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European Counterterrorism Culture

THE EUROPEAN RESPONSE TO THE JIHADIST THREAT
AND THE FORMULATION OF THE SECTOR'S SECURITY
CULTURE

Dawid A. Fusiak (6826881)

Supervisor: Dr. Frank Gerits

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Abstract

The main goal of this thesis is to investigate the reasons that made European response to jihadist terrorism after 2015 more successful than previous experiences with a similar threat. The research assumes that the roots of this development could be identified in the emergence of a European counterterrorism culture that the thesis introduces to describe: the specific patterns of behavior; the expression of norms and standards; and set of power relations determining EU's approach to terrorism. The paper contributes to the academic debate by taking a cultural approach to the study of the evolution of European counterterrorism. To validate this hypothesis and to answer the research question, the thesis analyses the development of this sector in two decades: the development of European counterterrorism in the aftermath of 9/11 and the European response to the jihadist threat after 2015. While the former aims to show the formulation of the elements of European counterterrorism culture, the latter has the purpose of further displaying the continuance of the same features in the EU's response after 2015. The thesis concludes that: (a) there is a security culture present in the sector through the identification of the specific patterns of behavior, norms, standards and power relations; (b) the security culture contributed positively to the formulation of the European response after 2015.

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1. Introduction

Terrorism is one of the most significant security matters that states, governments, and institutions are currently facing. While it is not an unprecedented phenomenon (European states have been experiencing the consequences of terrorism for many decades now), the difficulties stemming from the shifting “modus operandi” of the modern terrorist organizations have proved challenging enough to impede the efforts of counterterrorism sectors and agencies to prevent or predict future attacks.¹ In the last years, the European Union and its Member States have been confronted with a series of high-impact, damaging terrorist attacks. For instance, in 2015, on 13 and 14 November, a series of coordinated attacks began over about 35 minutes in six locations in central Paris, which resulted in 130 civilians being killed and 413 being injured.²

The persistence of the problem in the following year³ and the increased fatality rate and frequency of the terrorist strikes proved to be more than enough to shock the EU’s 510 million citizens (Figure 1). In fact, the European Commission’s semesterly Eurobarometer poll showed in 2015 that half of all respondents saw terrorism as an essential challenge to the security of EU citizens, up from one-third in 2011.⁴ Two years later, after the continuance of the terrorist attacks with a higher rate of occurrence and

¹ Wiczorek, Christopher, “Improving Counter-Terrorism Policy Integration in the European Union: An Analysis.” *Carleton Review of International Affairs* 5 (2018): 47–48.

² “Timeline: foreign terrorist fighters and recent terrorist attacks in Europe”, *European Council and the Council of the European Union*. Available at: <https://www.consilium.europa.eu/en/policies/fight-against-terrorism/foreign-fighters/history-foreign-fighters/>. Accessed 9 August 2020.

³ During 2016, the EU and the Member States were faced with a series of attacks even more fatal compared to the ones of previous years. That includes included three bombings in Brussels, a lone attacker killing 84 people in Nice, France, and two armed men killing a priest and taking hostages in Normandy, France.

⁴ Eurobarometer, *Special Eurobarometer Survey: Europeans’ attitudes towards security* (Brussels: European Commission, 2015), 1.

success, the results looked even grimmer as there was an increase in the rate of respondents regarding terrorism as an important problem to EU security.⁵

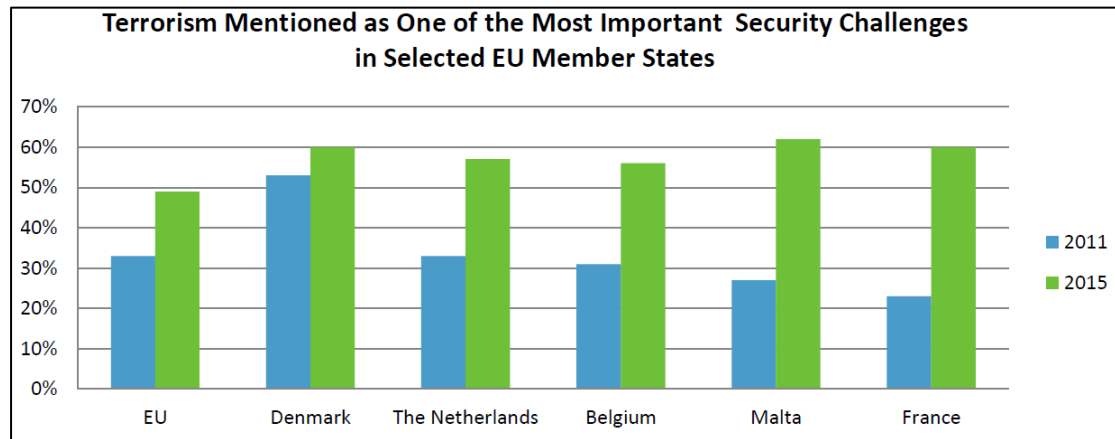


Figure 1. Terrorism Mentioned as One of the Most Important Challenges to the Security of EU Citizens⁶

Moreover, these events threatened to disrupt, “*the two largest countries and potentially doom an already wounded European project*”.⁷ The success of the terrorist strikes fueled up preexisting anti-European rhetoric by political groups within the Member States and the European institutions as concerns over national securities were invoked as one of the reasons (among others such as migration or economic policies) to leave the European undertaking. Thus, it seems like the series of attacks organized by jihadist terrorism organizations had achieved to create fear, dissemination and intimidation of

⁵ Eurobarometer, *Eurobarometer: Europeans' attitudes towards security*. (Brussels: European Commission, 2017), 15.

⁶ Bakker, Edwin, and Jeanine de Roy van Zuijdewijn, “Jihadist Foreign Fighter Phenomenon in Western Europe: A Low-Probability, High-Impact Threat.” *ICCT Research Papers* 6, no. 9 (2015): 11.

⁷ Stewart, D, “A summer of bloodshed threatens Europe’s Union.” *Time*, July 28, 2016. Available at: <https://time.com/4428019/a-summer-of-bloodshed-threatens-europes-union/> Accessed 9 August 2020.

a government or population, causing psychological repercussions on a target audience, namely the EU and its Member States.⁸

As one would expect, the combination of the above-mentioned factors proved to be more than enough to mobilize the European authorities to formulate a response. The success of the terrorist attacks was a strong indicator that the preexisting counterterrorism approach was insufficient to tackle the mode of operation of the jihadist threat.⁹ Besides, the counterterrorism efforts of the Member States alone proved to be not adequate to keep their citizens safe. As a result, the responsibility for the development of a counterterrorism response was transferred to the EU and its institutions. Contrary to the past experiences with the threat of terrorism, the EU managed to adopt a large volume of legal actions at an unmatched level. This action had the purpose of not only reforming, but also tackling the gaps of the already established European approach to terrorism.¹⁰ The brutality of attacks and their transnational stretch led to an increase of the demand for measures, policies and strategies in the sector of European counterterrorism. Parallely, the Member States took a more a collaborative stance favoring the efforts of EU's policymakers,¹¹ thus overcoming some of the obstacles associated with the power relations stemming from EU's transnational character. Consequently, (even if assessing the efficiency of a counterterrorism response is usually a rather difficult task) scholars argue that the EU

⁸ Kaunert, Christian, and Léonard Sarah, "The Collective Securitization of Terrorism in the European Union." *West European Politics* (2019): 261-262.

⁹ Stewart. *Summer*. 2.

¹⁰ Andreeva, Christine, "The Eu's Counter-Terrorism Policy After 2015— 'Europe Wasn't Ready'— 'but It Has Proven That It's Adaptable.'" *Era Forum* 20, no. 3 (2020): 360-365.

¹¹ Bonansinga, Donatella, "Counter Terrorism in the 21st Century and the Role of the European Union." *Polish Political Science Review* 3, no. 1 (2015): 42-43.

emerged as a “reformed” security actor with a more significant role and acceptance among its Member States.¹²

1.1. The hypothesis and the research questions

The success of the European response to the jihadist threat after 2015 led to the rise of the question: What did make the European response to the jihadist threat after 2015 more successful than previous experiences with similar terrorist threat? The majority of current research has sought the answer to this question by focusing on matters closely associated with terrorism and European external security such as migration, online radicalization, or the underlying political and economic conditions at the EU level. On the contrary, this thesis adopts a different approach by looking more into the general evolution of the sector, and EU’s past experiences with a similar threat, especially of jihadist terrorism.¹³ What characterizes this paper is that instead of viewing the success of the European response to the jihadist threat after 2015 as a single phenomenon (as the majority of academia does), it argues that the current response is the result of the continuous growth and progress of the sector in the last decades facilitated by its security culture.

The rationale behind this approach stems from the simple premise that the EU and its Member States have repeatedly faced the threat of terrorism in the past. Due to the fact that the EU had mainly a minor role in the fight against terrorism in the 20th century,

¹² Andreeva, *The EU’s Counter-Terrorism*, 346.

¹³ For the sake of simplicity, this thesis is solely confined to the EU’s counterterrorism efforts against the jihadist threat in the last two decades. Although jihadist and religiously-inspired terrorism is discussed in this article, I do not assume that all terrorism is on account of these factors. Indeed, Europol’s most recent European Union Terrorism Situation and Trend Report accounts for foreign terrorist travelers, right-wing extremism, left-wing extremism, ethno-nationalist terrorism, and lone-wolf terrorism, and jihadist terrorism, among others. However, this decision is the consequence of the research, which has revealed that the sector of European counterterrorism has experienced the biggest development after terrorist attacks constructed by jihadist or fundamentalist threat.

the thesis focuses mostly on the period after the emergence of a new kind of jihadist terrorism and the events of 9/11. What this paper stresses is that the experiences, norms, and values developed in the aftermath of 9/11 were crucial for the future of the European fight against terrorism and contributed to its success. For instance, the process of institutionalization (in the last two decades) revealed not the difficulties that the sector might confront in its further integration. At the same time, it also employed specific patterns of behavior, which proved to be beneficial for the faster formulation of a cohesive response after 2015.

The European response to the jihadist threat after 2015 depicted that the sector of European counterterrorism is not only driven by forces of supply and demand or the will of its members, but also by a strong security identity. The almost tautological course of actions followed by the sector in the two cases indicates the existence of a sort of interconnection. Except that, the manner in which the EU has been evolving manifests the presence of norms, values and power relations that drives its integration and determine its “modus operandi”. Considering Kaldor’s definition of security culture, it becomes apparent that all of the above-mentioned elements indicate the existence of a forming security culture that has determined the progress of the European fight against terrorism in the last two decades.

The hypothesis that emerges from this “train of thought” is that: There is an emerging European counterterrorism culture that has determined the EU’s evolution and course of action against the jihadist threat after 2015. To validate the hypothesis, it is firstly necessary to answer these sub-questions: (a) Is there a forming security culture in the sector of European counterterrorism?; (b) How did the European counterterrorism culture affect the European response to the jihadis threat after 2015?.

1.2. The academic debate

Before proceeding with the explanation of the manner in which this paper attempts to answer the aforesaid questions, it is vital to place this thesis in the overall academic debate. The role of the EU as a security actor has attracted the attention of a large number of scholars from numerous disciplines. It has been the point of interest of many publications in the last decades. Specifically, when it comes to the topics associated with terrorism, the events following the 9/11 attack created a new momentum in the field that resulted in a higher volume of academic literature concerning European counterterrorism. While the study of European terrorism dates back to the 1970s (when scholars began to investigate the “modus operandi” of the nationalist-separatist and Left-Wing terrorist organizations), a combination of factors such as the increasing demand for the examination of the contemporary form of terrorism and the series of attacks on the European continent led to the growth of publications and research devoted to this issue.¹⁴

Before 2015, as Javier Argomaniz has pointed out, the academic debate on the European counterterrorism approach to the jihadist threat mostly focused on “*the extent to which the European response has developed in an efficient, proportionate and holistic manner*”.¹⁵ On the one hand, a large number of scholars such as Doron Zimmermann, Oldrich Bures, Christian Kaunert and Jörg Monar have praised the progress of the sector of European counterterrorism, or some of its domains. For instance, by pointing out the over 150 measures that were adopted in the aftermath of 9/11, Doron Zimmerman stressed the huge “jump” that the sector experienced in just

¹⁴ Bakker, Edwin, *Terrorism and Counterterrorism: Comparing Theory and Practice* [Class handout]. Retrieved from: <https://d396qusza40orc.cloudfront.net/terrorism/Transcripts/Week%20%20-%20English.pdf>

¹⁵ Argomaniz, Javier, *The Eu and Counter-Terrorism: Politics, Polity and Policies After 9/11* (Hoboken: Taylor & Francis, 2011), 1.

some years.¹⁶ On the other hand, the operational capabilities of the EU in the fight against terrorism have also been severely criticized as being inefficient or just trivial. For example, Argomaniz concentrated on the lack of implementation of counterterrorism measures by all Member States for any of the instruments.¹⁷ The same discourse was further reinforced by other significant academics such as Monica den Boer, Irina Wiegand and Raphael Bossong. Despite the initial momentum, the passage of time and the lack of dramatic terrorist attacks proved to be more than enough to slow down the academic debate and bring it into stagnation, reminiscent of the one preceding 2001.

The appearance of a new terrorist threat with different strategies, ethics and tactics managed to spark some academic interest, but unfortunately not with the same success as in the period following the attack of 9/11. The analysis of publications regarding European counterterrorism, which were produced as a direct result of the recent terrorist events, revealed that scholars were no longer interested in the study of the functionality and progress of the sector. Instead, they concentrated on other dimensions of the phenomenon such the social or combining divergent disciplines to comprehend what drives people to such acts. There were still some articles and books published that not only tackled issues related to European counterterrorism, but also proved to be aligned to some extent with the topics that this thesis discusses. For instance, in 2019, Christine Andreeva, in her article for the distinguished European legal journal “ERA Forum”, provided an overview of the legislative measures that the EU adopted after 2015.¹⁸ However, most of the academic literature had mainly a descriptive character focusing

¹⁶Zimmermann, Doron, “The European Union and Post-9/11 Counterterrorism: A Reappraisal” *Studies in Conflict & Terrorism*, 29. 2 (2006): 123-145.

¹⁷ Argomaniz, *The European Union*. 136-151.

¹⁸ Andreeva, *The EU's*, 343-370.

on the outcomes of the securitization of the new jihadist threat, rather than the underlying historical and cultural context.

1.2.1. The contribution of the thesis to the academic discourse

The paper contributes to the academic debate by taking an entirely different approach to the study of the evolution of European counterterrorism. It does not focus on its efficiency or the adopted measures, but on the underlying factors that guided its progress. For this reason, the thesis introduces the concept of security culture and the notion of European counterterrorism culture. The application of a cultural approach helps to offer a “broader” scope of analysis on the European fight against terrorism, and better explain the development of the sector of European counterterrorism. On top of that, it achieves to overcome the mere focus on the process of institutionalization by looking into the values, norms, standards, and power relations that contributed to the growth of the sector. In fact, the adoption of a cultural approach for the sake of analysis of European policies is not unprecedented, but there are few cases that have attempted a similar undertaking.

In 2009, Monica Guriup published a book with the title *European Security Culture: Language, Theory, Policy* that sought to develop a theoretical framework analyzing the strategic culture of the EU at the global level. Through the induction of a “structuration solution of discursive syntax”, she attempted to locate the impact of the European security culture on the strategies and discourse associated with European Common Security and Defense Policy. Despite the importance of her work, Guriup applied the concept of security culture and the model of Reality-Action Path in Policy Making to the external policies of the EU.¹⁹ Two years later, another analysis “took up the torch” set by Guriup and made use of the idea to interpret European internal matters. In her

¹⁹ Gariup, Monica, *European Security Culture: Language, Theory, Policy* (Farnham, UK: Ashgate, 2009)

book, Marieke de Goede argues that there is an emerging European security culture guiding internal European policies. To validate her claim, she provides two case studies: the EU Action Plan on Combating Terrorism and the European Terrorism Financing Tracking Program. Furthermore, Goede attempts to describe some of the features of the culture, such as the European emphasis on prevention.²⁰

The thesis aims to continue De Goede's narrative and further validate her claims of the existence of European security culture but focusing only on the sector of European counterterrorism. As this paper shows, the European course of action after 2015 indicates similar characteristics to the ones she referred to as features of European security culture, thus further confirming her hypothesis. At the same time, this paper enriches De Goede's narrative by inducing Mary Kaldor's concept of security culture to the academic debate. The new theoretical tool facilitates the goal of locating the patterns of behavior, norms, standards, and power relations constituting the European counterterrorism culture.

1.3. The methodology of the thesis

To validate its hypothesis and answer the research questions, the thesis uses two case studies, which serve as proofs of an emerging European counterterrorism culture. In more detail, the cases at hand here are: the development of European counterterrorism in the aftermath of 9/11 and the European response to the jihadist threat after 2015. While the former aims to show the formulation of the elements of European counterterrorism culture, the latter has the purpose of further displaying the continuance of the same features in the EU's response after 2015. In this manner, the two cases

²⁰ Goede, Marieke de, *European Security Culture: Preemption and Precaution in European Security. Vor Maatschappij- En Gedragwetenschappen 411* (Amsterdam: Amsterdam University Press, 2011)

manage to demonstrate that: (a) there is a security culture driving the sector; (b) this security culture contributed positively to the formulation of the European response after 2015. Furthermore, the cases are both descriptive and explanatory. On the one hand, they provide an account of the strategies, legal actions and practices that were employed to cover the demand for security following the terrorist attacks. On the other hand, they seek to explain why the EU did or did not respond in a specific way, and how the sector's past experiences affected its current course of action.

The thesis uses process-tracing to establish the interconnection between the two cases, a technique that David Collier defines a “*systematic examination of diagnostic evidence selected and analyzed in light of research questions and hypotheses posed by the investigator*”.²¹ To put it in simpler terms, this approach focuses on the decision process, which (in this case) refers to the policies chosen by the EU in its fight against jihadist terrorism in the last two decades. The rationale behind the selection of this tool is that is deemed to suit the most the goals of this research as it allows “*the identification of intervening causal pathways between causes and outcomes (..) [and the analysis] of complex causal relationship stretching over an extensive period of time*”.²² Therefore, this technique permits the introduction of a cultural approach as it studies the impact of the European counterterrorism culture, past experiences and events on the examined case study. Moreover, the technique enables “single-case theory testing, because as Marianne Ulriksen and Nina Dadalauri argues “*rather than testing multiple instances of a relationship between an independent and a dependent variable as in cross-case*

²¹ Collier, David, “Understanding Process Tracing.” *Ps: Political Science and Politics* 44, no. 4 (2011): 823.

²² Beach, Derek & Pedersen, Rasmus, *What is Process-Tracing Actually Tracing? The Three Variants of Process Tracing Methods and Their Uses and Limitations* (Seattle: American Political Science Association Annual Meeting, 2011)

*studies, one examines a single instance of a causal chain where multiple factors may lead to an outcome”.*²³

1.3.1. Data and material

The reasoning guiding the process of data selection has been greatly determined by the unit of analysis, which in this case is the European Union and the legislative and non-legislative institutions constituting the sector of counterterrorism. The choice to focus only on the EU’s role in the fight against terrorism is the result of the difficulty to distinguish between European and Member States’ counterterrorism policies. The high level of interconnection and intergovernmental nature of the EU causes the two sides to frequently overlap in matters of security, hence making it challenging for the researcher to discern and investigate them. Furthermore, to tackle the perplexity of the sector of European counterterrorism, the thesis adopts a rather simplistic approach. So, while it acknowledges that the European counterterrorism includes a big number of actors, the thesis considers the EU as a unitary “being” or agent that can be defined “*as a unique and complex construction which does not take the place of but is an inseparable counterpart to, the member states*”.²⁴ What this implies is that the EU, while being affected by the will and interests of its Member States and its institutions, it is also parallelly an organization that has its own security identity. This distinction allows the research to treat the EU as an actor that sets the “*language-strategies, goals and visions- and the institutional structures necessary for the operation of European counterterrorism*”.²⁵

²³ Ulriksen, Marianne S, and Nina Dadalauri, “Single Case Studies and Theory-Testing: The Knots and Dots of the Process-Tracing Method.” *International Journal of Social Research Methodology* 19, no. 2 (2016): 223.

²⁴ Larsen, Henrik, “The EU: A Global Military Actor?” *Cooperation and Conflict* 37, no. 3 (September 2002): 283-302.

²⁵ Jackson Richard, “An Analysis of Eu Counterterrorism Discourse Post-September 11.” *Cambridge Review of International Affairs* 20,2. (2007): 239.

In a similar manner to Thierry Balazcq's concept of analytical governance, the thesis argues that the products of European fight against terrorism (the official European decisions, directives, action plans, strategies, and regulations) serve as the official discourse of the sector. They are not only the reflection of "*the mindset of security agents and organization of*] (...) *the interactions of its members*",²⁶ but also its "dispositif", which is EU's general stance towards terrorism. Despite the perplexity of the sector, the official legal decisions portray EU's perception of "doing" security, hence allowing to locate the underlying norms, standards, interests, and reasoning driving the process of decision-making. Even though this approach has some limitations, they do not hinder the goals of this research.

The research of the European counterterrorism practices and measures proved to be a "Herculean task". By focusing on legislative texts and official European documents, the thesis resided on material that met two conditions: (a) documents that been part of the EU's counterterrorism agenda; (b) documents that had been adopted or approved by European institutions, and represent the official stance of the EU regarding terrorist threats. The research recognizes that the data used does not give a complete account of all the mechanisms involved in the formulation of European counterterrorism approach. Still, the technique of process tracing is deemed purposeful for this paper as it provides an insight into the motives behind decisions, nonetheless.

1.4. The structure of the thesis

The structure of the thesis is rather straightforward. After the introduction, the second chapter describes the theoretical framework, namely Mary Kaldor's concept of security culture. This chapter aims to provide the theoretical fundamentals that are necessary for

²⁶ Bossong, Raphael, and Mark Rhinard, eds, *Theorizing Internal Security in the European Union* (version First edition.). Firsted (New York: Oxford University Press, 2016), 52.

the induction of the notion of European counterterrorism culture. Then, the third chapter presents the first case study that is the European fight against jihadist terrorism in the post-9/11 period. This section presents the emergence of a European counterterrorism culture by showing the formulation of all the elements that constitute it. This case study helps to establish the reference point necessary for the induction of a cultural approach, and to locate the patterns of behavior, norms, standards, and power relations that will eventually affect the future progress of European counterterrorism. The fourth chapter focuses on the European response to the jihadist threat after 2015. In a similar manner to the previous case study, this chapter seeks to prove that the European “modus operandi” presented the same patterns of behavior norms, standards, and power relations in the aftermath of 2015. As the thesis argues, the persistence of the same features indicates that there is a forming distinctive European counterterrorism culture. Furthermore, the section validates the thesis’ hypothesis by depicting the positive impact of European counterterrorism culture on the EU’s response after 2015. Finally, the thesis presents the main conclusions of the analysis and implications for the future of this sector.

2. The theoretical framework

This chapter serves the purpose of setting the theoretical fundamentals necessary for the induction of the concept of European counterterrorism culture. For this reason, the following section presents a brief analysis of Mary Kaldor's definition of security culture, and then attempts to deconstruct it. The rationale behind this action is that the original definition was formulated to be applied to states and international actors, whilst omitting the potential that it might have for micro-scale research. As this thesis focuses on the security culture of a specific sector of an intergovernmental/supranational institution, the paper has to introduce some minor modifications without altering Kaldor's initial take on the concept significantly. In this manner, the thesis complements and expands Kaldor's scope of analysis by showing the possibilities it offers when applied to sectors of internal security. Furthermore, this chapter presents some features and implications that go along with the use of this theoretical tool. There are crucial characteristics that not only set her definition apart from its predecessors but also increase its applicability in the case of European counterterrorism. Finally, the section ends with an overview of the advantages that this theoretical framework offers while pointing out some of its limitations.

2.1. The definition of security culture

The induction of a cultural approach to security studies was a consequence of the emergence of a cultural/constructivist turn in the mid-1990s.²⁷ During that period, writers like Colin Gray or Alastair Johnston sought to “*challenge the ahistorical, non-*

²⁷ Daase, Christopher, “On Paradox and Pathologies: A Cultural Approach to Security, in: Schlag Gabi; Junk, Julian; Daase, Christopher (ed.)” *Transformations of Security Studies. Dialogues, Diversity and Discipline*, Routledge (2016): 81.

cultural neorealist framework for analyzing strategic choices".²⁸ While its initial popularity, the security scholars have only recently caught up with the possibilities and the opportunities that this new approach offers. A real breakthrough was the induction of the concept of "Sicherheitskultur" (security culture) by Christopher Daase. By drawing inspiration from the findings of the expert group of the International Atomic Energy Agency investigating the nuclear accident in Chernobyl and Karl Deutsch's concept of "security communities", the scholar came up with a definition: "*the sum of the beliefs, values and practices of institutions and individuals that (1) determine what is considered to be a danger or insecurity in the widest sense and (2) how and by which means this danger should be handled*".²⁹ Some years later, Mary Kaldor, a prominent British academic, developed her take on the concept inspired by Daase's work. Kaldor managed to offer a much more holistic and detailed definition of security culture, which does not suffer from limitations such as the strict focus on spatiality. To arrive at her definition, the scholar followed a methodical syllogism that this chapter attempts to present.

As the concept of security culture is an alloy of the words, "security" and "culture", the scholar initiated her research by seeking to define these two components. While traditionally "security" is used to supplement terms like "war", "defense" or "strategy", Kaldor differentiates her stance by dismissing the military or strategic focus.³⁰ Instead, her take on "security" falls in line with the dual approach, namely the "two faces" of security introduced recently by Kirk Tom and Luckham Robin. Similarly to the two

²⁸ Johnston, Alastair Iain, "Thinking about Strategic Culture" *International Security*, 19(4), (1995): 35.

²⁹ Daase, *On Paradox*, 83.

³⁰ The concept of security has been mostly associated with strategic or military studies due to the Cold-War origins of the whole security studies department. The lack of answer to questions such as: Does security has a socially constructed meaning? Whose safety are we talking about –the individual, the nation, the state, the world? Besides that, the lack of universal definition has also led to problems that have had direct implications on security practices.

scholars, Kaldor argues that security is the outcome of a dynamic and continuous interaction between the two forces of supply and demand. On the one hand, the supply side is “*a process of political and social ordering established and maintained through authoritative discourses and practices of power, including but not confined to organized force*”.³¹ On the other hand, the demand side is defined as “*an entitlement of human beings to protection from violence and other existential risks including their capacity in practice to exercise this entitlement*”.³² Both of these forces are severely influenced by other factors such as discourse or divergent ways of framing and practicing security that make their analysis more robust. According to Kaldor, the solution to this issue is the induction of a cultural approach and the use of an analytical tool such as security culture. Their use helps to locate the shifts in the perception and practice of security in specific contexts.³³

Furthermore, when it comes to the undertaking of defining “culture”, Kaldor adopts a much more simplistic approach. In an almost tautological manner to Daase, the scholar uses the term to “*explain why certain practices become normalized or habituated even if they appear to be contrary to logic*”.³⁴ As Kaldor highlights the cultural aspect seeks to make sense of the behavior of an actor from within the vantage point of the culture by locating the culture structures that “naturalized” or led to it in the first place.³⁵ Therefore, after the clarification of what constitutes “security” and “culture”, Kaldor proceeds with the presentation of her final definition that is:

³¹ Luckham, Robin, and Kirk, Tom, “The Two Faces of Security in Hybrid Political Orders: A Framework for Analysis and Research” *International Journal of Security & Development*, 2(2): 44 (2013):5.

³² Ibid.

³³ Kaldor, Mary. *Global Security Cultures: A Theoretical Framework for analysing Security in Transition* (London: ERC, 2016)

³⁴ Kaldor, Mary. *Global Security Cultures* (Cambridge: Polity Press, 2018), 12.

³⁵ Ibid.

“A security culture is a specific pattern of behavior or constellation of socially meaningful practices that expresses or is the expression of norms and standards embodied in a particular interpretation of security and that is deeply imbricated in a specific form of political authority or set of power relations. A security culture comprises different interconnected combinations of ideas, rules, people, tools, tactics, and infrastructure, linked to different types of political authority that come together to address or engage in large-scale violence.”³⁶

The investigation of Kaldor’s definition reveals some interesting points. According to the scholar, the security culture manifests itself through specific patterns of behavior or practices that are repeatable and specific for the security actor. At the same time, these patterns show the existence of an underlying cultural context that is formed from norms and standards. The latter portrays the actor’s perception of security, but also directly affect its “modus operandi”, hence establishing a vice-versa relation. On top of that, all these elements are also affected by a particular set of power relations that determine the power dynamics driving the patterns and the creation of the norms and standards. So, Kaldor’s definition can be deconstructed to these elements: (a) patterns of behavior; (b) norms and standards; (c) set of power relations. What this deconstruction means for the research is that the certification of the existence of these three components in the “modus operandi” of European counterterrorism (in the last two decades) provides a solid ground for the argumentation in favor of the existence of European counterterrorism culture.

³⁶ Ibid., 2.

2.2. The features of Mary Kaldor's concept of security culture

Kaldor's definition of security culture is oversaturated with perplexed meanings and phrases making it difficult to understand it on the first read. Except that, there are many implications stemming from Kaldor's unique perception of "security", "culture" and "security culture" that are not directly visible in her definition but are important for the goals of this research. The following analysis aims to not only provide a deeper understanding of Kaldor's definition, but also to help in understanding the reasons behind its selection.

Firstly, Kaldor's concept of security culture does not rely on the aspect of territoriality, although in the case of this paper, this would not be a "faux pas". Contrary to Daase's focus on spatiality, Kaldor's use of culture refers "*(..) to ways of doing things embedded in a set of social relations rather than being tied to ethnic or geographical identity*".³⁷ What this means is that the unit of analysis does not have to be a nation or a region or other socio-political actor, hence enabling the analysis of sectors, states and intergovernmental institutions. The scholar focuses mainly on the domain of functionality, a feature especially important when investigating such a perplex and big sector as European counterterrorism. At the same time, the lack of territoriality does not directly translate into the cease of the existence of security communities as groups. On the contrary, the communities retain their form and continue to be driven by shared ideas and perceptions and to be bounded by common practices. For instance, in the case of European counterterrorism, despite the participation of a big number of agencies,

³⁷ Kaldor, *Global Security*, 9.

institutions and instruments, the establishment of common legislative and normative framework has brought more convergence than territoriality.³⁸

Secondly, it is crucial to comprehend that the notion of “security” and “culture” are interconnected. As mentioned in the previous sub-chapter, Kaldor considers that by applying the cultural approach to practices of security, it is possible to locate the specific set of ideas at determined not only the objectives of security but also the manner of achieving them.³⁹ In other words, as she states, “*the practice of security cannot be disentangled from ideas about security*”.⁴⁰ Furthermore, she introduces also another factor that affects directly the relationship between security and culture, which is the power relations guiding the “two faces of security”.⁴¹ Inspired by Michelle Foucault’s concept of “dispositif”,⁴² the scholar argues that each actor has its specific way of exercising power that consists of “*various components or elements (..) [that] combine together not necessarily harmoniously to produce and reproduce certain types of behaviour; whether such behaviour is good or bad is a normative judgment that can be made on the basis of an empirical study of what constitutes a culture*”.⁴³ For example, in the sector of European counterterrorism, the power relations stemming from EU’s specific structure have shaped its perception of “doing security” and directed its response to the jihadist threat in the last two decades. Moreover, the norms and standards representing the underlying cultural context have affected the supply of security and the EU’s course of action.

³⁸ Ibid.

³⁹ Ibid.,10.

⁴⁰ Ibid.

⁴¹ See page 16.

⁴² Kaldor, *Global*, 10.

⁴³ Ibid.

Thirdly and perhaps most importantly, security culture is not a static concept as it is constructed. As this thesis reveals, it continually reproduces, diffuses, and modifies itself to meet the requirements of the demand for security. The phenomenon is further reinforced by constant changes in the mechanisms constituting the security culture experience. As long as the perception of security of an actor and its practices changes, so will its security culture and ‘modus operandi’ develop.⁴⁴ Concurrently, as De Goede has also pointed out “*culture remains uneven and incomplete – as cultures usually are*”, and thus everchanging.⁴⁵ This is the backbone of this thesis’ claim that supports that the EU’s past experiences with the jihadist threat have not only determined its current response, but also contributed positively to its success. If the concept of security culture was a static concept, this research’s hypothesis would not stand.

2.3. Conclusion

It would not be a huge overstretch to say that Kaldor’s concept of security culture has made this paper possible. Due to the reasons that have been described above, it offers many advantages that other definitions do not provide or cover extensively. Firstly, Kaldor has tackled a lot of the weaknesses of its predecessors, and thus provided a more holistic theory with a greater level of applicability. Secondly, by disregarding the aspect of territoriality, Kaldor’s take has set the fundamental for a more detailed analysis of security culture of security actors that do not have a geographical identity, such as the sector of European counterterrorism discussed in this paper. In an international system, where traditional actors like states do not deliver security, this simple extension increases its use and possibilities immensely. Thirdly, it offers a dynamic analytical

⁴⁴ Ibid.

⁴⁵ De Goede, *European*, 7.

tool that creates a framework in which distinctive patterns of behavior, norms and standards are possible to be examined as part of bigger security culture, and not just as responses to contemporary security demands. All of these strengths justify the selection of Kaldor's concept and set the fundamentals that are necessary for the goals of this research. When it comes to the practicalities of the appliance of this theory, this is better explained in the next chapter, which presents the first case study.

3. The formulation of the European Counterterrorism

Culture

While “*Europe did not wake up to terrorism on 9/11*”,⁴⁶ there is no denying that it soon became a milestone for the development of European counterterrorism. Following the Twin Tower attack, the EU was faced with the undertaking of creating its own distinct and practical approach to fight against terrorism. This narrative was further reinforced by the bombings of 2004 in Madrid and 2005 in London. The two terrorist hits indicated not only the gaps in the overall counterterrorism structure of the EU, but also the need for further integration of the sector. It became apparent that the traditional focus on national authorities was no more capable of “shielding” the domestic security of Member States from the new practices and the international nature of the jihadist groups. Thus, despite having past experiences with terrorism (mostly separatist and Left-wing), the EU found itself in “uncharted territory”.

These terrorist attacks resulted in an increased demand for security and creating an opportunity for the EU to push for a flurry of decisions, initiatives and mechanisms aimed at strengthening Europe’s capabilities in fighting against terrorism in all aspects. However, the process of development of common counterterrorism strategies was complicated by the perplex institutional architecture of the Union and by the divergent perception of “doing” security and counterterrorism traditions within Europe.⁴⁷ Despite the hindrances, the EU managed to adopt a vast body of legislation and policies, create new mechanisms and strategies, and in general, set the fundamentals guiding the sector in the last two decades. The institutionalization that the EU experienced was

⁴⁶ Coolsaet, Rik, “Eu Counterterrorism Strategy: Value Added or Chimera?” *International Affairs* 86, no. 4 (2010): 858.

⁴⁷ *Ibid.*, 858.

unprecedented, and to a degree, few would have imagined it some years earlier.⁴⁸ Moreover, it was the first time that the European institutions were faced with such a high demand for the establishment of a shared response to the threat of terrorism. For these reasons, the thesis starts its study of the European counterterrorism culture from the events following 9/11. Although it acknowledges the existence of European initiatives in the past, they do not compare to the momentum that 9/11 created.

After the justification of the choice of the time framework, it is also significant to explain the aim of this chapter and its scope of analysis. While most academic literature refers to issues connected with the efficiency of the sector or attempts to give an overview of the sector's progress, this paper does not aim to contribute to this academic debate. Instead, the use of this case study has the purpose of showing the elements of the European counterterrorism culture that formulated in the post-9/11 period. The deconstruction of Kaldor's definition of security culture revealed that to prove the emergence of European counterterrorism culture, there is a need to indicate the existence of: (a) specific patterns of behavior; (b) norms and standards guiding the interpretation of security; (c) set of power relations that affects the supply of security.

⁴⁸ Dittrich, Mirjam, *Facing the global terrorist threat: a European response* (Brussels: European Policy Centre. 2005)

Considering the above-mentioned, this chapter attempts to prove the manifestation of these elements and their implications on the European fight against terrorism in the first decade of the 2000s, and then connect with the European response to the jihadist threat after 2015. The following sub-chapters employ the method of qualitative analysis to show the cases and/or examples that validate the induction of the concept of security culture. The rationale behind this undertaking is perfectly depicted in Figure 2.

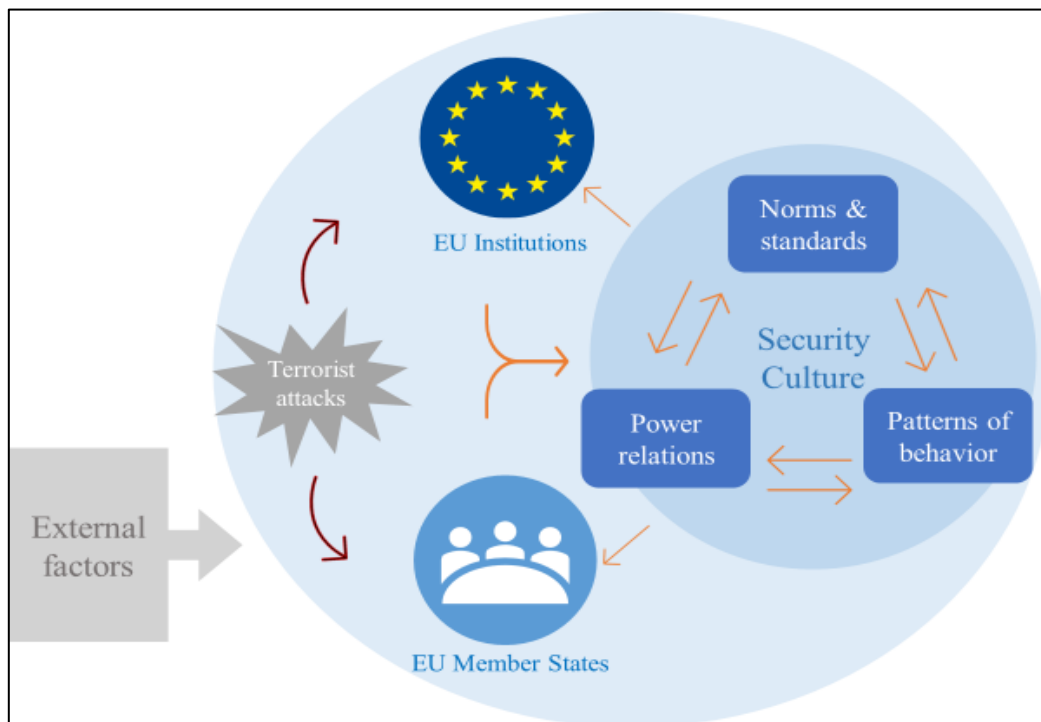


Figure 2. The thesis' perception of European counterterrorism culture. Through this diagram, it is visible how the terrorist attack creates the momentum for the mobilization of EU institutions and EU Member States, and how all the elements of the security culture interconnect and affect the sector. The external factors (such as the UN, the US, the terrorist organizations, and other European issues) are not analyzed in this paper. However, they still had influence over the formulation of the security culture and the EU's distinct security identity.

The method of quantitative analysis faces some limitations, which have been tackled by the induction of the technique of process tracing. As it is impossible to present the

rationale behind the adoption of all 238 measures, the thesis focuses merely on the ones that indicate the formulation of a European counterterrorism culture.

3.1. The patterns of behavior and the institutionalization in the post-9/11 period

The institutionalization that the EU experienced following the attack of 9/11 and the two bombings of 2004 and 2005 was unmatched. The EU responded with the adoption of at least 238 separate measures in less than ten years.⁴⁹ This was in stark contrast to the rather slow progress of the pre-9/11 JHA intergovernmental decision-making, or as ex Justice, Liberty and Security (JLS) Commissioner Vitorino described it, a “*giant leap forward*” for criminal justice cooperation.⁵⁰ While the existing academic literature “sheds light” on the institutionalization as a linear process, this thesis takes a different approach by focusing on the underlying historical cultural and political context. A closer examination of the manner in which the EU achieved this impressive progress at the internal level reveals some specific patterns of behavior, which were employed either to tackle limitations stemming from the sector’s set of power relations or to take advantage of the momentum created by the terrorist hits. On top of that, a lot of EU’s measures, policies and strategies do not only show the influence, but also the “crystallization” of the norms and standards that will guide the integration of the sector in the future. The interaction and interconnection of these elements are responsible for

⁴⁹ Hayes, Ben, and Chris Jones, *Tacking Stock: The Evolution Adoption, Implementation and Evaluation of Eu Counter-Terrorism Policy*, Securing Europe through Counter-Terrorism—Impact, Legitimacy and Effectiveness. (Brussel: European Union, 2015)

⁵⁰ Boer, Monica den, *9-11 And the Europeanisation of Anti-Terrorism Policy: A Critical Assessment* (Paris: Europe. Policy Papers, 2003)

the formulation of sector's security culture, which distinguishes EU's from other security actors and explains its evolution.

When it comes to the procedure of institutionalization, the analysis of the European fight against terrorism in the first decade of the 2000s reveals the existence of specific patterns: (a) the enhancement or modification of already existing measures; (b) adoption of previously stalled measures; (c) the creation and enhancement of European instruments, such as agencies, organization and institutions.

3.1.1. Institutionalization: The enhancement and modification of existing legislation/policies and strategies

In the aftermath of 9/11, the EU did not hesitate to use repeatedly this form of institutionalization to achieve an exceptional level of progress in a brief time. The brilliance of this practice relies on a rationale that Giovannis Lanzara refers to as “institutional bricolage“, which is the recombination and reuse of former structures to perform new functions.⁵¹ Instead of the “*exploration of alternative arrangements*”, it is more beneficial for institutions to utilize “older structures” when faced with a new crisis. Thus, the “institutional bricolage” allows “*the gradual shifting and drifting of an institution or a code, which increases its structural complexity while leaving its basic core untouched*”.⁵² Another scholar, namely Eric Schickler has also referred to this sort of behavior (in his case to describe the US Congress) as “layering”, which is a practice that aims to replace “*new arrangements on top of pre-existing structures intended to serve different purposes ... [which] results in institutions that appear more haphazard*

⁵¹ Lanzara, Giovan Francesco, “Self-Destructive Processes in Institution Building and Some Modest Countervailing Mechanisms” *European Journal of Political Research* 33, no. 1 (1998): 27.

⁵² *Ibid.*, 31.

than the product of some overarching plan".⁵³ Both of these concepts perfectly characterize the European approach to the development of European counterterrorism in the post-9/11 period.

In the case of the EU, the “older” structures that “*constraint consequent institutional innovations*” were set during the Tampere European Council meetings in 1998.⁵⁴ The Tampere Conclusion offered an action plan, which provided a set of priorities for the achievement of further approximation of legislation and enhancement of mutual recognition of judicial decision at the Justice and Home Affairs (JHA) level.⁵⁵ The program of 24 measures (hierarchically ordered by a scale of priorities from 1 to 6) set the fundamentals for the development of the Plan of Action to combat terrorism adopted by the Brussels European Council on 21 September 2001.⁵⁶ At the same time, in the face of the new demand for the security, the priorities were reversed, thus transferring the European Arrest Warrant from the third place to the first one.⁵⁷

The above example is a perfect depiction of the practice discussed in this chapter. Due to the impact of 9/11, the EU found itself in need of a general plan that would guide its response to the new threat. As the formulation of a new plan could prove to be more time-consuming, the EU turned its attention to already existing similar initiatives. Putting it simply, the sunk costs derived from switching to one alternative-completely new policies tailored to the terrorist threat from the preexisting one (rapid adoption of

⁵³ Schickler, Eric, *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress* (Princeton: Princeton University Press, 2008), 15.

⁵⁴ Argomaniz, Javier, “Post-9/11 institutionalization of European Union counter-terrorism: emergence, acceleration and inertia” *European Security*, 18:2 (2009): 157.

⁵⁵ Council of the European Union, *Presidency Conclusions, Tampere European Council, 15-16 October 1999*, (Brussels: European Union, 16 October 1999)

⁵⁶ Salazar, Lorenzo, “Twenty Years Since Tampere: The Development of Mutual Recognition in Criminal Matters.” *Eu crim- the European Criminal Law Associations' Forum* (2006): 256.

⁵⁷ European Council, *Conclusions and Plan of Action of the Extraordinary European Council Meeting on 21 September 2001*, Doc. SN 140/01. (Brussels: European Union, 21 September 2001)

Tampere instruments for criminal matters cooperation) were too high.⁵⁸ So, on the premises of “institutional bricolage” or “layering”, the EU proceeded with the enhancement, replacement or modification of Tampere Conclusion to fit the contemporary security needs and to avoid the hindrances stemming from the power relations of the sector. As a result, the EU managed to give in a short time the “green light” to various initiatives that were already accepted, thus achieving to cover the demand for security. Besides, the Action Plan symbolized the first step in reducing ambiguity that surrounded the counterterrorism sector as it determined the measures included in the Anti-Terrorism Roadmap.⁵⁹

The success of this practice was such that the EU did not waver to utilize it again shortly after under similar circumstances. Following the Madrid bombing of 2004, the European Commission sprang quickly into action by revising and enhancing the previous roadmap and plan of action. On the one hand, the EU adopted the Declaration on Combating Terrorism on 25 March 2004, which not only called for the implementation of the already accepted measures but also set seven clear strategic objectives.⁶⁰ On the other hand, a Revised EU Plan of Action on Combating Terrorism was adopted in June 2004, replacing the preexisting roadmap (the aforesaid Action Plan and Anti-terrorism Roadmap). The Plan of Action aimed to translate the seven objectives into around 175 specific measures.⁶¹ Interestingly enough, many of these were not exclusive to terrorism, but represented the discussed pattern of “*repackaging of security instruments as counterterrorism to facilitate their rapid adoption*”.⁶²

⁵⁸ Argomaniz, *Post-9/11*, 156.

⁵⁹ Council of the European Union, *Anti-Terrorism Roadmap*, Doc. SN 4019/0126 (Brussels: European Union, September 2001)

⁶⁰ Council of the European Union, *Declaration on combating terrorism*, 7906/04 (Brussels: European Union, 2004)

⁶¹ Council of the European Union, *EU Plan of Action on Combating Terrorism*, 10010/3/04 (Brussels: European Union, 11 June 2004)

⁶² Argomaniz, *Post-9/11*, 158.

Therefore, the EU continued its practice of “layering” and expanding, while remaining cautious of the existing power relations and avoiding any supranational undertakings. This behavior was also present in the next years as the EU adopted the EU Counterterrorism Strategy approved by the JHA Council on 1 December 2005, in the aftermath of the London bombing. As the official document states, the adoption of the Strategy signaled “*the next phase of the agenda of work set out at the March 2004 European Council*”.⁶³

The case of the Action Plan is the most characteristic depiction of EU’s behavior of replacing, modifying, or expanding preexisting measures to achieve abrupt institutionalization without the disruption of the existing power relations, namely the will of the Member States. Other legal measures have also presented the same pattern of development, namely the Framework Decision on European Arrest Warrant or the Framework Decision on Combating Terrorism, both adopted in 2001. While the two measures are mainly byproducts of the general Action Plan, they experienced progress that was defined by the “two-faces of security” and preexisting structures. Instead of seeking to replace the Frameworks, the EU preferred to “build on” the predecessors, and just expand them to meet the new security demands.

⁶³ Council of the European Union, *The European Union counter-terrorism strategy*. 14469/4/05 (Brussels: European Union, 2005), 6.

3.1.2. Institutionalization: The adoption of stalled legal measures ⁶⁴

In the post-9/11 period, a pattern of behavior that has characterized the institutionalization of the EU is the adoption of stalled legislative measures. This behavior is the direct result of the terrorist tacks as they create “branching points”, which generate new paths of institutional development. As den Boer has highlighted, studying the European legislation following the 9/11, the increased demand for security has led not only to the adoption of a high number of legal measures but also the pass of the ones that had remained stuck for years in the “European policy pipeline”. While in the pre-9/11 period, the decision-making process occurred at a very cautious level, the EU did not want to waste any time on negotiations. The EU sought to utilize this momentum to persuade its American partner that it had what it takes.⁶⁵ So, the preexisting proposals were brought back to agenda, and “*drafted agreements sailed through*”.⁶⁶ On top of that, in her future works, den Boer used Kingdon’s concept of “window of opportunity” to describe the demand for security following the attacks. As she argues this is the result of the convergence of Kingdon’s policymaking streams: (a) problems (e.g. the success of each attack); (b) politics (e.g. pressure from the Member States); (c) policies (e.g. gaps in the structure).⁶⁷

In fact, the thesis also adopts Den Boer’s concept of “window of opportunity”. European counterterrorism is an event-driven sector, which follows dynamics that “*can*

⁶⁴ It is important to point out that this paper does not describe the pattern of behavior of adopting new measures as it does not contribute to the aim of the thesis and it is not a feature that distinguishes the EU from other security actors. Instead, the thesis seeks to look at the underlying cultural and normative context driving the institutionalization.

⁶⁵ Boer, Monica den, and Monar Jörg. “Keynote Article: 11 September and the Challenge of Global Terrorism to the Eu As a Security Actor.” *Jcms: Journal of Common Market Studies* 40, no. S1 (2002): 11–28.

⁶⁶ *Ibid.*, 21.

⁶⁷ Boer, Monica den, “Fusing the fragments: challenges for EU internal security governance on terrorism”. In: D. Mahncke and J. Monar, eds. *International terrorism. A European response to a global threat?* Brussels: P.I.E Peter Lang, 2006, 83-111.

be compared to successive shock waves, propelled by major attack, but gradually winding down once the sense of urgency had faded away".⁶⁸ The paper acknowledges that the same demand for security, which is one of Kirk's and Lunckham's faces of security, has been responsible for the development of other patterns of behavior such as the aforesaid "institutional bricolage" has also given form to the practice of adopting legislative measures. However, instead of seeking the conditions or sources of these practices, this research regards it as part of the sector's security culture. The pattern of behavior is further discussed through the presentation of the examples of measures such as the Framework Decision on the Freezing Assets of Suspects.

It was not the first time that the proposal for the adoption of such a Framework was suggested at the EU level. The Framework was among the vast number of proposals that were considered by the JHA Council in the pre-9/11 period, but never gather enough momentum to be adopted. To be more specific, it was a juridical competence proposed by France, Sweden and Belgium, which was submitted in November 2000 as a part of the mutual recognition program covering issues such as drug trafficking, budget fraud, money-laundering, corruption.⁶⁹ However, the proposal was initially snubbed because of the lack of security demand justifying its adoption.⁷⁰ Shortly after the events on 9/11, the European Commission strongly pushed for the passage of this proposal. Although facing some initial problems concerning the scope of the offences in relation to which asset could be frozen, the European Commission did not give into the internal pressures.⁷¹ Instead, in early October, it stepped forward with a proposal

⁶⁸ Coolsaet, *EU counterterrorism*, 858.

⁶⁹ Council of the European Union, Initiative by the Governments of the French Republic, the Kingdom of Sweden and the Kingdom of Belgium for the adoption by the Council of a Framework Decision on the execution in the European Union of orders freezing assets or evidence, *Official Journal of the European Committee* (2001): 3-8.

⁷⁰ Den Boer, *9/11 And*, 9.

⁷¹ Occhipinti, John D, *The politics of EU police cooperation: toward a European FBI?* (London: Lynne Rienner. 2003), 158.

for the freezing assets of specific lists of persons and entities suspected of terrorism.⁷²

This undertaking was crowned victorious as it resulted in the adoption of the Framework. Since then, the freezing of international designated terrorist would belong to the European jurisdiction and would be dealt through the EU instruments.⁷³

The Framework Decision on Freezing Assets is one of the examples of EU's practice of adoption of stalled legislative measures. Other proposals that were adopted in the same manner were the European Arrest Warrant and the Framework decision on Joint Investigation Teams. For instance, the EU Civil Protection Mechanism, which since its adoption in 2001 has responded to over 330 requests of assistance inside and outside the EU, was first introduced as a proposal in the aftermath of the Tokyo Sarin Attack in 1995. While initially, the proposal did not enjoy much support, the events of 9/11 created the "branching point", which led to its quick adoption and injected a new mechanism for cooperation.⁷⁴ Furthermore, despite terrorism not being directly mentioned in the documents due to its rather vexed nature, a plethora of other legal actions adopted after 9/11 originated from the 1999 Tampere European Council Conclusions. To be more specific, the fight against crime financing figured at the 10th Tampere Milestone. At the same time, the EU proceeded towards a legal approximation of other stalled initiatives through the ratification of already existing conventions such as the 1995 and 1996 EU Conventions on Extradition, and the 2000 Mutual Legal Assistance Convention.⁷⁵

⁷² European Commission, *Proposal for a Council Regulation on specific restrictive measures directed against certain persons and entities with a view to combating international terrorism*, COM/2001/0569 final - CNS 2001/0228 (Brussels: European Union, 02 October 2001)

⁷³ Bossong, Raphael, *The Evolution of Eu Counter-Terrorism: European Security Policy After 9/11*. (Contemporary Terrorism Studies Abingdon, Oxon: Routledge, 2013), 48.

⁷⁴ Commission of the European Communities, *Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration*, COM (2001) 672 final (Brussels: European Union, 15 November 2001)

⁷⁵ Den Boer, *9/11 And*, 7.

3.1.3. Institutionalization: The creation and enhancement of institutions/agencies/forums/platforms, etc.

The last pattern of behavior is the most characteristic of EU's development in the post-9/11 period, and also, the most distinctive. The practice of creating intergovernmental instruments to fight terrorism has been not unprecedented as the European Member States have repeatedly resorted to this action in the past. For instance, for many scholars, the establishment of TREVI in 1975 (Terrorisme, Radicalisme, Extremisme et Violence Internationale) is regarded by some authors as the foundation of counterterrorism cooperation at the EU level. The network was established to serve as a platform for Interior Ministers of EC states and non-EC states to exchange information on topics such as terrorist organizations, equipment, and antiterrorist tactics in the aftermath of the brutal Munich Massacre of 1972. Starting as a transnational forum, it slowly developed in the next decades to a policymaking network. The success of the instrument led to the persistence of this practice in the following decades, e.g. Europol, and its substantiation as a commonly accepted by the Member States. Taking the above into consideration, it is not surprising that the EU acted similarly after 9/11.⁷⁶

The analysis of EU's evolution in the first decade of the 2000s, it becomes apparent that it utilized the "window of opportunity" to either enhance the operational capabilities of its intergovernmental instruments or to push for the creation of new one. This behavior perfectly depicts the EU's "cunning nature" as a security actor. The EU noticed that while the Member States were still skeptical regarding issues or measures related to sovereignty and security,⁷⁷ they parallelly endowed several EU-level institutions with increased powers. Thus, instead of challenging the established set of power

⁷⁶ Monar Jörg, "The Eu As an International Counter-Terrorism Actor: Progress and Constraints." *Intelligence and National Security* 30, no. 2-3 (2015): 333–56.

⁷⁷ See Treaty of the European Union articles 4,5 and 48(2)

relations and the will of its Member States, the EU chose the easier way to achieve its evolution and its goals. At the same time, it also took advantage of the existence of gaps in the counterterrorism structure to launch highly specialized and new agencies, fora and in general, institutions to tackle the preexisting weaknesses. By expanding its network of instruments, the EU managed to enhance and establish its overall role in the sector of European counterterrorism, while not disturbing the interest of its Member States.

Starting from the practice of enhancing of preexisting instruments, the most prominent example is Europol's development. The unit began its limited operation on 3 January 1994 in the form of the Europol Drugs Unit. Progressively, other domains of criminality were added to Europol's mandate, such as counterterrorism. However, it does not compare to the progress that the agency experience in the aftermath of the 9/11. Firstly, the Europol's mandate was further extended to include terrorism-related crimes such as kidnapping, extortion or cyber-crimes, reinforcing, even more, the agency's focus on functions of counterterrorism.⁷⁸ Secondly, Europol's budget was further increased by almost 50 per cent, and the number of counterterrorist specialists grew from 7% to 35%. This pattern continued in the next years resulting in the doubling of its staff number and budget from over 250 staff and a 35 million euro budget to 530 staff and 68 million for 2007.⁷⁹ Thirdly, Europol's role in the procedure of law-enforcement was reinforced either by legal measures or the creation of new anti-terrorism units such as the SC-5 or Counterterrorism Task Force. For instance, in September 2005, the European Council

⁷⁸ European Commission, *Communication from the Commission to the European Parliament and the Council - Democratic Control over Europol*, COM/2002/0095 final (Brussels: European Union, 26 February 2002)

⁷⁹ Monar, Jorg, "Justice and Home Affairs" *Journal of Common Market Studies* 41 (2003): 132.

decided that henceforth Member States were required to inform Europol of their national ongoing investigations.⁸⁰ Fourthly, in 2009, the Europol became a European Agency as it was fully integrated into the European Union.⁸¹

Apart from Europol, there were plenty of other instruments that the EU chose to reinforce. For instance, Eurojust (an independent group of magistrates tasked with improving the coordination and cooperation among investigators and prosecutors dealing with serious crime established in March of 2001) took the mandate for the strengthening of its operations on issues of terrorism, while in the past was met with denial.⁸² Furthermore, after the 2005 attacks, Eurojust was further enhanced with internal teams experienced in terrorism matters. Then, in 2009, the agency was allowed the initiation of criminal investigations and coordinate investigations and prosecutions conducted by competent national authorities. Other instruments that were further enhanced are The Police Chiefs Task Force and the European Police College.

When it comes to the formulation of new instruments, the most unique example is the position of the Counterterrorism Coordinator that was established a follow-up-to the Madrid Bombing and the European Council 25 March 2004 Declaration. The tasks of the “counterterrorist tsar” is the coordination of the work of the Council in combating terrorism and the overview all the instruments at the Union’s disposal (with a view to regular reporting to the European Council and effective follow-up decisions). The Coordinator also ensures the “smooth” functionality of the sector, while keeping an eye

⁸⁰ Council of the European Union, *Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences*, 2005/671/JHA (Brussels: European Union, 20 September 2005)

⁸¹ Council of the European Union, *Council Decision of 6 April 2009 establishing the European Police Office (Europol)*, 2009/371/JHA (Brussels: European Union, 6 April 2009).

⁸² Council of the European Union, *Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime*, 2002/187/JHA (Brussels: European Union, 28 February 2002)

for any sort of inefficiency. On top of that, the EU established agencies such as Frontex with the task of guarding the external borders of the Member States of the European Union in 2004, or EU Sitcen and EUMS INT focusing on the domains of data-sharing. These instruments are especially important as manifestations of EU's growing interest in the aspect of prevention, a norm that is discussed in the next section.

3.2. The norms and standards in the post-9/11 period

It is impossible to argue in favor of the existence of a European counterterrorism culture without referring to the norms and standards guiding the EU's behavior as a security actor. The analysis of both is quintessential for the understanding of the evolution of the sector as they represent formally (or not) accepted principles setting the cultural context behind EU's patterns of behavior. Thus, by studying them carefully, the EU's "modus operandi" becomes easier to comprehend. It is not perceived just as a form of institutionalization (as it has been considered mostly until recently) but as an outcome of the amalgamate of different elements of cultural, historical, and material nature. As Kaldor's has pointed out, the process of achieving security is not merely mechanistic, but a direct outcome of underlying cultural factors such as the perception of security. For this reason, there are so many divergent security cultures. Considering the interconnection of the notion of "security" and "culture" in Kaldor's definition, it is crucial to determine the elements that have shaped either the perception of security or the course of action to achieve it.

When it comes to the EU, its "modus operandi" (in the aftermath of 9/11) has revealed that it has started to shape its distinctive norms, which distinguish it from its Member States and other security actors. While these norms do not explain all of EU's behavior (it is still a very diverse sector with many participants), they help to make sense of "why

certain practices become normalized or habituated even if they appear to be contrary to logic".⁸³ So, dismissing the traditional view of EU's progress as a result of interests of states and institutions, the paper has decided to examine them to create a more holistic analysis of the EU's response to the jihadist terrorism in the last two decades. What this thesis argues is that the latter is possible only by investigating the different elements of European counterterrorism culture and the manner in which they are interconnected.

Initially, this paper makes use of Robert Merton's definition of "norm" as "*a principle of right action binding upon the members of a group and serving to guide, control, or regulate proper and acceptable behavior*" to distinguish the principles and standards that have characterized EU's fight against terrorism.⁸⁴ In the case of the European Union and the sector of counterterrorism, this endeavor is rather tricky in the first decade of the 2000s due to the sector's "first steps". However, despite being an intergovernmental organization, some of its norms persisted and proved to be substantial for the sector's future development. They serve as a form of soft law, which set a normative framework that although not being binding, it influences the overall approach to counterterrorism. Thus, while in this case study, it is shown their formulation, the next case study shows their continuance and effect on EU's response to jihadist threat after 2015. Ultimately, through the examination of EU's fight against terrorism in the last two decades, the research arrived at these norms and standards: a) a European Counterterrorism Strategy; b) a focus on prevention; c) a European definition and perception of terrorism; d) the EU's role as coordinator and facilitator.

⁸³ Kaldor, *Global*, 12.

⁸⁴ "Norm", *Merriam-Webster.com*. 2020. <https://www.merriam-webster.com/dictionary/norm>. Accessed 27 July 2020.

3.2.1. The European Counterterrorism Strategy

The first norm discussed in this section is probably one of the most important counterterrorism strategies that were adopted at the EU level. As chapter 3.1.1. shows the EU had a long tradition of selecting maps, declarations, and action plans to guide its progress in the following years. Still, none of the strategies had such an impact as the 2005 European Counterterrorism Strategy. The official document that was adopted in the aftermath of the London bombing became the general parameter for EU's response by offering a setting the "skeleton" to the fight against terrorism. As Daniel Keohane highlighted the Strategy was fundamental because it managed to provide "*set of principles that would bring some clarity and direction as since 9/11 until 2005, there was no long-term counterterrorism policy that its institutions and EU member states could understand easily*".⁸⁵ Furthermore, it aimed to supplement and create a framework for the already existing legislation and policies adopted in the previous years, while setting the structure for the future integration and progress of the sector through its four pillars. This shows EU's comprehension of the multi-dimensionality of the issue of terrorism and the complexity of the sector. Apart from that, the European Counterterrorism Strategy established the role of the EU in the sector by determining its authority and the ways it provides added value to its Member States.

⁸⁵ Keohane, Daniel, *The EU and Counter- terrorism* (London: CER. 2005), 23.

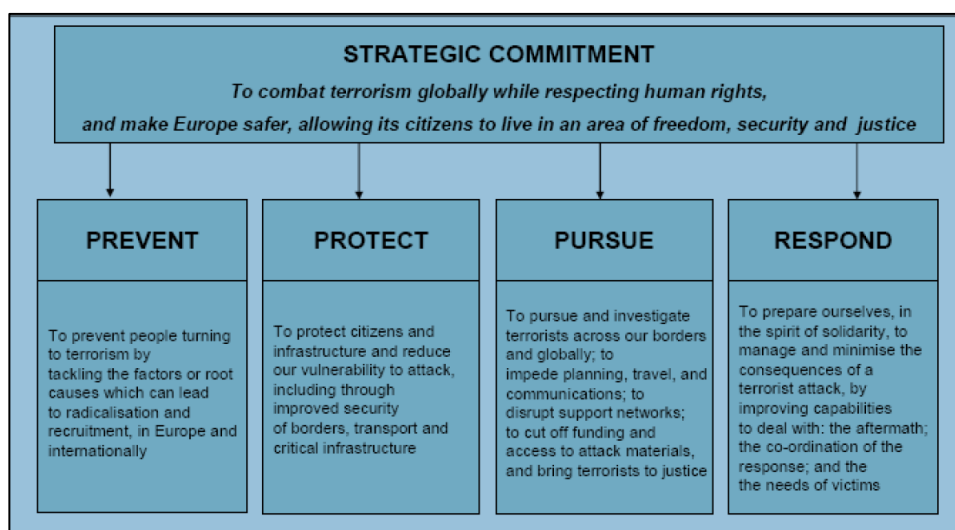


Figure 3. The four pillars of the European Counterterrorism Strategy.⁸⁶

To be more specific, following the attack, the UK that was holding the presidency of the Council of the European Union proposed to bring “order the preexisting chaos” by adopting a shared European Counterterrorism Strategy, an overall action streamlining the ad hoc measures into a single framework. The undertaking proved to be effective, and it was officially adopted by the JHA Council on 1 December 2005.⁸⁷ The document established four separate pillars, namely: “Prevent”, “Protect”, “Pursue” and “Respond”, which address different domains of European counterterrorism approach. While “Protect” refers to measures strengthening the European defense against possible terrorist targets such as raising standards in transport security, “Pursue” is concerned with the disruption of terrorist planning and cutting off terrorist funding and the apprehension of terrorist activists through the increase of operational (Europol, Eurojust, etc.) and juridical cooperation. The pillar of “Respond” focuses on the strengthening of the EU’s Community Mechanisms for civil protection and the development of common

⁸⁶ Council of the European Union, *The European Union Counter-- Terrorism Strategy*, 14469/4/05 (Brussels: European Union, 30 November 2005), 33.

⁸⁷ *Ibid.*

tools of coordination, sharing best practices on the provision of assistance to terrorism victims. The last pillar is the one of “Prevention”, which as the continuance of this chapter shows, is probably the most important. “Prevention” deals with issues of radicalization and recruitment by promoting inter-cultural dialogue or media and communication strategy.⁸⁸

Despite the initial excitement, the European Counterterrorism Strategy was soon faced with difficulties in getting implemented by the Member States.⁸⁹ Furthermore, other scholars have pointed out that the document had only a symbolical character because it was essentially a reformulation of the seven strategic objectives present in the Council’s Declaration, or an attempt by the British Presidency to show leadership in this field visibly.⁹⁰ Nevertheless, the European development following the events of 2015 further reaffirmed its importance by setting the framework for the expansion and functionality of the sector.

3.2.2. A common European definition of terrorism

The attack of 9/11 revealed the “legislative vacuum” that existed in the sector of European counterterrorism. Despite the formulation of Action Plans and Anti-Terrorism Roadmaps, the EU still faced a big challenge, which was the adoption of a common definition of terrorism. The importance of this action relies on the need for a harmonization of counterterrorism legislation amongst the participants in the sector. In other words, it was inconceivable to employ a counterterrorism approach without the establishment of a common standard or a shared perception of terrorism that would enable the further evolution of the sector. While this development might seem banal,

⁸⁸ Ibid.

⁸⁹ Bonansinga, *Counter-Terrorism in the 21st Century*, 43.

⁹⁰ Argomaniz, Javier, Oldrich Bures, and Christian Kaunert, “A Decade of Eu Counter-Terrorism and Intelligence: A Critical Assessment.” *Intelligence and National Security* 30, no. 2-3 (2015): 191–206.

the reality is that it is a rather complex task, especially when it comes to intergovernmental institutions (e.g. the case of the United Nations). However, the event of 9/11 made the EU realize that this legal initiative was not only vital but also mandatory for the future of European counterterrorism.

To avoid any kind of hindrance or long-lasting negotiations, the European Commission proposed a Framework Decision defining and punishing terrorism immediately after the events of 9/11 to take advantage of the created opportunity.⁹¹ The initial proposal “in turn defined its subject matter and territorial scope, then set out a list of ‘terrorist offences’ along with inchoate offences, followed by complex rules on criminal penalties for various offences coupled with rules for aggravating and mitigating circumstances”.⁹² Other measures determining rules of liability for legal persons, jurisdiction and other legal formalities were also proposed. After an extensive discussion, the Framework Decision on Combating Terrorism of 13 June 2002 was adopted. The final document defined terrorism by focusing on the intent pursued by the criminal act, hence differentiating it from common or ordinary crimes. The originality of the definition was inherent in the fact that the ultimate political goal constitutes the basic criteria for distinguishing a terrorist offence from other offences.⁹³

Usually, both national common law and continental systems refer to the incrimination of terrorism (and other offences) regardless of its aim. However, the European approach focuses instead on the prohibited acts as enlisted in the article 1 of the Framework Decision: “*offences under national law, which, given their nature and context, may seriously damage a country or an international organization where committed with the*

⁹¹ Peers, Steve, “Eu Responses to Terrorism.” *The International and Comparative Law Quarterly* 52, no. 1 (2003): 227–228.

⁹² *Ibid.*, 228.

⁹³ Council of the European Union, “*Council Framework Decision 2002/475 on Combating Terrorism*”, 2002/475/JHA *Official Journal L* 164 (2002): 3-7.

*aim of: (1) seriously intimidating a population, or (2) unduly compelling a Government or international organization to perform or abstain from performing any act, or (3) seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or international organization”.*⁹⁴ Alongside this set of terrorist offences, the Framework also specified three categories of offences and also called upon the Member States to take measures against further terrorist activities, thus imposing a non-legally binding responsibility on them.

Despite the fast and impressive adoption of the Framework, it was met with criticism for being “*somewhat complex and uncertain*”⁹⁵, thus leaving room for opposite interpretations of the same fact. This phenomenon became visible in the future when the European Court of Justice was called to settle some cases such as Kadi.⁹⁶ Nonetheless, the flaws of the document do not alter its significance. It was the first time that Member States and EU institutions shared a common definition of terrorism. The Framework became a standard that set fundamentals for its evolution and guided its further integration, but also distinguished it from other security actors such as the U.S. Meanwhile, its vagueness made it more flexible in responding to future demands for security and did not disturb the existing set of relations. Furthermore, the interaction between the preventive approach and the Framework is visible from the 2008 Amendment of the Framework Decision on Combating Terrorism, which included new terrorist offences such as recruitment and training for terrorism.⁹⁷

⁹⁴ *Ibid.*, 2.

⁹⁵ Guillaume, Gustave, “Terrorisme et Droit International” *International and Comparative Law Quarterly*, Vol. 53, n. 3 (2004): 537.

⁹⁶ European Court of Justice, “KADI and OTHER v. COUNCIL and COMMISSION (Application no. C-402/05), judgment of the European Court of Justice on 3 September 2008” *Official Journal of the European Union* 285/2 (2008): 2.

⁹⁷ Council of the European Union, *Council Framework Decision*, 21-23.

3.2.3. The prevention-driven approach of European counterterrorism

The focus on prevention was a norm that came to be as an outcome of a gradual process initiated in the aftermath of the Madrid and London bombings. The two attacks showed that terrorist threat had taken on a new dimension, that of home-grown terrorist groups with little or no direct links to Al-Qaeda and its affiliates.⁹⁸ As the EU Counterterrorism Coordinator stated, “*the threat from terrorism remains real, and...like a virus, it is constantly evolving in response to our efforts to control it*”.⁹⁹ Consequently, the EU was forced to rethink its counterterrorism approach, due to the need for the creation of a response capable of adapting to the shifting “modus operandi” of the terrorist organization. The product of this crisis was the focus on the domain of prevention. After all, the advantages of such an approach stem from its “de facto” goal, which is to avert the deaths and injuries of innocent civilians that might otherwise have fallen victim to a terrorist attack. Moreover, by hindering the societal polarization and calls for revenge preceding terrorist acts, preventive strategies can also have long-term benefits.¹⁰⁰ As the following analysis shows the European course of action after 2005 indicates that the EU adopted a similar line of thinking.

As De Goede argues, the decision to focus on prevention resulted in the creation of the “European Security Model”, which is an overall structure with prevention and threat anticipation as key aspects.¹⁰¹ The emergence of this model is especially visible in the

⁹⁸ Bakker, Edwin, and Nederlands Instituut voor Internationale Betrekkingen "Clingendael", *Jihadi Terrorists in Europe: Their Characteristics and the Circumstances in Which They Joined the Jihad: An Exploratory Study*. Clingendael Security Paper, No. 2 (The Hague: Netherlands Institute of International Relations Clingendael, 2006), 16.

⁹⁹ Council of the European Union (note 13), 2010, p.1. quoted in de Goede, Marieke. *European Security Culture: Preemption and Precaution in European Security* (Amsterdam: Amsterdam University Press, 2011)

¹⁰⁰ For example, see: Steve Bruce, *The Red Hand: Protestant Paramilitaries in Northern Ireland* (Oxford University Press, 1992), 31, 56, 136-138

¹⁰¹ Goede, *European Security Culture*, 9.

adoption of the European Counterterrorism Strategy, which has an independent pillar of prevention. As the EU highlights, the pillar is crucial as it “*can provide an important framework to help co-ordinate national policies, share information and determine good practice*”.¹⁰² Except that, the increasing significance of this norm is apparent also in other official European documents as a plethora of them were complemented with a preventive domain. The most prominent example is the 2002 Framework Decision on combating terrorism, which established a common legal basis for defining terrorist offences as crimes. Reflecting on the increased interest of terrorist groups in the use of the Internet, the European Council adopted a second Framework Decision on counterterrorism in November 2008. This piece of legislation amended the 2002 Framework decision making offences such as public provocation, recruitment for terrorism and assisting with the terrorism training came to be seen as specific offences.¹⁰³ For the European Commission, the strengthened 2008 Framework Decision was not just about increasing the ability of the Member States to punish individuals involved directly and indirectly in terrorism, but it ‘*was amended to deal more specifically with prevention*’.¹⁰⁴

Besides the adoption of framework decisions and strategies, the focus on prevention also determined other patterns of EU’s behavior. Characteristically, the EU adopted a big number of legislations that either expanded the preventive capabilities of its preexisting institutions or created new instruments to cover the new demand for security. An excellent example of the former is the Europol Information System (a reference system

¹⁰² Council, *The European Union Counter-Terrorism Strategy*, 4-17.

¹⁰³ Council of the European Union, “Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating terrorism” *Official Journal of the European Union* L 330. (2008): 21-23.

¹⁰⁴ European Commission, *Communication from the Commission to the European Parliament and the Council: The EU Counter-Terrorism Policy: main achievements and future challenges*, COM (2010)386 final (Brussels: European Union, 20 July 2010)

verifying beyond national jurisdictions the data of concerned suspected and convicted persons) was created to reinforce Europol's preventive functions. When it comes to the latter, since 2005, the EU has launched several initiatives that focused on data-sharing, collecting and storing, which aimed to improve transnational cooperation and coordination to tackle transnational terrorism and radicalization such as European Criminal Records Information System in 2007 and then, SitCen in 2012. While the main goal of these institutions is to increase the Union's ability to fight crime and terrorism and to pre-emptively investigate or arrest individuals (who might pose a security threat), prevention is at the heart of these endeavors.¹⁰⁵

This section does not have the purpose of showing that the focus on prevention was the norm driving the process of institutionalization, but instead, to indicate its persistence in the process of decision-making. The realization of the advantages of such approach affected the evolution of the sector after 2005, and especially, in the next decade. The change in the interpretation of "doing" security resulted in the extension of preexisting instruments or legislation, a process that continued in the following years. The EU put a lot of effort into attaching a preventive aspect to the already existing normative and operational framework. In parallel, this decision has also been the cause of great concern regarding the impact of the preventive character on the violation of human rights. European institutions such as the European Parliament have supported that while prevention disrupts existing terrorist network or stops the imminent attacks, it can also breach non-discrimination standards or result in data mining and ethnic profiling techniques.¹⁰⁶

¹⁰⁵ Eijkman, Qurine, and Schuurman, Berwick, *Preventive Counter-Terrorism and Nondiscrimination in the European Union: A Call for Systematic Evaluation*. (The Hague: International Centre for Counter-Terrorism, 2011), 6-10.

¹⁰⁶ Gill, Peter, "Security Intelligence and Human Rights: Illuminating the "Heart of Darkness"? *Intelligence and National Security*, vol. 24, no. 1 (2009): 91.

3.2.4. The EU's role of facilitator and coordinator

The analysis of norms/standards ends up with a norm that has been crucial for the understanding of EU's progress in the last decades. EU's role of facilitator and coordinator is not only the direct outcome of the existing power dynamics in the sector but also of its historical past. Traditionally, the European undertaking started as a fully-fledged political union and then was reduced to an economic framework¹⁰⁷ In the last decades, it has made a giant leap forward by becoming a grown bureaucratic juggernaut that is spilling over into the area of internal and external security and defense, e.g., Justice and Home Affairs/Third Pillar; Common Foreign Security Policy, European Security, and Defense Policy/Second Pillar.¹⁰⁸ This expansion of the EU's role also affected its sector of counterterrorism. The increase of demand for transnational cooperation resulted in the change of dynamics between the EU and its Member States. Following the 9/11, the need for the supply of security pushed the European institutions into challenging the preexisting power relations and limits of authorities. Nonetheless, the EU remained an intergovernmental institution that represented the will of its Member States. Despite achieving some major progress (adoption of ambitious measures such as strategies, legal actions, institutionalization), the EU still had to deal with the limitations stemming from its intergovernmental character. Under these circumstances, the EU had to "settle for less" by accepting the role of facilitator and coordinator. While this decision undermined the EU's operational capabilities partially, it also allowed it to develop its counterterrorism approach and security identity.

The adoption and promotion of a facilitating role by the EU became visible in several manners. Firstly, it is stressed out many times in its discourse and instruments as

¹⁰⁷ See the Treaty of Paris, and the negotiations before the Treaty of Rome, 1958.

¹⁰⁸ Argomaniz, *The EU and Counter-Terrorism*, 3-7.

represented by the official declarations and other documents of similar nature. For instance, the 2004 March Declaration was supported by the formal commitment by EU states to assist any EU Member that fell victim to a terrorist attack. The “Solidarity clause”, included in the Declaration, is highly symbolic of the “Europeanisation” of the threat and EU’s assisting part.¹⁰⁹ The following year, a similar narrative can be found in the European Counterterrorism Strategy. As Figure 4 shows, the document describes precisely the ways that the EU can add value to the sector of counterterrorism.

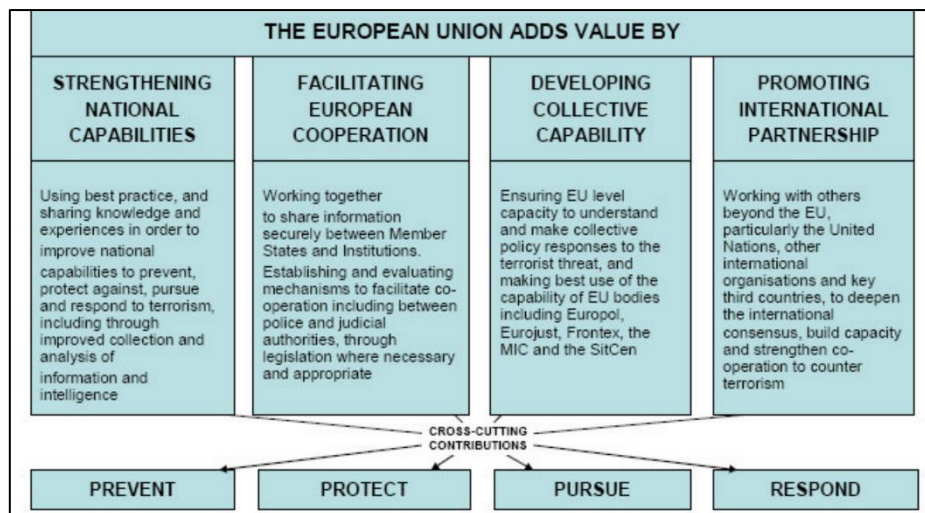


Figure 4. The four ways that the EU can add value by to the fight against terrorism.¹¹⁰

The European Counterterrorism Strategy was an official portrayal of an already existing perception of the EU’s role in the sector of European counterterrorism. It provides guidelines that determined the general perception of EU’s functions and its limits, despite their non-binding nature. Even though there is an interconnection between the European Counterterrorism Strategy and the discussed role, the thesis considers the

¹⁰⁹ Nilsson, Hans G, “From classical judicial cooperation to mutual recognition” *Revue internationale de droit pénal*, vol. 77, no. 1 (2006): 58.

¹¹⁰ Council, *The European Union Counterterrorism*, 4-17.

latter as a manifestation of the perception of the EU's contribution to the sector. Thus, it is not a supplement to the four pillars, but an independent norm driving the EU's course of action.

Secondly, the EU's facilitating role is also visible in its "modus operandi". Since the Framework Decision of 2002 on Combating Terrorism, the EU has been the Member States' forum of choice to discuss perplex matters. As a result, the EU managed to adopt sophisticated measures such as the Framework Decision on Combating Terrorism, or other similar legislative texts like the shared legislation criminalizing: recruitment and training for terrorism, the provision of instructions (also via the Internet) to make or use explosives, firearms, noxious or hazardous substances to commit a terrorist act.¹¹¹ While there was a possibility of an international freezing asset mechanism, the choice to develop a European one indicates that the EU provides a more reliable context for such an activity. The Member States expressed the desire to ensure that the EU is not outstripped (or remains comprehensive) as an actor in this area.¹¹² The same discourse was present also in EU's other domains (mostly the preventive one), where the has been utilized to ensure collaboration on data sharing, cross-border hot pursuit, or in general, police and judicial cooperation among the Member States.¹¹³

Thirdly, this norm has also affected the operational capabilities of the agencies of the EU. A good example is the Europol Convention adopted by the Council of the European Union's Decision of 2009. With this decision, Europol became incorporated into the

¹¹¹ Council of the European Union, *Council Framework Decision of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime*, 2001/500/JHA (Brussels: European Union, 26 June 2001)

¹¹² Wesseling, Mara. 2013, *The European Fight against Terrorism Financing: Professional Fields and New Governing Practices*, Dissertation, (BoxPress, 2013).

¹¹³ European Council, "Initiative of the Kingdom of Spain with a view to adopting a Council Decision on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with Article 4 of Common Position 2001/931/CFSP", *Official Journal C 126* (2002):22-24.

legal framework of the EU and upgraded to the status of a European agency. Although Europol's role was reinforced in the fight against terrorism, it still had to retain its coordination role. For instance, the article 3. of the Convention clearly states that Europol has *“to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating organized crime, terrorism and other forms of serious crime affecting two or more Member States.”*¹¹⁴ As Marianne Wade points out, other articles, such as 3b, establishing the obligation of Europol to share information to the Member States show that *“Europol's position is clearly subservient”*.¹¹⁵

All the above instances indicate the formation of a distinct perception of the EU's part in the fight against terrorism. Contrary to the belief of its Member States, the EU did not aim to impose a supranational vision on its counterterrorism undertaking as this is something that was not possible. Instead, it preferred to acquire a facilitating and coordinating role that ended up becoming a sort of standard or a principle driving the course of action of the sector. To put it in simple terms, the analysis of this role is essential, because it perfectly depicts the existing power relations and EU's inventiveness in challenging them entirely. Despite the limitations, the EU formulated its independent response and sought to exploit all the opportunities it had to develop.

3.3. The set of power relations in the post-9/11 period

The last component of European counterterrorism culture addressed in this case study is the set of power relations. This paper regards as “power relations”, the specific way

¹¹⁴ Council of the European Union, “Council Decision of 6 April 2009 establishing the European Police Office (2009/371/JHA)” *Official Journal of the European Union* L 121 (2009): 211 – 240.

¹¹⁵ Wade, Marianne L, “The European Union As a Counter-Terrorism Actor: Right Path, Wrong Direction?” *Crime, Law and Social Change: An Interdisciplinary Journal* 62 (2014): 363.

of exercising forces that are representative of underlying structures or sometimes hierarchies, that determine the behavior of a security actor (in this case of the EU in the sector of counterterrorism). The sector of European counterterrorism is a particularly interesting case as it is a policy domain that is neither a common policy nor a supranational arena. So, the European institutions and the EU are faced with the task of trying to formulate a distinct counterterrorism approach, whilst having to collaborate with the Member States, which have traditionally enjoyed more authority in matters of internal security. The difficulty of this endeavor is further reinforced by the divergence perception both have when it comes to what constitutes “security” or how it should be achieved. The combination of the above factors results in confrontations, disputes and compromises that determine the EU’s course of action, and correspondingly its counterterrorism culture. Thus, what this paper argues is that it is not possible to develop a holistic understanding of the EU’s fight against terrorism without looking into the way that these power relations affected the evolution of European counterterrorism.

The analysis shows that in the aftermath of the 9/11 attacks, the internal power dynamics were pretty one-sided. Despite the abrupt evolution of the sector in a short time, the increased integration did not result in more authorities. The Member States retained their upper hand in issues associated with matters of high politics such as internal security. Whereas the EU was attributed with a supportive role (of facilitator and coordinator) relying mainly on the will of the national governments. Contrary to Ernst Haas’ conception of integration, counterterrorism proved to be too precious for the states to yield some of their power. As a result, the EU was forced to adopt the role of the “middleman” to achieve the development of the first fundamentals of its counterterrorism architecture and counterterrorism culture. Nonetheless, the EU did not

remain passive. Instead, it started testing the limitations of its authority. In its goal to progress the sector, the EU found itself confronted with two epiphenomena of the underlying power relations: (a) the competition between the EU institutions and the Member States, or in other words, supranational versus intergovernmental; (b) internal struggles between European institutions concerning the evolution of the sector. Both of these features were present in the two periods and as the below research shows, had a significant impact on EU's course of action.

3.3.1. The competition between the EU and its Member States

The first “epiphenomenon” of the existing power relations is the competition between the EU (including its institutions such as agencies, networks, and fora) and the Member States concerning the European response to the terrorist threat. Traditionally, due to past experiences with terrorist organizations, the sector of counterterrorism has belonged to the authority of the state. Nonetheless, the new wave of terrorism resulted in the shift of the preexisting power dynamics. While previous counterterrorism efforts were constrained within the limits of national borders, the cross-border character of jihadist terrorism transformed the features of the threat.¹¹⁶ The occurrence of the Madrid and London bombings further reinforced the narrative calling for harmonization of legislation and coordination at the European level. The abuse of the openness of the Common Market by terrorists to pursue their objectives further produced the demand for joint actions.¹¹⁷ As a result, the EU adopted a plethora of legal measures and policies that supplemented the sector with instruments and instruments necessary for its functions.

¹¹⁶ Argomaniz, *The EU*, 30.

¹¹⁷ Council, *European Counterterrorism Strategy*, 6.

The following years, the EU started to gain actorness in issues of counterterrorism and to become more independent as the sector grew. This progress alerted the Member States that were not used to a supranational level of cooperation in issues of “high politics”, like security. Whereas the EU was testing the limits of its authority, the Member States were defending its traditional right to sovereignty. So, it was not surprising that the EU frequently clashed with its Member States in the first steps of the sector. This competition created a specific set of power relations that affected the institutionalization and the formulation of norms in numerous ways.

Firstly, this has been reflected in the political choices made by the national governments at the adoption of new measures or the creation of new mechanisms. An excellent depiction of the very limited authority and resources that were provided to the European is the case of European Counterterrorism Coordinator.¹¹⁸ Another good example of the Member States intervening in the evolution of European initiatives was the denial of the proposal for a European Intelligence Agency proposed by the Austrian-Belgian mission in 2004.¹¹⁹ The reason behind the dismissal was the opposition of the national governments to anything slightly related to “*CIA-style intelligence agency to pool information on the extremist threat.*”¹²⁰ Instead they prompted for the continuation, centralization and expansion of existing informal networks in the far less ambitious form of that were formed either before 9/11 like EU ITCEN, or after, such as SITCEN, Joint Situation Centre. The rationale behind this choice was perfectly explained by the

¹¹⁸ Bures, Oldrich, “Eu Counterterrorism Policy: A Paper Tiger?” *Terrorism and Political Violence* 18, no. 1 (2006): 63.

¹¹⁹ Sharon Spiteri, “Austria’s secret service proposal falls flat”, *EUobserver*, 20 February 2004. Available at: <https://euobserver.com/justice/14555>. Accessed 29 July 2020.

¹²⁰ Jitendra Joshi, “EU Holds Emergency Terror Talks After Madrid Blasts,” *Agence France Presse*, 19 March 2004. Available through LexisNexis News Search. Accessed 11 August 2020.

British Home Secretary David Blunkett, who states “*we don't want new institutions. What I'm interested in is hard, practical action. Let's cut out the waffle and let's make sure that whatever we do, we're practicing what we preach at home*”.¹²¹ The same narrative also persisted in the cases of: the failure of a European Commission’s proposal for a European Public Prosecutor to take hold in 2000,¹²² and the rejection of “Passerelle clause” in 2006.

Secondly, in line with Monar’s conceptualization of modes of governance, it can be argued that when it comes to counterterrorism, the Member States promoted the adoption of “target setting” and “convergence support” procedures over binding “tight regulations”.¹²³ The practice of “target setting’ has dominated the European response in the first years after 9/11. The European Council Declaration in 2001 and 2002, the March Declaration of 2004, the Action Plan on Combating Terrorism, and the European Counterterrorism Strategy are some of the examples that indicate the persistence of this method. Parallely, the “convergence support” is dependent on non-binding situations assessment and peer-evaluations that are meant to put pressure on the members to tackle the issues with common solutions. While these domains of European counterterrorism approach have been the target of severe criticism (1.2.) they resulted in the formulation of fundamentals and norms with implications on the future of the sector.

Thirdly, the Member States pushed mostly for the enhancement of instruments that they considered to be useful means of pursuing their needs and objectives. As an interview in Argomaniz’s book (*The EU and Counter-Terrorism: Politics, Polity and Policies*

¹²¹ Ibid.

¹²² Commission of the European Communities, *Additional contribution to the Intergovernmental Conference on institutional reforms. The criminal protection of the Community’s financial interests: a European Prosecutor*, (2000) 608 final (Brussels: European Union, 29 September 2000)

¹²³ Monar, Jörg, *Specific Factors, Typology and Development Trends of Modes of Governance in the EU Justice and Home Affairs Domain, New Modes of Governance Project*, 1/D17 (Strasbourg: University Robert Schuman, 2006)

After 9/11) shows, while a priori the national practitioners distanced themselves to some extent from the daily tasks, this changed after the adoption of European decisions such as European Arrest Warrant or the creation of some institutions such as CEPOL.¹²⁴ The advantages of European data-sharing, intelligence exchange instruments such as COTER or Europol were acknowledged, hence leading to their reinforcement after each attack. The same applies to Eurojust that due to its good reputation, the case of its workload has steadily increased since its establishment.¹²⁵ The outcomes of this method influenced the EU's focus on prevention as the "effortlessness" with which they passed made it a much more lucrative investment. The national authorities were keener on a horizontal expansion (the enhancement of instruments) that did not undermine their authority, but instead, ensure their domestic security.

3.3.2. Internal power dynamics

The sector of European counterterrorism includes many "players" that collaborate and interact to produce and enforce divergent counterterrorism policies, actions, and strategies. Specifically, there are three main types of actors that closely involved with delineating the antiterrorist response on a day-to-day basis holding a strategic influence on the final form of these policies: EU legislative, judicial and decision-making institutions (the European Commission, the European Council, Council of the European Union, the European Parliament, the European Court of Justice), European agencies involved with the operational activity and, finally, those non-EU actors in the field of European counterterrorism that, although formally independent, still maintain a

¹²⁴ Argomaniz, *The EU and Counter-Terrorism*, 33.

¹²⁵ *Ibid.*

connection with EU structures and/or influence EU policies.¹²⁶ While each type of actor is crucial for the sector's functionality, the first group (normative, judicial, etc.) is the one that "pull strings", and has unsurprisingly been no stranger to confrontations. Despite sharing a common goal, vision and identity, the EU institutions also have different agendas, functions, and interests, hence resulting in internal disputes over matters of integration or authority.

The pivotal root of these struggles should be sought in the policymaking process, the intergovernmental organization of the EU and the consistency of the institutions. On the one hand, the European Commission is responsible for tasks such as proposing policies, administering budget and ensuring the correct implementation of European legislation and consists of Commissioners, who represent both the intergovernmental and supranational. On the other hand, the European Parliament and the Council of the European Union are co-decisioning regarding the adoption of internal security legislation, and both represent the supranational and intergovernmental domain of European counterterrorism correspondingly.¹²⁷ It is also important to remember that because terrorism is regarded as a crime, the European Court of Justice has also participated many times in the counterterrorism proceeding, but with much less substantial authority.¹²⁸ Besides, each of the organs has also its sub-committees and working groups attributed to specific functions.

¹²⁶ Gijs de Vries, "The European Union's Role in the Fight Against Terrorism: [Opening Address - The Role of the EU in the Fight Against Terrorism]" *Irish Studies in International Affairs*, Vol. 16 (2005): 3-9.

¹²⁷ Brattberg, Erik, and Mark Rhinard, "The Eu As a Global Counter-Terrorism Actor "in the Making." *European Security* 21, no. 4 (2012): 557-77.

¹²⁸ The amended Treaty of the Functioning of the EU (TFEU) prevents the Courts from jurisdiction on operational activities by the police and other law-enforcement services or the exercise of responsibilities with concerning the maintenance of law and order and safeguarding of internal security.

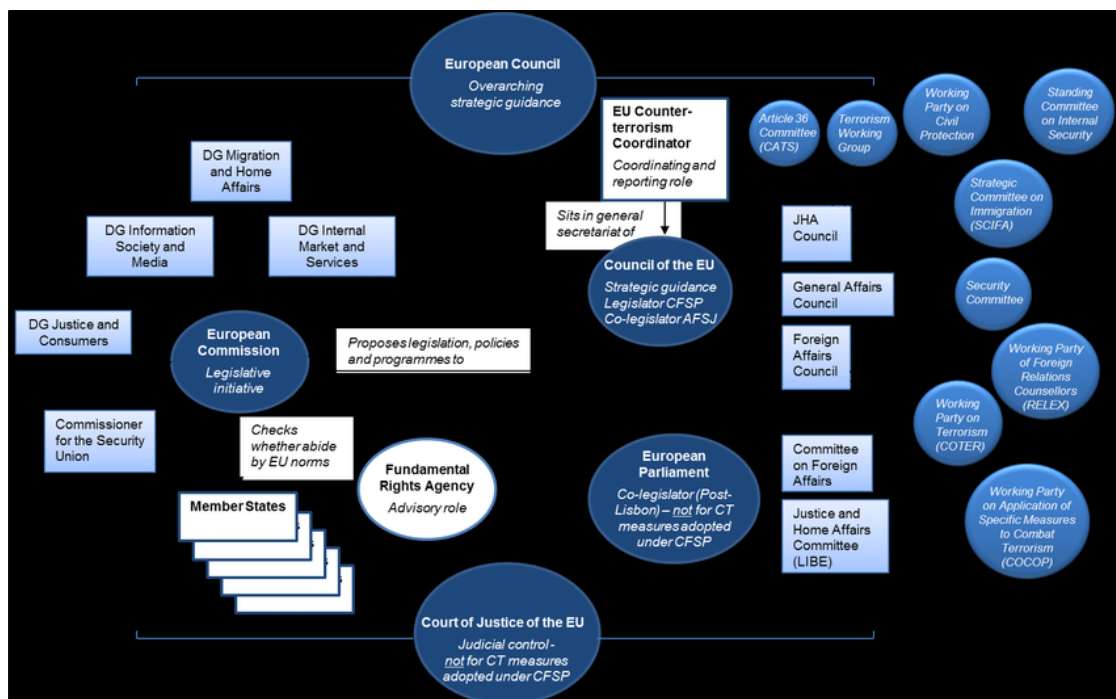


Figure 5. The structure of European counterterrorism sector.¹²⁹

One of the most frequent “bone of contention” among the main European institutions is the topic of human rights and security. Some experts and EU authorities argue that the EU legal and institutional counterterrorism measures do not conflict with human rights,¹³⁰ Other observers take a more reserved position and state that the European counterterrorism measures have “sufficient” level of human rights protections. Still, they are not wholly unscathed by the “security vs liberty” dilemma.¹³¹ This balance requires much consideration and frequent adjustment between shifting threats on the one side and the democratic principles on the other side, while covering public

¹²⁹ Wensink, Wim & Warmenhoven, Bas & Haasnoot, Roos & Wesselink, Rob & Ginkel, Bibi & Wittendorp, Stef & Paulussen, Christophe & Douma, Wybe & Boutin, Bérénice & Güven, Onur & Rijken, Thomas, *The European Union's Policies on Counter-Terrorism: Relevance, Coherence and Effectiveness* (2017)

¹³⁰ Casale, Davide, “EU Institutional and Legal Counter-terrorism Framework” *Defence Against Terrorism Review* vol 1. no.1. (2008): 68-69.

¹³¹ Bures, *Counterterrorism Policy*, 57-78.

expectations and overall security demand. In the case of the EU, this dilemma represents the challenge between multilateralism and the satisfaction of Member States' requirements. Especially, considering that the varying extent to which the EU law has been incorporated into the domestic law of all EU states.¹³² To better portray this, the two cases of the SWIFT and Europol are presented in the continuity of this section.

SWIFT is a database containing information aiming to help combat terrorism financing, is a great example of European focus on human rights. The instrument perfectly depicts the different perception of security among European institutions and the difference between the EU's counterterrorism approach and the American one. Initially, the database was adopted in 2010, but only after a turbulent period of negotiation among the EU main institutions. The first problems emerged in 2006 and 2007 when newspapers reported the lack of privacy protection in the use of SWIFT financial records, which was guaranteed by the US according to implementation of the UN SC Resolution.¹³³ Despite the efforts of the US Treasury Department through reports and communications to alleviate the situation, Belgium (the country where SWIFT is located) and the European Commission found evidence of violations of EU data protection regulations. As a response, the European Parliament adopted two related resolutions in 2006 and 2007 that addressed the problem and called for a resolution

¹³² According to the Treaty on the Functioning of the European Union (Article 258, TFEU), each member state must adopt or incorporate into its own law all EU legal measures by a specific deadline. Consequently, some authors conclude that many times, member states disregard parts of the EU legislation to harmonize the spirit of the EU instruments—directives, decisions, and so on—with national law.

European Union, "Consolidated Version of the Treaty on the Functioning of the European Union" *Official Journal of the European Union*, C 83/199 (2010): 13-47.

¹³³ More than 10,000 banking organizations, securities institutions and corporate customers in 212 countries trust us every day to exchange millions of standardized financial messages." SWIFT has 23 offices around the world, including two in the U.S.: Society for Worldwide Interbank Financial Telecommunication, "About SWIFT", *SWIFT*. Available at: http://www.swift.com/about_swift/index.page. Accessed 11 August 2020.

through an official US -EU agreement.¹³⁴ The situation shifted in 2008 when Belgium reported that the new US. regime of using SWIFT data complied with the EU related regulations, hence leading to a European Commission proposal in 2009. However, the European Parliament rejected it on 1st February on the basis that it violates rights of privacy.¹³⁵ Ultimately, “[the] European Parliament approved the revised agreement on 8 July 2010 and it came into force on 1 August 2010.”¹³⁶ Apart from solving all previous problems of access to SWIFT data, the new agreement also offered solutions to several other issues regarding the future of EU’s international counterterrorism cooperation agreements on data sharing.

Another example of the internal power dynamics is the events surrounding the formulation of Europol’s mandate in 2009. The Council of the European Union, as a representative of the interest of the Member States, went to significant lengths to ensure the adoption of relevant to Europol legislation prior to the Lisbon Treaty of 2009. There are speculations that this move was meant to ensure the sensitive work Europol performs was kept out of controversy. This assumption is reasonable considering that the legislation included contented proposals (such as the rules governing the confidentiality of Europol information for analysis work files) that the European Parliament would disagree. To ensure the lack of any hindrances in the adoption of the Lisbon Treaty (like in the previous example), the Council of European Union (representing the will of the Member States) pushed for the maintenance of the intergovernmental nature of Europol’s functions and to limit the European Parliament’s involvement.¹³⁷ Due to the contentious character of some measures, the Council of the

¹³⁴ Ibid.,11-12.

¹³⁵ Following the adoption of the Lisbon Treaty in 2009, the European Parliament was enabled to veto international agreements such as SWIFT.

¹³⁶ Ibid.,21.

¹³⁷ Wade, *The European Union*, 365.

EU wanted to ensure that the European Parliament does not have the right to veto this proposal,¹³⁸ and to exempt Europol's work from the scrutiny of European Court Justice for the five years transition.¹³⁹

Finally, it is also worth mentioning that there are also cases of internal struggles among the Member States. This phenomenon is the outcome of the will several governments, unsurprisingly those most affected by the terrorist attacks, for further institutionalization. For example, following the Madrid bombing, Spain has been for many years trying to achieve the prioritization of terrorism on the EU agenda. Other countries such as France, UK, Germany, Italy, Belgium, and the Netherlands adopted the same discourse after terrorist cells across Europe and the worrying signs of radicalization were spotted around Europe. The support of these countries provided the Council of the European Union and the Commission with the determination to employ political initiatives (under Commissioners Vitorino and Frattini) in areas that previously were out of reach. While this is not a specific example of an internal struggle, it remains a depiction of the established power dynamics inside the “camp” of the Member States and its interconnection with the European institutions.¹⁴⁰

3.4. Conclusion

The post-9/11 period proved to be a turning point for the development of the European counterterrorism sector. The series of attacks like the Madrid bombing in 2004 and London bombing in 2005 created the “window of opportunity” resulting in a flurry of decisions, initiatives and mechanisms aimed at enhancing Europe's capabilities in

¹³⁸ See Note 136.

¹³⁹ Ibid.

¹⁴⁰ Argomaniz, the EU, 31.

fighting terrorism in all its aspects. The rate and the speed of the growth of the sector were unmatched, considering especially the intricate institutional architecture of the Union. Characteristically, the outcome of the first period of securitization of the jihadist threat ended up with the adoption of 238 separate measures (correlated with terrorism) addressing the multi-dimensional nature of terrorism.

To achieve this institutionalization, the EU followed some specific behaviors to maximize its gains. Firstly, utilizing the momentum created by the attacks and the different “modus operandi” of the terrorist organization, it adopted stalled legislative proposals, which were stuck in the “European policy pipeline” to create a fast response. Secondly, the EU built upon the already passed legislation either by enhancing them or modifying them to meet the new security demands. Thirdly, it created new instruments or improved the preexisting to enhance the sector’s operational capabilities. The success of all these practices signaled the emergence of a specific “modus operandi” present after each attack, a pattern that characterizes the EU’s counterterrorism approach and security culture.

At the same time, the process of institutionalization was complemented with the appearance of norms and standards, and the set of power relations. The adoption of a common European Counterterrorism Strategy and a shared definition of terrorism are some of the standards that came to be during the first decade of the 2000s and determined the perception and the manner of achieving of security. Furthermore, the focus on prevention and the adoption of the role of a facilitator and coordinator were norms product of the circumstances due to phenomena such as homegrown terrorism, or the intergovernmental organization of the EU.

Finally, the underlying power dynamics profoundly affected the growth or the path of evolution that the European institutions chose. The EU’s quest to develop a holistic and

cohesive counterterrorism approach was several times “sabotaged” by the Member States, which wanted to retain their right to sovereignty. While the institutions promoted more supranational endeavors, the national authorities preferred the maintenance of an intergovernmental sector, hence forcing the EU to focus on soft law measures like action plans, strategies forums and platforms. This relationship was also accompanied by internal struggles or dynamics among the European institutions and the Member States. Nonetheless, the end of the decade found the European counterterrorism stronger than ever. While these developments did not seem drastic during their creation, they proved to be crucial for the future of the sector.

Through the lens of Mary Kaldor’s definition, all of the above features are components of a security culture. While this paper does not argue that the European counterterrorism culture emerged in the aftermath of 9/11, it considers that this period set the fundamentals for its appearance after 2015. The products of this decade proved to be of great importance for the success of the future European response. Parallely, the norms and standards and the set of power relations resulted not only in the creation of a security identity, but also a security culture that distinguishes the EU from other security actors. This is particularly visible in the divergent approaches to counterterrorism between the EU and the US. While the influence of the US on the first steps of the sector was significant,¹⁴¹ this changed drastically in the next years. The EU took on a more humanistic “dispositif”, which promotes to multilateralism and the respect for human rights and does not support the US-led preemptive strikes against terrorist organizations. Moreover, Europe never wholly shared the American paradigm

¹⁴¹ The origins of the EU’s counterterrorism agenda can be traced to the Conclusions of the extraordinary EU Justice and Home Affairs (JHA) Council convened on 20 September 2001 in response to the 9/11 attacks. These conclusions called for concerted action in thirty-three specific areas, with a further eight measures relating to cooperation with the US.

that the attacks of 9/11 “*provided a warning of future dangers of terror networks aided by outlaw regimes and ideologies*”, but instead, it focused mostly on the roots of the new wave of terrorism to be able to prevent it.¹⁴²

¹⁴² Goede, *The European Security*, 7-8.

4. The European response to the jihadist threat after 2015

This chapter presents the second case study, which is the European response to the jihadist threat after 2015. It aims to illustrate the continuity of the same patterns of behavior and the existence of similar norms, standards and sets of power relations that characterized the EU's course of action against the jihadist/fundamentalist threat during the last two decades (Figure 6). While the preceding case study described the formation of the European security culture in the sector of European counterterrorism, this section has the purpose of proving that: (a) there is a forming and distinctive European counterterrorism culture present in both cases; (b) the security culture affected the EU's "modus operandi" after 2015.

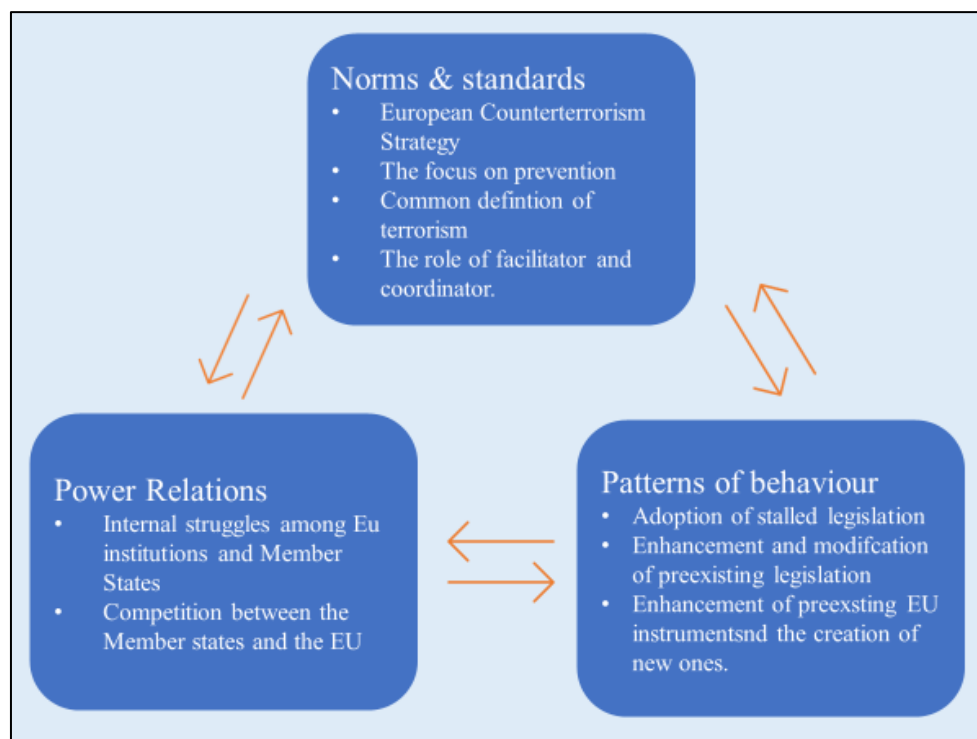


Figure 6. The European counterterrorism culture, as analyzed in the first case study.

One could argue that the preceding section was enough to validate the hypothesis of this thesis, but this is not accurate considering Kaldor's perception of security culture. As explained in the chapter of the Theoretical framework, Kaldor's concept of culture aims to "*explain why certain practices become normalized or habituated even if they appear to be contrary to logic*".¹⁴³The cultural approach seeks to make sense of the behavior of an actor from within the vantage point of the culture by locating the social, politic and historical structures that "naturalized" or led to it in the first place. Thus, to justify the introduction of a cultural approach, there is an initial need for the establishment of the element of duration or continuity that comes with its use. The security actor has to refer to a specific reference point (of a historical, culture, politic, social nature, in this case, the previous case study) to formulate its behavior. Instead, it is impossible to argue in favor of the existence of a security culture when there is lack of the factors explaining why some practices, norms and standards became habituated. For this reason, this section seeks to show that the phenomena studied in the previous case were not just a single occurrence, but the manifestation of a forming security culture. To accomplish this, following the same structure as the previous chapter, the chapter presents a qualitative analysis of the European legislation, discourse and "dispositif" after 2015 to indicate the influence and/or the persistence of the same features, namely patterns of behavior, norms/standards, and power relations. In this manner, this section manages to establish the factor of interconnection necessary for the induction of cultural approach, hence also validating the initial hypothesis. In parallel, it is worth mentioning that while the EU adopted a high number of measures

¹⁴³ Kaldor, *Global Security*, 12.

the analysis focuses on the legal actions, policies and strategies that best depict the ongoing elements of EU's counterterrorism culture.

4.1. The patterns of behavior after 2015

The attacks after 2015 pushed the EU towards action, releasing it from the “counterterrorism fatigue”¹⁴⁴ that was experiencing in the previous years. In line with Kaldor's two faces of security, the new jihadist hits indicated the existence of gaps in the preexisting European counterterrorism structure, hence creating the demand for security. Besides, the appearance of new types of terrorists such Foreign Fighters Returnees¹⁴⁵, the increased brutality of the attacks and the continuance of the problem (Figure 7) contributed to the creation of the necessary support from the Member States. As expected, what followed was a plethora of national and EU measures retroactively put in place to address the gaps in governance exposed by various successful and foiled attacks, specifically of jihadist conviction. Since 2015, the EU has undertaken such a large number of legislative, security and social measures in counterterrorism that it would be impossible to map them out simultaneously clearly and exhaustively.

¹⁴⁴ Council of the European Union, *Press Release 2979th Council meeting Justice and Home Affairs*, 16883/1/09 REV 1 (Presse 355) (Brussels: European Union, 30 November, and 1 December 2009)

¹⁴⁵ It is an individual who leaves his or her country of origin or habitual residence to join a non-state armed group in an armed conflict abroad and who is primarily motivated by ideology, religion, and/or kinship. In 2014, a foreign terrorist fighter, who returned from Syria was responsible for the attack on the Jewish Museum in Brussels. It was the first attack on EU soil organized by an FTF returnee, and one of the many that would follow.

European Parliament, *Foreign fighters – Member State responses and EU action*, Briefing, (Strasbourg: European Union, March 2016)

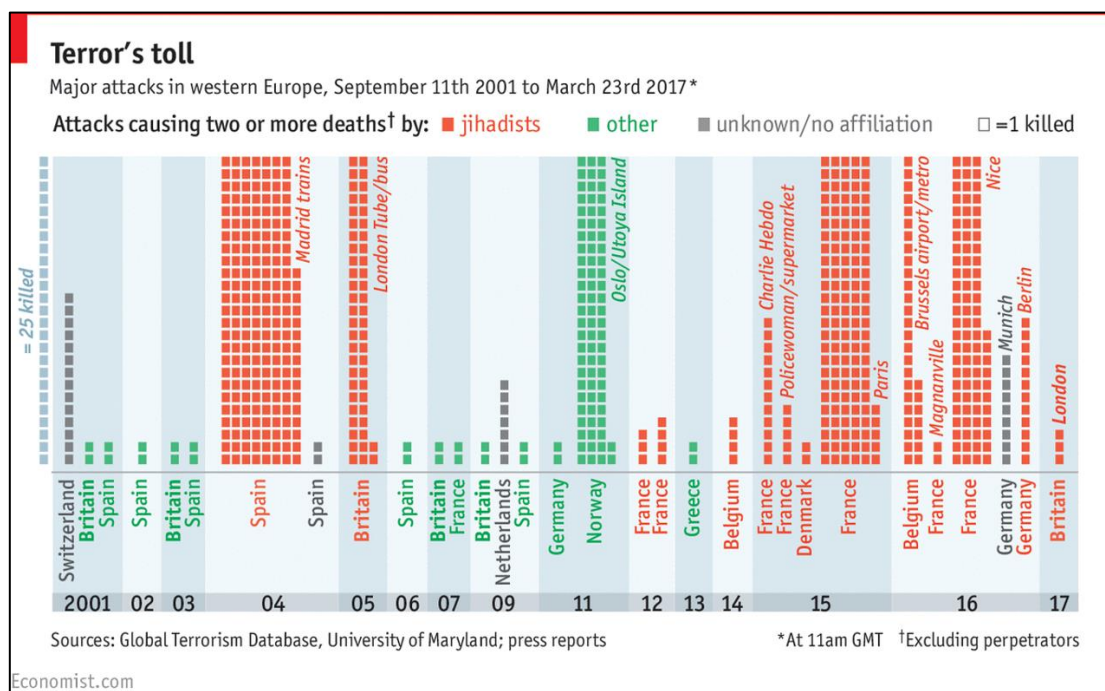


Figure 7. The increased lethality of the terrorist attacks.¹⁴⁶

Due to the paper's focus on the security culture, the scope of the analysis lies on the legislative actions that prove that the EU followed the same patterns of institution building as in the previous decade. The thesis does not argue that the patterns can be applied to all the measures, because it is a highly perplexed sector of secretive nature, including numerous actors with divergent actors. On the contrary, what this section shows is that the EU's course of action has been similar if not tautological to the one adopted in the previous phase of the fight against jihadi terrorism. While the roots of the current institutionalization might be circumstantial, the thesis supports that it should be sought in the past experiences of the sector with jihadist terrorism and its security

¹⁴⁶ "Terrorist atrocities in western Europe: Britain has suffered its worst terrorist attacks since 2005", *Economist*, 23 March 2017. Available at: <https://www.economist.com/graphic-detail/2017/03/23/terrorist-atrocities-in-western-europe> Accessed 1 August 2020.

culture. Therefore, the patterns of behavior are not unprecedented, but the result of the equation of the sector's experience with the norms/standards and power relations.

4.1.1. Institutionalization: The enhancement and modification of existing legislation/policies and strategies

According to policymakers, the Charlie Hebdo attack in Paris on 7 January 2015 created a “window of opportunity” for a new wave policy harmonization, while latter attacks in Paris in November 2015 and Brussels 2016 opened up even further that proverbial window. For instance, in the aftermath of the attack of former, three sets of Council Conclusions were adopted, serving as the official mandate for the EU's new involvement in counterterrorism, namely the Justice and Home Affairs (JHA) Council Conclusions from 30 January, the Foreign Affairs Council (FAC) Conclusions from 9 February, and the Informal Heads of State Summit Conclusions from 12 February 2015.¹⁴⁷

As in the case of the post-9/11 institutionalization, the EU proceeded with the act of enhancing or modifying the already existing legislation. This practice manages to cover the new demand for security quickly and efficiently while retaining a rather low sunk cost as it is an expansion or modification. Instead of engaging in prolonged discussions and confronting the existing power relations (mostly, the Member States concern of losing authority over matters of internal security), the sector through “institutional bricolage” builds upon the firm fundamentals set in the last decade. Contrary to the past that the EU had only the products of Tampere Council to refer to, this time it had a vast

¹⁴⁷ Policy Department for Citizens' Rights and Constitutional Affairs, *The European Union's Policies on Counter-Terrorism: Relevance, Coherence and Effectiveness* (Brussels: LIBE Committee, 2017), 33-36.

number of measures to choose from. Except that, it also had unprecedented support from its Member States and increased operational capabilities, due to the 2009 Lisbon Treaty. As a result, it did not lose time to proceed with the institutionalization, in parallel achieving impressive progress (Figure 8).

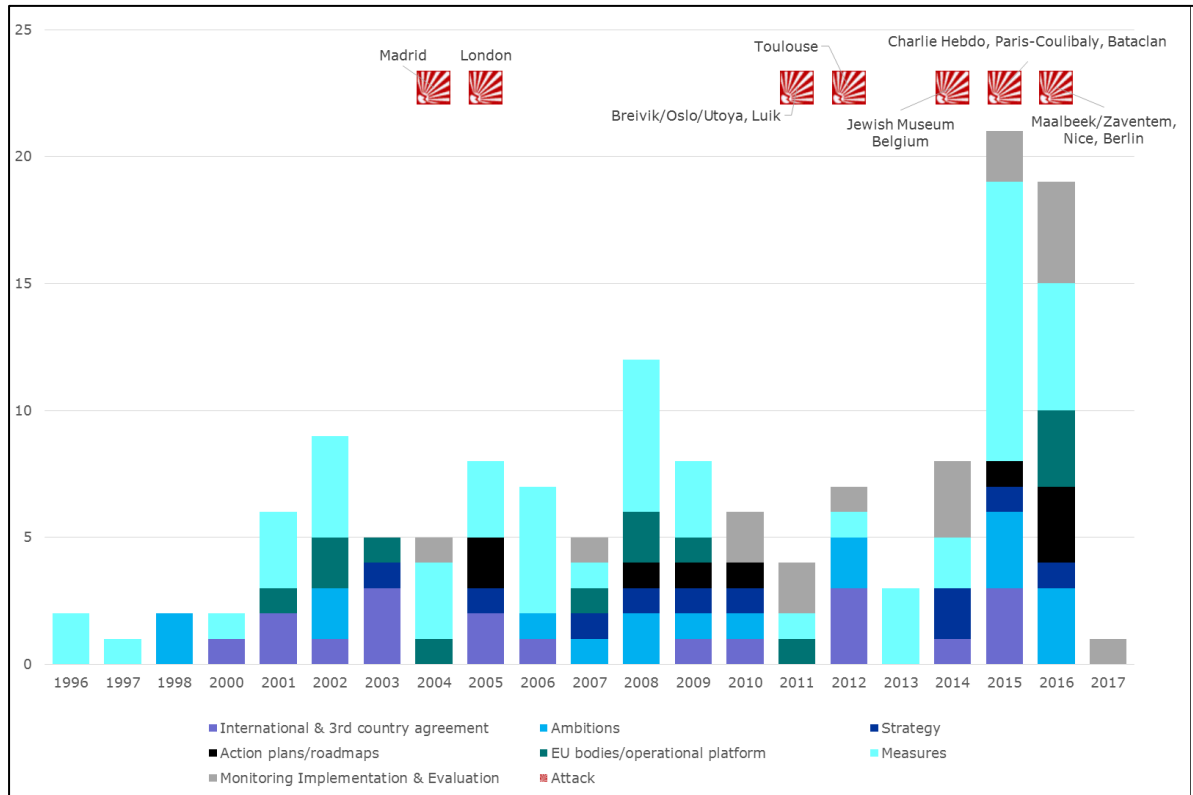


Figure 8. The institutionalization that the experience in the course of the last two decades.¹⁴⁸

A very good example of “institutional bricolage” is the adoption of the Counterterrorism Directive (EU) 2017/541 on combating terrorism on 15th March 2017 (two weeks after the November Paris attack), three months after it was proposed in December 2016. It was a wide-reaching piece of legislation, replacing several of framework documents in EU counterterrorism, most importantly the Framework Decision 2002/475/JHA on combating terrorism, and Decision 2005/671/JHA. Not

¹⁴⁸ Policy Department, *The European Union*, 31.

only does the new legislative act contained many more legal provisions (the current document is 16 pages as compared to the former's 5), it also has more gravity as it is a directive, which has the status of legislation, unlike a framework decision that is merely an expression of a set of common priorities.¹⁴⁹ Furthermore, the new directive extended the classification of the types of terrorist activity to impede, arrest and prosecute the Foreign Fighters attempting to travel for combat training in Syria as they have been found to be responsible for a number of attacks, e.g. the 2014 Jewish Museum and 2015 Thalys train attacks, both 2015 Paris attacks, and the 2016 Brussels attack.¹⁵⁰

Another case that depicts the same pattern of behavior and the EU's focus on prevention is the EU's fight against the financing of terrorism. The previous European Strategy countering terrorist financing and covering the three pillars of the European Union was adopted by the European Council on 16 and 17 December 2004. It was later revised by the European Counterterrorism Coordinator by the publication of the Revised Strategy on Terrorist Financing. In the light of the new events following 2015, the EU realized the importance of measures tackling the links of terrorist groups with channels of supply of weapons, smuggling or the infiltration of financial markets.¹⁵¹ The attacks organized by the Lone Wolves and Foreign Fighters were financed by external sources, hence constituting their blockage a matter of urgency. Thus, the combination the demand for more security and the requirements of more effective preventive measures resulted in the adoption of the Action plan on strengthening the fight against terrorist financing in 2006. Additionally, the same plan was later supplemented with instruments to reinforce

¹⁴⁹ European Parliament and the Council of the European Union, "Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA" *Official Journal Of the European Union* L 88/6 (2017): 6-21.

¹⁵⁰ Ibid.

¹⁵¹ "Fight against money laundering and terrorist financing", *Concilium Europa*, Available at: <https://www.consilium.europa.eu/en/policies/fight-against-terrorism/fight-against-terrorist-financing/>. Accessed 2 August 2020.

its functions such as the Fifth Anti-Money Laundering Directive and Directive facilitating the use of financial and other information.¹⁵²

These measures are just some of the example of EU's practice of "institutional bricolage" present after each major attack, and part of its greater institutionalization process. Other similar cases are Directive (EU) 2016/680, Regulation (EU) No 2016/794, COM (2016) 450 final, Regulation (EU) 2016/1624, COM (2016) 731 final, and etc. The above-mentioned examples of amendments or replacement of preexisting legislation refer only to one year, thus signifying the magnitude of the usage of this practice by the EU as a response to the jihadis threat.

4.1.2. Institutionalization: The adoption of stalled legislation¹⁵³

The combination of the underlying power relations with the lack of political momentum has been the most prominent cause of hindrances when it comes to the adoption of new proposed legal actions. Consequently, a plethora of controversial measures had finished stuck in the "European policy pipeline". Similarly to the past, the attacks of 2015 and 2016 created the opportunity for the reappearance of the stalled proposals. Except for adopting a vast amount of new measures,¹⁵⁴ the EU also turned its attention to previously abandoned legal endeavors suggested during the period of "counterterrorism

¹⁵² European Commission, *Communication from the Commission to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing*, COM (2016) 50 final (Brussels: European Union, 2 February 2016).

¹⁵³ This sub-chapter does not offer an overview of all the new legislative measures that were undertaken from 2015 to 2020 as this would not contribute to the aim of the thesis. Instead, it provides some examples of stalled legislation that were adopted right after the series of the major terrorist attacks, because this pattern of behavior is more difficult to track. Still, it becomes clear that European counterterrorism has not been only developing abruptly and sporadically, but also that each year there is an emphasis on different category or method of institutionalization. For instance, whilst in 2015 there was a demand for a vast amount of measures, in 2016, the EU focuses mostly on action plans/roadmaps to help to make sense of them or created new institutions responsible for their monitoring or implementation.

¹⁵⁴ See Figure 8.

fatigue”.¹⁵⁵ However, as the analysis has revealed, there have not been so many examples of this practice in the post-9/11 period due to EU’s bigger normative and operational abilities after the Lisbon Treaty of 2009. Rather than representing a possible flaw, this is an indication of the growing role of the EU and the shifting power relations. Therefore, this occurrence signalizes that the EU preferred to reinforce older structures and expand their function or adopt entirely new measures, instead of relying on earlier proposals.

Despite the diminishing use of this pattern of behavior, there were still some cases that it was displayed. The first example discussed in this section is the European Passenger Name Record data, which is personal information provided by passengers and collected and held by air carriers. This initiative was firstly proposed in 2003, and since then, it has been the cause of long-term internal struggles among the European institutions due to European Parliament’s concern over the human right domain of the measure. Then, in 2008, the European Parliament refused to vote on a proposal put forward by the European Commission the year before. The same occurred in 2013 when the introduced in 2011 PNR proposal by the European Commission was blocked by the European Parliament on the grounds of necessity and proportionality.¹⁵⁶ Between 2011 and 2014, the European Commission provided funds for setting up national PNR systems through the Prevention of and Fight against Crime program (ISEC), thus indicating its persistence to put this measure in place and EU’s growing focus on the preventive aspect of counterterrorism. The series of attacks in Paris in January 2015 created the conditions for the revival of the negotiations concerning the European PNR. Struggling to

¹⁵⁵ Council, *Press Release (355)*.

¹⁵⁶ Robinson, Gavin, ” Data protection reform, passenger name record and telecommunications data retention: -Mass Surveillance Measures in the E. U. and the Need for a Comprehensive Legal Framework” *KritV, CritQ, RCrit. Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft / Critical Quarterly for Legislation and Law / Revue critique trimestrielle de jurisprudence et de legislation* Vol. 95, No. 4 (2012): 394-416

track the movement of Foreign Fighters and prove their activities, the EU influenced by its preventive “dogma” perceived the advantages of a tracking mechanism such as PNR could have.¹⁵⁷ Thus, the adoption of the Directive in 2016 was not the outcome of the sustained long-term pressure of the European Commission and European Council, but the realization of its preventive capabilities. Since then, the PNR has been regarded as one of the most important new instruments in domains of data-sharing and border control.

The second example showing the EU’s tendency to pass stalled legislation to match new security conditions and demands is the 2013 Regulation calling for the upgrade of Europol’s mandate. The proposal aimed at the role of the agency in the post-Lisbon reform, but it remained neglected for many years due to its challenging nature. After all, the European Parliament and the Member States have been cautious when it comes to matters related to Europol because any concession could lead to disputes concerning both the supranational and intergovernmental role of the agency or breach of human rights. This assumption was proven further as the European Parliament, and the Council of the European Union (representative of the will of the states) were both against a significant increase in Europol’s powers. Specifically, the European Parliament argued in favor of stricter data protection rules (in line with the proposed data protection package), new rules on governance, and improved oversight by the European and national parliaments.¹⁵⁸ Nonetheless, as in the case of the PNR, the brutality of the Paris attacks created a “window of opportunity” for the Directive to be recast by the co-legislators in a remarkable time. The proposal was agreed on 26 November 2015, in the

¹⁵⁷ Kirkhope, Timothy, “EU Passenger Name Record (European PNR)”, *European Parliament*, 20 November 2019. Available at: [https://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-eu-passenger-name-record-\(european-pnr\)](https://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-eu-passenger-name-record-(european-pnr)). Accessed 2 August 2020.

¹⁵⁸ Andreeva, *The EU’s counter-terrorism*, 350.

aftermath of the Paris attacks, and adopted on 11 May 2016, in the aftermath of the Brussels. Regulation 2016/794 has further shown the EU's support and trust in Europol's potentials. The momentum was utilized by the EU to enhance one of its primary mechanisms by to respond more rapidly to emerging international terrorist threats and serious and organized crime, while avoiding the hindrances stemming from the traditional internal power dynamics.¹⁵⁹

4.1.3. Institutionalization: The creation and enhancement of institutions/agencies/forums/platforms, etc.

The last pattern of behavior discussed in this chapter is the creation of new institutions or the enhancement of already existing mechanisms. This practice has determined EU's "modus operandi", and it is crucial for the understanding of the process of institutionalization. Similarly to the previous period, the EU sought the solution to its deficiencies in its instruments and proceeded to tackle them in several manners. On the one hand, the EU reinforced its already existing institutions to expand their functions. This action achieves to integrate the sector further and increase the EU's role as a security actor, while not interfering with the existing set of power relations. On the other hand, the EU put in place new mechanisms to either address some of the gaps of the counterterrorism structure or overview the implementation of the freshly adopted legislation.¹⁶⁰ Both of these practices indicate the growing EU's authority in the sector and the emergence of a stark focus on prevention. As the previous case study showed,

¹⁵⁹ Ibid.

¹⁶⁰ As Figure 8. indicates, in 2015, the EU proceeded with the formation of its response to the new threat and the adoption of a huge number of measures, while was only in 2016 that it created the first institutions.

the construction of new institutions is not so easy, especially of intergovernmental organizations.

When it comes to the first practice, there are plenty of examples of EU's responding to the jihadist threat by enhancing its preexisting instruments. For instance, Regulation 2016/794 extended the Europol's capabilities as a central law enforcement agency, hence increasing its contribution in the fight against terrorism remarkably.¹⁶¹ A similar development can be observed in the case of Frontex (an agency of the European Union tasked mainly with border control created in 2005), which was not only reinforced with more functions but also rebranded as the European Border and Coast Guard following the realization of its added value in the prevention of Foreign Fighters.¹⁶² The last example discussed is the expansion of the EU's Schengen Information System (SIS-II), which is the most critical information system for cross-border law enforcement investigations. In 2016, the European Commission's evaluation of the mechanism found it to be lacking, due to technical difficulties, uneven implementation, divergent usage and poor data quality.¹⁶³ One of the triggers for this evaluation was the Paris attack of November 2015 when the only surviving perpetrator (Salah Abdeslam) crossed the French-Belgian border. Despite him being known previously to Belgian authorities, the police check was unable to identify a reason to detain the suspect. The Belgian mistake resulted in blame-shifting between France and Belgium. The dispute

¹⁶¹ European Parliament and the Council of the European Union, "Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA" *Official Journal of the European Union* 136, (Strasbourg: European Union, 2016): 53-114.

¹⁶² "Frontex, the European Border and Coast Guard Agency, after one year", *Frontex*, 10 June 2017. Available at: <https://frontex.europa.eu/media-centre/news-release/frontex-the-european-border-and-coast-guard-agency-after-one-year-BJMHvS>, Accessed 2 August 2020.

¹⁶³ European Commission, *REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the evaluation of the second generation Schengen Information System (SIS II) in accordance with art. 24 (5), 43 (3) and 50 (5) of Regulation (EC) No 1987/2006 and art. 59 (3) and 66 (5) of Decision 2007/533/JHA*, COM/2016/0880 final (Brussels: European Union, 21 December 2016)

was utilized by the EU that pushed for the reinforcement of the SIS-II. The European Commission managed to meet the requirements and concerns of national authorities by proposing an upgrade to the legal basis of the database. As a result, the Regulations (EU) 2018/1860, 1, 2, adopted on 28th November 2018 introduced an obligation on the Member States to enter all return decisions in SIS to reduce irregular migration. Additionally, it instituted new alert categories and granted access to Europol and Frontex.¹⁶⁴

Whereas the above pattern of behavior demonstrates the EU's efforts to achieve institutionalization and the upgrade of its preexisting instruments, the latter were not capable of tackling all the flaws in the preexisting counterterrorism architecture. So, the EU did not hesitate to create new mechanisms to address this issue. Undeniably, the most impressive example is the formulation of Security Union, one of the most ambitious European undertaking in the last two decades. In the aftermath of the 2016 Brussel attacks, the European Commission formulated the idea that *"a police officer in one member-state should have the same reflex to share relevant information with colleagues over the border, as he would do with fellow officers within his country"*.¹⁶⁵ The vague, yet powerful concept proved to be attractive enough to the Member States. In September 2016, Julian King, then Britain's Ambassador to France, took office as the first-ever Commissioner for the Security Union. The institution seeks to plug the

¹⁶⁴ European Parliament and the Council of the European Union, "Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals" *Official Journal of the European Union* L 312 (2018): 1-13.

¹⁶⁵ European Commission, *COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL delivering on the European Agenda on Security to fight against terrorism and pave the way towards an effective and genuine Security Union*, COM/2016/0230 final (Brussels: European Union, 20 April 2016)

gaps in security coordination revealed after the 2016 terrorist hits, and to contribute to the alleviation of the migration crisis by focusing on cross-border challenges.¹⁶⁶

Apart from the Security Union, the EU formulated the European Counterterrorism Centre (ECTC). The ECTC was launched on 1st January 2016 (in the aftermath of the November 2015 Bataclan attack) to be a channel for information-sharing and operational coordination supporting the functions of Europol. The ECTC and EU Internet Referral Unit (another instrument focusing on the aspect of radicalization) were in preparation for a long time before being proposed. The Europol leadership capitalized on the momentum created by the terrorist hits to achieve the launch of the two mechanisms in exceptionally short timeframes.¹⁶⁷ Besides ECTC, the other examples of institutions are the European Public Prosecutor, Radicalization Awareness Network Centre of Excellence, High-Level Expert Group on Information Systems and Interoperability, Financial Intelligence Units, and the EU's Internet Referral Unit.

4.2. The norms and standards after 2015

In the last case study, the analysis focused on some norms and standards that started to appear in the post-9/11 period. Initially, they seemed to be mostly products of the circumstances, but the evolution of European counterterrorism proved the opposite. The lack of their replacement and the persistence of their influence on the sector's integration signaled their significance for EU's fight against terrorism. The focus on prevention and the EU's facilitating and coordinating role dictated its response to the fight against jihadist terrorism are partially responsible for its success. Parallely, the

¹⁶⁶ Mortera-Martinez, Caminio, *The EU's Security Union: A bill of health* (Brussels: CFER, 2016), 3.

¹⁶⁷ European Parliament, *Regulation (EU) 2016/794*, 53-114.

European Counterterrorism Strategy and the Framework Decision on Combating terrorism offered the fundamentals for the institutionalization and continued to express the EU's distinctive values and approach to tackling the threat of terrorism. In other words, the norms and standards provided the normative and cultural guidelines for the progress of the sector. While in the previous chapter, the scope of analysis focused on their formulation, this section depicts their maturation, their interaction with the other elements of the security culture and their effect on the overall response.

4.2.1. The European Counterterrorism Strategy

The first standard discussed in this chapter is the European Counterterrorism Strategy (ECT). Since its adoption in 2005, the document has served as a reference point for the establishment of counterterrorism policies and priorities without being very specific on where each policy action fits. The four pillars: “Prevent”, “Protect”, “Pursue”, “Respond” have determined EU's approach fighting against terrorism and functioned as the broader architecture of the sector. As a matter of fact, the Strategy has yet to be updated, a fact that shows its symbolic nature and its efficiency as a guiding norm. Characteristically, as Figure 9 illustrates all of the products of the institutionalization mentioned in this case study fall under the “jurisdiction” one of the four pillars.

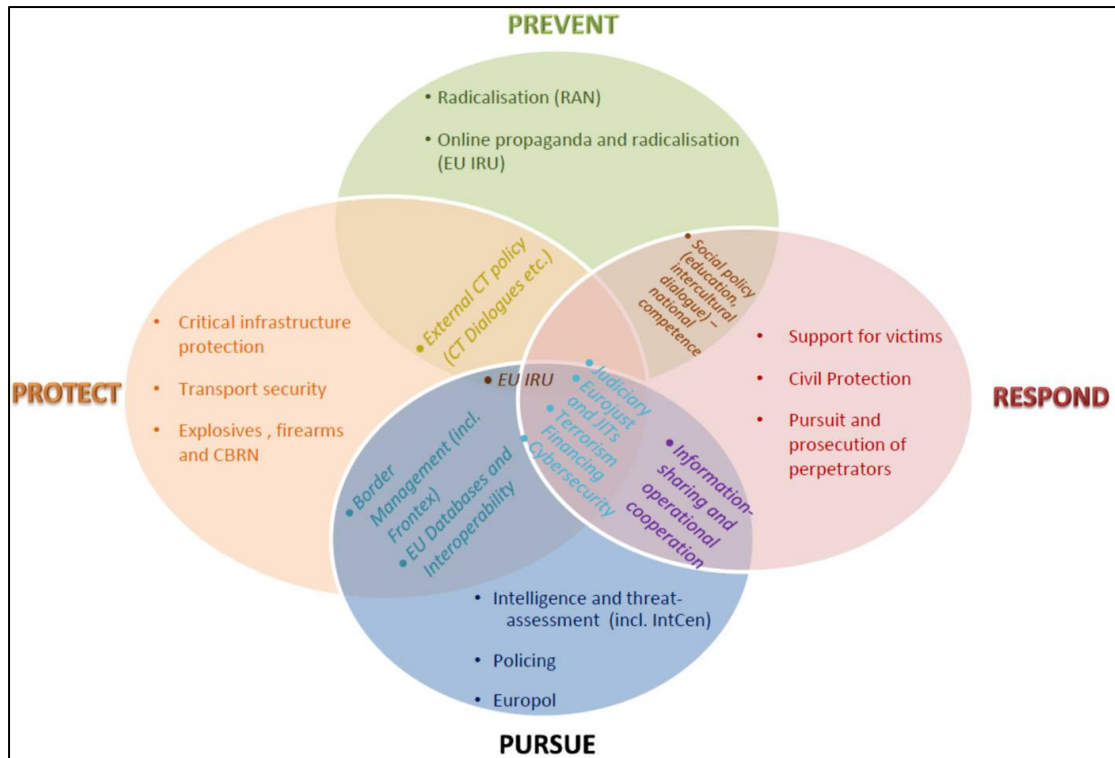


Figure 9. The European Counterterrorism Strategy and the four pillars.¹⁶⁸

It is worth mentioning some sub-strategies that the EU adopted to expand the existing counterterrorism architecture (as established by the European Counterterrorism Strategy) without the need to change its core. Perhaps, the most important sub-strategies were adopted on issues related to radicalization, recruitment, and terrorist finance. A good example is the Strategy for Combating Radicalization and Recruitment to Terrorism, which was adopted in 2005 and repeatedly upgraded in 2008 and 2014. It aimed to “*prevent people from becoming radicalized, being radicalized and being recruited to terrorism and to prevent a new generation of terrorists from emerging*”.¹⁶⁹ Its strong focus on prevention is indicated by its “*emphasis on [...] acting before the*

¹⁶⁸ Andreeva, *The EU Counter-Terrorism*, 347.

¹⁶⁹ Council of the European Union, *Revised EU Strategy for Combating Radicalization and Recruitment to Terrorism*. 9956/14 (Brussels: European Union, 2008), 3

threat materializes”.¹⁷⁰ Another sub-strategy that also puts attention on issues of prevention is the Strategy on Terrorist Financing, which was initially adopted a year before the ECT, but has been since then incorporated in it by a revision in 2008 and an action plan in 2016.¹⁷¹ The strategy focuses on the financial sector and has the purpose of reporting suspicious or usual activities to the authorities and share data with the intelligence and security services and law enforcement authorities.¹⁷² Both of these strategies work out in more specific detail aspects of the ECT. The latter is a “*composite policy area*”¹⁷³ as it brings together a number of different fields. In contrast, the sub-strategies offer guidelines for specific aspects of the general policy area, hence achieving expansion without modifying the core structure.

The EU has also attempted to repeat the endeavor of ECT in some specific areas, but without the same success. For instance, in 2010, an “Internal Security Strategy” (ISS) was published, and then followed with a renewed version in 2015. The ISS concerned itself with issues such as the organized crime, cybersecurity, and the improvement of cooperation in the domain of internal security.¹⁷⁴ A similar example is also the “European Agenda on Security” that was launched in 2015 to “bring added value to support the Member States in ensuring by improving information sharing and the prevention of radicalization.”¹⁷⁵ The two undertakings were created not to replace the ECT, but to complement and enhance it further. Actually, the EU’s efforts to adopt

¹⁷⁰ Ibid., 4

¹⁷¹ Council of the European Union, *The fight against terrorist financing*, 16089/04 (Brussels: European Union, 14 December 2004); Council of the European Union, *Revised Strategy on Terrorist Financing*, 11778/1/08 Rev 1 (Brussels: European Union, 17 July 2008); European Commission, *Communication from the Commission to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing*, COM(2016) 50 final (Brussels: European Union, 2016)

¹⁷² Council of the European Union, *The fight against terrorist financing*, 4.

¹⁷³ Policy Department, *The European Union’s Policies*, 47.

¹⁷⁴ Council of the European Union, *Draft Internal Security Strategy for the European Union: “Towards a European Security Model*, 5842/2/10 Rev 2 (Brussels: European Union, 23 February 2010), 5-6.

¹⁷⁵ European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Agenda on Security*, COM/2015/0185 final (Brussels: European Union, 28 April 2015)

common strategies show not only the positive results of this practice but also its establishment as a norm or standard.

4.2.2. A common European definition of terrorism

The adoption of a common definition of terrorism in 2002 was a milestone for the sector as it enabled the EU to proceed with the harmonization of the legislation and the formulation of a European counterterrorism approach. The originality of EU's take, which relied on the adoption of minimum criteria rather strict definition,¹⁷⁶ distinguished the EU from other security actors and proved to be satisfactory for the evolution of the sector. However, the series of attacks after 2015 in France, Belgium, Denmark, and Germany highlighted the need for the re-examination of the Framework on Combating terrorism, which was already modified in 2008.¹⁷⁷ In line with Kaldor's view of security as a two-dimensional process, The emergence of jihadist terrorism with a divergence method of operation (e.g. greater focus on attacking civilians, use of Lone Wolves and frequent attacks with a low number of fatalities) reshaped the perception of terrorism and correspondingly, the way of supplying security. Considering that the definition of terrorism is a norm/standard defining European counterterrorism, the revision of the Framework on Combating Terrorism was a matter for urgency for the formulation of a more effective response.

So, on 2 December 2015, the European Commission put forward a new proposal for a Directive. Due to "*the urgent need to improve the EU framework to increase security in the light of recent terrorist attacks*",¹⁷⁸ the draft legislation was presented without an

¹⁷⁶ See: pp. 37-39.

¹⁷⁷ Council of the European Union, *Council Framework Decision 2008/919/JHA*, 21–23.

¹⁷⁸ European Commission, *Communication from the Commission to the European Parliament*, 2-18.

impact assessment. The proposal sought the criminalization of new preparatory activities, including receiving training and travelling abroad for terrorist purposes, as well as at strengthening provisions that criminalize recruitment, providing training for terrorist purposes and the spread of terrorist propaganda, including on the Internet. The goal was to enhance the deterrent to put more emphasis on the aspect of prevention, and to ensure that the perpetrators are effectively sanctioned.¹⁷⁹ The EU faced a “rock road” to the adoption of the proposal. After a series of negotiation and amendments from the Council and the European Parliament¹⁸⁰ (indicative of the persistence of the internal power relations), the Directive (EU) 2017/541 replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA entered into force on 20 April 2017.¹⁸¹

The adoption of the Directive demonstrates the will of the participants of the sector to continue to share a common definition of terrorism as a criminal offence. It functions as a standard that not only shows the underlying cultural take on terrorism (less as an evil, more as a crime) but also has a normative character driving the sector’s integration. In parallel, it also indicates a form of “spill-over” between norms and patterns of behavior. For instance, the act of the adoption of the Directive shares similarity with some of the practices present in the process of institutionalization such as “layering”, “institutional bricolage” or the interconnection between the preventive approach and this norm.

¹⁷⁹ Ibid.

¹⁸⁰ The European Parliament stressed the need to ensure adequate legal prosecution and advocated effective and dissuasive criminal justice measures in all Member States.

¹⁸¹ European Parliament, *Directive (EU) 2017/541*, 6-21.

4.2.3. The prevention-driven approach of European counterterrorism

The focus on the preventive domain of counterterrorism has been a norm driving the European response in the last two decades. While at the initial stage of the development of this norm, the number of preventive instruments and measures was limited, it sharply grew in the second decade of the 2000s. Although being one of the four pillars of the ECT, the emphasis on prevention dominated the European counterterrorism approach after 2015. The reasons behind this change should be sought in the two challenges that the EU was faced during that period: the Foreign Fighters and the Lone Wolves. When it comes to the former, the EU was for a long time aware of the threat that his actors pose.¹⁸² The civil war in Syria and the rise of ISIS attracted a large number of individuals travelling from all over the world, including Europe, to take part in this conflict. The majority of these fighters joined extremist groups and “*about 30% of them have returned to Europe*”.¹⁸³ Even though not all returnees have become terrorists, many of them had gone through a radicalization process that has made them more likely to resort to violence. These suspicions were validated by the series of terrorist attacks between 2015 and 2017, which were purported by the Foreign Fighters.¹⁸⁴

The second challenge became apparent after the attack of in Nice and the attack on the Christmas Market in Berlin in 2016, which were orchestrated by Lone Wolves. There is a consensus that the phenomenon “*not only is it re-emerging, but current trends suggest an increasing threat*”.¹⁸⁵ Whereas the lone-actor terrorist is not unprecedented, the appearance of new means of radicalization and recruitment such as Internet have given a concerning dimension to this development (Figure 10).

¹⁸² Europol, *European Union Terrorism Situation and Trend Report* (The Hague: European Union, 2013)

¹⁸³ Ibid.

¹⁸⁴ Europol, *European Union Terrorism Situation and Trend Report* (The Hague: European Union, 2016)

¹⁸⁵ Pantucci, R. et al. *Lone-Actor Terrorism: Literature Review*, Countering Lone-Actor Terrorism Series No. 1. (Leiden: RUSI, 2015), 2.

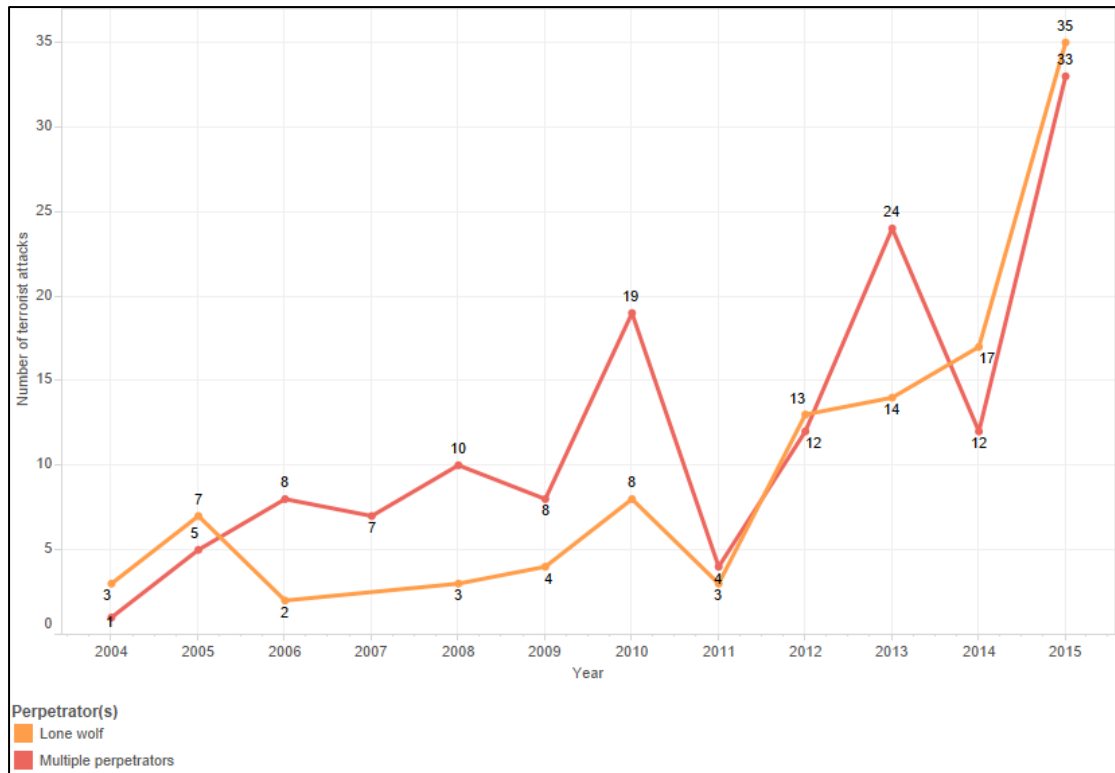


Figure 10. The Lone Wolves attacks in Europe, 2004-2015.¹⁸⁶

The lethality and frequency of the attacks organized by these two groups of terrorists forced the EU to push for further integration of the sector of counterterrorism. Despite having robust policies and measures in other domains, the EU could not afford to allow the occurrence of other attacks as the European public was already terrified and the Member States sceptic regarding EU’s security role. Under these circumstances, the EU decided to invest in a preventive counterterrorism approach. “Prevention” became a norm/standard that guided the evolution of the sector in the following years and determined the perception of security at the EU level.¹⁸⁷ Its impact is such that it is not possible to understand the European response without examining. Thus, even though

¹⁸⁶ National Consortium for the Study of Terrorism and Responses to Terrorism (START), *Global Terrorism Database*, 2016.

¹⁸⁷ Maniscalco, Maria Luisa, and Valeria Rosato, eds, *Preventing Radicalisation and Terrorism in Europe: A Comparative Analysis of Policies* (UK: Cambridge Scholars Publishing, 2019), 1-4.

the induction of the approach was discussed in the previous case, this section presents how it determined the EU's response after the above-mentioned series of attacks.

Firstly, the EU adopted several strategies and programs that were either hugely influenced by the underlying preventive approach or had the purpose of further strengthening it, such as the special EU Strategy for Combating Radicalization and Recruitment to Terrorism, a Media Communication Strategy, a Check-the-Web project, and an EU-wide Empowering Civil Society-program.¹⁸⁸ These strategies and policies targeted the “modus operandi” of the Lone Wolves and the increasing utilization of Internet by terrorist groups to increase their recruitments. Notably, the latter has become a focal point of EU's preventive approach as it adopted crucial measures, e.g. Regulation on preventing the dissemination of extremist content online, and created preventive instruments, like EU's Internet Referral Unit indicate.

Secondly, a lot of preexisting instruments (created in the first decade of the 2000s as a response to the then jihadist threat) were reinforced with preventive instruments. For instance, the functions of Europol were enhanced with the ECTC that emphasizes on tasks such as the sharing intelligence and expertise on terrorism financing amongst the Member States or monitoring and suggesting preventive measures against online terrorist propaganda and extremism, hence implying its strong preventive focus.¹⁸⁹ On top of that, the EU also created some institutions to further enhance the preventive approach or help the implementation of all these measures, such as the Security Union and European Public Prosecutor.

Thirdly, the EU directed most of its attention into guaranteeing the security of EU's external border and the management of migration, because a significant number the

¹⁸⁸ Policy Department, *The European Union's Policies*, 63-64.

¹⁸⁹ European Parliament and the Council of the European Union, *Regulation (EU) 2016/794*, 53-114.

Foreign Fighters responsible for the terrorist attacks had used them as an entry point. To tackle this, the EU built up tools and established specific measures that focused mostly on data-exchange, border management or information-sharing. A perfect example is the adoption of Directive (EU) 2016/681 on the use of the Passenger Name Record (PNR) which was an important step to ensure the prevention, detection, investigation, and prosecution of terrorist offences and serious crime. Except that, the EU also replaced Frontex with the European Border and Coast Guard Agency (EBCG), a move that indicates EU's bigger gravity on the task of implementing European-integrated border management at the national and EU levels. Indicatively, the mandate of the expansion of Frontex the most significant mandate given to an EU agency to date.¹⁹⁰

Fourthly, alongside the preventive measures described above, the norm has also been articulated through a series of measures and tools that fall within the second dimension, the repressive one (pursue, respond). The first group of repressive measures includes the tools designed to combat terrorist financing, e.g. Fifth Anti-Money Laundering Directive (EU) 2018/843.¹⁹¹ In general, the EU policy regarding combating terrorist financing and sanctions aims at disrupting the flow of financial resources to and from terrorist organizations and individual terrorists.¹⁹² The other group of measures are criminal justice measures used to punish and prevent the occurrence of terrorist acts.

¹⁹⁰ Andreeva, *The EU's Counter-Terrorism*, 350-351.

¹⁹¹ European Parliament and the Council of the European Union, "Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU" *Official Journal of the European Union* L 156/43 (2018): 43–74

The amendment of the definition was affected by the concerns over radicalization and the increased focus on prevention.

4.2.4. The EU's role of facilitator and coordinator

The last norm discussed in this chapter is a quintessential element of the EU's identity as a security actor and its security culture in the sector of counterterrorism. As shown in the previous case study, in the aftermath of the 9/11, the EU faced a crisis concerning its contribution to the achievement of security within the European context. Considering the existing power relations and the EU's intergovernmental character, it embraced the role of facilitator and coordinator. It was the "safest" discourse to take on as any mention of a more supranational endeavor would stir the concerns of its Member States over their autonomy, hence leading to hindrances in the development of the sector. It was just the most reliable way to develop its instruments and measures while achieving the support of its Member States.

This narrative was further reinforced by the European Counterterrorism Strategy that describes explicitly how the EU adds value to the fight against terrorism. This paper has argued that this document was a "dispositif" of an underlying perception of the EU's role in the sector. Although this feature could be regarded as a manifestation of internal power dynamics, this thesis has categorized as a norm. The role of facilitator and coordinator has determined EU's institutionalization, "modus operandi" and way of dealing with the threat of terrorism. Despite the changes in the set of relations, the EU has continued to determine its based on this perception of its responsibilities. Therefore, the following analysis shows the manner in which this norm has affected the EU's response after 2015.

Firstly, the European Counterterrorism Strategy has not amended the section that describes the way adds value to the fight against terrorism to its Member States, and overall, the whole sector. The four objectives (strengthening national capabilities, facilitating European cooperation, developing collective capability, promoting international partnership) have remained the defining guidelines of the EU's role as a security actor. Their persistence and significance have been further reaffirmed with recent strategies, agendas and actions plans adopted at the EU level. For instance, the already discussed proposal of Security Union was presented as an initiative that *“aimed to plug gaps in the EU's security co-ordination by focusing on five main priority areas: data collection and sharing; border controls; terrorism and organized crime; cyber security; and co-operation with third countries”*.¹⁹³ The same is also present in the discourse of the European Agenda Security, a document adopted in 2015 that *“sets out how the Union can bring added value to support the Member States in ensuring security”*, and draws a lot of attention to EU's coordinating role in *“combating cross-border crime and terrorism”*, and draws a lot of attention to EU's coordinating role in *“combating cross-border crime and terrorism”*.¹⁹⁴ Both of these official documents indicate the existence of a specific perception of the EU's contribution to European counterterrorism, which is expressed through its official language.

Secondly, following the series of attacks of 2015, the EU has responded by creating many instruments supporting and promoting the EU's coordinating/facilitating role. Majority of these forum/agencies and other instruments specialize in domains, where cooperation and coordination are crucial for the success of the tools, namely data-

¹⁹³ European Commission, *Communication from the Commission to the European Parliament, the European Council and the Council: delivering on the European Agenda on Security to the fight against terrorism and pave the way towards an effective and genuine Security Union*, COM/2016/0230 final (Brussels: European Union, 20 April 2016)

¹⁹⁴ European Commission, *Communication from the Commission to the European Parliament*, 2-18.

sharing, juridical collaboration, border control or information exchange. Indicative examples are the already mentioned in the previous sections, ECTC and European Passenger Name Record. Although the former had the purpose of serving as a channel for information-sharing and operational coordination, the latter was adopted to facilitate the exchange of data among the Member States regarding passengers entering the territory of the EU.

Thirdly, there are also many cases in which the EU showed a strong facilitating role by creating dialogue at the EU level for the development of directives and legislation necessary for the enhancement of some domains and weaknesses of EU's counterterrorism architecture. For instance, due to the use of illegally obtained firearms by the Bataclan attackers, the EU decided to bring this topic up on the agenda with the aim of initiating a dialogue concerning this serious matter. As a result, several pieces of legislation on the process of obtaining firearms were adopted, including the EU Firearms Directive (EU) 2017/853 from 17 May 2017, which aimed "*to tighten controls on the acquisition and possession of firearms, by defining the rules under which private persons could acquire and possess weapons, and rules for the transfer of firearms to another EU country*".¹⁹⁵

Moreover, the EU has also shown an important coordinating role in matters of radicalization, hence also illustrating the connection of this norm with the preventive aspect of the counterterrorism approach. The utilization of online platforms as means of terrorist propaganda by the jihadist organizations resulted in the formulation of the EU Internet Forum, an initiative targeting terrorist content and hate speech online. The

¹⁹⁵ European Parliament and the Council of the European Union, "Directive (EU) 2017/853 of the European Parliament and of the Council of 17 May 2017 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons", *Official Journal of the European Union* L 137/22 (2017): 22-39.

instrument was meant to bring together Europol, governments and technology companies in voluntary cooperation to fight against online radicalization.¹⁹⁶ Furthermore, in October 2015, an EU Radicalization Awareness Network (RAN) Centre of Excellence was launched, since then praised for connecting national practitioners, civil society and the academic community and developing best practices.¹⁹⁷

4.3. The set of power relations after 2015

The comprehension of the EU's response to the contemporary jihadist threat is not possible without the analysis of the rudimentary power relations driving the sector. After 9/11, the internal power dynamics were sort of one-sided. Even though the sector experienced unmatched progress, the Member States still managed to retain their primacy over matters of internal security. On the one hand, the national authorities regarded of EU's institutions and instruments as complementary tools to their counterterrorism sectors. This view justifies their investment in the intergovernmental domain of European counterterrorism and the promotion of transnational tools (where the EU has mostly a facilitating role). On the other hand, the EU pushed forward for the enhancement of its overall authority and the expansion of the mandate of its agencies, networks, and forums. Indeed, these divergent visions led to confrontations between the two sides and the manifestation of specific behaviors in the form of: (a) The competition between the EU institutions and the Member States; (b) internal power

¹⁹⁶ European Commission, *Communication from the Commission to the European Parliament, the European Council, and the Council: Tenth progress report towards an effective and genuine Security Union*, COM/2017/0466 final (Brussels: European Union, 2017)

¹⁹⁷ "Radicalization Awareness Network", *European Commission*, Available at: https://ec.europa.eu/home-affairs/what-we-do/networks/radicalisation_awareness_network_en, Accessed 4 August 2020.

struggles among the Member States or among the European institutions. As the two phenomena are the expressions of the existing power relations, this paper investigates them to comprehend the underlying power structures, which influence the rest components of the sector's security culture.

Before proceeding with the presentation of the empirical data, it is important to refer to the adoption of Lisbon Treaty in 2009, which challenged the preexisting power relations that the thesis discussed in the previous case study. When the paper entered into force, it had a tremendous impact on the overall dimension of internal European security. This can be attributed to the so-called "depillarization" of the EU's competences and the new powers acquired by the European Commission in the field of justice and home affairs. Besides, the Treaty also abolished the former pillar structure of the EU, which separated "community matters" in the hands of the European Commission (the first pillar) from intergovernmental matters related to foreign policy (the second pillar) and justice and home affairs (the third pillar). The latter competence is now shared between the EU and the Member States.¹⁹⁸ The Treaty also introduced some other important changes.

Firstly, in the post-Lisbon period, the EU has a greater role to play in matters related to internal security, and the decision-making process is "simplified" and more flexible as decisions are taken according to the "community method", e.g. a qualified majority vote (QMV) among the Member States, as opposed to the unanimity rule. Secondly, the European Parliament gained a greater oversight role on these matters, as well as full co-decisional powers. This decision had huge implications for the sector's power relations. Thirdly, the jurisdiction of the European Court of Justice (ECJ) was extended to cover

¹⁹⁸ Renard, Thomas, *EU Counterterrorism Policies and Institutions After the Lisbon Treaty* (The Hague: Centre on Global Counterterrorism Cooperation, 2012), 1.

all freedom, security, and justice issues giving it the possibility pressing reluctant Member States to implement measures adopted on the European level. Fourthly, the Treaty established more services dealing with counterterrorism with the European Commission such as Directorate-General (DG) for Justice, Liberty and Security, and conferred a legal personality to Europol, Eurojust and Frontex, hence increasing their security contribution to the sector.¹⁹⁹

The implications of these amendments on the power relations on the sector of counterterrorism are better understood through the next two sections. The changes induced by the Treaty combined with the popular support of the Member States and the increased demand for security provided the EU with the means to develop a much faster and cohesive response without the hindrances of the previous decades. By utilizing the experience from the last decade, the EU managed to achieve rapid institutionalization and formulate an answer that considered the concerns of Member States and EU's institutions. This would not be feasible without the realization of its internal power relations as they became evident after 9/11.

4.3.1. The competition between the EU institutions and the Member States

In the post-9/11 period, the EU proved to be quite resourceful when it comes to the adoption of legislation or promotion of further integration on matters of internal security. As the previous case study has demonstrated, the power relations did not let the EU gain a more independent role in the sector of counterterrorism. In other words,

¹⁹⁹ European Union. *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 2007/C 306/01 (Lisbon: European Union, 13 December 2007)

the national governments were not ready to “yield” their authority over matters of internal security to a European “Leviathan”. Despite the unfavorable circumstance, the EU managed to develop its sector and formulate the fundamentals of its norms and standards. It was a time-consuming and difficult task that tested the limits of the EU’s actorness and fueled some disputes, mostly over supranational endeavors. The whole undertaking was largely based on a set of power relations, hence forcing the EU to strike a balance between its goals and the interest of the Member States. As a result, the EU had to compromise, a decision resulting in the creation of the existing power relations.

The power relations contributed greatly to the achievement of the rapid and successive institutionalization that followed after 2015. The sense of urgency and the nature of the new attacks provided the EU with the mandate that enabled it to overpass even further some of the preexisting hierarchical limitations of the last decade. Firstly, a lot of European agencies received new mandates that expanded their functions or authority to a previously inconceivable level. The previous response showed the potential that EU’s agencies and other instruments could have in the fight against terrorism, hence contributing positively to the overall perception of its role as a security actor. There was an increase of the trust of national authorities in the added value of the EU resulting in the weakening of the restrictions hindering the work of the sector in the previous decade. For instance, the already discussed Europol’s mandate induced with the Regulation 2016/794 extended the agencies’ jurisdiction significantly. After the November 2015 Paris attacks, the EU’s law enforcement agency was asked to assist French authorities with the investigation. Even though it was a strategic move caused by political pressures, it does not change the fact that France gave Europol the opportunity to deal directly with a cross-border counterterrorism investigation. The

impact of this action was such that until the time of writing all cross-border jihadist attacks' investigation have been assigned to Europol.²⁰⁰ As Andreeva stresses, “*after almost two decades of existence and having its added value repeatedly questioned by national authorities and academics, [...] its added value has not been questioned since*”.²⁰¹ Moreover, the operations of the agency were reinforced with the help of Eurojust and ECTC. The former paved the way for all subsequent cross-border counterterrorism investigations being facilitated by Eurojust coordination and build cooperation between Europol and Eurojust.²⁰² Another agency that had its mandate expanded was Frontex. With the adoption of the Regulation, it became an executive agency and was given the possibility of participating in operations and using force. This mandate was the most significant one given to an EU agency to date.²⁰³

Secondly, although having a greater role in the sector, the EU was still some confronted with concerns over some of its more “grandiose” endeavors. Perhaps, the most ambitious plan associated with issues of counterterrorism was the Security Union. As already said, the rationale behind this union was to enhance EU’s coordination in areas of data collection and sharing, border controls, terrorism and organized crime, cybersecurity, and cooperation with third countries. So, to address the weaknesses stemming from the intergovernmental collaboration, the EU proposed a supranational oriented alternative. Even though it was adopted, it did not take long for the Member

²⁰⁰ “Commission welcomes Europol's new mandate and cooperation agreement with Denmark”, *European Union*, 29 April 2017. Available at https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_17_1169, Accessed 5 August 2020.

²⁰¹ Andreeva, *The EU's Counterterrorism*, 350.

²⁰² Ibid.

²⁰³ European Commission, *Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the European Border and Coast Guard and repealing Council Joint Action n°98/700/JHA, Regulation (EU) n° 1052/2013 of the European Parliament and of the Council and Regulation (EU) n° 2016/1624 of the European Parliament and of the Council A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018*, COM/2018/631, (Brussels: European Union, 12 September 2018)

States to express their resistance to this vision. When the European Commission pushed for the legislation of some security files, some national capitals, like Rome or Athens, felt that the EU is intruding on Member States' competences. This tension is possible to be further reinforced because of the emergence of nativist parties in Italy, Hungary, and Poland, and increasing Euroscepticism. To survive, the Security Union has to be careful when it comes to its future proposals and plans, or pay more attention to the concerns over national authorities.²⁰⁴ So, despite the seemingly the "good intentions" of the Security Union, the underlying power structures have been persistent. The governments' fear of losing their primacy in sectors of high security has pushed the European instruments to "walk a tightrope", whenever they are pushing for more aspiring schemes. On the contrary, the investment in the expansion of the operational capabilities of agencies, the domain of prevention and the increase of intergovernmental institutions are just more profitable and less controversial for both sides.

Thirdly, the official discourse has been a good indication of the EU's growing role in the sector of counterterrorism. The legal documents reveal that despite having to rely on the will of the Member States, it has adopted a more dynamic stance towards the national authorities concerning matters of internal security. For instance, after the Bataclan attacks, the European Commission concluded through an evaluation that the Member States are responsible for the inefficiency of the Schengen Information System II (SIS-II). To tackle this issue, the European Commission adopted the regulations that introduced an obligation on the Member States to enter all return decisions in SIS-II. Furthermore, as the end of 2019, the national authorities are obliged to inform Europol of all the alerts linked to terrorism, which indicates the preventive domain of European

²⁰⁴ Mortera, *The EU's Security Union*, 11-13.

counterterrorism.²⁰⁵ This is by no means the first legislative attempt by the EU to oblige national authorities to share information, but the language of Regulation directly attack the inabilities of the Member States and the intergovernmental structure. The same discourse is also present in the European Agenda on Security of 2015, or the proposal for the establishment of Security Union of 2016, where the EU is pressing the Member States for the implementation and harmonization of measures as they are the main hindrances for the effectiveness of the European counterterrorism.

4.3.2. Internal power dynamics

The power relations driving European counterterrorism are also manifested through the internal power dynamics, present among the European institutions or among the Member States. The sector includes agencies, institutions and instruments representing divergent interests or having different properties and goals, which interact with each other on an almost daily basis. The previous case study has shown that while in most of the cases the European instruments collaborate between each other (to show a unified “front” against the Member States), there have also been some internal disputes that had a determining role for the evolution of the sector. For instance, the focus of the European Parliament has many times brought it to rupture with the European Council and the Council of the European Union. Usually, internal disagreements did not have a major impact on the process of institutionalization, but this changed when the Lisbon Treaty entered into force. As explained in the introduction of this section, the Treaty made the European Parliament a co-legislator with the European Council giving it more authority and parallelly making the European Commission’s work more perplex.

²⁰⁵ European Parliament and the Council of the European Union, *Regulation (EU) 2018/1860*, 1.

Surprisingly, the EU showed great flexibility in confronting the shift in the preexisting “status quo” among its institutions. The main institutions showed a highly collaborative spirit and retained a more moderate stance compared to the previous decade. Moreover, the EU took advantage of its experience in dealing with similar issues. Contrary to the past, it sought to learn and comprehend the basic concerns of EU’s institutions to avoid any hindrance in the process of institutionalization. The EU promoted the development of inter-institutional dialogue to reduce the number of internal struggles or time-consuming negotiations, which both have a negative impact on the integration of the sector. This resulted in the adoption of a high amount of commonly supported legislation. So, as Figure 11 demonstrates, whereas in the first decade the individual legislative texts were agreed after a series of second readings of European Parliament and Council of the European Union, in the aftermath of 2014 the files were accepted at the first reading. The paper interprets this change as the outcome of the combination of all the factors above, but mostly as an indication of shifting internal power dynamics.

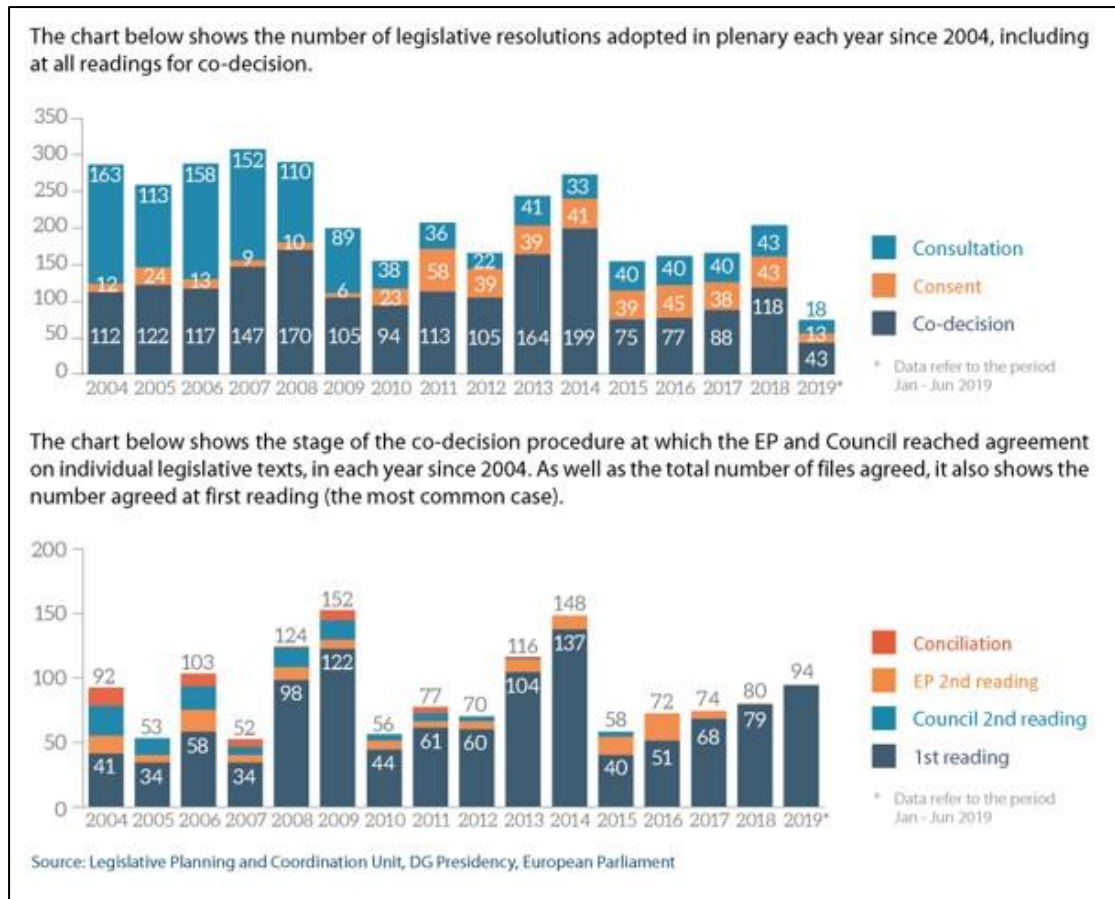


Figure 11. The adoption of legislative measures at the EU level.²⁰⁶

A domain of European counterterrorism, where the change in the internal power dynamics is visible, is data-sharing and information exchange. For example, the ambitious initiative of interoperability on information package seemed inconceivable until the end of 2016.²⁰⁷ While before 2015 the discussion of interoperability of EU databases was considered inconceivable, the terrorist attacks further highlighted the dangers of uncontrolled migration as a lot of the perpetrators responsible for the hits

²⁰⁶ Legislative Planning and Coordination Unit, DG Presidency, European Parliament.

²⁰⁷ The core purpose of interoperability is to connect EU databases used by migration authorities -Visa Information System-VIS, European Dactyloscopy-Eurodac- and law enforcement -SIS-IL-, as well as to create a comprehensive record of the third-country nationals staying on the territory of the EU, either with or without visas, as well as asylum seekers, through the establishment of new information systems -European Travel Information and Authorization System-ETIAS, Entry/Exit System-and ECRIS-TCN-

entered Europe either with fake documents such as in case of Bataclan or by pretending to be asylum seekers. This concern proved to be enough for the EU to gain the necessary political momentum for the adoption of the Regulations 2017/0351, 2.²⁰⁸ However, what is interesting about this measure is how the legislative text was agreed on. The adoption of the interoperability package would not have been possible had it not been for the High-Level Expert Group on Information Systems and Interoperability (a high-level consultation process the European Commission organized at the level of policymakers, practitioners, and consulting bodies). The consultation created the framework for inter-institutional dialogue by engaging high-level practitioners and policy officials from the 28 Member States (plus associated countries Liechtenstein, Norway and Switzerland), and representatives on several levels from all EU institutions and relevant agencies (Europol, EU-LISA, Frontex, FRA, EASO). Furthermore, the Commission showed political skills by including the harshest sceptics (European Data Protection Supervisor (EDPS), the Fundamental Right Agency (FRA) and the European Parliament).²⁰⁹

The inclusion of all relevant stakeholders aimed to avoid any criticism and hindrances stemming from the sceptics and promote compromise and collaboration. So, instead of having all concerns discussed in a drafting stage, the European Commission opted for agreement at a preliminary level, allowing for a smooth and rapid legislative procedure post hoc. These proved to quite resourceful and successful, because the High-Level

²⁰⁸ European Commission, *Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399 and Regulation (EU) 2017/2226, COM 2017/793* (Brussels: European Union, 22 May 2019)

²⁰⁹ These bodies have long time criticized the Commission and Council for the transparency in the legislative process, especially in drafting stage where they support the Commission conducts “under the table” negotiations with national stakeholders, while drafting beneficial security measures neglecting the domain of human rights.

Group met five times simultaneously with the legislative proposal, thus achieving not only to not hinder the process but also to have a positive outcome. Considering the nature of the interoperability package and the little time needed for the finalization of the endeavor, this is a testament of EU's adaptability to the new internal dynamics and the European Commission's political maturity, which utilized the momentum of the attacks and its experience in its benefit.²¹⁰

While the case of interoperability package describes the positive dynamics in the sector, there was no lack of inter-institutional disputes over more "controversial" legislation, however on a smaller scale compared to the past ones. As a matter of fact, in the previous decade, the negotiations over individual legislative texts could last for weeks, sometimes even without reaching an agreement. To tackle this issue after 2015, the EU started to establish special commissions promoting inter-institutional dialogue. This practice managed to not only offer a fast a quicker and more effective resolution of disputes but also represent the interests of EU's institutions. A good example of the benefits of this manner of dealing with internal struggles is the European Firearms Directive. The piece of legislative text that was proposed after the terrorist attacks of Bataclan and Paris was confronted with a lot of contestation, despite not being so controversial (given the indiscriminate use of illegally obtained firearms by the Bataclan attackers). After the three failed amendment proposal, the European Parliaments' Committee on Civil Liberties, Justice and Home Affairs and Committee on Internal Market and Consumer Protection had to step in in order to "make sure the legislation is practicable".²¹¹ Instead of going through the standard process of up to

²¹⁰ Andreeva, *The EU's Counter-terrorism*, 353-355.

²¹¹ Ford, Vicky, "REVISION OF THE DIRECTIVE ON ACQUISITION AND POSSESSION OF WEAPONS", *European Parliament*, 6 September 2020. Available at: <https://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-acquisition-and-possession-of-weapons>, Accessed 6 August 2020.

three rounds of debate and amendments between the Council of the European Union and the European Parliament, the Firearms Directive Amendment proposal entered the Trilogue.²¹² This procedure led to filing of over 900 proposals for changes to the European Commission amendment proposal. The final outcome of this process was positive as Trilogue resulted in the adoption of the Directive No. (EU) 2017/853. As “shadow rapporteur”, Dita Charanzová highlighted, she has never in her career met a proposal that was politicized this much, with the European Commission exercising extreme pressure especially by the end of the negotiations.²¹³

Another similar legislative measure that was adopted in the same way is the Terrorist Content Regulation, which was proposed as a solution to counter the terrorist propaganda on the social media by defining what “terrorist content” is and what the take-down process should look like.²¹⁴ The preventive regulation was highly disputed by the European Parliament that saw the potential dangers for the domain of human rights. To tackle these concerns, the EU institutions ended up involving their special Committees such as LIBE, IMCO or CULT and proceed with a Trilogue procedure. The outcomes and amendments (text will be further negotiated among lawmakers before becoming law) of the inter-institutional dialogue between the committees were

²¹² “Trilogues are informal tripartite meetings on legislative proposals between representatives of the Parliament, the Council and the Commission. Their purpose is to reach a provisional agreement on a text acceptable to both the Council and the Parliament. They may be organised at any stage of the legislative procedure and can lead to what are known as 'first reading', 'early second reading' or 'second reading' agreements, or to a 'joint text' during conciliation”.

“Interinstitutional negotiations for the adoption of EU legislation”, *European Parliament*, 2017. Available at: <https://www.europarl.europa.eu/ordinary-legislative-procedure/en/interinstitutional-negotiations.html>. Accessed 6 august 2020.

²¹³ Gawron, Tomas,” Interview – MEP Dita Charanzová: I don’t understand how the EU Commission managed to avoid responsibility for its past failure to deliver legislation on deactivation of firearms”, *Zbrojnice.com*, 18 March 2019. Available at: <https://zbrojnice.com/2019/03/18/interview-mep-dita-charanzova-i-dont-understand-how-the-eu-commission-managed-to-avoid-responsibility-for-its-past-failure-to-deliver-legislation-on-deactivation-of-firearms/>. Accessed 6 August 2020.

²¹⁴ European Commission, *Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on preventing the dissemination of terrorist content online A contribution from the European Commission to the Leaders’ meeting in Salzburg on 19-20 September 2018*, COM/2018/640 final (Brussels: European Union, 12 September 2018)

positively received by the European Parliament as the measure proposed passed by a vote of 308 to 204.²¹⁵ What is interesting about both cases is that they reveal a new pattern of behavior that manifest the change in internal power relations. By becoming the co-legislator, the European Parliament gained significant power to hinder some regulations that do not comply with its standards of human rights, a tendency that became apparent in the post-9/11 period. Therefore, to achieve the adoption of a high number of regulations, the EU has put the responsibility of tackling the problems on the “middleman”, which are the different specialized Committees. In this manner, the main institutions can adopt controversial legislation by not losing any time on lengthy negotiations at the EU official level.

²¹⁵ Berthélémy Chloe, “Trilogues on terrorist content: Upload or re-upload filters? Eachy peachy.”, *EDRI*, 17 October 2019. Available at: <https://edri.org/trilogues-on-terrorist-content-upload-or-re-upload-filters-eachy-peachy/>. Accessed 6 August 2020.

5. Conclusion

The main goal of this thesis was to investigate the reasons that made the European response to jihadist threat after 2015 more successful than previous experiences with a similar threat. This research assumed that the roots of this development could be identified in the emergence of a European counterterrorism culture, a term used to describe the specific patterns of behavior, the expression of norms and standards and set of power relations determining the European approach to terrorism. To validate this claim, the research proceeded with the analysis of the European “modus operandi” in the last two decades, more specifically: the development of European counterterrorism in the aftermath of 9/11, and the European response to the jihadist threat after 2015. This practice aimed to prove that: (a) there is a security culture present in the sector through the identification of the specific patterns of behavior, norms, standards and power relations; (b) the security culture contributed positively to the formulation of the European response after 2015. The confirmation of the two premises is necessary for the introduction of the concept of European counterterrorism culture and the verification of this thesis’ claims.

The examination of the first case study showed that in the post-9/11 period, the EU established the fundamentals of the European counterterrorism culture. The events following 9/11 such as the two bombings of Madrid in 2004 and London in 2005 led to the adoption of a plethora of legislative actions that created new policies, strategies and mechanisms enhancing EU’s capabilities in fighting against terrorism. To achieve this institutionalization process, the EU followed some specific patterns of behavior: (a) it adopted stalled legislative proposals, which were previously stuck at the EU level; (b) it built upon the already adopted legislation either by enhancing them or modifying them to meet the new security demands; (c) it created new instruments or enhanced the

preexisting one to enhance sector's operational capabilities. Furthermore, this process revealed the appearance of norms, standards, and set of power relations that are the normative and cultural framework of the security culture. While the adoption of a common European Strategy and a shared definition of terrorism set the standards for the institutionalization, the focus on prevention and the adoption of a role of a facilitator/coordinator determined the manner in which it occurred. Finally, the underlying power dynamics set the basis for the overall European counterterrorism approach. The conflict between a supranational and intergovernmental vision of the EU's role, and the inter-institutional struggles determined the context in which the institutionalization and founding of norms and standards occurred.

The second case study further reaffirmed the finding of the first one, thus setting the element of continuity necessary for the introduction of a cultural approach. Similarly to the previous decade, the EU followed the same specific patterns of behavior in the aftermath of the attacks of 2015. The event-driven agenda granted the EU with unmatched support that translated into the adoption of a large number of new and stalled measures, the expansion and modification of the already existing legislation, and the creation of new or the amplification of preexisting European instruments. In parallel, the process of institutionalization was directly affected by the norms and standards that were set in the previous decade. While the common definition of terrorism and European Counterterrorism Strategy did not experience significant alterations, the preventive approach and EU's facilitating and coordinating role were further reinforced due to the shifting nature of terrorism and the change in internal power dynamics. Ultimately, the set of power relations was the feature of the security culture that changed the most. The outcomes of the Lisbon Treaty and the increasing role of the EU in matters of internal security made it difficult for the Member States to hinder the EU's

effort for more authority. On top of that, the EU also proved to be more adaptable when it comes to the internal inter-institutional struggle by making good use of its experiences.

The examination of the second study also helped to identify the ways in which the European counterterrorism culture affected the European response to the jihadist threat after 2015 positively. Firstly, the EU had more measures and instruments to make use of in the aftermath of the contemporary attacks. The events of the first decade created the “windows of opportunities” that enabled the EU to adopt a lot of legislative measures, create European instruments (such as agencies, fora and etc.) and address quintessential topics for the evolution of the sector such the definition of terrorism. So, when faced with a similar threat later, the EU did not have to confront similar problems as the fundamentals were already set. The legislation and the preexisting European organs were utilized efficiently to either promote the practice of “institutional bricolage” (e.g. building on existing measures) or increase the authorities of the EU by enhancing, even more, its agencies (e.g. Europol’s mandate).

Secondly, the EU was able to learn from its negative experiences to achieve institutionalization at an unmatched rate. The occurrences of the previous decade functioned as a reference point for the EU to decide the manner in which to formulate its response. For instance, the success of the past patterns of behavior convinced the EU of the potential these practices have resulting in their recurrence in the second response. This is especially visible in the case of the inter-institutional struggles. In an effort to avoid long-lasting negotiations, the EU sought to establish an inter-institutional dialogue through shared and independent committees. As a result, it managed to adopt highly controversial measures within a much shorter time framework.

Thirdly, the norms and standards (created in the aftermath of the 9/11) were the building blocks of EU's security identity and set the normative framework for the formulation of EU's future response. The shared definition of terrorism maintained its function as a standard that not only shows the underlying cultural take on terrorism (less as an evil, but more as a crime) but also has a normative character driving the sector's integration. Whereas the European Counterterrorism Strategy with its four pillars continues to provide a general counterterrorism architecture, hence facilitating the process of institutionalization and planning at the EU level. Despite undergoing some alterations, their long-lasting validity indicates not only their importance for the function of the sector but also their positive contribution to the counterterrorism endeavor.

Moreover, the focus on prevention became the norm that guided the evolution of the sector after 2015 and determined the perception of security at the EU level. The fundamentals formulated in the post-9/11 period such as the 'Prevention' pillar, databases, Europol, Frontex, suitable definition of terrorism, strategies provided the EU with the necessary organs to build upon and sprang into action to tackle the contemporary threats of Foreign Fighters and Lone Wolves. The EU utilized its role of facilitator/coordinator to serve as a channel for information-sharing and operational coordination, and to facilitate the exchange of data among the Member States. The EU showed several times a strong facilitating role to create dialogue at the EU level, a practice that resulted frequently to the formulation of directives and legislations.

Fourthly, the experiences of the first response resulted in the growth of the EU's role as a security actor in the sector of counterterrorism. While in the pre-9/11 period the EU suffered from major shortcomings in its counterterrorism, the series of attacks pushed it towards forming its approach. As a result, the EU began to create its distinctive instruments, a perception of achieving security and a unique "modus

operandi”’. Although the sector still experienced some deficiencies (e.g. lack of implementation of measures by the Member States), it emerged with more robust operational capabilities, a functional legislative framework, and most importantly, a forming security identity. These elements proved to be crucial in the aftermath of the 2015 attacks as EU’s actorness and comprehension of its counterterrorism process contributed to the formulation of the response. Combined with an increased mandate granted by its Member States, the EU reinforced its agencies to unprecedented standards (e.g. Europol mandate in 2016, Frontex), complemented its norms and standards and fortified even further its legislative framework. Moreover, the EU took advantage of the shift in power relations to promote its goals and strategies whilst paying attention to the divergent interests of its institutions. The EU’s treatment of contemporary terrorist threats created a positive narrative among the Member States that provided the EU with legitimacy and established it as a significant contributor to the sector. The combination of these factors led to a rapid institutionalization and the diminishment of the launched terrorist attacks.

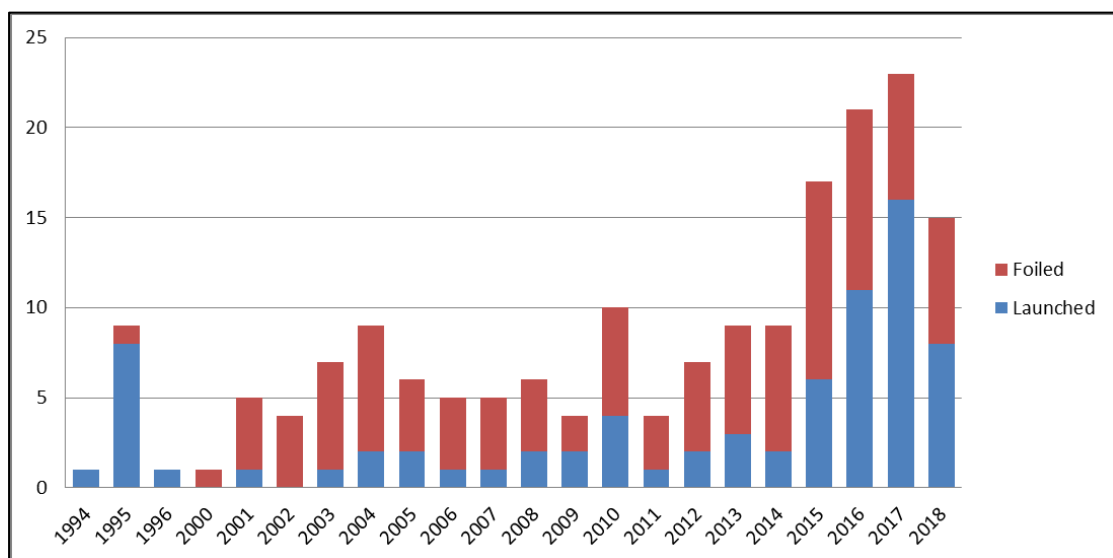


Figure 12. Well-documented attack plots by jihadis in Western Europe, 1994-2018. The picture shows the improvement of the situation after the EU sprang into action. It is important to stress out that the positive results of the response take some time to become noticeable, thus justifying the figures of 2017.

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Overall, the findings of this thesis validate the hypothesis that: *There is an emerging European counterterrorism culture that has determined the evolution of the EU's course of action against the jihadist threat after 2015.* The interconnection of the two counterterrorism responses can be only explained by the existence of an underlying security culture. The presence of similar patterns of behavior, norms, standards, and power relations indicate that there is a forming European counterterrorism culture, which is characteristic of EU's approach to fight against terrorism and separates it from other security actors. Nonetheless, as this research has shown a security culture is not a static concept, but a dynamic one, which is governed by the forces of demand and supply. Thus, the future of the sector is highly dependent on the form that the jihadist threat might take (or any other terrorism wave), and the occurrence of major attacks triggering new "shock waves".²¹⁷ Regardless of whether this might happen, the EU has strong operational capabilities, highly functional legislation and a security culture to tackle a new threat.

²¹⁶ Nesser, Peter, *Military Interventions, Jihadi Networks, and Terrorist Entrepreneurs: How the Islamic State Terror Wave Rose So High in Europe* (The Hague: Combating Terrorism Center, 2019)

²¹⁷ Coolsaet, *Eu counterterrorism strategy*, 858.

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PLAGIARISM RULES AWARENESS STATEMENT

Fraud and Plagiarism

Scientific integrity is the foundation of academic life. Utrecht University considers any form of scientific deception to be an extremely serious infraction. Utrecht University therefore expects every student to be aware of, and to abide by, the norms and values regarding scientific integrity.

The most important forms of deception that affect this integrity are fraud and plagiarism. Plagiarism is the copying of another person's work without proper acknowledgement, and it is a form of fraud. The following is a detailed explanation of what is considered to be fraud and plagiarism, with a few concrete examples. Please note that this is not a comprehensive list!

If fraud or plagiarism is detected, the study programme's Examination Committee may decide to impose sanctions. The most serious sanction that the committee can impose is to submit a request to the Executive Board of the University to expel the student from the study programme.

Plagiarism

Plagiarism is the copying of another person's documents, ideas or lines of thought and presenting it as one's own work. You must always accurately indicate from whom you obtained ideas and insights, and you must constantly be aware of the difference between citing, paraphrasing and plagiarising. Students and staff must be very careful in citing sources; this concerns not only printed sources, but also information obtained from the Internet.

The following issues will always be considered to be plagiarism:

- cutting and pasting text from digital sources, such as an encyclopaedia or digital periodicals, without quotation marks and footnotes;
- cutting and pasting text from the Internet without quotation marks and footnotes;
- copying printed materials, such as books, magazines or encyclopaedias, without quotation marks or footnotes;
- including a translation of one of the sources named above without quotation marks or footnotes;
- paraphrasing (parts of) the texts listed above without proper references: paraphrasing must be marked as such, by expressly mentioning the original author in the text or in a footnote, so that you do not give the impression that it is your own idea;
- copying sound, video or test materials from others without references, and presenting it as one's own work;
- submitting work done previously by the student without reference to the original paper, and presenting it as original work done in the context of the course, without the express permission of the course lecturer;
- copying the work of another student and presenting it as one's own work. If this is done with the consent of the other student, then he or she is also complicit in the plagiarism;
- when one of the authors of a group paper commits plagiarism, then the other co-authors are also complicit in plagiarism if they could or should have known that the person was committing plagiarism;
- submitting papers acquired from a commercial institution, such as an Internet site with summaries or papers, that were written by another person, whether or not that other person received payment for the work.


The rules for plagiarism also apply to rough drafts of papers or (parts of) theses sent to a lecturer for feedback, to the extent that submitting rough drafts for feedback is mentioned in the course handbook or the thesis regulations.

The Education and Examination Regulations (Article 5.15) describe the formal procedure in case of suspicion of fraud and/or plagiarism, and the sanctions that can be imposed.

Ignorance of these rules is not an excuse. Each individual is responsible for their own behaviour. Utrecht University assumes that each student or staff member knows what fraud and plagiarism



entail. For its part, Utrecht University works to ensure that students are informed of the principles of scientific practice, which are taught as early as possible in the curriculum, and that students are informed of the institution's criteria for fraud and plagiarism, so that every student knows which norms they must abide by.

I hereby declare that I have read and understood the above.	
Name:	Dawid Aristotelis Fusiek
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