

Bendiek, Annegret

Research Report

EU strategy on counter terrorism: Steps towards a coherent network policy

SWP Research Paper, No. RP 12/2006

Provided in Cooperation with:

Stiftung Wissenschaft und Politik (SWP), German Institute for International and Security Affairs, Berlin

Suggested Citation: Bendiek, Annegret (2006) : EU strategy on counter terrorism: Steps towards a coherent network policy, SWP Research Paper, No. RP 12/2006, Stiftung Wissenschaft und Politik (SWP), Berlin

This Version is available at:

<https://hdl.handle.net/10419/253063>

Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

Terms of use:

Documents in EconStor may be saved and copied for your personal and scholarly purposes.

You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.

If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.

SWP Research Paper

Stiftung Wissenschaft und Politik
German Institute for International
and Security Affairs

Annegret Bendiek

EU Strategy on Counter-Terrorism

Steps towards a Coherent Network Policy

RP 12
November 2006
Berlin

All rights reserved.

© Stiftung Wissenschaft und
Politik, 2006

SWP
Stiftung Wissenschaft und
Politik
German Institute for
International
and Security Affairs

Ludwigkirchplatz 3-4
10719 Berlin
Germany
Phone +49 30 880 07-0
Fax +49 30 880 07-100
www.swp-berlin.org
swp@swp-berlin.org

ISSN 1863-1053

Translation by Marie McGinley

(English version of
SWP-Studie 21/06)

Table of Contents

| | |
|----|--|
| 5 | Problems and Recommendations |
| 7 | The Development of the EU's Network-oriented Anti-terror Policy |
| 11 | The EU Counter-Terrorism Strategy |
| 11 | Prevent |
| 12 | Protect |
| 13 | Pursue |
| 14 | Respond |
| 15 | Evaluation of Structures and Instruments |
| 16 | Promoting International Partnership |
| 16 | <i>Multilateral Cooperation</i> |
| 17 | <i>Bilateral Partnerships</i> |
| 17 | <i>Neighbourhood Policy</i> |
| 18 | Developing Collective Capabilities |
| 20 | Promoting Cooperation beyond the EU |
| 21 | Strengthen National Capabilities |
| 23 | Tasks for EU Policy |
| 23 | Horizontal Strategy Planning |
| 25 | Institutional Demands on Coherence |
| 26 | Relations with Member States |
| | Appendix |
| 28 | Overview of the Most Important Documents on EU Counter-terrorism |
| 32 | Abbreviations |

**EU Strategy on Counter-Terrorism.
Steps towards a Coherent Network Policy**

The EU Counter-Terrorism Strategy, which was adopted by the European Council in December 2005, reflects the EU's aim of forming a network of the member states' foreign and domestic policies in the fight against terrorism. The accompanying action plan on combating terrorism was last updated in February 2006 and contains 160 separate measures in the four strands of work of the EU strategy (prevent, protect, pursue and respond). The main objective of this EU policy is to confront "the networks of terror with networks against terror".

The shock effect created by the terrorist attacks of Madrid (11.3.2004), London (7.7.2005) and the disrupted terrorist plots in Germany and the UK (summer 2006) was not profound enough to result in the coherence problems in the European networking of member states' policies being resolved. These coherence problems can be divided into three categories:

1. between different policy or strands of work in EU counter-terrorism (horizontal);
2. between different EU bodies and actors in the three pillars of the EU Treaty on the one hand and outside of the EU framework on the other hand (institutional);
3. between the EU and 27 national policies (vertical).

It is hardly possible to separate horizontal, institutional and vertical aspects of forming a network of member states' foreign and domestic policies from each other. Nevertheless, this differentiation allows a more sound analysis of the fight against terrorism in the EU, which is not only a cross cutting task involving all three pillars, but which must also comply with requirements for coherence in European policy enshrined in the treaties.

The EU Counter-Terrorism Strategy acts as a significant driving force in European network building, however not in the sense of communitarisation. Weaknesses in horizontal, institutional and vertical coherence in forming a network of European foreign and domestic polices shall only be resolved in the medium and long term. Ideas to create a European CIA, a Directorate General for Homeland Security or the introduction of a supranational police and public prosecution office did not take hold. A harmonisation of member states' policies along these lines seems therefore un-

realistic at present. The member states continue to be the fundamental pillars of the European networking process. In order to secure progress in European cooperation which has already been achieved, the added value of a European network should be increased substantially for national policies and the EU strategy needs to align prevention more strongly as a cross cutting task of fighting terrorism.

Within this context, the task for EU policy is clear for the coming years: the desire for more coherence, efficiency and presence of the EU as a global actor in the fight against terrorism must take into account member states' reservations concerning sovereignty. Specifically, EU policy should take the following points into consideration:

- ▶ *Horizontal:* EU counter-terrorism requires horizontal strategy planning. Therefore other strategies which are directly or indirectly related to combating terrorism need to be coordinated with the comprehensive EU Counter-Terrorism Strategy. In order to achieve stronger synergy effects between foreign and internal policy strategies and strands of work in the fight against terrorism, prevention should be reinforced as a guiding principle and strand of work of counter-terrorism. This requires a more precise definition of the limits and opportunities regarding prevention in combating terrorism.
- ▶ *Institutional:* The EU should ensure greater institutional coherence between instruments used in its external action. Ensuring this coherence will become even more difficult as more instruments from the area of justice and home affairs are deployed in external action, especially in European Neighbourhood Policy (ENP). This is why there must be closer cooperation than up until now between ministers responsible for justice and the interior and foreign ministers. The Committee of Permanent Representatives (COREPER) would be responsible for organising the discussions in the different formations of the Council. The cross pillar clearing house, subordinate to COREPER, is proving to be efficient in combating the financing of terrorism. However, this ad hoc group still lacks the legal status to facilitate cross pillar action. At the same time, the competencies and right of initiative of the High Representative for the CFSP, the Joint Situation Centre (SitCen), as well as the Counter-Terrorism Coordinator should be strengthened.
- ▶ *Vertical:* In order to improve vertical coherence, the further development of the European information network needs to be encouraged, coordinated by

Europol. Within this context, a more intensive personnel exchange programme between the diplomatic missions of the member states and the European level would be helpful.

The Development of the EU's Network-oriented Anti-terror Policy

For a long time, counter-terrorism¹ was considered part of judicial and domestic policy in the EU.² It was the terrorist attacks in New York and Washington (11.9.2001) and those in Madrid (11.3.2004) and London (7.7.2005) that triggered the EU to define counter-terrorism as a decisive, cross cutting task of security policy.³ The European Security Strategy of December 2003 forms the entire cross pillar framework of Europe's attempt to find an answer to global challenges and the main new threats, which compared to in the past are "more diverse, less visible and less predictable." (cf. appendix no. 1, p. 28).

The EU's objective in counter-terrorism is to confront "the networks of terror with networks against terror,"⁴ to apply the available instruments of foreign and domestic policy coherently and in doing so, to use the competencies and strengths of the EU bodies as well as individual member states (box 1, p. 9 and box

2, p. 10). Although generally unnoticed by the public, there have been significant legal initiatives with regard to counter-terrorism as a cross cutting task of the Common Foreign and Security Policy (CFSP, 2nd pillar), as well as in relation to cooperation in Justice and Home Affairs of the EU (CJHA, 3rd pillar, JHA area).

Soon after the attacks in New York and Washington, the Heads of State and Government declared their intention of making the fight against terrorism a foremost priority of the EU. This intention was emphasised in the adoption of a 64 point comprehensive, cross departmental "Plan of Action on Combating Terrorism."⁵ The plan of action (within the framework of the CFSP) was aimed at enhancing police and judicial cooperation, as well as putting an end to the funding of terrorism and improving air security.

At the Extraordinary Summit in September 2001, the European Council found military retaliation by the USA against any states abetting, supporting or harbouring terrorists to be generally legitimate on the basis of UN Resolution 1368. As the EU did not however operate as a collective military actor, the decision on participation in retaliation remained with national governments. The CFSP decision-making system did not succeed in bringing together divergent positions to a common position on the question of when and under which circumstances "prevention" needs to be enforced through military means in combating international terrorism.⁶

At the summit of Laeken in December 2001, the European Council was able to reach political agreement on important issues, namely, the creation of a European Arrest Warrant, the introduction of joint

1 On the background of international terrorism, see generally: Herfried Münkler, *Die Neuen Kriege*, Reinbek bei Hamburg 2002, pp. 187; Guido Steinberg, *Das Netzwerk des islamistischen Terrorismus. Der Nahe und der Ferne Feind*, Munich 2005; Ulrich Schneekener, *Transnationaler Terrorismus. Charakter und Hintergründe des "neuen" Terrorismus*, Frankfurt am Main 2006.

2 In reaction to terrorist attacks in the seventies, the so-called TREVI group was founded by the Justice and Home Affairs Council of the EC in June 1976. In addition, the Council of Europe adopted the European Convention on the Suppression of Terrorism (ECT). See also Wilhelm Knelangen, *Das Politikfeld innere Sicherheit im Integrationsprozess*, Opladen 2001; Neil Walker (ed.), *Europe's Area of Freedom, Security and Justice*, Oxford 2004.

3 cf. Daniel Keohane, "The EU and International Terrorism," in: Bertelsmann Foundation (ed.), *Securing the European Homeland: The EU, Terrorism and Homeland Security*, Gütersloh 2005, pp. 7–21 (8); cf. Monica Den Boer/Jörg Monar, "Keynote Article. 11 September and the Challenge of Global Terrorism to the EU as a Security Actor," in: Geoffrey Edwards (ed.), *The European Union: Annual review of the EU 2001/2002*, Oxford 2002, pp. 11–28.

4 cf. Bericht der Bundesregierung (Offene Fassung) gemäß Anforderung des Parlamentarischen Kontrollgremiums vom 25. Januar 2006 zu Vorgängen im Zusammenhang mit dem Irakkrieg und der Bekämpfung des Internationalen Terrorismus, status date: 15 February 2006, pp. 1–89 (47). (Report by the German Government (public version) in accordance with the demands of the Parliamentary Control Panel of 25 January 2006 on procedures in relation to the war in Iraq and the fight against international terrorism).

5 Conclusions of the Extraordinary Summit of the European Council in Brussels of 21 September 2001 (Council Document SN 140/01); the original version of the plan of action can be found in: Council Document SN 392676/01 REV 6.

6 cf. Wilhelm Knelangen, "Die Ambitionen Europas und die Erfahrung des Scheiterns – Die Europäische Union und der 'Krieg gegen den Terrorismus'," in: August Pradetto (ed.), *Sicherheit und Verteidigung nach dem 11. September 2001. Akteure, Strategien, Handlungsmuster, Strategische Kultur*, Frankfurt am Main 2004, pp. 175–200; cf. Christopher Hill, "Renationalizing or Regrouping? EU Foreign Policy since 11 September 2001," in: *Journal of Common Market Studies*, Vol. 42, No. 1, 2004, pp. 143–163 (147 et sqq).

investigation teams and on a definition of terrorism applicable to all member states.⁷ The EU Framework Decision of 13 June 2002 stipulated that all offences shall be deemed to be terrorist offences “which, given their nature or context, may seriously damage a country or an international organisation” and if they are committed with the aim of “i) seriously intimidating a population, or ii) unduly compelling a Government or international organisation to perform or abstain from performing any act, or iii) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation” (article 1).⁸ On the basis of the United Nations’ Security Council Resolution 1373, an EU list of persons, groups and entities was introduced at the end of 2001 for which restrictive measures are to apply within the framework of combating terrorism (cf. appendix no. 19, p. 31).⁹ The action plan and the so-called terrorist list are not strictly speaking classic foreign policy issues, however they do reflect how quickly the link between internal and external security and the emergence of a cross pillar approach in combating terrorism have developed.¹⁰ After the 11 September, indications of terrorist activities by European Muslims increased.¹¹ In the aftermath of the attacks in Madrid, the member states agreed in the “Declaration on Combating Terrorism” of March 2004, to improve cross border cooperation in fighting terrorism in the EU, with the help of an action plan based on seven strategic objectives for domestic and

⁷ Framework Decision of the Council of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, in: Official Journal of the European Communities (OJ) L 190 of 18 July 2002.

⁸ Framework Decision of the Council of 13 June 2002 on combating terrorism, in: OJ L 164 of 22 June 2002, pp. 3–7 (4).

⁹ Common Position of the Council of 27 December 2001 on the application of specific measures to combat terrorism, in: OJ L 344 of 28 December 2001, pp. 93–96. At the moment possibilities for removing organisations and persons from the list are being examined. For a detailed discussion, see Thomas J. Bierstecker and Sue E. Eckert, *Strengthening Targeted Sanctions through Fair and Clear Procedures*, White Paper prepared by the Watson Institute Targeted Sanctions Project, Brown University, Providence, March 2006, pp. 1–58.

¹⁰ cf. Jan Reckmann, *Außenpolitische Reaktionen der Europäischen Union auf die Terroranschläge vom 11. September 2001*, Berlin 2004, p. 49; Mareike Kleine, *Die Reaktionen der EU auf den 11. September: Zu Kooperation und Nicht-Kooperation in der inneren und äußeren Sicherheit*, Münster 2004, pp. 76.

¹¹ cf. Guido Steinberg, “Terror – Europas internes Problem,” in: *Internationale Politik*, Vol. 60, No. 11, November 2005, pp. 14–21 (20).

foreign policy (cf. appendix no. 2, p. 28 and no. 6, p. 29).

Since the attacks in Madrid, the European Security and Defence Policy (ESDP) has played a central role in combating terrorism in the EU. Within the framework of the “Declaration on Combating Terrorism”, the Heads of State and Government adopted a declaration on solidarity, which specifies that in the case of a terrorist attack in a member state, the other EU states “shall mobilise all the instruments at their disposal, including military resources” to protect the civilian population and avert danger (cf. appendix no. 2, p. 28). The European Security Strategy had already stated that “the first line of defence will often be abroad. [...] Dealing with terrorism may require a mixture of intelligence, police, judicial, military and other means.” (cf. appendix no. 1, p. 28). The ESDP component of counter terrorism has been reinforced through the “Conceptual Framework on the ESDP dimension of the fight against terrorism” of November 2004 (cf. appendix no. 5, p. 29). In this sense, the EU is implicitly confirming what had already become reality through the war in Afghanistan: namely that military means can be used to combat terrorism in third states.

In addition, the EU fight against terrorism is, in terms of domestic policy, integrated into the implementation of the Hague Programme, a multi-annual programme (2005–2010) adopted in November 2004, which encompasses political measures to “strengthen an area of freedom, security and justice” in the EU (appendix no. 4, p. 28 and no. 8, p. 29). The Hague Programme stipulates that data exchange for criminal prosecution and counter-terrorism purposes shall be subject to the “principle of availability” as of January 2008 (appendix no. 10, p. 29). This means that a law enforcement officer, who requires information to complete his tasks, can receive this from another member state throughout the Union. In order to define domestic policy aspects of counter-terrorism as a significant part of EU external relations, the Commission and the High Representative of the CFSP were requested to submit a strategy for the external political dimension of the EU’s justice and domestic policy to the European Council by 2005 (cf. appendix no. 16, p. 31).

In the aftermath of the attacks in London, the member states agreed in July 2005 to accelerate the implementation the action plan on combating terrorism, which reads like a list of deficiencies of what has not been achieved in the EU since September 2001 (appendix no. 9, p. 29). The action plan, last updated in

What is meant by a network form of foreign policy governance?

Within the context of foreign policy governance a network is defined as being continual cooperation between public and private actors. With regard to European counter-terrorism, both state actors (e.g. SitCen) and informal governmental fora (Clearing House) are involved, which interact with different political levels at the same time. The idea of a network form of governance was first put forward at the beginning of the nineties.^a

Recently, CFSP research has reminded of the necessity for a shift in perspective from cooperation between states (intergovernmentalism) to a network form of foreign policy governance.^b The network concept can be seen as a promising challenge to intergovernmentalism. There are three reasons for describing foreign policy governance with the help of the network approach: Firstly, the influence of transnational social actors and their networks on foreign policy is evident. Secondly, the competencies of the Commission and European Parliament in intergovernmental cooperation were strengthened in the nineties and further institutions were established, such as the High Representative (HR) for the

CFSP, Special Representative and Personal Representative of the HR, the Joint Situation Centre in the General Secretariat and various Council working groups focused on regional and functional issues. Thirdly, states are losing their monopoly on shaping foreign policy, the difference between domestic and foreign policy is becoming less distinct. The foreign policy of a country becomes the domestic policy of other EU countries and vice versa.^c

a cf. Robert O. Keohane and Stanley Hoffmann, "Institutional Change in Europe in the 1980s," in: Robert O. Keohane and Stanley Hoffmann. (eds.), *The New European Community. Decisionmaking and Institutional Change*, Boulder, Col. 1991, pp. 1-40.

b cf. Wolfgang Wagner et al., "Auswärtiges Regieren in der Europäischen Union. Ein Tagungsbericht," in: *Zeitschrift für Internationale Beziehungen*, Vol. 11, No. 1, 2004, pp. 147-154.

c cf. Mathias Dembinski, "Vom Diplomatischen Club zum außenpolitischen Regieren in Netzwerken? Der Einfluss gesellschaftlicher Akteure auf die GASP am Beispiel der EU-Konfliktprävention," in: Mathias Jopp and Peter Schlotter (eds.), *Die Gemeinsame Außen- und Sicherheitspolitik der EU. Intergouvernementales Netzwerk oder kollektiver Akteur*, Frankfurt am Main/New York (forthcoming).

February 2006, now contains more than 160 measures (appendix no. 17 and 18, p. 31). The EU Counter-Terrorism Strategy, which the British Council Presidency prepared within a few months in the second half of 2005 and was adopted by the Council at the beginning of December 2005, contains specific proposals for the horizontal, institutional and vertical networking of member states' foreign and domestic policies as well as for the development of a collective capability to act in the EU's fight against terrorism (appendix no. 15, p. 30):

- ▶ *Horizontal*: The EU coordinates the 160 measures according to sectors and along the strands of work prevent, protect, pursue and respond. In doing so, the domestic and foreign policies of the EU as well as those of the member states are intrinsically linked to each other.
- ▶ *Institutional*: In networking member states' foreign and domestic policies, the EU aims to link its anti-terror policies to those of the member states as well as to strengthen international, European and collective capabilities in fighting terrorism as a whole.

The policy and decision-making processes vary according to the particular policy area of the EU and are subject to legal constraints depending on the pillar involved. In addition, European cooperation takes place within as well as outside of the legal framework of the EU.

- ▶ *Vertical*: Finally, the EU strategy claims to provide the 27 member states' policies with an added value. In doing so, the relations between the EU and the individual member states are explicitly underlined.

Coherence and the European network form of anti-terror policy

Coherence can be seen as an “objective”, but also as a “means” of EU politics. According to article 3 of the Treaty on European Union (TEU), the EU shall ensure the consistency and the continuity of the activities carried out in order to attain its objectives while respecting and building upon the *acquis communautaire*. Furthermore, article 11 TEU stipulates that member states will, within the CFSP, refrain from any action “which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.” Analytically, coherence within the framework of the EU can be divided into three categories:

- ▶ *Horizontal*: between different policy areas or strands of work in counter- terrorism;
- ▶ *Institutional*: between different EU bodies and actors in the three pillars on the one hand and outside of the EU framework on the other hand;
- ▶ *Vertical*: between the EU and 27 national policies.^a

Coherence and efficiency are central issues in the network form of counter-terrorism. In the end, they are two sides of the same coin: a coherent policy in

terms of the horizontal, institutional and vertical dimension is not an end in itself, but is measured against its efficiency. According to Keohane, three problem areas have become apparent in the network form of European policies in counter-terrorism^b: Firstly, there is a deficit in the member states’ implementation of legislation. Either measures had not been adopted or if they had, their implementation only progressed slowly or they are seldom applied. Secondly, the EU does not have the financial resources at its disposal within the area of counter-terrorism in comparison to other policy areas, which would be required in order to play a stronger role. And thirdly, cooperation between domestic and judicial cooperation on the one hand and foreign and defence cooperation on the other hand needs to be improved.

a cf. Simon Nuttall, “Coherence and Consistency,” in: Christopher Hill and Michael Smith (eds.), *International Relations and the European Union*, Oxford: Oxford University Press, 2006, pp. 97–98.

b cf. Daniel Keohane, *The EU and Counter-terrorism*, London: Centre of European Reform, 2005 (Working Paper), p. 18.

The EU Counter-Terrorism Strategy

The EU Counter-Terrorism Strategy which was adopted in December 2005 and was laid down in an action plan in February 2006, structures more than 160 separate measures horizontally and according to sector along the four strands of work prevent, protect, pursue and respond (appendix no. 16, 17, 18 and 20, all on p. 31; cf. illustration 1, p. 12).¹²

Prevent

Key Priorities

1. Develop common approaches to spot and tackle problem behaviour, in particular the misuse of the internet;
2. Address incitement and recruitment in key environments notably by implementing legislation making these behaviours offences;
3. Develop a media and communication strategy to better explain EU policies;
4. Promote good governance, democracy, education and economic prosperity through assistance programmes;
5. Develop inter-cultural dialogue within and outside the EU;
6. Develop a non-emotive lexicon for discussing the issues;
7. Continue research, share analysis and experiences in order to further knowledge of prevention issues and develop policy responses.

The action plan on combating terrorism contains about 25 measures within the field of prevention, of which seven are key priorities for action in foreign and domestic policy. These seven key priorities reflect approaches within the field of EU foreign policy as well as in crime prevention in society which are very different and are scarcely harmonised.

The Strategy for “Combating Radicalisation and Recruitment to Terrorism”, which was adopted by the

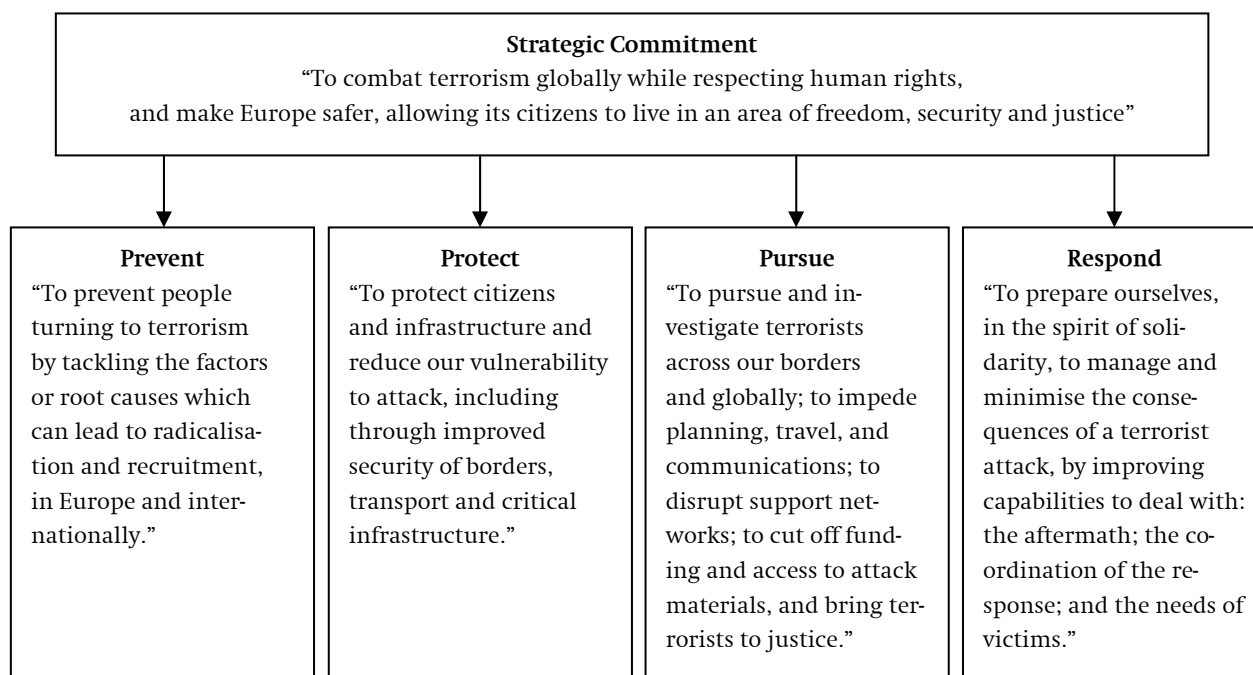
¹² In the following only the main headings of the key priorities of each strand of work shall be listed. The priorities for action of particular relevance to EU policy shall be discussed.

European Council in November 2005, contains long-term measures in order to limit the radicalisation and recruitment of people to terrorist groups such as al-Qaeda and groups inspired by al-Qaeda (appendix no. 3, p. 28 and no. 12, p. 30). These are summarised as three main aspects: combating networks and individuals who recruit others to terrorism; prevention of motivating factors which can lead to radicalisation of persons, as well as eliminating structural factors which create the socio-economic environment for radicalisation.

The diffuse nature of terrorist organisations, as well as the fact that it is almost impossible to determine the circle of supporters in society means that it is extremely difficult to develop effective prevention strategies as cross cutting tasks in foreign and domestic policy. One of the main reasons for this is that factors which contribute to the radicalisation and recruitment of Muslims within and outside of Europe have not yet been sufficiently explored. In addition, the task of combating the radicalisation and recruitment of terrorist is a task which falls under the responsibility of member states and not the EU. As the caricature debate at the beginning of 2006 showed, there are strongly diverging views and assessments in the EU states on the issue of radicalisation and how the respective foreign, defence and security policies should be communicated to the public. This is made more difficult by the fact that measures such as the “dialogue of cultures” or strategies aimed at de-escalation require a common understanding of concepts and strategies against radicalisation.

Apart from prevention in terms of foreign policy, crime prevention in society is also of importance. The Hague Programme emphasises that crime prevention is essential for the creation of an “area of freedom, security and justice” and therefore also for the fight against terrorism. For example, part of crime prevention is that radio and television programmes from third states which incite hatred on the grounds of race, gender, religion or nationality are prohibited in member states according to current EU legislation. The Europe-wide broadcasting bans recently adopted by member states for channels such as Al Manar and Sahar-1 have shown that these bans really did lead to

Illustration 1
The four strands of work of the EU's Counter-Terrorism Strategy



Source: *EU Counter-Terrorism Strategy*, 30 November 2005; cf. appendix no. 15, p. 30.

an end to their broadcasting and that the legislation is being implemented effectively.¹³ The EU also wants to stop bomb making instructions being accessible on the internet, however this will require imposing a stronger obligation on the provider. Internet sites of extremist and terrorist organisations are increasingly being used to distribute propaganda and to transmit secret information. The amount of information and different languages on the internet means that assessing websites requires many resources. However, a task sharing approach which takes the particular linguistic and specialised competence into consideration within the EU, as well as between the authorities in member states and in third states and Europol has hardly been developed. The EU member states currently have very different approaches to crime prevention, averting dangers and conflict prevention in foreign policy. The road to a comprehensive prevention approach in EU counter-terrorism still remains a long one.

¹³ Article 22a of directive 97/36/EC of the European Parliament and Council of 30 June 1997 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ("Television without borders" directive).

Protect

Key Priorities

1. Deliver improvements to the security of EU passports through the introduction of biometric data;
2. Establish the Visa Information System (VIS) and the second generation Schengen Information System (SIS II);
3. Develop effective risk analysis of the EU's external border through the European agency for operative cooperation in external borders;
4. Implement agreed common standards on civil aviation, port and maritime security;
5. Agree a European programme for critical infrastructure protection; make best use of EU and Community level research activity.

The measures within the field of protection concentrate on implementing the objective formulated in the Hague Programme to improve cross border cooperation and data exchange between police, border patrols and the judiciary within the EU by 2010 (appendix no. 10, p. 29). The EU action plan on counter-terrorism lists about thirty measures aimed at achieving this, whereby the key priorities for action

are related to expanding the European information network by 2008. The European information network is not exclusively used for fighting terrorism; however the new threat to security did contribute significantly to its rapid development. It is only with a functioning European information network that the EU shall be able to exchange data and information for the purposes of fighting terrorism within and between the individual strands of work and thereby expand counter-terrorism to a cross cutting task covering all three pillars.

A Commission communication from November 2005 along these lines is titled “Improved effectiveness, enhanced interoperability and synergies between European databases in the area of Justice and Home Affairs” and contains specific proposals which are to be taken into account when an information network is introduced according to EU specifications by the end of 2007.

The Schengen Information System (SIS) is supposed to be transformed into the second generation SIS II by the end of 2007, in order to create an important prerequisite for the opening of the borders to new member states. Great Britain, Ireland and Switzerland are also due to be included in the new system. In addition, the Visa Information System (VIS) is to be further developed to contribute to organising visa policy as well as domestic security, including counter-terrorism more efficiently. In November 2005, the Commission put forward a proposal for a decision by the Council on police and security authorities’ access to VIS.

Furthermore, the Council adopted amendments to the Community Customs Code in April 2005. In implementing the new action plan on customs cooperation, due to enter into force in January 2007, the extent to which the work of customs authorities at the European level needs to be improved shall be examined in connection with evaluating the European Border Protection Agency (Frontex). To do this, the Customs Information System (CIS) shall be used and the Naples II Agreement examined, which is the legal basis for cooperation for law enforcement purposes between customs authorities in member states.

In addition, the possibility of extended access to the European data basis (EURODAC) is planned for investigations which could contribute significantly to preventing or solving serious crimes, and therefore to counter-terrorism. Finally, the EU has begun preparing a European Programme for the Protection of Critical Infrastructure (EPCIP) in order to consolidate available warning systems for biological, chemical and

nuclear threats. At the centre of this is the protection of energy, telecommunications, health services, food and transportation. The aim to create an “early warning network” and a European information network encompasses all strands of work and as a whole, places high demands on cooperation in EU counter-terrorism both horizontally and in terms of sectors.

Pursue

Key Priorities

1. Strengthen national capabilities to combat terrorism;
2. Use of Europol and Eurojust to facilitate police and judicial cooperation, and integrate the Joint Situation Centre’s threat assessments;
3. Further develop mutual recognition of judicial decisions, adopt the European Evidence Warrant;
4. Implementation and evaluation of existing legislation as well as the ratification of relevant international Treaties and Conventions;
5. Develop the principle of availability of law enforcement information;
6. Tackle terrorist access to weapons and explosives, ranging from components for homemade explosive to chemical, biological, radiological and nuclear material;
7. Tackle terrorist financing, working to prevent the abuse of the non-profit sector;
8. Deliver technical assistance to enhance the capability of priority third countries.

The action plan lists about 60 measures for the strand of work entitled pursue, of which eight are considered to be key priorities for action. From the perspective of horizontal demands on coherence, combating the financing of terrorism—as a cross cutting task of the EU’s domestic and foreign policy—takes on a key role. This was always a firm element of the EU action plan and has already achieved initial success: more than 150 million US dollars in assets have since been frozen. In addition, incoming amounts through the EU’s external borders exceeding 10 000 euro are automatically reported to customs authorities. However, eliminating financial resources for terrorism remains a long-term task.

In light of the complex methods and means of acquiring funding, the EU must adapt and harmonise counter measures on a regular basis. The Council

adopted a strategy and action plan regarding this issue mid December 2004 (appendix no. 6, p. 29 and no. 11 and 13, p. 30). According to them, fighting the financing of terrorism is seen as a cross cutting task of domestic and foreign policy. Their implementation largely depends on how EU actors cooperate horizontally or sectorally. This effects various sectoral fields of action of the EU: money laundering, investigations and law enforcement, as well as the foreign policy dimension of these tasks are dealt with in all three pillars of the EU; individual aspects fall under Community competence as well as Union competence. For example, agreements on a regulation concerning electronic payments, the adoption of a third money laundering directive or a regulation on the monitoring of cash reserves are part of Community competence. Dialogue with international partners and regional organisations, such as the Gulf Cooperation Council, on the other hand, are part of the Union's competence. This dialogue is based on treaties signed by individual member states on combating the financing of terrorism, on the basis of resolutions 1373 (2001) and 1267 (2001) on the UN Security Council.

Respond

Key Priorities

1. Agree EU Crisis Coordination Arrangements and the supporting operational procedures for them;
2. Revise the legislation on the Community Mechanism for civil protection;
3. Develop risk assessment as a tool to inform the building of capabilities to respond to an attack;
4. Improve coordination with international organisations on managing the response to terrorist attacks and other disasters;
5. Develop approaches for the provision of assistance to victims of terrorism.

The key priorities for the strand of work entitled respond are to be implemented with about 25 measures, of which five are given precedence. Crisis response within the area of combating terrorism has gradually been extended from domestic to foreign policy (appendix no. 5 and 7, p. 29). The Hague Programme called on the Council and Commission to develop an integrated EU cross border crisis response procedure. In improving the EU ability to respond to emergencies, crises and catastrophes, high expecta-

tions are being placed on having a swift, effective response. While member states are responsible for responding to emergencies within their own territories, or helping their citizens abroad, the EU has another task in the spirit of the solidarity clause: it is to contribute to linking a political response and the available means for crisis management of the member states—including ESDP—more strongly to the crisis response. A contribution would for example be deploying military transport to member states to support a crisis response.¹⁴ Integrating ESDP elements into the response to catastrophes requires, however, appropriate institutional measures and therefore a high degree of conformity in horizontal, institutional and vertical coherence.¹⁵

Conceptually, the strands of work outlined, namely prevent, protect, pursue and respond reflect the EU's sectoral network form of counter-terrorism. The fundamental problem in the horizontal or sectoral network form of EU counter-terrorism is that the EU has not yet sufficiently coordinated the strands of work with the structures and instruments. The horizontal networking or coherence in counter-terrorism can hardly be distinguished from institutional and vertical coherence; in fact, they reinforce each other. Improving the entire coherence of European policy-making in counter-terrorism therefore requires the EU to clearly define its interests concerning foreign and domestic policy in the four strands of work; as well as setting the most important objectives in relation to organisations and third states.

¹⁴ cf. Michel Barnier, *Pour une force européenne de protection civile: Europe aid*, Paris, 9 May 2006, pp. 1–61.

¹⁵ Initiatives within the area of civil protection using ESDP instruments are feasible when member states set up flexible teams (consisting of medical personnel, fire brigade, water experts etc) which are deployable within EU territory or under an EU mandate in the cases of natural disasters or conflicts. The Commission's crisis response centre (Monitoring and Information Centre, MIC) and the Strategy and Early Warning Unit in the Secretariat General can take over international cooperation with the United Nations.

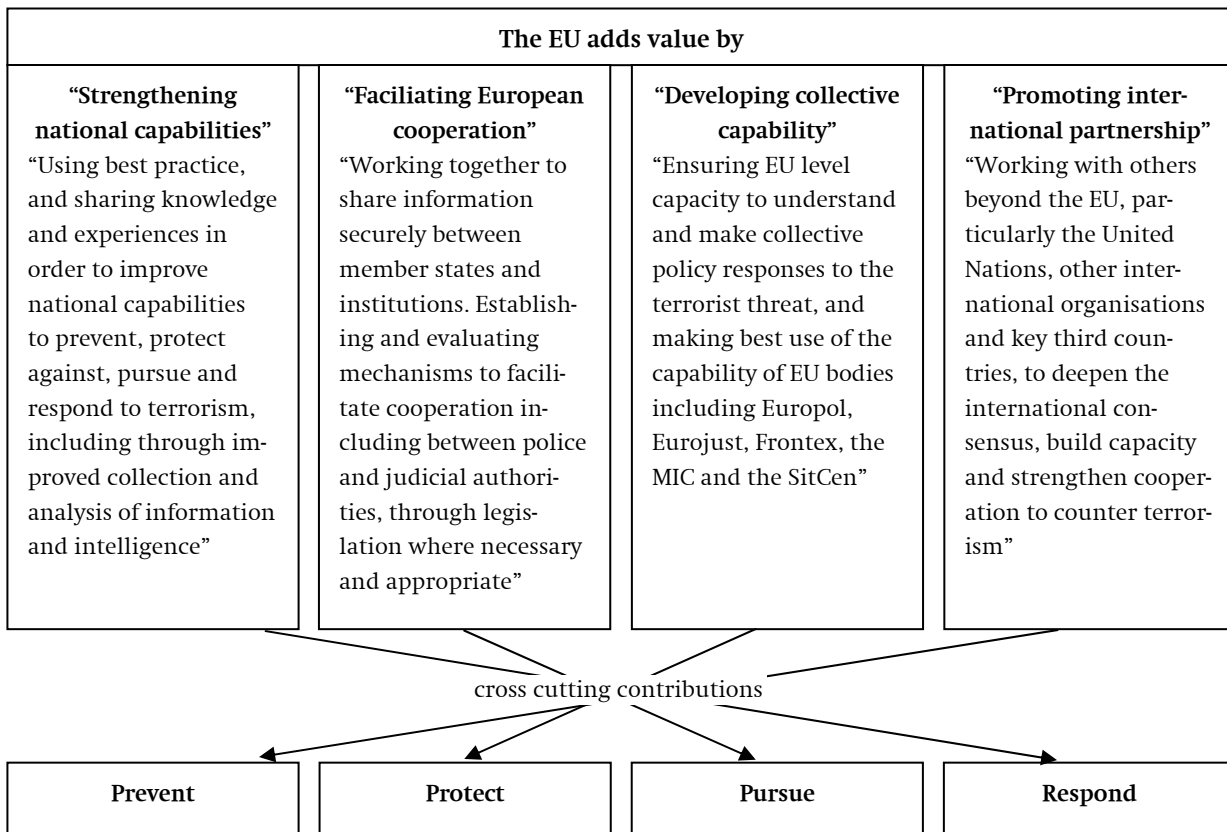
Evaluation of Structures and Instruments

The EU Counter-Terrorism Strategy’s objective is to expand the EU’s role in two areas: on the one hand in the institutional networking of member states’ foreign and domestic policies and on the other hand, in coordinating the EU’s foreign and domestic policy with that of the individual member states. The institutional network of the EU is based on four pillars: promoting

international partnership, developing the EU’s collective capabilities, intensive European cooperation beyond the EU and strengthening national capabilities. Questions of horizontal coherence as a cross cutting contribution are covered in all four pillars of institutional co-operation.

Illustration 2
Added value through the EU in Counter-Terrorism

“Member States have the primary responsibility for combating terrorism, and the EU can add value in four main ways:”



Source: EU Counter Terrorism Strategy, 30.11.2005; cf. appendix no. 15, p. 30.

Promoting International Partnership

In December 2005, the Justice and Home Affairs Council adopted a “Strategy on the External Dimension of JHA policy” (appendix no. 16, p. 31). The starting point was the view that aspects of counter-terrorism concerning domestic policy had not been treated with the necessary consistency in the EU’s actions in terms of foreign policy. The strategy declares counter-terrorism to be a key priority in the EU’s external relations; the intention is that political dialogue with those countries who wish a closer EU partnership should cover the whole range of JHA issues. The strategy also provides for the Council—while taking into account a report by the Commission and Council Secretariat to be submitted in December 2006—preparing papers on counter-terrorism containing specific measures and related to certain organisations, regions and issues. The main focus is to be on how priority interests in external relations—taking into consideration the particular situation in the country or organisation concerned or the type of relationship with the EU—can be brought to bear multilaterally, bilaterally as well as in the neighbourhood policy. As far as institutional coherence is concerned, as in other EU policy areas, multilateral and bilateral policies in counter-terrorism often compete with rather than complementing each other.

Multilateral Cooperation

As far as multilateral counter-terrorism is concerned, the European Union has until now concentrated on developing relations with the UN, NATO, the G8 and other organisations which specialise in counter-terrorism.

In terms of international counter-terrorism, the Security Council decision of 12 September 2001 is of particular significance for relations between the EU and the UN. This declared the attacks and other actions of international terrorism to be a threat to international peace and security. The Security Council confirmed the right to individual and collective self-defence in accordance with article 51 of the UN Charter and emphasised this in resolutions 1368 and 1373. In them, the member states of the UN are called upon to take necessary measures to prevent terrorist acts. This includes political, economic, police and

legislative measures.¹⁶ Not all of the EU member states have completed ratification of the relevant UN terrorism conventions as well as the eight special recommendations by the OECD on combating the financing of terrorism (appendix no. 6, p 29, no. 14, p. 30 and no. 17 and 18, p. 31).¹⁷

On the basis of the UN resolutions, NATO invoked article 5, the collective self-defence clause of the North Atlantic Treaty, on 4 October 2001 and decided to use civil and military means in the fight against terrorism. The obligation to collective self-defence applies to all NATO states and therefore to those states who are also members of the EU.¹⁸ In order to intensify the exchange of intelligence with the EU, NATO set up the Terrorist Threat Intelligence Unit (TTIU). The TTIU, in which Germany, the USA, Great Britain and Spain are represented, did not begin its work until the end of 2004.¹⁹ Cooperation with the EU is therefore still in the early stages.

The EU also has close links to international organisations and bodies with a specific mandate to be active in the fight against terrorism.²⁰ Within the context of counter-terrorism, the G8 has played a leading role in data exchange, particularly in introducing new documents containing biometric data. For example the G8-JHA ministerial summit mid June 2005 as well as at the beginning of May 2006, emphasised the importance of exchanging passenger data for monitoring

¹⁶ cf. Wolfgang S. Heinz and Jan-Michael Arend, *The International Fight against Terrorism and the Protection of Human Rights. With Recommendations to the German Government and Parliament*, Berlin: German Institute for Human Rights, 2005, pp. 1–42 (pp. 10).

¹⁷ *Doppelte Sicherheit. Über die zwischenstaatliche Zusammenarbeit im Kampf gegen den internationalen Terrorismus*. Study in international law, carried out on behalf of the Heinrich Böll Foundation by Peter-Tobias Stoll, Sven Mißling, Bettina Juretko, Department of General International Law of the University of Göttingen, Berlin 2004, pp. 1–49 (12–25).

¹⁸ Tasks include: supporting allies and states which are exposed to higher risks due to their support of the anti-terrorism campaign; intensified security precautions for US institutions; granting US aircrafts and those of other allies the right to fly over national airspace; transferring parts of permanent NATO marine forces in the Eastern Mediterranean and approval of support through NATO early warning aircrafts (AWACS fleet).

¹⁹ The TTIU prepares *Intelligence Security Reports*, promotes the *Intelligence Warning System*, develops and maintains direct contact with security and intelligence services in NATO states, *Partnership for Peace* members and Mediterranean countries.

²⁰ Council of the European Union, *JHA External Relations Multi-Presidency Programme*, 5001/05, Brussels, 3 January 2005, pp. 1–25.

increased flows of travellers, particularly through further developing Advanced Passenger Information to an interactive system. The EU can even to some extent, join forces with international organisations, such as the Council of Europe. Close cooperation between the EU and the Council of Europe increases members' and candidate states' obligation to respect relevant conventions of the Council of Europe as well as international law in the fight against terrorism.²¹

Bilateral Partnerships

Apart from multilateral cooperation, the EU maintains relations in the area of counter-terrorism based on legal agreements and political dialogue with selected strategic partners. Among them are the USA, Russia, Canada, Australia, Japan and China, as well as regional organisations (Gulf Cooperation Council, Asean, Mercosur). Anti-terrorism clauses are used in partnership and cooperation agreements, as well as association agreements and the related action plans in order to clarify a common position on terrorist acts and to highlight current challenges. The wording of anti-terrorism clauses is continuously updated and specifically adapted to individual negotiating partners.

Cooperation with the USA and Russia in the field of domestic security and counter-terrorism enjoys a comparatively high priority status. Following the 11 September 2001, fighting international terrorism became one of the most important tasks within the framework of transatlantic relations. This still remained a priority at the end of 2002 and the beginning of 2003, when there were differing approaches on the conflict in Iraq and its resolution, between the US administration and the German government, as well as within the EU itself.²² In EU-USA relations questions concerning justice, freedom and security are dealt with in specific ministerial summits within

the framework of political dialogue on border and transport security. The EU's main aim here is extending the Visa Waiver Programme to all of its member states. In the EU's fight against terrorism, the agreements on mutual assistance and extradition are of particular importance for the "pursue" strand of work. The agreements on international assistance in criminal matters between the EU and the USA and between Germany and the USA still have to be ratified.

Counter-terrorism is also part of the strategic partnership with Russia, which can be seen in the creation of the "common spaces".²³ Apart from dialogue at various levels, the Europol-Russia agreement and the network formed by liaison officers have created closer operative links. At the same time, the limits of cooperation between the EU and Russia have become clear, for example in Russia's reservations on strengthening the role of the Organisation for Security and Co-operation in Europe in the counter-terrorism field of "prevent", extending the G8's tasks in the field of "pursue" or in becoming a member of the European Neighbourhood Policy.

Neighbourhood Policy

The EU includes counter-terrorism as a dimension of its enlargement and neighbourhood policies. In March 2006, the accession states Bulgaria and Romania, the candidate states Turkey and Croatia, the countries of the stabilisation and association process, the EFTA states which participate in the European Economic Area, Iceland and Liechtenstein, as well as Ukraine and the Republic of Moldova agreed to harmonise their domestic counter-terrorism policies with EU policy.²⁴

Stronger technical cooperation, stricter border and transport security measures and improved technical support for third states are at the forefront of the country-specific action plans²⁵ of the European neigh-

²¹ At the beginning of November 2005, the Swiss senator Dick Marty was appointed by the Council of Europe's Parliamentary Assembly to investigate the existence of "secret prisons" in the member states of the Council of Europe. cf. Parliamentary Assembly-Committee on Legal Affairs and Human Rights, *Alleged Secret Detentions in Council of Europe Member States. Information Memorandum II (AS/Jur 2006)*, 03 rev, Strasbourg, 22 January 2006, pp. 1–25.

²² cf. Esther Brimmer (ed.), *Transforming Homeland Security. U.S. and European Approaches*, Washington, D.C.: Center for Transatlantic Relations, 2006.

²³ cf. Hannes Adomeit and Rainer Lindner, *Die "Gemeinsamen Räume" Russlands und der EU. Wunschbild oder Wirklichkeit?*, Berlin: Stiftung Wissenschaft und Politik, November 2005 (S 34/05), pp. 1–25 (13–14).

²⁴ Council of the European Union, Declaration by the Presidency on behalf of the European Union, on the application of specific measures to combat terrorism, 6473/06 (Presse 49), Brussels, 31 March 2006, http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/cfsp/89119.pdf.

²⁵ Action plans with comprehensive JHA elements have been agreed with Ukraine, Moldova, Morocco, Tunisia, Israel, Jordan, the Palestinian Authority, Armenia, Azerbaijan and

bourhood policy in the areas of “protect” and “pursue.” The creation of the Ukrainian contact point for suspected cases of money laundering is an example of successful institutional reform supported by the Commission which helped contribute to Ukraine’s removal from the Financial Action Task Force on Money Laundering’s (FATF) list of non-cooperative countries. Furthermore, negotiations on an agreement with Eurojust are planned. In addition, the MEDA programme supports projects, such as the twinning projects in Morocco concerning money laundering and projects related to justice in Jordan (ENP performance).

As provided for in the Barcelona process, the EU also aims to promote good governance and democracy in its southern neighbourhood policy as part of its dialogue and association between cultures, religions and civilisations. At the Euro-Mediterranean Summit at the end of November 2005, a code of conduct on counter-terrorism was adopted.²⁶ Implementing promising declarations of intent on counter-terrorism has proven difficult, due to different factors, in particular political crises in the neighbourhood policy in the Near and Middle East, as well as due to political uncertainty in how to deal with Hamas²⁷, which bears responsibility for governing the Palestinian territories, but is listed as a terrorist organisation by the EU. Through a more intensified CFSP, the EU is now in a better position to take a view on important issues of foreign policy. In addition, including the Commission in this process has contributed to improved coordination with Community policy.

Georgia; action plans are currently being drafted for Egypt and Lebanon.

²⁶ Council of the European Union, 10th Anniversary Euro-Mediterranean Summit Barcelona, 27 and 28 November 2005. Euro-Mediterranean Code of Conduct on Countering Terrorism, 15075/05 (Presse 328), Brussels, 28 November 2005, pp. 1–4; cf. Fernando Reinares, *The Mediterranean Region and International Terrorism: A New Framework for Cooperation?*, Madrid: Real Instituto Elcano, 11 January 2006 (Análisis del Real Instituto Elcano [ARI], ARI Nr. 149/2005, translated from Spanish), pp. 1–5, <http://www.realinstitutoelcano.org/analisis/882.asp>.

²⁷ cf. Muriel Asseburg, *In the Aftermath of the Palestinian Parliamentary Elections. How to Deal with Hamas?*, Berlin: Stiftung Wissenschaft und Politik, February 2006 (SWP-Comments 3/06), http://www.swp-berlin.org/en/common/get_document.php?id=1590.

Developing Collective Capabilities

The EU fight against terrorism has developed into a cross cutting task, covering all three pillars in the four strands of work: the individual measures effect the areas CFSP (2nd pillar TEU), cooperation in police and judicial matters (3rd pillar TEU), but also areas which fall within the Community’s competence (1st pillar) (cf. table). A lack of cooperation between the EU bodies, which are subject to different decision-making processes depending on the pillar involved, make expanding the EU’s capability to act collectively in the fight against terrorism difficult. Increased cooperation between a few member states is therefore to be seen as an institutional reaction to the laborious internal decision-making processes in the EU among the 27 member states. At the same time, the member states are forming a network among their security authorities, outside the EU framework.

After the attacks in Madrid—after a proposal submitted by the Irish Presidency and the High Representative for the CFSP, Javier Solana,—the former Minister for the Interior of the Netherlands and long standing leader of the liberal group in the European Parliament, Gijs de Vries, was appointed Personal Representative for Counter-Terrorism. His office is located in the Council General Secretariat and he is responsible for the implementation of the EU Counter-Terrorism Strategy and its accompanying action plan. The Counter-Terrorism representative does not have the right of initiative, any decision-making powers or a budget at his disposal. He basically functions as a spokesperson for the High Representative or a “network administrator” in the EU’s fight against terrorism. Like the Director of the Joint Situation Centre (SitCen), he reports directly to the High Representative for the CFSP.

After the attacks in Madrid, Belgian Prime Minister Verhofstadt called for the creation of a European coordination point for exchanging data between intelligence agencies. Austria even put forward the idea of establishing a kind of European CIA.²⁸ One result of the ensuing discussion was the expansion of the intelligence exchange authority, the Joint Situation Centre (SitCen), which had already been affiliated to the General Secretariat of the Council of Ministers since 1999. In February 2002, a Civilian Intelligence Cell (CIC) was established, which is responsible for assessing information received by the SitCen. This is

²⁸ Keohane, “The EU and International Terrorism” [as in footnote 3], p. 30.

Table
Differentiation for the institutions responsible for EU counter-terrorism

| <i>First Pillar TEU</i> | <i>Second Pillar TEU</i> | <i>Third Pillar TEU</i> |
|---|--|--|
| Specialised Councils | General Affairs and External Relations Council | Ministers for Justice and the Interior |
| ← Committee of Permanent Representatives (COREPER) (cross pillar) → | | |
| ← Clearing House (cross pillar) → | | |
| | Political and Security Committee (PSC) CFSP Council Working Group “Terrorism (international aspects)” (COTER) High Representative for the CFSP, EU Counter-Terrorism Co-ordinator, Joint Situation Centre (SitCen), Civilian Intelligence Cell (CIC) | “Article 36”-Committee Terrorism Working Group (TWG) Task Force Police Chiefs (TFPC) |
| (outside of the TEU, based on Council decision) | European Union Satellite Centre (EUSC) | Europol Eurojust Frontex |
| Flexible Cooperation in the EU (outside of the TEU) | | |

comprised of representatives from foreign intelligence services from Great Britain, France, Spain, the Netherlands, Italy, Sweden, Germany, Slovenia, Poland, Finland and Hungary.²⁹ The main regional focus is on the Balkans, the Commonwealth of Independent States, the near and Middle East, North Africa, Asia and Latin America. There are also two thematic field of work, namely international terrorism and proliferation. The SitCen is a cornerstone of the CFSP’s European intelligence service. There is also the EU Satellite Centre in Torrejon, Spain as well as the intelligence department within the Western European Union’s military unit.³⁰

²⁹ France, Germany, Italy, Great Britain, Spain and Belgium also have personnel from domestic intelligence services.

³⁰ The satellite centre of the European Union (EUSC), which has been operational since 2002, is used as a “civilian” early warning system within the framework of the CFSP. It is monitored by the Political and Security Committee (PSC). The intelligence department of the EU military unit is responsible for exchanging and further developing military intelligence within the framework of the ESDP; cf. Anna Daun, “Intelligence – Strukturen für die multilaterale Kooperation europäischer Staaten,” in: *integration*, Vol. 28, No. 2, 2005, pp. 136–149 (138–139); Björn Müller-Wille, *For Our Eyes Only? Shaping an Intelligence Community within the EU*, Paris: European Union Institute for Security Studies (EUISS), January 2004 (EUISS Paper No. 50).

The SitCen is staffed around the clock and receives coded and uncoded intelligence from the foreign and interior ministries of the member states. The large amount of incoming data to SitCen comes from the resources of Commission delegations, ESDP missions, special representatives and monitoring missions. Regular exchanges of information have been taking place between Europol and SitCen since October 2005.

SitCen’s analyses provide member states with an added value, as they pool data from all member states and are also based on internal investigations. For example, the fact that the methods of terrorist financing are constantly changing means that a continuous examination of their modus operandi is necessary. Some member states do not, however, have procedures for centralised evaluation, meaning that the SitCen can take on an important role in investigative work.

Information exchange between the SitCen and the various Council working groups, which are based in all three pillars, is, however, insufficiently developed. The EU does not have—at least not officially—a body based in Brussels which deals with all (cross pillar) aspects of counter-terrorism on a continual basis. Unofficially, there is a Clearing House, subordinate to the Committee of Permanent Representatives (COREPER) and responsible for cross cutting tasks of counter-

terrorism. At the moment, measures to combat the financing of terrorism are coordinated at the EU level in the Clearing House. Here, high ranking officials from various EU bodies and security authorities agree on lists of terrorist organisations and appropriate sanctions. The results are forwarded to COREPER.

Usually, however, the various specialised ministerial councils meet at the EU level, according to the strand of work involved (e.g. prevent). Within the second pillar, the Political and Security Committee (PSC) is responsible for coordinating the work of the Council groups, while the “Article 36 Committee” (justice and home affairs) is responsible for this in the third pillar. While representatives from the 27 foreign ministries meet within the CFSP Council working group “Terrorism (international aspects)” (COTER), cooperation between law enforcement forces in counter-terrorism within the third pillar takes place in the Terrorism Working Group (TWG). In the TWG, representatives from police and sometimes also non police intelligence services from the EU countries work together with Europol. Representatives from the EU states fly in for TWG and COTER meetings and deal exclusively with their own respective specialised areas, without for example, exploring other related aspects of security and neighbourhood policy. A stronger institutional openness between the Council working groups TWG, COTER and Europol is a prerequisite for developing the EU’s collective capability for action in the fight against terrorism.

The European Police Office (Europol) took up its work in July 1999. Europol creates analytic work files to assist ongoing investigations and to initiate new ones. Another aim is closer cooperation between Europol and Eurojust. Eurojust was created in February 2002 with the aim of facilitating coordination of investigations between member states’ law enforcement authorities, including prosecuting terrorists. Furthermore, Eurojust is to improve cooperation in judicial assistance as well as support national authorities in pursuing cross border law enforcement measures effectively. Europol and Eurojust are also gaining increasing significance in counter-terrorism as European instances of coordinating member states’ police and law enforcement authorities.³¹

³¹ As early as April 2000, the heads of police services from the EU states began to meet in a task force of police chiefs (TFPC) in order to exchange strategic information in advance of police actions.

In order to facilitate a swifter exchange of data than among the 25 member states, Germany initiated the Treaty of Prüm, which was signed at the end of May 2005 by the Benelux states, France, Spain and Austria. This seven country agreement aims at intensifying cross border cooperation in combating cross border crime.³² The Treaty of Prüm will enable data to be exchanged more quickly for the purposes of preventing and prosecuting criminal offences, as it for the first time provides for the possibility of direct access to databases in another signatory state. In March 2003, the five large EU member states, Germany, France, Great Britain, Italy and Spain (G5), agreed on more intense cooperation between intelligence services. In March 2005, the G5 decided to set up a joint database which is to contain data on persons suspected of having a connection to terrorist organisations, as well as information on the loss or theft of explosive substances or weapons.³³ In March 2006, at the summit in Heiligendamm (Germany) the interior ministers of the G6 (now including Poland) agreed to set up joint investigative groups within the area of organised crime and a Rapid Reaction European Anti Terrorist Police Force.

Promoting Cooperation beyond the EU

Outside of the EU framework, cooperation between intelligence services enjoys high priority.³⁴ For decades, representatives from domestic intelligence services from the 25 member states as well as Norway and Switzerland have met within the informal framework of the Club of Berne. In September 2001, the Counter-Terrorism Group (CTG), was founded within

³² Vgl. Thierry Balzacq et al., *Security and the Two-Level Game: The Treaty of Prüm, the EU and the Management of Threats*, Brussels: Centre for European Policy Studies (CEPS), January 2006 (CEPS Working Document, No. 234), pp. 1–23.

³³ Keohane, “The EU and International Terrorism” [as in footnote 3], p. 31.

³⁴ According to newspaper reports, an informal intelligence services working group called “Camolin” has existed since February 2003 in which Germany, France, Great Britain, the United States, Canada and Australia take part. The existence of this group is however officially denied. cf. Geord Mascolo and Holger Stark, “Die im Dunkeln. In Paris arbeiten europäische Nachrichtendienste mit der CIA in einem Anti-Terror-Zentrum zusammen – das Projekt ist ebenso heikel wie geheim,” [The ones in the dark. European intelligence services are working together with the CIA in an anti-terror centre in Paris. The project is just as precarious as it is secret] in: *Der Spiegel*, 14 November 2005, p. 204.

the club to coordinate the work of anti-terror experts. The CTG's mandate is to draw up threat assessments regarding Islamic terrorism, which are then made available to the various EU bodies and the national interior ministries. The Presidency, which rotates parallel to the respective EU Presidency, carries out purely organisational tasks. The Heads of Services, the steering committee of the CTG, meets every six months. The Heads of Units is responsible for implementation, which meets every quarter or for special meetings. There is no formal link to the EU. Police representatives do not take part in the CTG nor in the Club of Berne. An institutional bridge to the EU could be built by including Europol in the Club of Berne. In general, the EU is trying to drive stronger coordination of the work of the institutions with Europol, the TWG, COTER and the Club of Berne.

Other examples of regional cooperation outside of the EU framework are the Salzburg forum (Austria, Czech Republic, Poland, Slovakia, Slovenia) and the Baltic Sea Task Force. Within the framework of Stabilisation and Association policy, the EU is promoting cooperation between the countries of South Eastern Europe and Europol and Eurojust, as well as the development of a regional centre to fight cross border crime (SECI) and a network of liaison officers. In pursuing these measures, the EU aims to better use its instruments in police and law enforcement cooperation regarding serious crime in the Western Balkans.

In counter-terrorism, the deficits in the collective capability and lack of institutional coherence between the different levels of action can be traced back to two factors: On the one hand, member states are hesitant to integrate their police and intelligence services into the EU framework; on the other hand, member states do not only organise increased co-operation within, but also outside of the EU framework. Against this background, there are two possible developments as a result of increased cooperation in counter-terrorism:

1. Ensure coherence and continuity of the measures in order to achieve EU objectives and preserve the further development of the common acquis.
2. Risk of fragmentation of EU policy, as collective structures and instruments for counter-terrorism are systematically circumvented by the member states.

Strengthen National Capabilities

The comprehensive EU strategy is based on the premise that member states are predominantly responsible for counter-terrorism. Germany's approach to counter-terrorism³⁵ served as a basis for developing the EU strategy under the British Presidency in 2005 and is therefore de facto highly compatible with the EU strategy. In actual fact, ensuring vertical coherence is associated with institutional and normative obstacles, which considerably weaken prevention in counter-terrorism.

The relationship between police and intelligence services in the EU is characterised by two structural features which make vertical cooperation difficult. For example, member states have different cultural and legal traditions and experiences.³⁶ The member states do not only have classic police services, which are organised centrally in some states and federally in others, such as Germany. There are also foreign, domestic and military intelligence services. In Germany the so-called division of authority principle applies: a strict division between data collection through intelligence services on the one hand and investigations by law enforcement authorities, including the department of public prosecution on the other hand.³⁷ For most EU member states, this kind of division of authority is unheard of. This means that in the EU, police and intelligence services cooperate at different levels and with varying degrees of intensity at the national level.

After 11 September 2001, central anti-terror coordination points were established in individual member states in accordance with EU specifications. The anti-terror package, adopted by the German Bundestag, gave the German Foreign Office and Interior Ministry the opportunity to create structures to facilitate international cooperation in counter-terrorism. In Germany, the position of Representative for

³⁵ cf. "Bekämpfung des Terrorismus." *Bundesdeutsche Leitlinien der Terrorismusbekämpfung*, 25. January 2006, http://www.bmi.bund.de/cln_012_165104 [downloaded on 25 January 2006], pp. 1-2.

³⁶ As a domestic policy response to the attacks of 11 September 2001, counter-terrorism legislation was passed in all EU member states. cf. Gert-Joachim Glaesner and Astrid Lorenz (eds.), *Europäisierung der inneren Sicherheit. Eine vergleichende Untersuchung am Beispiel von organisierter Kriminalität und Terrorismus*, Wiesbaden 2005.

³⁷ cf. Christoph Gusy, "Geheimdienstliche Aufklärung und Grundrechtsschutz," in: *Aus Politik und Zeitgeschichte*, Vol. 54, No. B44, 2004, pp. 14-20.

International Counter-Terrorism and Prevention was established with a team of staff working for him. Furthermore, the Joint Counter-Terrorism Centre was set up as a new forum for national cooperation aimed at integrating the police and intelligence services at the federal and Länder level.³⁸ The Joint Counter-Terrorism Centre has certainly contributed to progress in counter-terrorism: it enables specialised knowledge to be pooled and improved both the capability to react to specific threats, as well as the identification of network structures in the early stages of planned attacks. At the same time, however, the Centre is an example for problems, which can arise through this kind of data exchange: firstly, the division of authority between police and intelligence services is being circumvented at the national level through increased institutional cooperation between police and intelligence services, which is in particular being demanded by the EU. Secondly, the division of authority principle in Germany is coming under increased pressure through European specifications.

Vertical coherence problems also occur in counter-terrorism regarding the implementation of EU legislation. In December 2001, 14 member states—with the exception of Italy—adopted the European Arrest Warrant, which entered into force in January 2004. The provisions contain a “positive list” of 32 criminal offences which result in extradition. The European Arrest Warrant can accelerate extradition procedures in the member states. In July 2005, the German Constitutional Court rescinded the German law on the European Arrest Warrant, as it did not sufficiently consider the fundamental rights of its citizens. The EU Framework decision, which the German law refers to, was not however contested.³⁹ A Framework Decision on the European Evidence Warrant (EEW) is also currently planned. An EEW is a ruling adopted by a judicial authority in one member state, which is directly recognised by a judicial authority in another. The aim is to introduce a mechanism, which would facilitate the collection of evidence in cross border

cases on the basis of mutual recognition. Similarly to the European Arrest Warrant, there are already signs of difficulty in implementing the European Evidence Warrant.

Another fundamental problem in vertical cooperation is military deployment for domestic issues. Since the Seville summit in June 2002, the ESDP is included in counter-terrorism. The Solidarity Programme of December 2004 and the Declaration on the inclusion of the ESDP in counter-terrorism of November 2004 mean that applying military means regarding ABC protection, protection of armed forces and citizens abroad within the EU’s territory or technical assistance for other EU states can no longer be ruled out. The EU aims to establish a data basis in order to record the military capacities which could be deployed for the purposes of protecting the civilian population in the aftermath of a terrorist attack. Furthermore, the EU is aiming at more intensive, operative cooperation with NATO. The decision on the admissibility of military missions for internal issues—which means not only within the territory of Germany, but across the entire EU—a course is being set whose consequences cannot yet be foreseen in relation to the debate within Europe. In its ruling of February 2006, the German Constitutional Court has, however, imposed limits on the deployment of military means within the territory of the Federal Republic of Germany⁴⁰. The consequence of this is that the principle of mutual recognition of legal procedures in European legislation and thereby also the vertical coherence in cooperation between the EU and member states does not yet legally have unrestricted application.

³⁸ The main fields of work of the Joint Counter-Terrorism Centre, which was established in December 2004 in Berlin, include information exchange, evaluating assessments of potential threats in real time and joint analyses of Islamist terrorism. Currently, representatives from almost 40 bodies work together in the Centre.

³⁹ cf. Robert Chr. Van Ooyen, “(K)ein Raum der Freiheit, der Sicherheit und des Rechts? – zum Europäischen Haftbefehls-gesetz-Urteil des BverfG,” in: *Die Polizei*, No. 11, 2005, pp. 325–330.

⁴⁰ cf. *Weißbuch 2006 zur Sicherheitspolitik Deutschlands und zur Zukunft der Bundeswehr*. 25 October 2006, online version, p. 71, http://www.weissbuch.de/download/Weissbuch_2006_Vollversion.pdf.

Tasks for EU Policy

The EU's efforts to form a horizontal, institutional and vertical network of member states' foreign and domestic policies in the fight against terrorism are confronted by strong national reservations regarding sovereignty. This means that the EU's role in counter-terrorism is limited. It focuses mainly on establishing a better network between the member states' policies on the one hand, and between EU policies, those of the member states, third states and international organisations on the other. The main interest of European counter-terrorism is to confront "the networks of terror with networks against terror". The EU views implementing its comprehensive Counter-Terrorism Strategy, adopted by the European Council in December 2005, as the best way to achieve this goal. The accompanying action plan was last updated in February 2006.

As this research paper has shown, the specific significance of the EU strategy lies in the fact that it attempts to form a closer network between the member states in cooperation regarding the strands of work prevent, protect, pursue and respond in international, European and collective cooperation; as well as to reinforce the 27 individual national policies. EU legislation in the above strands of work is becoming a point of reference for member states' foreign and domestic policies and part of national law. The result of this is not a communitarisation of counter-terrorism, but rather a network form of counter-terrorism policy. The European governments remain the fundamental pillars; however, the complexity of the policy area means that they need to cooperate more closely than up until now. National governments are becoming increasingly dependant on the added value which the EU provides in coordinating the 27 policies in the areas of foreign policy, police and intelligence services. In this process of establishing a European network, a state's foreign policy becomes the domestic policy of another state or the EU as a whole. At the same time, the EU is developing its own independent competence to act in the external dimension of counter-terrorism for cooperation with third states and international organisations.

In June 2006, the European Council adopted the Commission communication "Europe in the World—

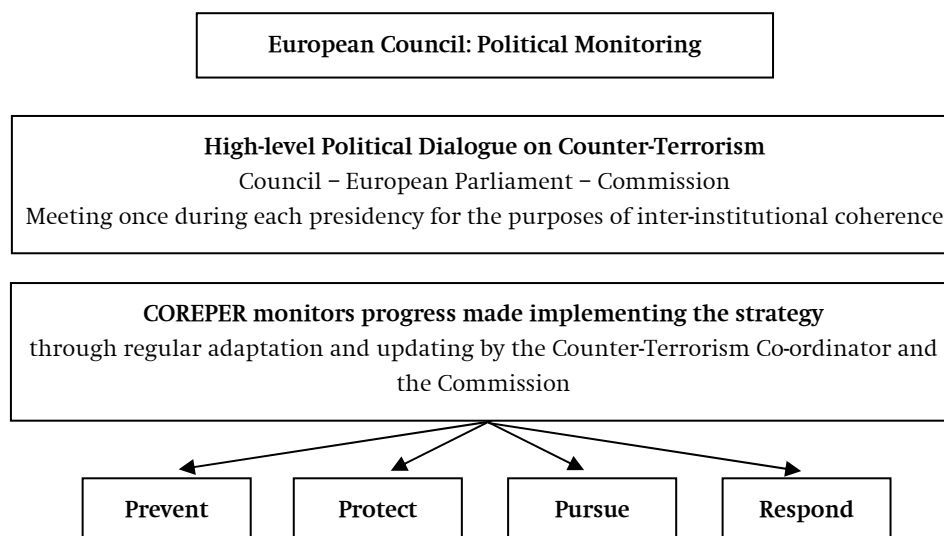
Some Practical Proposals for Greater Coherence, Effectiveness and Visibility" (appendix no. 20, p. 31). This so-called Cutileiro Report is a response to the informal meeting of the Heads of State and Government of October 2005 in Hampton Court. At this meeting, the decision was made that despite the setbacks in ratifying the European Constitutional Treaty, steps were to be taken to strengthen the EU's action in foreign policy and in doing so, establish a closer linkage between the EU's internal and external policies. The Communication specifically states that among other issues, in the fight against terrorism, "the development of internal policies has naturally led to a more active external role for the EU." The Council, the High Representative for the CFSP and the Commission are also requested to examine measures regarding counter-terrorism, on the basis of the existing treaties, in order to improve the coherence between the different foreign policy instruments of the Union, in cooperation between the EU bodies among each other and between EU bodies and the member states.

What specific tasks for EU policy arise from this? The EU Counter-Terrorism Strategy provides for the following course of action: under each presidency and before the European Council examines progress, the Council, Commission and European Parliament are to meet for high-level political dialogue, in order to examine the strategy's coherence and give the EU approach to counter-terrorism more balance in its horizontal, institutional and vertical dimension.

Horizontal Strategy Planning

Horizontal coherence in counter-terrorism requires a coordinated response in domestic and foreign policy along the four strands of work in the EU's strategy. However, this kind of policy can only have sustained effect if it is accompanied by serious institutional reforms. Its success first and foremost depends on the member states agreeing on which political goals—beyond the key priorities of individual strands of work—are to be achieved by the EU in its fight against terrorism. Without this consensus, there is a risk of EU

Illustration 3
Tasks of central EU institutions in counter-terrorism



counter-terrorism policy becoming increasingly fragmented according to sectoral and institutional aspects and member states reducing the EU to perform a seemingly alibi function. As far as horizontal strategy planning is concerned, the best course of action is for EU policy to concentrate its efforts on the “prevent” strand of work:

1. Regarding content and concepts, counter-terrorism is to be seen within the context of the European Security Strategy and other EU strategies with a strong link to the fight against terrorism (e.g. the EU Strategy against Proliferation of Weapons of Mass Destruction). In order to achieve synergy effects in European policy, the strategies for the four strands of work, subordinate to the comprehensive EU Counter-Terrorism Strategy, need to be more closely coordinated with each other.

2. In December 2004, the European Council decided to draw up a strategy and action plan to deal with the problem of radicalising and recruiting to terrorism. The Strategy for Combating Radicalisation and Recruitment to Terrorism was presented in November 2005. Upon closer examination it became clear that this strategy required a more precise definition of the limits and opportunities of prevention, as well as a systematic differentiation of the various kinds of terrorism. Only with this kind of basis are more specific policy approaches and measures in the various strands of work possible. In order to reinforce the complementarity of different preventive

measures and better coordinate the priorities in the individual strands of work, drawing up a comprehensive, holistic prevention approach would make sense. As a cross cutting task, prevention also requires interdisciplinary cooperation. Linguistic and cultural specific competence is required to transcribe messages to prevent radicalisation and recruitment. To combat using the internet to promote radical messages, the relevant websites first need to be analysed in various languages and if necessary blocked. This requires analysing internet sites in the EU based on task sharing and including Europol.

3. It is absolutely necessary to improve media communication in the EU. This became obvious, for example, following violent protests at the publication of the Mohammed caricatures in early 2006, but also in the dispute between Europeans and Americans regarding CIA flights and secret prisons within and beyond Europe. An EU media communication strategy would be worthwhile, as an open exchange of information contributes significantly to dealing with threats. Furthermore, broadening the information basis and its integrity or improvement of the reliability of data leads to minimising sources of errors or culturally related misinterpretations. Within the framework of counter-terrorism, clear values, objectives and principles therefore need to be set by the European Council so that they can be presented in the media without risk of misunderstanding.

Institutional Demands on Coherence

Horizontal networking along the strands of work of EU counter-terrorism requires more intense, cross pillar co-operation in the EU. By the time, if not before, a Counter-Terrorism Representative had been established in March 2004 and the comprehensive EU Counter-Terrorism Strategy adopted in December 2005, counter-terrorism has been a cross cutting task assigned to the second pillar. This is to ensure that member states remain the fundamental actors in the networking of their policies. At the same time, it is possible to coordinate measures in the first and third pillar through the second pillar. The Council and the Commission are both equally responsible for institutional coherence in action related to foreign policy:

1. Community competencies for negotiations with third states could be extended in relation to the European Neighbourhood Policy. When determining the criteria for choosing relevant cooperation partners, the necessity for a flexible response to certain threats should be considered so that programme planning in neighbourhood policy and acute crisis management (instrument of stability) can be achieved in a more targeted manner. Organisations on the so-called EU list of terrorist organisations should be able to be removed from it, under certain conditions. Foreign policy accountability reports on imposed sanctions in counter-terrorism are imperative.

2. Implementation of the EU Counter-Terrorism Strategy requires regular strategic specifications by the "General Affairs and External Relations" Council. Since the formulation of prioritised goals in counter-terrorism is not the only dimension of foreign policy action, it is the Council's task to balance these goals with other interests of the EU and the member states in their external relations. It would be desirable for foreign ministers as well as ministers responsible for justice and the interior to contribute to this. These parallel consultations could be summed up in a policy paper on the existing options, which could serve as the basis for determining priorities by the Council. This would put the Council in the position of promoting early coordination with international organisations and third states.

3. The role of the "external relations" (enlargement, trade, development etc.) group of Commissioners should be strengthened and the High Representative for the CFSP and the Counter-Terrorism Representative included in the work of the group. A transfer of the EU Counter-Terrorism Coordinator to the Com-

mission is also feasible. Every six months, the President of the European Council assuming office and his foreign minister should meet with the President of the EU Commission, the Commissioner responsible for external relations and the High Representative for the purposes of strategic planning to coordinate their positions on counter-terrorism. More competencies and rights of initiative for the High Representative would automatically strengthen the SitGen, which could elaborate representative threat assessments with the support of the member states, the EU Commission, Europol, Eurojust and the European Borders Agency. EU missions should be used more intensively in order to deal with questions within the context of counter-terrorism.

4. Institutional coherence requires JHA instruments also being used in the external field of counter-terrorism. Apart from the conventional instruments of external relations (political dialogue, Special Representatives of the EU, technical assistance or involving international organisations), there are specialised JHA instruments available (e.g. operative cooperation within the framework of Europol, Eurojust, or the European Borders Agency, liaison officers, agreement between member states and the adoption of Common Positions). This is related to the concept that ministers responsible for justice and the interior, as well as the foreign ministers contribute to this policy as a part of the whole EU foreign policy. COREPER would be responsible for preparing the meetings of the various Council formations. It should play the most important role in efforts to balance JHA concerns with aspects of foreign policy and support the Council in exerting more influence on third states and organisations.

5. Institutional and also vertical coherence could be achieved by Europol establishing direct relations with anti-terror units of police and intelligence services in the member states. Police and law enforcement authorities in the EU have a large number of data sets, whose use by police and law enforcement authorities in other member states and Europol, within the framework of its mandate, would increase the collective capability to act. Europol would accordingly need direct access to national databases. Alternatively, national databases could be transferred into existing EU information systems. As the central coordination point, Europol would be responsible for collecting and evaluating the data. This would, however, require a Council decision of the 27 member states on the preventive exchange of data on persons posing a threat. Finally, the "Terrorism Situation and Trend Report"

would need to be reviewed. Europol should be mandated with this. Up until now, the report has served the purpose of informing the European Parliament on terrorism in the member states. The reviewed report should be extended to include foreign and domestic policy aspects of counter-terrorism and be aimed at informing the Parliament, Council and the public. This would be a significant contribution on the part of the EU and its member states to support the investigative work of the fact-finding committees of the Council of Europe, Parliament and the German Bundestag.

Relations with Member States

The terrorist attacks of the past do not only serve as a reminder of the necessity to improve coordination between EU and national legislation. Communication between member states both among themselves and with the EU also needs to be improved.

1. In vertical cooperation between the EU bodies and the member states, the establishment of the European information network (SIS, VIS and EURODAC) offers good opportunities to provide effected member states' police and security authorities with useful services in the fight against terrorism. To achieve this, member states need to make their information systems accessible to other member states to the extent necessary.

2. For example the so-called BdL (Bureau de Liaison) could be reactivated. This is a network of national situation centres or other contact points in member states which can be used for an EU-wide exchange of confidential data regarding terrorist activities. All 27 member states, as well as the Council, Commission and Europol are connected to this. The goal should be to use the existing instrument more intensively. At the same time, it would appear to be vital to link cooperation between intelligence services outside of the EU framework more closely to the structures of the EU.

3. In order to improve vertical coherence, the EU could, as provided in the Commission proposals in June 2006, draw on existing contact points in the member states (embassies, liaison officers etc.). Specifically, it could set up an intensive personnel exchange programme with the diplomatic missions of the member states and the Council Secretariat. Member states' representatives in the steering committees of multilateral organisations should reach

agreement with the EU bodies at an appropriate level to transform matters of common interest into EU positions. Cooperation between member states also needs to be broadened with regard to consular assistance, particularly in relation to crisis response within the context of terrorism.

Apart from these institutional recommendations, EU policy should not neglect two important aspects, which at the same time would facilitate improvement in coherence along the lines of the EU Counter-Terrorism Strategy's objective: firstly, counter-terrorism measures must always be compatible with the principle of proportionality. Not every foreign and domestic policy of the EU should be re-defined within the context of counter-terrorism. Secondly, the EU can only be seen as a coherent and credible actor if it and its member states uphold democratic and human rights standards in the fight against terrorism.

Appendix

Overview of the Most Important Documents on EU Counter-terrorism (December 2003 to June 2006)

| Nr. | Date | Legal Act, type of document ▶ key actors of the decision-making process | Sources | Main topics |
|-----|------------|--|---|--|
| 1. | 12.12.2003 | European Security Strategy ▶ European Council | http://ue.eu.int/uedocs/cmsUpload/78367.pdf | Fundamental paper on the EU's approach to security policy. A combination of awareness campaigning as well as police, judicial, military and other means are necessary in the fight against terrorism. |
| 2. | 25.03.2004 | Fundamental paper on counter-terrorism ▶ European Council | http://register.consilium.eu.int/pdf/en/03/st10/st10913-re06.en03.pdf Document number: 10913/6/03 of 23.10.2003 and 11858/02 of 18.11.2002 | Declaration on the fight against terrorism and understanding through the solidarity clause with reference to article 42 of the Constitutional Treaty. The document contains provisions for the development of a prevention strategy, contribution of the ESDP and the appointment of an EU Counter-Terrorism Coordinator, as well as seven recommendations for the continuation of the action plan on the fight against terrorism: reinforcement of international efforts; restriction of terrorist access to financial resources; maximising the EU's and member states' capacities to investigate and prosecute terrorists; ensuring international transport security and effective border control systems; reinforcing the capabilities of the EU member states to deal with the consequences of a terrorist attack; examining factors, which facilitate to radicalisation and recruitment to terrorism; focusing EU foreign policy measures on priority third states, in which the capacity and the willingness to fight terrorism should be strengthened. |
| 3. | 20.10.2004 | Communication ▶ EU Commission | http://europa.eu.int/eur-lex/en/com/cnc/2004/com2004_0698en01.pdf Document number: COM(2004) 698 final | Proposal for an integrated approach to prevention of terrorism, as well as responding to terrorist attacks within the Community. |
| 4. | 05.11.2004 | The Hague Programme: strengthening freedom, security and justice in the EU ▶ European Council | http://register.consilium.eu.int/pdf/en/04/st16/st16054.en04.pdf Document number: 16054/04 | The multi-annual work programme (2005-2010) of the Hague Programme sets the new goals in the area of freedom, security and justice. This takes the Commission's final report on the Tampere programme into consideration, as well as the results of the citizen consultation in July/August 2004. |

| | | | | |
|-----|----------------|--|---|---|
| 5. | 18.11.2004 | Conceptual Framework on the ESDP dimension of the fight against terrorism ► COREPER, Council of the EU, submitted to the European Council (December 2004) | http://register.consilium.eu.int/pdf/en/04/st14/st14797.en04.pdf Document number: 14797/04 | Inclusion of military aspects in counter-terrorism in prevention, protection and acute crisis management. Six fundamental principles apply: solidarity between EU member states, voluntary contributions of members, clear understanding of terrorist threats and threat analyses, cross pillar coordination in the fight against terrorism, cooperation with international partners and complementary contribution of ESDP in counter-terrorism. |
| 6. | 14.12.2004 | EU plan of action on combating terrorism ► Continuation Council of the EU | http://register.consilium.eu.int/pdf/en/04/st16/st16090.en04.pdf Referenz: 16090/04 | The first six monthly continuation of the EU plan of action on combating terrorism reads like a list of deficiencies of the measures which have not yet been implemented by the member states. The continuation involves seven strategic objectives (see no. 2). |
| 7. | 01.12.2004 | EU Solidarity programme on the consequences of terrorist threats and attacks ► Council of the EU | http://ue.eu.int/uedocs/cmsUpload/15480EU_Solidarity_Programme.pdf Document number: 15480/04 | Revised and widened CBRN Programme for 2002 to improve the EU's capabilities to limit the consequences of chemical, biological, radiological or nuclear terrorist threats. Elements include: risk assessment, protection of critical infrastructure; mechanisms to identify terrorist threats and alerting task forces and the public; defence readiness and capacities for crisis management; research and development activity in disaster protection; international cooperation. |
| 8. | 02./03.06.2005 | Adoption of the action plan on implementing the Hague Programme ► EU Commission, adopted by the European Council | http://register.consilium.eu.int/pdf/en/05/st09/st09778-re02.en05.pdf Document number: 9778/2/05 | Further development of the whole concept of counter-terrorism and further implementation of the EU action plan. Timeframe for implementing the adopted legal acts. |
| 9. | 13.07.2005 | Council declaration on the EU response to the London bombings | http://register.consilium.eu.int/pdf/en/05/st11/st11158.en05.pdf Reference: 11158/05 | Developing a solid EU framework for counter-terrorism is made a top priority. The objective is to put forward an improved action plan. |
| 10. | 12.10.2005 | EU Commission proposal for a Council Framework Decision on the exchange of information | http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0490en01.pdf Document number: COM(2005) 490 final | Concept for the exchange of information relevant to criminal prosecution based on the legal rule of the "principle of availability", due to enter into force 1.1.2008. The "principle of availability" is particularly relevant for prevention, prosecution and investigation. |

Overview of the Most Important Documents on EU Counter-terrorism (December 2003 to June 2006)

| No. | Date | Legal Act, type of document ▶ key actors of the decision-making process | Sources | Main topics |
|-----|------------|---|---|---|
| 11. | 21.11.2005 | Six monthly report – Fight against Terrorist Financing ▶ Counter-Terrorism Coordinator | http://register.consilium.eu.int/pdf/en/05/st14/st14744.en05.pdf Document number: 14744/05 | Review of implementation of the strategy against terrorist financing, which the European Council adopted 16./17.12.2004. The Coordinator presented specific proposals for improvement in combating terrorist financing (e.g.: traceability and transparency of transferring of assets, cooperation with the United Nations and other international bodies). |
| 12. | 24.11.2005 | Strategy for Combating Radicalisation and Recruitment to Terrorism ▶ Presidency (GB) for COREPER/Council | http://register.consilium.eu.int/pdf/en/05/st14/st14781-re01.en05.pdf Dokumentennummer: 14781/1/05 | Specification of minimising threats by strengthening the prevention approach of the anti-terror strategy. The member states are mainly responsible for fighting terrorism; however, the EU represents an important frame of reference. The target is terrorism perpetrated by al-Qaeda and extremists who are guided by al-Qaeda, as well as preventing terrorist recruitment. |
| 13. | 29.11.2005 | Communication ▶ EU Commission | http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0620en01.pdf Document number: COM(2005) 620 final | Prevention of and fight against terrorist financing through enhanced national level coordination and greater transparency of the non-profit sector. |
| 14. | 29.11.2005 | Implementation of the action plan to combat terrorism ▶ adopted by the Council 1.12.2005 | http://register.consilium.eu.int/pdf/en/05/st14/st14734-re01.en05.pdf Document number: 14734/1/05 | Report by the Counter-Terrorism Coordinator on progress achieved in implementing the action plan to combat terrorism adopted in June 2005. Among others, the following dossiers are dealt with: Peer evaluation of national measures to fight terrorism; common norms for identity cards; stolen explosives; European External Borders Agency (Frontex); Task Force of Police Chiefs. |
| 15. | 30.11.2005 | EU Counter Terrorism Strategy ▶ adopted by the European Council 1.12.2005 | http://register.consilium.eu.int/pdf/en/05/st14/st14781-re01.en05.pdf Document number: 14781/1/05 | The EU's strategic commitment should drive forward the forming of a network of member states' counter-terrorism policies in four strands of work (prevent, protect, pursue and respond) in four ways (promoting international partnership, develop national capabilities, promoting European cooperation, strengthening national capabilities). |

| | | | | |
|-----|------------|---|---|---|
| 16. | 06.12.2005 | Strategy on the External Dimension of the Area of Freedom, Security and Justice | http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0491en01.pdf | Implementation proposals for the external dimension of the "Area of Freedom, Security and Justice": outline of the most important challenges for foreign policy, proposals for intensifying cooperation with international organisations and third states. The major political issues are: strengthening institutions and good governance; border control; counter-terrorism; organised crime; economic and financial crime; cyber crime. Implementation instruments include: bilateral agreements; enlargement; European Neighbourhood Policy; regional and operative cooperation; institution-building etc. |
| 17. | 13.02.2006 | EU action plan on combating terrorism | http://register.consilium.eu.int/pdf/en/06/st05/st05771-re01.en06.pdf | Updated draft of the EU action plan on combating terrorism which refers to the EU Strategy, which assigns measures according to the fields prevent, protect, pursue and respond. The appendix contains information on which member state has implemented which legislative instrument provided for in the Council fundamental document on terrorism of 25.3.2004. |
| 18. | 19.05.2006 | Implementation of the action plan to combat terrorism | http://register.consilium.europa.eu/pdf/en/06/st09/st09589.en06.pdf | Summary of progress achieved since December 2005 in implementing the action plan. Short list of measures implemented until now in the four strands of work of the EU Counter-Terrorism Strategy. An accompanying appendix lists the individual legislative provisions and the status of legal implementation in the member states. |
| 19. | 29.05.2006 | Common Position 2006/380/CFSP | http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_144/l_14420060531en00250029.pdf | Updating of Common Position 2001/931/CFSP: List of persons, associations and entities for which restrictive measures apply within the framework of counter-terrorism (freezing of funds and other assets or economic resources as well as police and judicial cooperation between member states). |
| 20. | 08.06.2006 | Commission Communication adopted by the European Council | Document number: COM(2006) 278 final, 8.6.2006 | Strategy paper "Europe in the World – Some Practical Proposals for Greater Coherence, Effectiveness and Visibility for EU external action," contains proposals for strategy planning, cooperation between the Commission and Council Secretariat, as well as relations with the member states. |

Abbreviations

| | |
|----------|--|
| ABC | Atomic, Biological, Chemical |
| API | Advanced Passenger Information |
| Asean | Association of South-East Asian Nations |
| AWACS | Airborne Warning and Control System |
| CBRN | Chemical, Biological, Radiological, Nuclear |
| CFSP | Common Foreign and Security Policy |
| CIA | Central Intelligence Agency |
| COREPER | Committee of Permanent Representatives |
| COTER | CFSP Council working group "Terrorism (international aspects)" |
| CTG | Counter-Terrorism Group |
| EFTA | European Free Trade Association |
| ECT | European Convention on the Suppression of Terrorism |
| ENP | European Neighbourhood Policy |
| EPCIP | European Programme for Critical Infrastructure Protection |
| EUISS | European Union Institute for Security Studies |
| Europol | European Police Office |
| EUSC | European Union Satellite Centre |
| FATF | Financial Action Task Force on Money Laundering |
| G 5 | Group of five EU Member states (Germany, France, united Kingdom, Italy, Spain) |
| G 8 | Group of Eight |
| HR | High Representative |
| Mercosur | Mercado Común del Sur |
| MIC | Monitoring and Information Centre |
| Nato | North Atlantic Treaty Organization |
| OECD | Organization for Economic Co-operation and Development |
| PSC | Political and Security Committee |
| SECI | Southeast European Cooperation Initiative |
| SIS | Schengen Information System |
| SitCen | Situation Centre |
| TFPC | Task Force Police Chiefs |
| TREVI | Terrorisme, Radicalisme, Extrémisme, Violence Internationale |
| TTIU | Terrorist Threat Intelligence Unit (Nato) |
| TWG | Terrorism Working Group |
| VIS | Visa Information System |
| UN | United Nations |