

## The EU's Ineffective Counterterrorism Policy – A Critical Historical and Functional Assessment

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**Abstract** Following the September 11, 2001 terrorist attacks on the United States, the European Union has acted on several fronts to reinforce its existing and nascent capabilities to combat terrorism. The European Council adopted a comprehensive Plan of Action and reached political agreement on a number of important counterterrorism initiatives. This paper provides a critical analysis of all these measures and reveals that the EU's counterterrorism policy is more of a paper tiger than it is an effective counterterrorism device. The first part provides a brief historical overview, which analyses the event-driven and contingent development of the EU's counterterrorism policy. The second part presents a critical assessment of policy outcomes according to the objectives set out in the EU's Counterterrorism Strategy. Measures 'to pursue', and 'to protect' against terrorists seem to have grown substantially. In practice, however, they are undercut by a lack of focus and use at the operational level. Similarly, EU's capacities 'to respond' to terrorism have been boosted, but there are doubts as to their relevance in real crisis situations. Yet most importantly, the EU remains unable to do more 'to prevent' terrorism. This seriously limits the overall effectiveness and output legitimacy of the EU's efforts. The concluding third part assesses these findings and argues that EU counterterrorism policy is ineffective and there is an immediate need for more cooperative policies and implementations.

**Key Words:** International Terrorism, European Union, Counterterrorism Policy, defense, security

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### Introduction

This paper analyses the achievements and limits of the EU's response to international terrorism since 9/11. Based on official documents, internal reports, and secondary resources, the basic argument of this paper is that the EU's counterterrorism policy is more of a paper tiger than it is an effective device.

Although it has become almost impossible to adequately cover the EU's extensive counterterrorism policy in a single paper, such overviews (Monar, 2007) remain a necessary complement to more specialised articles on issues such as fight against the financing of terrorism (Jacob, 2006) or judicial cooperation. (Nilsson, 2007) In particular, by providing a critical reading of the EU's Counterterrorism Strategy, this paper seeks to provide a counterpoint to the official summary of the EU's achievements. This should also help to clarify whether the EU has actually increased its "output legitimacy" since 9/11, or whether its counterterrorism efforts have only given grounds to political controversy.

### 1. Historical Background of the EU's Counterterrorism Policy

EU's Counterterrorism Policy has been driven by events, which resulted in an uneven rhythm of policy-making. Although terrorism had plagued numerous member states in the past, 9/11 led to an unprecedented political mobilisation at the EU level (den Boer and Monar, "11 September and Global Terrorism", 2002). The EU's rapid "beyond-rhetoric" response was built on a number of pre-existing policy proposals that were pushed through the "window of opportunity" after the attacks (den Boer, 2003). While the European Council set the political direction, it was mainly the Commission and the Council Secretariat that acted as policy entrepreneurs to match "old" policy solutions to the "new" problem of terrorism. (Bossong, 2008)

This was most clearly the case with the European Arrest Warrant, which came to be seen as a "keystone measure" in the EU's counterterrorism policy. The Commission had worked on the EAW since the beginning of 2001, putting it in the fortunate position to be able to table a proposal only eight days after 9/11 (Kauert, 2007). This early intervention - joined by a proposal for an EU-wide definition and criminalisation of terrorism (Council of the European Union 03/12/2001) - led to unexpectedly swift agreement by the end of 2001 (Mégie, 2004). Many other agenda items were similarly accelerated, such as the creation of EUROJUST or of joint investigation teams.

### 1.1. Introduction of a European Arrest Warrant (EAW)

The idea of a European Arrest Warrant (EAW) originated from the Tampere European Council of 1999, in which leaders of all Member States expressed their desire to improve judicial cooperation in the EU by abolishing the formal extradition procedures for persons “who are fleeing from justice after having been finally sentenced” (European Commission, 2004). The European Commission, on one of the most outspoken proponents of EAW, “regarded the arrest warrant as one of the first genuine steps towards the harmonisation of (criminal) procedure laws and, ultimately, towards the realisation of a European judicial area” (den Boer and Monar, “Keynote Article: 11 September”, 2002). Nevertheless, the idea of a EAW proved to be a highly controversial in a number of EU Member States<sup>1</sup> and as a result, was not accepted before September 2001. The events of 9/11, however, forced the European leaders to recognise that the EU’s open borders and legal systems allowed terrorists and other criminals to evade arrest and prosecution. The Council reached a political agreement in December 2001 and the EAW Framework Decision was duly approved in June 2002 (Council of the European Union, 2002). For instance, the EAW has three important innovations that make the extradition process more efficient and effective:

First, it institutes short time limits for formal extradition procedures.<sup>2</sup> Second, it excludes any political involvement of the Ministers of Justice and/or Foreign Affairs and requires only one judicial decision for both arrest and surrender.<sup>3</sup> Third, it abolishes the principle of double criminal liability for thirty-two serious criminal offences, including participation in a criminal organisation and terrorism<sup>4</sup>, as well as the principles of political offence and nationality as legitimate reasons for refusal and extradition. Despite the benefits of the extradition process, some experts still consider the EAW as a threat to national sovereignty. Some argue that the EAW “appears to be a part of a larger agenda, one that aims...to expand the EU’s supranational legal jurisdiction”. Furthermore, they warn that this could lead to significant backlash from Member States worried about their “hemorrhaging national authority” (Stevenson, 2003). In contrast, while admitting that the new model “implies the transfer of another element of intergovernmental cooperation to the supranational level”, there are also some arguments that the EAW “would not be a breach of national sovereignty in respect of extradition decisions, since surrender of a suspect within the Union would not be regarded as classic extradition” (Jasinski, 2002). In either case, although there is little doubt that the EAW represents the first realisation of the principle of mutual recognition of judicial decisions that was established by the Tampere European Council as the cornerstone of judicial cooperation, the increase of the EU’s judicial cooperation has not been as substantial as originally expected.

### 1.2. The Impact of March 11, 2004

On March 11, 2004, a series of blasts killed more than 200 train passengers in Madrid. As the implications of an Al-Qaeda-linked terror attack on their own territory, the EU Member States began to question all measures they have taken to combat terrorism thus far. At the EU level, a number of internal reports revealed that the implementation of measures agreed upon years ago has been “slow, poor and inadequate” (European Commission, “Response to the Terrorist Attacks on Madrid”) and top level EU officials have suddenly become unusually outspoken in their criticisms of the tendency of the EU Member States to produce “networks and institutions and then refuse to provide them with necessary tools to perform their duty or simply not using them” (European Commission, “Response to the Terrorist Attacks on Madrid”). Perhaps, the most important explanation came from Austrian Chancellor: he stated that the measures previously taken by the EU have been “absolutely not sufficient as a protection against terrorism” (Austrian Chancellor Wolfgang Schüssel, BBC Monitoring International Reports, accessed 10 April 2004).

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<sup>1</sup> Italy was the most reluctant of all EU Member States to give its assent to the EAW. It claimed that the thirty-two offenses were too many and wanted the warrant’s thirty-two offenses reduced to six, including terrorism but excluding financial crimes. Press reports speculated that this position was due to allegations of corruption and tax evasion pending against Prime Minister Berlusconi in Italy and elsewhere in Europe. For more detail, see: Archick, K. (2002) “Europe and Counterterrorism: Strengthening Police”, Congressional Research Report to Congress, available at [http://www.law.umaryland.edu/marshall/ElectronicSources/crsreports/crsdocuments/RL31509\\_7232002.pdf](http://www.law.umaryland.edu/marshall/ElectronicSources/crsreports/crsdocuments/RL31509_7232002.pdf).

<sup>2</sup> The state in which the person is arrested must return him/her to the state where the EAW was issued within a maximum period of ninety days after the arrest. If the detained person gives his/her consent to the surrender, the limit is ten days.

<sup>3</sup> In contrast, the traditional international extradition procedure requires a separate procedure for arrest and surrender.

<sup>4</sup> The abolition of double criminality means that the crime for which the convicted person is requested no longer needs to be recognised in both the requesting and the requested states.

Seizing the momentum created by the March 2004 terrorist attacks in Madrid, the European Commission proposed a number of ways for further enhancement of operational cooperation in the fight against terrorism at the EU level (European Commission, "Response to the Terrorist Attacks on Madrid").

The Member States also agreed upon the need to appoint an EU Security Coordinator, immediately after the Madrid terrorist attacks (Council of the European Union, 2004). Nicknamed "Mr. Terrorism" and/or the "European Terrorism Tsar", the Coordinator should remove some of the shortcomings of the EU's Counterterrorism Policy. The March 25-26, 2004 European Council took notice of many of the critiques and decided to review what has been done before to combat terrorism in Europe. For this aim, it issued a Declaration on Combating Terrorism, which outlines seven of the EU's strategic objectives to combat terrorism in a Revised Plan of Action such as to deepen the international consensus and enhance international efforts to combat terrorism, to reduce the Access of terrorists to financial and other economic resources, etc. (Council of the European Union, 2004). While it is clear that the primary aim of the Revised Plan of Action is to eliminate the tactical shortcomings of the existing EU Counterterrorism Policy, the wording of these objectives seems to suggest that changes may also be necessary at the strategic level.

Then, it "proved" the argument that international terrorists not only used the EU as a base of operation, but also targeted it directly. Therefore, the increasingly large implementation and transposition deficits of the EU's post-9/11 agenda – particularly in the area of police and judicial cooperation – came to be harshly criticised. The European Council passed the Declaration on Combating Terrorism that promised more political direction and a significant improvement in national implementation efforts (Council of the European Union 25/04/2004). This was meant to be supported by the new EU Counterterrorism Coordinator, or "Tsar". Moreover, a revised Action Plan on Combating Terrorism was drawn up around seven 'strategic objectives', so as to improve the coherence of measures that had accumulated on the Anti-Terrorism Roadmap (Council of the European Union 01/06/2004). The ESS was also drawn upon to better define the EU's possible role in the fight against terrorism, (Commission of the European Communities 19/03/2004). particularly in relation to the ESDP (Council of the European Union 03/11/2004).

Meanwhile, the Madrid attacks led to a further expansion of the EU's Counterterrorism Policy. Again, the Commission and the Council Secretariat were important for driving the agenda forward. Yet member states, too, sought to act as policy entrepreneurs. For example, Sweden pulled an existing proposal for simplified information sharing between law enforcement authorities "out of the drawer" (Council of the European Union 04/06/2004). In fact, the most controversial proposal that made it on to agenda, i.e. mandatory retention of electronic communication data, (Council of the European Union 29/04/2004) was sponsored by several member states that operated such a system at the domestic level. After the terrorist cell behind the Madrid attacks was tracked down on the basis of mobile call records, previous objections to such a regulation at the EU-level were set aside. Yet the new "window of opportunity" in Spring 2004 had its limits. For instance, the idea of a European Intelligence Agency that had been floated by Austria found no support (European Report 21/04/2004). Instead, the EU tasked SITCEN to generate strategic threat assessments of terrorism (Statewatch 08/2004).

Moreover, discussions started on how to tackle the new "strategic objective" of combating "support for, and recruitment into, terrorism". Yet just after 9/11, the political momentum to agree on difficult issues, such as data retention, disappeared quickly. The Counterterrorism "Tsar" struggled to make a mark, as he had not been given any authority over the diverse actors that played a part in EU counterterrorism policy (Lugna, 2006). At best, he occasionally managed to "shame" some Member States into speeding up their implementation processes. Otherwise, he mostly fulfilled a purely representational role towards the media and third countries.

In sum, the London bombings of July 2005 greatly proved that there was a undeniable gap between the EU's aspirations in the fight against terrorism and its actual impact on the ground. Member States were, thus, even more concerned with making headway on the existing agenda than adding new proposals. For instance, there was a major political push to conclude the issue of mandatory data retention (Statewatch 07/2005). The Council also consolidated existing arrangements for information exchange and judicial aid in relation to terrorist attacks (Council of the European Union 29/09/2005). As a consequence, by December 2005 EU agreed on a Strategy as well as an Action Plan "for Combating Radicalisation and Recruitment to Terrorism" (Council of the European Union 22/11/2005).

## **2. A critical assessment of policy outcomes according to EU's**

### **Counterterrorism Strategy**

Although the Counterterrorism Strategy had no direct impact on EU policy-making, it succeeded in staking out the *possible* or *desirable* contribution of the EU. The Strategy presents the EU's fight against terrorism under four objectives, namely "to prevent, pursue, protect and to respond". There is a clear logic to these four goals, as can be seen if they are

arranged in the following table.

	BEFORE ATTACK	AFTER ATTACK
Countering intentional Threats	Prevent	Pursue
Controlling structural hazards/effects	Protect	Respond

One can easily understand here that, the EU is covering all possible angles of an effective counterterrorism policy, i.e. the before *as well as* after an attack, and at the level of structure *as well as* agency. It is, therefore, not surprising that the EU has readily taken to the four objectives of the Strategy when presenting its achievements in the fight against terrorism. Yet given the uneven and contingent development of EU Counterterrorism Policy outlined above, it is clear that this is a rationalisation after the fact. The objectives of the Strategy are “so broad” that almost any policy can be presented as being relevant.

### 2.1. Prevent

Prevention is the most important, but arguably also the most challenging, component of an effective counterterrorism policy. Precisely for this reason the EU has tried to make a contribution (Dittrich, 2007). Unfortunately, it is clear that the EU has only played a weak role in the area of prevention, as it faces several structural obstacles: the EU is almost completely excluded from operational intelligence-sharing; it has a weak external foreign and security policy; and it has almost no competences in matters of integration, education and social policy.

Intelligence is the most valuable tool in preventive counterterrorism work. Yet the EU's possible role in intelligence-sharing remains also very limited (Müller-Wille, 2002 and Müller-Wille, 2008). Member States have simply refused to integrate their national security services at the EU level. The so-called Counterterrorism Group (CTG), which was founded after 9/11, has maintained a distance from the EU (Council of the European Union 20/09/2001). The defence of sovereignty in matters of “national security” is supported by a culture of secrecy and independence of these services. Last but not least, the EU does not have any human intelligence collection capacities of its own. As mentioned previously, SITCEN remains entirely dependent on voluntary contributions of information from member states' services and does not concern itself with operational intelligence work.

### 2.2. Protect

This is the perhaps the most dynamic area of EU activity due to the intersection of Member States' interest in controlling migration and US pressure for more border and transport security. The EU was basically forced to oblige on the issue of PNR and container security, but was eager to introduce biometric standards in visas and passports. In addition, it has introduced “counterterrorism” functions to the next generation of the Schengen Information System. EURODAC and envisaged Visa Information System have also been linked to the EU's counterterrorism effort, and may eventually be opened up to EUROPOL and even national police authorities (Geyer, 05/2008). The most straightforward result of 9/11 in matters of transport security has been the extension of EU competences into the area of aviation security (Poincignon, 2004). The European Parliament has agreed to a consolidation and extension of the Commission's regulatory power in this area, which now also touches controversial areas, such as the use of sky marshals (Council of the European Union 09/04/2008).

The other and increasingly important component of the EU's “protective” measures is critical infrastructure protection. Basically, this is intended to protect all core transport, energy and communication networks against “all-hazards”, including terrorism (Commission of the European Communities, 12/12/2006). This still fairly new policy area has been flanked by a significant expansion of funding for research on security technology. Both in security research and critical infrastructure protection the Commission has been keen to seize the initiative, as it matches its established competences in the areas of research funding and the regulator of transnational transport and energy networks. From a formal point of view, increased border and travel security, security research and critical infrastructure protection could be regarded as a substantial contribution. Yet again, they have only made a “moderate” contribution to protect against terrorism. Critical infrastructure protection and new financial framework for security research are still recent developments and have not yielded many concrete results (Boin, 2008). Particularly critical infrastructure protection is a very complex policy area with an unclear number of stakeholders that need to be brought together.

### 2.3. Pursue

Since 9/11 a number of policies for increased police and judicial cooperation have been agreed under the heading of counterterrorism (Nilsson, 2007). In particular, the European Arrest Warrant and the associated framework decision on combating terrorism have been touted as a success. Moreover, EUROJUST was not only set up quickly, it is by now operating quite successfully, including in terrorist cases (Council of the European Union, 21/03/2007). Meanwhile, EUROPOL has been authorised to work on terrorism and to conduct data exchanges with third countries.

Perhaps the most tangible measures under this objective are the EU's actions in the fight against the financing of terrorism (Council of the European Union, 05/10/2007). While it may have preventive side effects, the freezing of terrorist assets is mainly a punitive tool to target already known terrorist structures. By contrast, financial surveillance has been used quite successfully to uncover networks of supporters and more hidden members of terrorist organisations, and then to punish them in absence of 'hard' judicial proof by freezing their assets.

Nevertheless, the EU can only claim again a "moderate" success in the pursuit of terrorists. While adequate implementation is a wide-spread problem for EU counterterrorism policy, (Monar, 2007) it has been a particular concern in matters of judicial and police cooperation. Oversight mechanisms are notoriously weak, and member states are often faced with considerable legal difficulties to match EU framework decisions in this area to their diverse legal traditions.

Yet even if implemented, the EU instruments to aid the pursuit of terrorists have not been readily made use of at operational level. For instance, even though Joint Investigation Teams were quickly made possible after 9/11, they have not spread in practice (Rijken and Vermeulen, 2006). Similarly, the Police Chiefs Task Force, originally intended to create a more operational forum of cooperation, has not made any significant contribution to EU counterterrorism cooperation. Moreover, the exchange of information between national police and EUROPOL remains unsatisfactory, particularly in sensitive areas such as counterterrorism, which blurs the line to intelligence (Brady, 2007). This is mainly due to the conservatism of police and judicial authorities, which renders even domestic cooperation difficult.

### 2.4. Respond

This strand is almost exclusively constituted by the EU's efforts in the field of civil protection. For instance, since 9/11 the EU has a civil protection 'mechanism' to improve information exchange and coordination in the case of emergencies. Moreover, the EU has also agreed on a number of programmes for improving the response capacities against CBRN attacks (Council of the European Union, 31/05/2005). This mostly has taken the form of exercises, compendia and exchange of best practices, but also resulted in additional funding.

However, the impact of these mechanisms has largely remained on paper. Yet also in the case of natural disasters member states have mostly preferred to deal with it among themselves. At least so far, relevant national actors do not seem to expect more from the EU than training and added funding (Ekengren, 2008). Perhaps the clearest sign for limits to EU cooperation is that there has not been much political support for the creation of a European civil protection force.

Meanwhile, the ESDP has not become an important part of the EU's response capacity to terrorism. To be precise, terrorism has been incorporated into the ESS and the assessment process for the definition of the civilian headline goal. In any case, the EU is neither willing nor in a position to mount an offensive military response to a terrorist attack. It should also not be forgotten that NATO capacities and structures are still much more significant, also in relation to defensive issues such as the consequence management of a WMD attack. In sum, the EU has achieved a moderate level of success in the area of civil protection by adding funds and by promoting the exchange of information or best practices between national authorities.

### **Conclusion:** *Reasons Behind the Ineffectiveness of the EU's Counterterrorism Policy and some Further Recommendations*

Despite the EU's immediate response to the threat of terrorism, it has been widely criticised for the lack of effectiveness of its strategy. There are several reasons for this. While the EU made a proposition for communication data retention, public opinion condemned the lack of personal data protection and problems with the proportionality principle (a method of creating a balance between means and ends). Also, an unnecessarily large amount of documents is produced as a consequence of an institutional race between the Council and the Commission, both of which want to present their active involvement in terrorist matters, which in the end causes any antiterrorist strategy to be less coherent. Furthermore, both the intergovernmental character of the third pillar and the lack of trust between Member States weaken any antiterrorist measures. Bearing in mind that counterterrorism is a cross-pillar domain, the lack of cooperation between actions taken within different pillars is also a serious obstacle undermining counterterrorism policy as a whole.

The “intergovernmental” nature of the third pillar is based on the rule of unanimity, the exclusion of the European Parliament and the European Court of Justice and the lack of transparency in the decision making process. These aspects impede an effective cooperation between states. The lack of trust was evident in the difficulties surrounding the implementation of the EAW. This instrument was established to prevent criminals from avoiding their sentences and is based on mutual recognition and trust. However, the EAW does not work properly. The core of the EAW is the mutual recognition rule; its full implementation by Member States is a *sine qua non* condition for making the EAW a truly effective tool (den Boer, 2003).

In his interviews, Gijs De Vries identifies numerous vulnerabilities in antiterrorist strategy. He sees the exchange of information as one of the weak points in the policies, as there is a lack of a clear set of rules governing states’ abilities to obtain information from each other. De Vries draws attention to an availability principle – he claims that available information concerning crimes in one state should be available to other states as well (de Vries, “Presentation at the seminar of the Center for European Reform”, 2006). Such a diagnosis is also given by EUROPOL: “80% of information concerning terrorism which is delivered to Hague headquarters is provided by only five Member States” (EUROPOL, An Overview of the Counter Terrorism Unit Activities, January 2006 and EUROPOL, EU Terrorism Situation and Trend Report, 2007). Furthermore, De Vries points to a factor also noticed by many authorities and politicians – the poor implementation of antiterrorist measures. The rejection of the Lisbon Treaty exacerbated this situation. The Treaty would have simplified the implementation of procedures: “Directives would be approved by a qualified majority under the strong control of national parliaments and the European Parliament and with access to the European Court of Justice. It would make the process more effective, more democratic and it would be better for the protection of our civil liberties” (de Vries, “Presentation from Annual European Foreign Policy Conference”, 2006).

Filip Jasinski repeats the already mentioned problem – poor implementation of antiterrorism laws. He mentions the European Commission Report, which states that the laws that have been enforced are not used enough. He gives several reasons for this: there are not enough educated people who would impose the laws; people are not keen on taking advantage of new instruments provided by the EU; and, finally, there is a lack of awareness of the importance of being open to new solutions as well as obligations. The majority of these allegations actually concern “old” Member States since the “new” ones agreed in the accession treaty to implement framework decisions (Jasinski, 2002).

Moreover, actions taken by the EU are a duplication of already existing measures rather than a formulation of new approaches. Raphael Bossong mentions that only one out of eleven measures listed in “Anti-terrorism Roadmap” was a new item. He calls it “the garbage can policy” or “expectations/capabilities gap”. Bossong presents a similar opinion about the European Counter-Terrorism Strategy. He sees the strategy as an attractive re-packaging of old resolutions. When goals concerning security matters are overly ambitious or controversial, the EU is put in the position of having to force states to meet the deadlines. This results in inefficient top-down actions. Ideally, counterterrorism proposals would be initiated down-top, from national governments to the EU. Jasinski describes another tendency – the lack of clearly defined timelines. For instance, the Hague Programme and the Action Plan on Combating Terrorism have many unspecified deadlines; in some cases, deadlines are not specified at all. Some of the actions concerning the JHA, indirectly connected with terrorism, are dealt with from such a long-term perspective that consequently they are ineffective.

Another weak point in counterterrorism policy is creation of many forums operating from within and outside the EU, which do not act in a compatible way. This situation makes actions incoherent and difficult to manage. Björn Müller-Wille explains the problems in co-operation between intelligence agencies developed outside the EU framework with EU centralized intelligence co-operation structures (Müller-Wille, 2008). One of the main EU bodies assigned the task of gathering, exchanging and analyzing intelligence data is EUROPOL. However, according to Müller-Wille, even though EUROPOL is well capable of analyzing intelligence data, it has serious problems with the collection of data. EUROPOL does not have its own independent source of intelligence information, so it must rely on access from other open sources. Müller-Wille names two units independent from the EU which collect intelligent information: the Counter Terrorist Group and the Police Working Group on Terrorism. He argues that the poor cooperation between these national agencies and EUROPOL is due to the fact that the agencies are suspicious of exchanging information with EUROPOL. Furthermore, EUROPOL has no real counterterrorism responsibilities. It is the national agencies, not EUROPOL, who are blamed or praised for fighting terrorism. The main responsibility in collecting and analyzing data remains within the hands of the national services. Thus, providing intelligence data for EUROPOL is an obligation which the agencies are unwilling to fulfil. EUROPOL, therefore, has only a supporting role.

Another important point is that; in order to harmonise counterterrorism actions, the EU appointed antiterrorist coordinator. Not only were his duties ambiguous, but he was also unable to change states’ approaches towards the implementation of counterterrorist decisions. In practice, the antiterrorist coordinator does not have a significant impact on antiterrorist policy. The coordinator’s only power is that of persuasion. Furthermore, he has no budget to implement new

initiatives and cannot force Member States to accelerate implementation processes. As long as there are no sanctions for delaying the enforcement of laws (as there are in the first pillar), states will not treat antiterrorist measures seriously.

Statewatch – an organisation which monitors states and civil liberties in Europe, is highly critical of antiterrorist measures taken by the EU. In a report evaluating antiterrorist measures proposed after the Madrid attacks, Statewatch charges that many inappropriate laws unrelated to terrorism had been adopted. Moreover, they violate personal data protection law. The authors suggest that the EU should be more focused on removing cultural and political barriers, so as to improve the exchange of information between police and intelligence services. Furthermore, they state that there was no need to develop more antiterrorist measures; it would have sufficed if judicial and police authorities cooperated efficiently to track down terrorists.<sup>5</sup>

Furthermore, Europeans and Americans are at odds over their approach towards transatlantic cooperation. According to Didier Bigo, Americans are much too focused on cooperation with intelligence services, developing new technology and conducting military interventions, rather than working to improve transatlantic cooperation in the police and judiciary spheres. The author sees an asymmetry in EU-US relations. The EU is suspicious of sharing information between different bodies, because the reliability of information depends on the body which provides it – on whether it is a judiciary, an intelligence service, or the police. Additionally, Americans want to administer the processes of data analysis, despite the fact that the information that they provide has a personal, not a strategic character, therefore discouraging cooperation. The European role is only to gather such information. The most intensive EU-US contacts are in the field of intelligence services. Bigo suggests that such broad intelligence cooperation originated with the network developed between the Commonwealth and the United States, which then extended to other European states. Paradoxically, even countries that do not support the US war in Iraq (for instance, France and Germany), strengthened their cooperation with the American intelligence service. The author sees a great danger in the improper usage of information provided by an intelligence service (Bigo, 2004).

Finally, freezing terrorist funds is an important antiterrorist tool, as without money terrorist groups cannot operate. In other words, the EU created a tool directed at individuals, because it is they, not states, who are responsible for terrorist attacks. However, this measure has also been widely criticized. Michael Jacobson explains that the EU based its list of terrorist suspects on a list that had been recognized by the United Nations' 1267 committee. Jacobson reproached that although the EU launched a separate process to recognize and add other terrorist suspects to the list, the framework of unanimity impeded the building of consensus. For instance, Jacobson criticises, due to "French-led opposition, the EU has thus far not designated Hizballah as a terrorist organization. And, until 2003, only Hamas's military wing was designated" (Jacobson, 2003). This example not only shows vulnerabilities in the field of freezing terrorist funds, but also proves that differences in the national interests of EU Member States are the main hindrance in the European Union decision-making process.

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<sup>5</sup>For more reports and details see: <http://www.statewatch.org/soseurope.htm>

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