterrorism, and there is a need to combine these in order to better understand the EU as a counterterrorism actor. Foreign policy and counterterrorism therefore need to be broadly defined in order to take account of the full array of EU counterterrorism initiatives. Through the EU's efforts to counter terrorism financing, the EU's role in Afghanistan, the EU-US relationship, and the Commission-based Instrument for Stability (IfS), it will be shown that the EU has made considerable progress towards creating a multi-faceted counterterrorism policy in the nine years since 9/11.

Keywords

Counterterrorism; European Union; EU foreign policy

AFTER EXPERIENCING YEARS OF DOMESTIC SEPARATIST, LEFTIST, AND RIGHT-WING terrorism, European states have since 9/11 - if not before[1] - faced more international terrorist threats. In particular, European countries have faced threats from the Al Qaeda (AQ) core leadership (Osama bin Laden and other leaders), Al Qaeda-affiliated (AQA) groups, such as Al Qaeda in the Islamic Maghreb (AQIM), and Al Qaeda-inspired (AQI) groups, such as those "self-starter cells" (Kirby 2007) who committed the 2005 London Bombing. To a large extent, the terrorist threats against European countries emanate from North Africa and the Afghanistan/Pakistan region due to the suspected involvement of the Moroccan Islamist Combat Group (MICG) in the 2004 attacks on Madrid (Alonso and Rey 2007), the recent concern over the multitudinous security threats in the Sahel (de Kerchove 2009), and European citizens being trained as terrorists in Pakistan and Afghanistan (Gunaratna and Nielsen 2008). Attacks and averted attacks within European countries have served to raise awareness of the threat posed by religiously-inspired

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[1] Nesser (2008) goes back to 1994 and the attacks of the Algerian Islamic Army Group (GIA) on France as a reaction to the French government's intervention in Algeria to help overturn the 1991 elections which could have seen an Islamic political party, the Islamic Salvation Front (FIS), come to power.

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terrorism.[2] Although terrorism of domestic origin has not disappeared in Europe[3], it has been overshadowed by the worldwide upsurge of Al Qaeda-based terrorism.

Even so, Europe is the site of relatively few terrorist attacks compared to other areas of the world. In 2008, Pakistan, Afghanistan, and Iraq accounted for about "55 percent of attacks catalogued (…) [and] well over 50 percent" of the 50,000 people either killed or injured were Muslim (National Counterterrorism Centre 2009). However, this does not mean that terrorism is not a threat to Europe; the attacks on Madrid and London, as well as numerous averted attacks, prove that Europe faces a significant and ongoing threat.

Prior to 9/11, the EU had done little in the way of counterterrorism co-operation with third countries; however, EU activity has increased significantly since then (Spence 2008; Wolff 2009). Despite this progress, the EU is not responsible for all areas of European security. In particular, the operational side of counterterrorism remains the preserve of the Member States. Security issues cut right to the heart of sovereignty and Member States have often guarded this jealously (Bures 2006; Kaunert 2010a; O'Neill 2008; Zimmermann 2006), yet interdependence in this sphere is high as a result of the porous borders created by the integration process, which means that no single country can protect its citizens on its own (Lugna 2006).

This article will demonstrate through a broad view of EU foreign policy and a conceptualisation of the EU as a *sui generis* actor that EU action in foreign policy counterterrorism is actually more substantial than previously acknowledged. The evolution through which the EU has gone since 2001 is particularly important here. The achievements since then cannot be exaggerated and, although it would be premature to argue that the EU is a significant counterterrorism actor, the expansion of EU foreign policy counterterrorism initiatives since 2001 cannot be ignored. In order to prove this, the first section will briefly review the literature on EU foreign policy counterterrorism, whilst the second section will discuss what constitutes EU foreign policy and will outline developments since 9/11. The third section will assess the challenges to the EU as a counterterrorism actor. The following section will examine EU action in counterterrorism financing, EU activity in Afghanistan, EU-US counterterrorism co-operation, and the Commission-based Instrument for Stability (IfS). This analysis will demonstrate that the EU is conducting a multi-faceted counterterrorism policy through many of its governance mechanisms and that this activity has rapidly expanded since 2001.

EU counterterrorism

A close examination of the literature identifies two key themes in EU foreign policy counterterrorism. First of all, several authors have argued that the EU is using internal instruments to progress externally (Di Puppo 2009; Lavenex and Wichmann 2009; Mounier 2009; Pawlak 2009; Smith 2009; Trauner 2009; Wolff 2009; Wolff *et al.* 2009). Secondly, there is another strand of literature that discusses traditional foreign policy in EU counterterrorism (Keohane 2008). Neither a discussion of the external dimension of EU counterterrorism nor EU foreign policy can fully explain the EU as a counterterrorism actor.

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[2] In line with Hellmich (2008), it is argued that threat perceptions and definitions of terrorism should not be reduced to religious or ethnic stereotypes or over-simplified through religious labels such as 'Islamist' or 'Salafi-jihadi'.

[3] As demonstrated in Europol's annual Terrorism Situation and Trend (TE-SAT) reports (see for example Europol 2010), some EU Member States consider domestic terrorism a greater threat than religiously-inspired terrorism. These reports, being quantitative, are misleading because every terrorist act, regardless of whether it is a simple act of graffiti or a mass-killing, is counted as one incident. In many ways, this underestimates the threat of religiously-inspired terrorism.

In this sense, it is necessary to examine both to better understand the EU in its counterterrorism capacity.

The external dimension of EU counterterrorism

The 'external dimension of counterterrorism' and 'foreign policy counterterrorism' are two different ideas, which need to be distinguished. 'External dimension' implies an externalisation of a policy field that was primarily internally focused. Lavenex and Wichmann point out that "the external projection of internal policies constitutes a new kind of foreign policy, which is usually referred to as the 'external dimension' of a policy field" (2009: 84). Nowhere is this more obvious than in the "external dimension of JHA" (Lavenex and Wichmann 2009: 84). Wolff *et al.* suggest that this can be defined as "an attempt to provide an overall strategic orientation to punctual measures adopted in the policy area of JHA" (2009: 10). Furthermore, they point out that "the JHA external dimension describes the contours of a 'policy universe'. This policy universe covers the external dimensions of various EU internal security policies in the area of terrorism, migration and organised crime" (Wolff *et al.* 2009: 10). The European Neighbourhood Policy (ENP) is but one example of the EU's efforts to expand its *acquis* to nearby third countries.

To date, scholars have focused on EU counterterrorism in the Mediterranean (Wolff 2009), JHA influence in the Western Balkans (Trauner 2009), and JHA policies in Georgia (Di Puppo 2009). By examining the EU's relations with its neighbourhood, these sources are focused only on threats developing near Europe (something of which the EU is often accused). Here, there are certainly wider implications for future EU action in the sense that these tools may in time be used further afield – that is, if they are not being so already. However, in order to prove that EU counterterrorism action has evolved on a global scale since 2001, it is necessary to discuss projects outside of the EU's vicinity - in key third countries such as Afghanistan and Pakistan.

Foreign policy counterterrorism

'Foreign policy counterterrorism' assumes that the action taken is solely foreign policy orientated and does not already exist as an internal policy - as opposed to the 'external dimension of EU counterterrorism'.[4]

Keohane (2008) is one of the few authors who specifically discusses EU foreign policy counterterrorism. He argues that "given the global nature of the threat from terrorism, the relative absence of foreign policy from the EU's counterterrorism is surprising" (Keohane 2008: 127). His analysis, however, appears to be grounded in criticising the EU in the areas where it is weak and lacks competences. For instance, he claims that Member States "are slow to give the Union the powers (such as investigation and prosecution) and resources (such as spies and money) it would need to be truly effective" (Keohane 2008: 129). Furthermore, after establishing the EU's acknowledgement that military missions could potentially contribute to the fight against terrorism, Keohane goes on to argue that "even so, the EU is unlikely to undertake robust military missions specifically against terrorists beyond Europe's borders anytime soon" (2008: 139). There are three problems with this argument, the first two of which are linked. Firstly, Keohane seems to define security narrowly by focusing on Common Foreign and Security Policy (CFSP) (previously second pillar) matters with a specific focus on militarily-related issues, whereas in fact the concept of 'security' – and thus counterterrorism - has broadened considerably since the end of the

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[4] EU foreign policy is dealt with in the next section.

Cold War (Zwolski 2009). Secondly, Keohane does not take into account the existence of a broader EU foreign policy and does not discuss in enough detail counterterrorism activities located outside the realm of CFSP. Finally, he appears to employ an implied conceptualisation of the EU as a state – or rather, a state in development. This may or may not come to pass, but it is inaccurate at this time to assume that the EU *is* a state. Consequently, at present, the EU should only be criticised for the tools that it can use. Therefore, this article highlights the EU's use of four counterterrorism tools to which it has full access. In doing so, it will demonstrate that EU action in foreign policy counterterrorism has increased considerably since 2001.

EU foreign policy and counterterrorism

Hill defines foreign policy as "the sum of official external relations conducted by an independent actor (usually a state) in international relations" (2003: 3). This definition is intended to accommodate "the inclusion of outputs from all parts of the governing mechanisms" (2003: 3). This definition shows that many different departments and agencies play a role in the fight against terrorism, not just those which could be considered traditional (CFSP) foreign policy. Furthermore, the EU must be conceived of as a *sui generis* actor (Beyer 2008; Bretherton and Vogler 2006; Carlsnaes 2006; Ginsberg 2001; Smith 2004; White 2006). Therefore, the EU can be studied as an actor in its own right. Any other assessment leads to the false conclusion that the EU is not an actor in counterterrorism because it focuses on the areas where the EU is least effective, has fewer competences, and ignores all that is distinctive about the EU and what it can do (Bretherton and Vogler 2006). By contrast, this analysis will focus on what the EU can do, while also taking into account what it cannot. Thus, the EU's multi-faceted efforts to combat terrorism are taken into account while conceptualising the EU as a distinctive actor.

EU counterterrorism developments since 9/11

In the aftermath of 9/11, European leaders began a process of accelerated change in the EU. Prior to 2001, the EU could not be called a counterterrorism actor, but since then there has been a process of constant change to the point where the EU is taking on an ever-expanding counterterrorism role. It was agreed that terrorism posed one of the five main threats to Europe in the first European Security Strategy (ESS) (Council of the European Union 2003). Additionally, all five threats – *i.e.* terrorism, proliferation of weapons of mass destruction (WMDs), regional conflicts, state failure, and organised crime – were considered intertwined (European Council 2003). Terrorism is still considered a threat, but is linked more clearly with organised crime in the report on the implementation of the ESS from 2008 (Council of the European Union 2008). Again, in the new (draft) 2010 European Internal Security Strategy, terrorism "in any form" is the first threat addressed, suggesting that it continues to remain important to the EU (Council of the European Union 2010).

Specifically as a response to terrorism, the EU adopted on 13 June 2002 a European Council Framework Decision on Combating Terrorism, which, according to Monar (2007: 312), lays down a "reasonably specific definition of the common threat that avoids any simplistic reduction of the threat to its Islamic elements". This is an important area of progress because only seven European states – *i.e.* France, Germany, Greece, Italy, Portugal, Spain, and the UK - had specific laws to fight terrorism prior to 9/11 (European Commission Website July 2005). The extension of counterterrorism laws against terrorism from seven to (potentially) twenty-seven states is an impressive feat. Furthermore, the EU adopted a Plan of Action to Combat Terrorism at a special summit in November 2001 and

this was then revised and realigned in 2004.[5] Then, in 2005, the EU adopted both a Counterterrorism Strategy and a Strategy on Radicalisation and Recruitment. Admittedly, behind these apparent successes lie national threat perceptions and a poor implementation record (Monar 2007: 312). But this does not change the fact that the EU has managed together with its Member States to provide the only example in the world of so many states working together so closely on counterterrorism.

In addition, the EU made assistance to third countries a vital part of its counterterrorism action at the June 2002 summit in Seville where the EU decided to engage in political dialogue with third countries in the fight against terrorism, non-proliferation, and arms control; provide third countries with technical assistance to help them combat terrorism; and include anti-terrorism clauses in agreements with third countries (Wright 2006: 295). With regard to co-operation with third countries, the US was – and still is – seen as the EU's most important counterterrorism partner. Several agreements have been made with the US (discussed below), whilst counterterrorism clauses have been inserted into agreements with Algeria, Egypt, Chile, Lebanon (Wright 2006: 296), and the countries of the African-Caribbean-Pacific Group (ACP) (enshrined in the updated (2005) Cotonou Agreement).[6] Following on from this, the EU states that it has spent EUR400 million in over 80 countries on counterterrorism related assistance (European Commission Website March 2006).[7] For all the criticisms that can be made of these efforts, it is undeniable that the EU's counterterrorism role has substantially increased since 2001. In the words of Spence (2008: 2), the EU's actions against terrorism "may still remain far from an ideal strategy, but it is 'light years' away from the initial floundering which characterised Europe in the weeks after 9/11".

Challenges to the EU as a counterterrorism actor

Countering terrorism is complicated by the fact that it is not a singular policy area. Counterterrorism requires action from every government department: law enforcement agencies, border control, foreign policy and defence departments, finance ministries, health ministries, and education ministries (Keohane 2005: 2-3). This sets out the need to co-ordinate a multifaceted response to a transnational threat – something that the EU has been able to do in conjunction with its Member States to varying degrees of success. EU counterterrorism is thus a broad commitment to combating terrorism across the full panoply of EU areas of governance. A further issue is particular to the EU as a polity; that is, the EU does not have competence in several policy areas where states generally do. In this sense, the absence of a military arm is noticeable, but this is by no means necessarily the most important component of effective counterterrorism policy. Furthermore, the lack of EU executive powers with regard to Member State compliance in EU efforts to combat terrorism has led scholars to question whether or not the EU is an appropriate "vehicle in Europe for the multilateral fight against terrorism" (Zimmermann 2006: 124). The EU can, however, offer a convening and co-ordinating role. This can be a strength or weakness; without the EU, some Member States may never adopt any laws pertinent to

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[5] According to Keohane (2008), 30 measures are concerned with the 'external dimension'. For a more detailed analysis of the EU Action Plan to Combat Terrorism, see Bossong (2008).
[6] The counterterrorism clauses included in the Cotonou Agreement and with Lebanon, Algeria, Chile, and Egypt were similar to the following:
The Parties reiterate their firm condemnation of all acts of terrorism and undertake to combat terrorism through international cooperation, in accordance with the Charter of the United Nations and international law, relevant conventions and instruments and in particular full implementation of UN Security Council Resolutions 1373 (2001) and 1456 (2003) and other relevant UN Resolutions. To this end, the Parties agree to exchange:
– information on terrorist groups and their support networks; and
– views on means and methods to counter terrorist acts, including in technical fields and training, and experiences in relation to the prevention of terrorism.
[7] The website, however, does not further elaborate on the exact nature or recipients of this EU assistance.

counterterrorism due to their own threat perceptions, but again this depends on Member State compliance. For example, the Eastern European countries - which have not yet been attacked by terrorists and have little or no experience of it - had to adopt the EU *acquis* in order to accede to the EU in 2004, and the counterterrorism Framework Decisions were a part of this (Wright 2006: 294).

This section will now analyse three issues that may have challenged the EU's ability to combat terrorism: intelligence-sharing in Europe; the US' 'War on Terror'; and the issue of cohesion of threat perceptions in order to conduct an effective foreign policy. This will configure the EU's role in counterterrorism and put it in context.

Intelligence-sharing

Intelligence-sharing has generally continued to go through bilateral channels between states, instead of EU structures (Müller-Wille 2008). The EU itself does not have any sort of large-scale intelligence agency like the US Central Intelligence Agency (CIA). The very prospect of a European CIA suggested in 2004 by Austria and supported by Belgium was rebuffed by the European countries that have a significant intelligence capability, such as France, Germany, Italy, Spain, and the UK (Spence 2008: 16). Furthermore, these countries share intelligence very closely with the US and with each other through bilateral channels[8], and they do not want to jeopardise these links or hand this over to the EU (Bures 2008). Nevertheless, the EU has formed a nascent intelligence capability in the form of its Situation Centre (SitCen) and the European Police Office (Europol). SitCen also produces strategic level reports for EU decision-makers, but this is dependent upon Member States providing it with information (Müller-Wille 2008: 58-9). It is thus impossible to argue that the EU has any sort of significant intelligence capabilities.

Although the bilateral channels are without doubt the most important channels for intelligence co-operation, Europol has established itself as a vital resource for police co-operation in Europe (Mounier 2009). Since its foundation in 1999, Europol's tasks have expanded rapidly to now include counterterrorism.[9] Mounier goes as far as to suggest that Europol has established itself "as the focal point for police co-operation in Europe. Despite the commonly held view that Member States (MS) police forces do not trust this European organisation, figures and interviews indicate otherwise" (2009: 583). On the external side, both Kaunert (2010b) and Mounier (2009) have shown that Europol has strategic and operational agreements with third states. Strategic agreements[10] consist of those where only non-personal data can be transferred, whereas operational agreements[11] allow for the exchange of personal data (Salgo 2009). Although fledgling and bearing in mind that most intelligence still continues to go through bilateral channels, it is interesting to note the increased amount of co-operation taking place in this EU agency.

The US 'war on terror'

A further issue that has obstructed the EU's efforts to develop a coherent response to terrorism is the US "Global War on Terror" (Keohane 2008). The EU had long wished to be treated by the US as an equal in security matters (Rees 2006). In addition, Spence has

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[8] France, Germany, Italy, Spain, and the UK constitute the G5. Since 2004 and the Eastern enlargement of the EU, Poland has been included to make the G6. These countries value bilateral ties because of issues of trust and do not wish to jeopardise them.
[9] Under the Treaty of Lisbon, Europol is an 'agency' rather than an 'entity' of the EU. This means that Europol is now funded from the EU budget rather than by Member States' contributions (Kaunert 2010b).
[10] Albania, Bosnia and Herzegovina, Colombia, FYROM, Moldova, Russia, Turkey, Serbia, and Montenegro (Europol Website).
[11] Australia, Canada, Croatia, Iceland, Norway, Switzerland, USA (Europol Website).

rightly pointed out that the EU needed to "create a distinct political alternative to America's 'war on terror'" (2008: 3). The US' 'war on terror' is wrongly caricatured as a purely military struggle (Rees 2006), but US actions after 9/11 served to create the appearance of a 'clash of civilisations' and a simplistic dualism – dividing the world into 'good' and 'evil'. Hoffman has suggested that in the Bush Administration's 'war on terror' "long-term progress was sacrificed for short-term expediency" (2009: 360). Additionally, the National Intelligence Estimates of April 2006 entitled "Trends in Global Terrorism: Implications for the United States" warned that "the U.S. invasion and continued, perceived occupation of Iraq has radicalised the Muslim world and potentially generated untold new terrorist recruits" (Hoffman 2009: 360). The US and its Western allies' action thereby served to amplify the problem. The invasion of Iraq in 2003 split Europe and the US. For many Europeans, Iraq was nothing about fighting terrorism. Even so, it caused divisions in Europe with Poland (not then a member of the EU), Spain, and the UK (in particular) supporting the US, whereas France and Germany vehemently opposed US action. This paralysed the EU and showed how susceptible the EU was to divisions of this kind. Eventually, however, the US found itself in a "quagmire" by 2007 (Spence 2008: 20), which suggested that military action had actually undermined the US in the Middle East and exacerbated terrorism. According to several authors, foreign policy decisions and military responses to terrorism have caused countries to highlight themselves as targets for terrorism (Sedgwick 2004; Spence 2008; Torres Soriano 2009). Experiences in Iraq and Afghanistan seem to have caused the US to re-think its strategy. The Obama Administration has moved away from the Bush Administration's 'war on terror' paradigm. Thus, on this occasion, the US should not be held as a yardstick for the EU to reach to be considered a counterterrorism actor of note.

In contrast with the US, the EU began to "adopt a series of powers flanking the 'hard power' of the US" (2008: 8). In particular, the EU began to spend increasing amounts of money on anti-terrorism assistance abroad, security sector reform, Weapons of Mass Destruction (WMDs) operations and peace building in general (Spence 2008: 8). Eling suggests that there is an emerging "distinctive EU approach to combating terrorism" (2008: 120). Just because the EU acts differently to the US does not mean that it is unimportant and, as the US has proved, over-reliance on the military dimension of counterterrorism can indeed be detrimental to the pursued goal. This suggests that the EU has made strides forward since 9/11 in the field of counterterrorism. It has emerged as a more important counterterrorism actor and has to an extent formed a unique way of combating terrorism, as well as using a variety of tools to complete this objective.

The EU as a cohesive counterterrorism actor? The crime-terror nexus

Scholars have raised concerns over the cohesion of EU Member States towards the threat of terrorism (Bures 2010b; Keohane 2005, 2008). Not all EU Member States have experience of terrorism, and counterterrorism does not necessarily figure highly amongst the priorities of all Member States.

To show the lack of consensus on the perception of the terrorist threat in Europe, Bures has pointed out that "no independent terrorist threat assessment is currently available at EU level" (2010b: 68). He also goes on to say that historical experiences and demographics matter, and therefore it is unsurprising that European countries have different threat perceptions (2010b: 68). However, with attacks, averted attacks, and unrest affecting several countries in Europe (including Denmark after the Muhammad cartoon episode in 2005), more and more countries are seeing themselves as being threatened. Spence has pointed out that:

> EU commitment to countering terrorism has certainly strengthened over time, not only owing to Europe's own experience in Madrid in 2004 and London in 2005, but also because of the belated realisation that Europeans face a real international terrorist threat against them rather than solely against their American allies (2008: 3).

Clearly, in this sense, the UK, Spain, France, and Germany consider themselves to be the most likely targets of violence due to a combination of history, foreign policy decisions, and demography. Terrorism may not necessarily threaten every single EU Member State in the same way, but it is possible for any country to be used as a base for criminal activities linked to terrorism, as well as planning - in the same way Germany and the US were used prior to 9/11 (Newman 2007: 471). From that viewpoint, terrorism potentially threatens every country in Europe.

In addition to this, it is questionable to think of terrorism as a singular crime without background funding or other related nefarious activities. Clarke and Lee suggest in their study of the Provisional Irish Republican Army (PIRA) and D-Company, a South Asian mafia group, that criminal and militant groups have forged partnerships and that this has complicated efforts to combat them (2008: 377). Ultimately, this means that treating crime and terrorism as two mutually exclusive categories is artificial (Clarke and Lee 2008: 377). A crime-terrorism nexus therefore exists, which shows that terrorism cannot easily be seen as a single threat. Many terrorist groups are involved in criminal activities to support themselves. As an example, Afghanistan accounts for over 90 per cent of the world's opium production (Interpol Website) and drugs are clearly linked to terrorism and the insurgency (Hutchinson and O'Malley: 2007: 1096). The resulting heroine ends up on the streets of Europe, and some of the main drug routes are through the Balkans and Russia (Interpol Website). Closer to Europe, AQIM have been involved in numerous kidnappings in the Maghreb, as well as several high-profile terrorist attacks (Marret 2008: 541). If European countries are not concerned by terrorism *per se*, they have reason to act against related criminal threats linked to terrorism. Thus, there is common ground for co-operation to the mutual benefit of all.

Review of external activities

This section will review four areas of the external dimension of the EU's 'fight against terrorism': combating terrorism financing where the EU has been very active, but controversial; the EU's role in Afghanistan where it has played an important, albeit unacknowledged, role since 2001; the EU-US relationship, which, although it is often dominated by US security concerns and is asymmetric, has proved mutually beneficial; and the new Instrument for Stability (IfS), which demonstrates that the Commission has gained a greater role in crisis situations and combating transnational threats. If one had considered the EU's role in many of these areas in 2001, one would have found it to be embryonic at best. Therefore, the progress since then is impressive.

Counterterrorism financing

Terrorism itself is not an expensive activity. The fact that 9/11 is thought to have cost about $500,000 is proof of this (Aydinli 2006: 303). However, this does not mean that efforts to combat terrorism financing are fruitless; it simply means that counterterrorism financing activities are just one area of a multi-faceted counterterrorism policy that can make the environment for terrorism more difficult. Bures has pointed out that counterterrorism financing measures have several key purposes – *i.e.* to prevent attacks, to deter attacks, to investigate groups and attacks - and represent concrete measures in a multi-faceted campaign against terrorism (2010a: 419). In these ways countering terrorism financing can be a vital asset. The actual implementation and follow-up to track money is

down to the EU Member States, but the EU has legislated where there was not in all cases comprehensive enough legislation previously.

Counterterrorism financing is an area in which the internal and external dimensions are blurred – the so-called 'internal-external nexus' (Mounier 2009; Wolff *et al.* 2009). Internal measures to freeze funds have an effect on whether criminals can use funds elsewhere in the world. Thus, EU internal measures play a role internationally. Prior to the introduction of the Lisbon Treaty on 1 December 2009, counterterrorism financing was a cross-pillar activity with the lists of the individuals whose funds were to be frozen being agreed in the third, Justice and Home Affairs (JHA) or, more formally, Police and Judicial Co-operation in Crime and Criminal Matters (PJCCM), pillar and the freezing being done in the first, European Communities or EC, pillar. This cross-pillarisation issue undoubtedly caused problems of communication and co-ordination within the EU (Rees citing Den Boer 2006: 38-39). With the entry into force of the Lisbon Treaty, this should change with JHA now coming under the 'Community' method.

The EU perceives money laundering to be "at the heart of practically all criminal activity" (European Commission Website April 2004). The Commission is a member of the Financial Action Task Force (FATF), an intergovernmental body set up under the auspices of the G-7, which made many recommendations for EU action to combat money laundering. Counterterrorism financing in the EU can be traced back to the First (1991) and Second (2001) Anti-Money Laundering (AML) Directives. The First AML Directive did not specifically mention counterterrorism financing; however, the Second, having been agreed in December 2001, widened the definition of criminal activity to incorporate all serious crimes, including those related to terrorism (European Commission Website April 2004). The Third AML Agreement was agreed in 2005 and further extended provisions to combat money laundering in Europe. The EU has therefore taken decisive action to tackle counterterrorism financing since 2001. The EU has two different terrorist 'lists': one which contains Al Qaeda and Taliban members, based on UN Security Council lists; and the other concerned with terrorists from Europe, the Middle East, Latin America, and Asia (Brady 2009: 10).[12] Being on these lists leads to, among other things, the freezing of assets of the individuals. Brady argues that "contrary to popular belief, substantial amounts of terrorist funding still go through the formal banking system" (2009: 10). Overall, the EU has apparently "been able to effectively target and freeze assets of entities associated with Al Qaeda or the Taliban", but has not been so effective with unassociated groups (Jacobson cited in Bures 2010a: 424). However, as Bures (2010a) points out, statistical data is very difficult to find regarding the success of counterterrorism financing inside and outside the EU. Yet, the European Commission claims that:

> [t]he impact [counterterrorism financing] has had on terrorist networks and their methods of operation needs also to be taken into account, as does the political impact of a decision taken by the EU as a whole to declare a group or an individual as terrorist (…). Furthermore, sanctions measures have reduced the possibilities for terrorists and terrorist organisations to misuse the financial sector and have made it more difficult for certain organisations to raise and move funds (cited in Bures 2010a: 424).

This suggests that the EU has played an important role in counterterrorism financing and has certainly had some success in this area.

For all the potential successes of counterterrorism financing, there are several problems that have been highlighted by Guild (2008). In particular, she highlights the possible negative impact of these measures on human rights (2008: 174). On balance, Guild

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[12] See Council of the European Union 2009 document for the consolidated list of proscribed groups and wanted individuals.

recognises that EU Member States have clearly pooled information to make terrorist lists and that this is a success story towards EU objectives; however, it is also the case that the method of listing has come under scrutiny with it having been based on secret intelligence (Guild 2008: 174). Thus, the implications are that individuals have been somewhat arbitrarily listed. Furthermore, these lists have been based on secret intelligence and the UN list was adopted without being checked or challenged in any way. This raises various concerns. The cases of *Kadi* and *Yusuf* highlight the problems of this potentially arbitrary listing (Guild 2010: 3). Both men were subject to this listing and had their assets frozen without either knowing why they were put on this list, and, to compound this, they could only challenge the ruling through the EU (in the Court of First Instance, CFI, and the European Court of Justice, ECJ) rather than at the national level.[13]

In sum, the EU has been able to take some action on counterterrorism financing over the last ten years, taking into account the Second and Third AML directives, and this has certainly made it more difficult for terrorists to access funds and move funds through the system. However, the EU must also be careful not to arbitrarily list people who may have done nothing wrong.

The EU's role in Afghanistan: EUPOL

Ever since 2001, the EU and its Member States have considerably increased their roles in Afghanistan. Afghanistan itself is undoubtedly the EU's biggest project in Asia. European countries currently contribute in excess of 30,000 troops to NATO's International Security Assistance Force (ISAF) in Afghanistan (European Union Council Secretariat 2010). However, these are under the control of EU Member States and ISAF, not the EU. The EU's role in Afghanistan is not a military one; it is mostly done 'behind the scenes' through a combination of financial support for national programmes and co-ordination of Member State activities. Over the past nine years, the EU itself has given over EUR1.8 billion to Afghanistan (and collectively EUR8 billion with its Member States), yet there has been little research on where this money has gone. Most of this assistance has gone towards development programmes which are not even tenuously associated with counterterrorism, such as building hospitals and schools, etc. (European Commission 2010; European Union Council Secretariat 2010). This does not mean, however, that the EU is not contributing to improving the security situation and international counterterrorism efforts in Afghanistan; the EU is undertaking a couple of large-scale projects in Afghanistan. This section will focus upon the policing mission, EUPOL, which has been active since 2007.

EUPOL was designed to build upon the German Police Project Office (GPPO), which started in 2002 and ran until 2007. EUPOL is an example of a civilian European Security and Defence Policy (ESDP) project within the (former) CFSP pillar. Starting in 2007, and with an original mandate to proceed until 2010 (Council of the European Union 2007), EUPOL has recently had its mandate extended until 2013 (Council of the European Union 2010). The rationale for this mission was to

> be set in the wider context of the international community's effort to support the Government of Afghanistan in taking responsibility for strengthening the rule of law, and in particular, in improving its civil police and law enforcement capacity (Council of the European Union 2007).

This demonstrates that EUPOL Afghanistan is just one of the EU's commitments to Afghanistan. As of 6 June 2010, the mission involves 265 international staff from twenty-two Member States plus Canada, Croatia, New Zealand and Norway. Also, the EU will spend EUR54.6 million between May 2010 and May 2011 (European Union June 2010). By

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[13] For a more detailed analysis of these cases, see Guild (2008, 2010).

EU standards, this is a serious monetary commitment. The EUPOL Afghanistan mission has provided capability-building to the Afghani police in the capital, Kabul, and will soon be extended to other cities including Herat, Kandahar, Maza-e-Sharif. So far, this project has led to the training of over 1,000 policemen in criminal investigation techniques, 675 police trainers, and over 300 inspectors within the Ministry of the Interior in basic investigation techniques (European Union June 2010). In particular, the emphasis has been on training an Afghani police force that abides by the rule of law and fully respects human rights. It is arguable whether this is specifically a counterterrorism project, but it will certainly lead, in the long-term, to Afghanistan being able to train its own forces to deal with crime - and terrorism is just one possible crime. Even so, the EUPOL mission in Afghanistan has been hampered by problems such as the lack of commitment by Member States that have undermanned and under-equipped personnel. The deteriorating security situation has also played a role in the grounds being unsuitable and unsafe for such a mission (New York Times Website, 17 November 2009).

However, the fact that the EU has been able to deploy this mission represents progress; prior to 9/11, this sort of mission would quite simply not have happened. Most importantly, this demonstrates that the EU is beginning to take on a greater role in certain kinds of foreign policy projects focusing on the 'soft' side of security.

EU-US counterterrorism relationship

Before 9/11, the EU and the US had only informal agreements pertinent to security. The Transatlantic Declaration of 1990 and the New Transatlantic Agenda (NTA) of 1995 made brief references to counterterrorism co-operation and other security threats, but very little that can be considered concrete. Since 2001, co-operation between the EU and the US has broadened rapidly. Rees pointed out that "[t]he US regarded the EU as its most important potential collaborator, but only when the Union was ready to assume this mantle" (Rees 2006: 43). Nine years later, in 2010, there are agreements cutting across many areas of what could be considered counterterrorism co-operation (and were certainly motivated by terrorism): two Europol-US Agreements; two judicial agreements on Legal and Extradition Assistance; the Container Security Initiative (CSI); three Passenger Name Record (PNR) Agreements; and most recently, and perhaps controversially, the so-called 'SWIFT Agreement' (Society for Worldwide Interbank Financial Telecommunication) or Terrorist Financing and Tracking Programme (TFTP). Kaunert argues that in "non-military areas related to counterterrorism, the relationship has been mutually beneficial" (2010a: 42). It has been mutually beneficial because the US has been able to negotiate with one actor rather than 27, and the EU has received recognition from its most important partner (Kaunert 2010a: 42). Thus, the EU-US counterterrorism is both broad-ranging and confers benefits to both sides.

Even so, Argomaniz (2009) has pointed out that, in the case of the PNR Agreement, the EU has adopted the role of 'norm-taker' rather than 'norm-maker'. He suggests that, due to the asymmetrical relationship which exists between the EU and the US as a result of the structural imbalances based on the nature of the two actors, the EU has sometimes reluctantly been forced to adopt US security norms that "did not fit easily with the European threat perceptions and strategy of response" (Argomaniz 2009: 120). The CSI also presents a similar story where the US required its customs officials to be stationed in European seaports to monitor what was going to the US (Rees 2008: 108). This asymmetry may well exist. However, the agreements were not all made with the consent of all the EU's institutions. The European Parliament (EP) challenged the first PNR Agreement and the ECJ struck down the agreement because it lacked an appropriate legal basis (Argomaniz 2009; Pawlak 2009). As Argomaniz points out, this was actually counter-productive because the

second agreement was concluded by the Presidency on behalf of the EU, rather than the EC – where the ECJ had no jurisdiction - and hardened the US Administration's stance on the agreement. In contrast with the PNR Agreement, in the case of the SWIFT Agreement, it has proved much more difficult for the US to force its security agenda on the EU. With the institutional changes introduced by the Lisbon Treaty, the EP has been able to raise several issues regarding the handing over of bulk data of European citizens to US authorities. As a result, the first (interim) agreement, which was adopted in November 2009, was strongly rejected by the EP in February 2010. This has served to gain concessions from the US as shown in the second proposal in June 2010 when *inter alia* a role for Europol was included, which will apparently be able to reject "unjustified requests" for data (EU Observer 10 June 2010). In a second vote, in July 2010, the revised SWIFT Agreement was approved by the EP. Therefore, the US is not always able to get its own way on security matters. Here, it will also be interesting to see how Europol's role develops.

In sum, although the US has initiated most of the above co-operation, it has had to make concessions at times. In particular, this has been the case in relation to the SWIFT Agreement. In itself, the EU's emergence as a recognised actor is of interest because the EU and the US - not the Member States - have been the negotiating parties. The US recognised that the EU has the responsibility for negotiating the agreements (although they do have to be ratified in each Member State's parliament). This is crucial because it means that the EU is increasingly being seen as an international actor in security and counterterrorism – even if certain developments within the EU have been initiated by the US.

The Instrument for Stability (IfS)

The IfS is the 2007 follow-up to the previous Rapid Reaction Mechanism (RRM). The RRM was set up in February 2001 to help increase the EU's capabilities involvement in crisis situations. The IfS is based within the Commission (making it previously a first pillar project), but it has a purely third country focus making it an externalisation of the EU's internal policies. The objective of the IfS is to strengthen "the capacity of law enforcement and judicial and civil authorities involved in the fight against terrorism and organised crime, including illicit trafficking of people, drugs, firearms, and explosive materials and in the effective controls of trade and transit" (European Parliament and European Council 2006). Missions under the old RRM could not exceed more than six months; however, under the IfS, they can now last up to 18 months. The budget of the IfS is EUR2.062 billion between 2007 and 2013.[14] Whereas under the RRM the EU had a budget of roughly EUR30 million a year, the IfS will provide EUR100 million, which will rise to EUR400 million a year by 2013 (European Commission 2008). The IfS shows an expanded capability for the EU to conduct operations autonomously. EUR2 billion may not necessarily be a vast amount of money, but it is a substantial improvement upon previous amounts set aside for EU crisis management – of which counterterrorism can be seen as one part.

The EU has undertaken several projects related to counterterrorism under the IfS. For example, the 2007-2008 Annual Indicative Programme put aside 50 per cent of its EUR19 million to combat drug trafficking in Afghanistan, as well as providing support to the African Centre for Study and Research on Terrorism (ACSRT) (European Commission 2007). Importantly, the IfS is beginning to take significant actions in strategically important areas; for instance, a sizeable civilian project of EUR11.5 million has recently started in Pakistan

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[14] The breakdown of the figures is as follows: EUR1.587 billion for crisis response and preparedness, EUR266 million for non-proliferation of WMDs, EUR118 million for trans-regional security threats, and EUR91 million for administrative expenditure (European Commission 2008).

which is aimed at building up law enforcement capability (European Union 2010). In the long term, this kind of project may help third countries to combat the threats that they face. Lastly, the IfS is starting a global project with funding of EUR10-14 million between 2009-2011 to support countries in implementing UN Security Council Resolutions, Conventions and Protocols, and the UN Strategy on Counterterrorism. In particular, projects for the Sahel area of Africa (Mali, Mauritania, and Niger) and Afghanistan and Pakistan are at the top of the agenda. Overall, the IfS is undertaking projects against overlapping threats in many areas of the world. This is evidence again of the EU's increasing identity and role as a counterterrorism actor.

Conclusion

Terrorism, in several forms, poses a threat to many European countries, with respect to fundraising, training, and/or planning. Many EU Member States therefore have an interest in combating terrorism. Because of the porous borders in Europe, the EU has had to take an increasing role in co-ordinating this response. Europe faces threats from North Africa, the Sahel, and the Afghanistan-Pakistan region, but more importantly terrorism in these countries threatens their stability. Thus, the EU must take actions for both the safety of Europe and that of third countries.

In response to these threats, the EU has used both internal tools for external purposes and foreign policy tools. By taking into account a broad understanding of foreign policy and conceptualising the EU as a *sui generis* actor, the EU emerges as an actor that has evolved considerably and in many directions since 9/11. Admittedly, Member States have kept hold of their military and intelligence assets, but this has not prevented the EU from developing in areas other than these. Additionally, the US 'war on terror' has made it difficult for the EU to make alternative efforts, and differing threat perceptions within Europe have without doubt hampered the EU's ability to combat terrorism. However, these challenges have not prevented the EU from developing an increasing number of tools and competences to combat terrorism. Comparing the EU's competences in 2001 with those which it has in 2010 shows how far the EU has come. Although challenges still exist and it is premature to argue that the EU has become a significant counterterrorism actor, it is undeniable that developments since 2001 have been impressive – particularly given the kind of actor that the EU is. Looking at the broad range of activities that the EU has undertaken since 9/11, from counterterrorism financing activity to the IfS, it can be concluded that the EU has made considerable progress in its development as a counterterrorism actor since 2001.

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