Amidst complex threats, how can the EU fight terrorism more effectively?

by Nigel Howard, 30 August 2024

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The EU faces an increasingly complex and dynamic threat landscape. Apart from the [geopolitical turmoil](#) created by Russia's full-scale invasion of Ukraine, transnational terrorist organisations, such as ISIS and al-Qaida, continue to have the [intent and capacity](#) to conduct attacks across Europe. Despite a decline in terrorist incidents within the EU, Europol still identifies terrorism as a [significant threat](#) to the EU's internal security.

The primary terrorist threat to Europe is [jihadist terrorism](#), including the return of [foreign fighters](#) from the territories formerly controlled by ISIS and the radicalisation of vulnerable individuals or groups as a result of perceived Western [failure to criticise Israel](#) and its willingness to provide it with [weapons](#) and political support. The threat from right-wing lone actors, radicalised online, also [remains significant](#).

In the face of these threats, the EU's existing counter-terrorism policy remains under-developed and in need of reform. This was highlighted by the 2015 Paris and the 2016 Brussels terror attacks, with terrorist cells able to operate across national borders and hide Europe's [most sought-after fugitive](#) for several months.

Successes and challenges of EU counter-terrorism policy

Successes
The EU's involvement in counter-terrorism began with the 1976 establishment of the [TREVI](#) group (*Terrorisme, Radicalisme, Extrémisme et Violence Internationale*), an intergovernmental network for justice and home affairs ministries to discuss and co-ordinate their policies. Since then, the EU's counter-terrorism strategy has sought to increase the pooling of resources, encourage joint operations, drive the standardisation of legal and operational frameworks and boost the Union's political and diplomatic influence with its partners. While the [member-states](#) are primarily responsible for combatting terrorism, the EU itself has striven to forge a collective approach to tackling terrorism – with some success.

The EU has several agencies that contribute to its counter-terrorism efforts. Europol provides support to police forces; Frontex contributes to controls of member-states' non-EU borders; and the EU Intelligence and Situation Centre (INTCEN) analyses intelligence and provides early warning assessments. These institutions are supported by tools such as the Passenger Name Record (PNR), which allows for the systematic collection and analysis of travellers' data, and the Schengen Information System (SIS), a database which enables real-time information sharing and alerts about suspected terrorists, enhancing cross-border security and law enforcement co-ordination.

Following the 2004 Madrid terrorist attacks, the EU also established the position of EU counter-terrorism co-ordinator to monitor the implementation of the EU's Counter-terrorism Strategy. The current EU co-ordinator, Bartjan Wegter, appointed in February 2024, plays a vital role in driving forward the counter-terrorism initiatives that the EU home affairs ministers agree on, such as strengthening Europol's legal basis to handle large datasets.

The EU's Security Union Strategy 2020-2025, designed at the peak of the COVID-19 pandemic, underscores the EU's focus on a whole-of-society approach to countering threats, including terrorism. Recent progress reports highlight that crucial elements have been implemented, such as the directive on combatting terrorism, which all member-states have now implemented, and the EU Knowledge Hub, which brings together 6,500 practitioners (policy-makers, law enforcement and researchers) to develop best practices to address violent extremism.

On the international stage, the EU collaborates with various entities to counter terrorism. Some areas of EU-NATO co-operation, such as protection of critical infrastructure, have an anti-terrorism component. The EU also co-operates with the United Nations Office on Drugs and Crime (UNODC) on transnational terrorist threats and their links to serious organised crime. The EU is a founding member of the Global Counter-terrorism Forum, a multilateral forum supporting civilian aspects of countering terrorism and violent extremism, and it actively contributes to the work of the Financial Action Task Force to tackle terrorist financing.

The main success of the EU's counter-terrorism policy has been in harmonising member-states' legal frameworks. The Union has established common standards and procedures for terrorism-related offences, investigation techniques and judicial co-operation. Legislation such as the directives on anti-laundering (2016/1148), combatting terrorism (2017/541), addressing the dissemination of terrorist content online (2021/784) and the automated search and exchange of data for police co-operation (2024/982) have ensured that there is a robust set of policies, procedures and protocols to protect individuals, institutions and critical national infrastructure across the EU.

Additionally, for member-states with limited intelligence capabilities, the EU is a crucial component of their holistic response to combatting terrorism. Specifically, the EU provides them with access to critical resources, advanced technologies and expertise from member-states like France, Germany, Spain and Italy, which have significant intelligence capacity of their own.

Shortcomings
Despite the perceived successes of these pan-EU institutions and initiatives, the EU's counter-terrorism strategy faces significant policy-making and implementation challenges. As Article 4(2) of the Treaty on the European Union states, "national security remains the sole responsibility of each member-state". The EU does not have its own independent means for intelligence collection and remains wholly dependent

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30 August 2024
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2

on national governments. While co-operation is in theory mutually advantageous, there are a range of practical obstacles.

Intelligence sharing between member-states remains very challenging. In theory, the EU INTCEN leads in analysing and disseminating intelligence, but it can only share intelligence between member-states when given the mandate to do so. INTCEN is, therefore, very weak and lacks a culture of trust and co-operation even between established national agencies. The EU lacks a centralised EU intelligence sharing mechanism or agency, and this can result in fragmented and incomplete intelligence dissemination, as seen in the case of the 2016 Brussels bombings when critical information about the perpetrators was not shared between Belgian and French authorities due to bureaucratic hurdles. The existence of an EU central intelligence agency might not have prevented the attack, but it would have delivered greater intelligence integration after a deadly and high-profile terrorist attack.

Another obstacle to effective co-operation lies in the approaches that member-states have on the question of striking a balance between individual privacy and the legitimate need to detect, prevent and prosecute terrorist activity. The EU's counter-terrorism approach has had to carefully balance member-states' different attitudes vis-à-vis personal privacy concerns with the need for collective action.

EU efforts have also sometimes been held back by different approaches from multiple EU institutions. The much-delayed adoption of the PNR directive is a good example of such delay. The European Commission first proposed the PNR directive in 2011; however, it faced considerable opposition from various members of the European Parliament, who cited numerous concerns and objections regarding data privacy and the protection of individual rights. The EU PNR project was brought back to life after the Charlie Hebdo terrorist attack in January 2015. After lengthy inter-institutional negotiations, the PNR directive was finally adopted in April 2016. However, the delay had real-world consequences, as two of the attackers, brothers Cherif and Said Koucahi, had travelled to Yemen for training and French officials were unable to track their movements. As the PNR directive places a duty on airline carriers operating international flights between the EU and third countries to forward data of all passengers, this information would have been passed to the French authorities.

EU data protection legislation has also presented several challenges to EU counter-terrorism coordination. The Data Protection Law Enforcement Directive (2016/680), which enforces individual data protection, presents clear challenges regarding the use of surveillance technologies and data sharing essential for implementing effective counter-terrorism measures. While these regulations ensure that personal data processed for counter-terrorism purposes is handled responsibly and transparently, they hinder the most effective use of technology in the fight against terrorism, for example, in countering terrorists' use of encryption.

Finally, the UK's departure from the EU has also raised concerns about the continuity of intelligence sharing and co-operation. The post-Brexit EU–UK Trade and Co-operation Agreement (TCA) provides for some level of co-operation, with agreements on data sharing (such as PNR), extradition, judicial co-operation, data protection standards and retaining a British liaison presence in Europol. The TCA also provides for a structured dialogue, and the inaugural UK-EU Counter-terrorism Dialogue took place in February 2024. However, the UK can no longer directly feed information into or access the Schengen Information Systems (SIS II) and the EU Criminal Records Information System (ECRIS), and there are legal complexities with the new surrender agreements.

What steps can be taken to improve the EU's counter-terrorism policy?

The ever-present risk of terrorism means the EU needs to rethink its approach to countering it. First, the EU should focus on diplomacy by enhancing bilateral and regional partnerships with states in regions of strategic interest. For example, the EU could help develop regional intelligence centres, like the African Centre for the Study and Research on Terrorism (ACSRT), which has representatives from 44 of the 53 African Union member-states. The EU could take a leading role in Africa via the ACSRT by bolstering capacity-building and training programmes, increasing economic and social development initiatives, and intensifying engagement with civil society organisations.

Second, the EU should revise its legal frameworks to respond more quickly to emerging threats. For example, the EU could take advantage of the upcoming scheduled General Data Protection Regulation (GDPR) review to identify specific counter-terrorism exceptions within GDPR that allow for more flexible use of personal data for counter-terrorism purposes. Moreover, Europol's mandate should be expanded to include more proactive counter-terrorism activities, initially focusing on developing the Joint Investigation Team (JIT) model, which consists of judicial and law enforcement authorities from multiple member-states directly co-operating, thereby bypassing many of the bureaucratic and legal barriers that typically hinder international investigations. The EU should task Europol to form JITs focused explicitly on counter-terrorism, ensuring that member-states leverage this model for complex counter-terrorism investigations, particularly those involving multiple jurisdictions. Europol's JITs model represents a vital tool in the EU's counter-terrorism strategy, offering a structured yet flexible approach to cross-border investigations. By expanding its use in counter-terrorism, enhancing integration with intelligence services, improving data-sharing capabilities, and investing in capacity building, the EU can significantly bolster its ability to combat terrorism across member-states.

Third, the EU should strive to work closely with the UK. The two have a mutual interest in close co-operation, as co-ordinated intelligence sharing enhances the effectiveness and efficiency of their reciprocal counter-terrorism efforts. A possible obstacle to co-operation lies in the UK's data collection practices, which the ECJ has previously criticised for breaching EU law. Co-operation will have to reconcile potential divergences in data protection and effective mechanisms for intelligence sharing.

Lastly, and perhaps the most controversial, the EU should thoroughly examine the pros and cons of creating a centralised intelligence agency. This could be built upon an existing entity like the EU INTCEN. Establishing a centralised intelligence agency would offer substantial strategic benefits by enhancing the coherence and effectiveness of the Union's counter-terrorism and security efforts. This agency would streamline intelligence sharing among member-states, eliminating redundancies and fostering real-time collaboration. It would enable a unified analysis of security threats, providing a comprehensive picture that individual states might miss when operating independently. Additionally, a centralised agency would optimise resource allocation, ensuring that advanced technologies and expertise are leveraged across the EU, thus reducing disparities in intelligence capabilities. This integration would bolster the EU's internal security and strengthen its position in international counter-terrorism partnerships, presenting a formidable and cohesive front against global security threats. Ultimately, a centralised intelligence agency would embody the principle of solidarity, reinforcing the collective security framework essential for safeguarding the EU's citizens and interests.

Of course, establishing such an agency would meet resistance. Critics will argue that it would infringe upon national sovereignty or override enshrined treaty obligations, stating that national security remains

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30 August 2024
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4

a national competence. However, the reality is that contemporary foreign interference and transnational threats transcend individual borders, necessitating a unified and robust response. A European intelligence agency would not undermine sovereignty but rather enhance national efforts, providing a co-ordinated framework to address cross-border security threats effectively. By integrating and complementing the intelligence capabilities of member-states, such an agency would respect diverse national interests while significantly strengthening the EU's collective security.

Conclusion

Despite the current focus on countering Russia's war on Ukraine and other geopolitical challenges, the evolving nature of terrorist threats means that the EU needs to strengthen its counter-terrorism policies. The Union should fast-track policies that help partners secure their populations and borders and ensure it can develop, implement, and execute multifaceted counter-terrorism interventions.

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30 August 2024
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5