36.   Counter-terrorism Cooperation

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Introduction

Although the threat of terrorism was one of the driving factors behind the initiation of internal security cooperation amongst European states in the 1970s, the European Union (EU) only began to develop its counter-terrorism policy following the terrorist attacks against the United States on 11 September 2001 (Argomaniz 2011; Bossong 2013; Kaunert 2010c). The realisation of the transnational scope and the multi-faceted character of the terrorist threat led to an increase in the political will to cooperate amongst EU Member States, which had been hitherto rather limited (Kaunert 2010b; Mahncke and Monar 2006; Spence 2007). The bombings in Madrid in 2004 and in London one year later led to a deepening of the cooperation amongst EU Member States, epitomised by the establishment of the position of an EU Counter-terrorism Coordinator in March 2004 (Council of the European Union 2004: 14) and the adoption of the EU Counter-terrorism Strategy in November 2005 (Council of the European Union 2005). They also resulted in increased counter-terrorism cooperation between the EU and third countries, as policy-makers increasingly acknowledged the strong transnational dimension of the terrorist threat faced by European states (Kaunert 2010). The EU Counter-terrorism Strategy of 2005 emphasised the importance of '[combating] terrorism globally' (Council of the

European Union 2005: 6). This trend has actually not been confined to the realm of counter-terrorism, but has characterised the EU's security policies more generally. As the linkages between internal and external security have been reinforced, European leaders have repeatedly asserted the necessity of mobilising all the tools at the EU's disposal to tackle internal threats, including in the neighbourhood (Ioannides 2014). One of those has been the European Neighbourhood Policy (ENP).

The ENP has been developed since 2003 with the ambition to create a 'ring of friends', that is, an area of political stability, security and economic prosperity, comprising the countries situated to the East (i.e. Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine) and the South of the EU (i.e. Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestinian Authority, Syria, Tunisia) (European Commission 2003: 4). Thus, one of the aims of the ENP has been to foster security cooperation, including in the fight against terrorism. More than ten years after the launch of the ENP, results have been mixed. Cooperation, notably in the field of security, has generally not advanced as much as it had been envisaged in the ENP official documents (Kaunert and Léonard 2011).

Moreover, the international environment, notably in the EU's neighbourhood, has considerably changed since the ENP was launched. Political developments such as the Arab uprisings in the South (see Demmelhuber chapter 9) and the war in Ukraine in the East (see Korosteleva chapter 8) have led some observers to argue that the EU is now surrounded by a 'ring of fire', rather than a 'ring of friends' (Economist 2014). As a result, the importance of security concerns on the EU's agenda has been strengthened. In

particular, the 2015 European Agenda on Security has highlighted the importance of combating terrorism (European Commission 2015: 2) in the aftermath of various terrorist attacks across Europe.

This chapter examines how the EU has attempted to develop counter-terrorism cooperation with its Eastern and Southern partners and which results it has achieved in practice. It starts by locating counter-terrorism in the broader context of the EU's security policies. It then examines counter-terrorism cooperation between the EU and its neighbours. Having shown that such cooperation has hitherto remained limited to a large extent, it examines the obstacles to its development before offering some conclusions. For the purposes of this chapter, counter-terrorism is understood as a broad policy area that comprises a range of responses across various governmental departments (Keohane 2005: 2-3), including policing, criminal justice, border controls, the freezing of financial assets, intelligence gathering and, more recently, anti-radicalisation measures.

Counter-terrorism as one Dimension of the EU's Security Policies

It is important to recall that the EU's counter-terrorism policy has developed as part of a larger trend of EU involvement in security affairs. This has been supported by the adoption of various strategic documents, which have generally identified terrorism as one of the most acute security threats faced by the EU and its Member States. In 2003, the European Security Strategy (ESS) highlighted terrorism as a major threat requiring national authorities to work closely together (Biscop 2008). The ESS stated that terrorism should be tackled using 'a mixture of intelligence, police, judicial, military and other

means' (European Council 2003: 7). It also emphasised the crucial importance of 'better coordination between external action and Justice and Home Affairs policies' in the fight against terrorism (European Council 2003: 13). More generally, the ESS promoted a comprehensive approach to security, which would combine civilian and military tools and would rise above the divide between internal security and external security in order to tackle multifaceted problems and cross-sectoral threats. The ESS also identified 'building security in our neighbourhood' as one of its three strategic objectives, to be achieved notably through the promotion of good governance and the development of 'close and cooperative relations' (European Council 2013: 8; Biscop 2010; see also Biscop chapter 20).

The necessity to move beyond the divide between the internal and external aspects of European security was also highlighted at the time of the adoption of the EU's Internal Security Strategy (ISS) in 2010. The European Commission notably stated that 'internal security-related priorities should feature in political dialogues with third countries and regional organisations where appropriate and relevant for combating multiple threats, such as […] terrorism' (European Commission 2010: 3). This point was again emphasised in the recently adopted European Agenda on Security (European Commission 2015: 4), which also highlighted the importance of the 'security dialogues' with a range of partners, including neighbouring countries (European Commission 2015: 4).

Despite this rhetorical commitment by the EU to cooperate with external partners in order to tackle various security issues in its neighbourhood, in practice, the divide between the internal and external realms of security has been a persistent feature of the EU's involvement in the security domain (Ioannides 2014). This can be aptly illustrated by the relationship between counter-terrorism and the Common Security and Defence Policy (CSDP) (see Bouris and Dobrescu chapter 23). Despite various official statements on the important contribution that the CSDP could make to counter-terrorism from 2001 onwards (Oliveira Martins and Ferreira-Pereira 2012: 541), it is only in 2012 that the first CSDP mission including a formal counter-terrorism mandate was launched, namely EUCAP SAHEL Niger (Council of the European Union 2012). Such a mission is exceptional in a context that is still marked by a significant divide between the internal and external aspects of security and counter-terrorism.

Counter-terrorism in the Relations between the EU and its Neighbours

The 2003 Communication of the European Commission (2003: 3) that launched the ENP identified terrorism as one of the 'transboundary threats' that the EU and its neighbourhood have a shared interest in tackling together.

Counter-terrorism in the Relations between the EU and its Eastern Neighbours

The ENP Action Plans drawn up for Armenia, Azerbaijan, Georgia, Moldova, and Ukraine[i], contain some objectives in the field of counter-terrorism. However, those are generally vague and mainly concern the establishment or reinforcement of political dialogue on terrorism-related issues. Nevertheless, some aspects of counter-terrorism

cooperation have developed more significantly with some Eastern partners. With regard to police cooperation, Europol, the EU's law enforcement agency, signed operational agreements with Moldova in December 2014 and with Ukraine in December 2016.[ii] Operational agreements enable the exchange of information, including personal data, contrary to strategic agreements, which are limited to the exchange of strategic and technical information or general intelligence. Concerning judicial cooperation, Eurojust, the European Union's Judicial Cooperation Unit, has only signed agreements on cooperation with Ukraine and Moldova.[iii] Contact points for Eurojust have also been appointed in these two countries, as well as in Georgia (Council of the European Union 2015b: 3). When it comes to border controls, which can also contribute to fighting terrorism, working arrangements have been signed by Frontex, which is the European border management agency, with all six Eastern ENP partners, namely Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.[iv] However, although border controls can support the fight against terrorism, their contribution to date has been rather limited (Léonard 2015).

Moreover, the joint declaration signed in May 2009 that established the Eastern Partnership (EaP) between the EU and its six Eastern ENP partners did not make any specific reference to terrorism or even internal security more generally (Council of the European Union 2009). Nevertheless, the EU has established a forum for expert discussions on internal security matters, including terrorism, with several of its Eastern neighbours. A Subcommittee on Justice, Freedom and Security has indeed been established with Georgia (2008), Armenia and Azerbaijan (2010), Moldova and Ukraine

(2011). In addition, whereas the first EaP JHA Ministerial meeting in 2013 did not focus on terrorism, the second such meeting, which took place shortly after terrorist attacks took place in Paris, was dominated by discussions about counter-terrorism cooperation.

Counter-terrorism in the Relations between the EU and its Southern Neighbours

The Legacy of the Euro-Mediterranean Partnership

In the EU's Southern neighbourhood, the ENP has built on the experience and legacy of the Euro-Mediterranean Partnership (EMP), or 'Barcelona Process', which had been launched following the adoption of the 'Barcelona Declaration' in November 1995. The EMP aimed to enhance cooperation between the EU and 12 Southern Mediterranean countries with regard to three key areas - political and security issues, economic and financial issues, and social, cultural and human issues – in order to transform the Mediterranean into a common area of peace, stability and prosperity (Euro-Mediterranean Partnership 1995). While the issue of terrorism was already explicitly mentioned in the 1995 Barcelona Declaration, it was cited alongside many other policy issues without being given any significant prominence. The signatories merely resolved to 'strengthen their cooperation in preventing and combating terrorism, in particular by ratifying and applying the international instruments they have signed, by acceding to such instruments and by taking any other appropriate measure' (Euro-Mediterranean Partnership 1995: 3).

Over the years, terrorism has increasingly moved towards the top of the agenda of Euro-Mediterranean conferences. This ascension culminated with the adoption of a Euro-

Mediterranean Code of Conduct on Countering Terrorism at the 2005 Barcelona Summit (Euro-Mediterranean Partnership 2005). That summit also saw the adoption of the decision to include a fourth key area for cooperation, namely migration and internal security. This new priority has notably been implemented through projects aiming to foster the exchange of good practices and to improve operational cooperation, such as EUROMED Migration and EUROMED Police (European Commission 2014).

However, this reinforced emphasis on security matters was not well-received by all Southern Mediterranean partners, which have not always shared the EU's agenda and political priorities (Bicchi 2011). In that respect, most of the bilateral Association Agreements between the EU and the Southern Mediterranean partners do not explicitly mention the issue of terrorism, with the exception of the agreements with Egypt and Algeria. Article 59 of the EU-Egypt Association Agreement, which entered into force in 2004, foresees counter-terrorism cooperation between the two parties, particularly with regard to the 'exchange of information on means and methods used to counter terrorism; exchange of experiences in respect of terrorism prevention; joint research and studies in the area of terrorism prevention'. Article 90 of the EU-Algeria Association Agreement, which entered into force in 2005, also concerns the fight against terrorism. The signatories commit to the implementation of terrorism-related United Nations Security Council Resolutions, the exchange of information on terrorist groups and their support networks, and the sharing of experience in combating terrorism. In other words, these clauses on the fight against terrorism are rather vague (MacKenzie et al. 2013; Kaunert and Léonard 2011).

Counter-terrorism in the ENP

From that viewpoint, the ENP, with respect to the EU's Southern neighbours, was also an attempt at addressing the shortcomings of the EMP. With regard to the relationship between the two policy initiatives, the EU has presented the ENP as a complement to the multilateral framework of the Barcelona Process, which builds on its bilateral dimension. Indeed, the existing Euro-Mediterranean Association Agreements have provided the legal basis for the development of ENP Action Plans towards Southern Mediterranean states[v], which have notably included counter-terrorism activities. However, a systematic analysis of these Action Plans reveals that, when it comes to counter-terrorism, only vague and limited objectives have been included in the Action Plans elaborated for the EU's Mediterranean neighbours (Kaunert and Léonard 2011; MacKenzie et al. 2013). As argued by Kaunert and Léonard (2011), counter-terrorism cooperation between the EU and its Southern neighbours has remained modest and largely confined to political dialogue. There has been virtually no operational cooperation for counter-terrorism purposes. With regard to police and law enforcement cooperation, Europol, the EU's law enforcement agency, has not signed any agreement with any of the EU's Southern neighbours. It has had a mandate to negotiate an agreement with Morocco since 2000, but discussions have been unfruitful to date. Negotiations with Israel, the only other Southern ENP country for which Europol has received a negotiation mandate, have not been more successful (Kaunert and Léonard 2011: 294). Concerning judicial cooperation, some of the ENP Action Plans, namely those of Egypt, Jordan, Lebanon and Israel, indicate that judicial cooperation for counter-terrorism purposes should be considered. However,

Eurojust has not negotiated any agreement with any of the EU's Southern neighbours, although contact points for Eurojust have been appointed in Egypt, Israel and Tunisia (Council of the European Union 2015b: 3). Concerning border controls, Frontex has not signed any working arrangement with any of the EU's Southern neighbours, although it has received mandates to negotiate working arrangements with Egypt, Libya, Morocco and Tunisia. Cooperation in the fight against the financing of terrorism has also been rather modest, albeit more advanced than other strands of counter-terrorism cooperation. This is somewhat surprising given the major role that the EU could have played as a provider of technical assistance. However, it might be explained by the very sensitive character of this issue in various Mediterranean and Middle Eastern countries (Kaunert and Léonard 2011: 299-302).

The Financial Instruments of the ENP

The implementation of the ENP has been supported by financial instruments. An analysis of those confirms the general lack of ambition when it comes to operational cooperation between the EU and its neighbours in the field of counter-terrorism. Between 2007 and 2013, the financial instrument supporting the ENP was called the 'European Neighbourhood Partnership Instrument' (ENPI). It built on the experience of the previous funding programmes MEDA (for the Southern Mediterranean countries) and TACIS (for the Eastern European countries). However, counter-terrorism was arguably not identified as a priority area. Article 2 of Regulation (EC) No 1638/2006 listed 'areas of cooperation', amongst which area 'r', which was described as follows: 'supporting reform and strengthening capacity in the field of justice and home affairs, including

issues such as asylum, migration and readmission, and the fight against, and prevention of trafficking in human beings as well as terrorism and organised crime, including its financing, money laundering and tax fraud'. Writing in 2010, Wennerholm, Brattberg and Rhinard (2010: 16) argued that, in practice, 'the ENPI (…) [had] never been used for such measures in countries covered by the European Neighbourhood Partnership'.

The ENPI has been replaced by the European Neighbourhood Instrument (ENI), which has received a budget of more than €15 billion for the period 2014-202. However, Regulation (EU) No 232/2014, which established the ENI, does not even mention 'terrorism' once. At most can it be inferred that terrorism might be alluded to in Article 2.2(j), which establishes the priorities for Union support as follows: 'promoting confidence-building, good neighbourly relations and other measures contributing to security in all its forms and the prevention and settlement of conflicts, including protracted conflicts'. Therefore, this analysis of the financial instruments of the ENP confirms that counter-terrorism cooperation between the EU and its neighbours has mainly consisted of political dialogue and that it is not planned to spend significant amounts of money to foster more practical cooperation.

Recent Developments

The terrorist attacks in France in January 2015 gave a new impetus to the development of the EU's counter-terrorism policy, including its external dimension. The so-called Riga Joint Statement underlined that '[the] joint efforts of the internal and external dimension in fighting terrorism, and in particular the phenomenon of the foreign terrorist fighters, is

crucial' (Council of the European Union 2015a: 7). In particular, the Council adopted an EU Regional Strategy for Syria and Iraq, as well as the ISIL/Da'esh threat (Council of the European Union 2015c, 2016) (see Koenig chapter 31). At the Foreign Affairs Council meeting of 9 February 2015, it was decided to '[conduct] targeted and upgraded security and counter-terrorism dialogues' with several of the Southern ENP partners, namely Algeria, Egypt, Israel, Jordan, Morocco, Lebanon, and Tunisia, in addition to 'developing counter-terrorism action plans starting with Morocco, Tunisia, Algeria, Egypt, Jordan and Lebanon, including on measures to dissuade and disrupt foreign terrorist fighters' travel as well as to manage their return' (Council of the European Union 2015d: 7). It was also announced that various capacity-building projects would be launched in MENA (Middle East and North Africa) countries, which could also get involved with the work of the EU's Radicalization Awareness Network (Council of the European Union 2015d: 8). Against this backdrop, in September 2015, the EU held the first so-called 'reinforced political dialogue on security and fight against terrorism' with Tunisia (Délégation de l'Union Européenne en Tunisie, 2015). Both parties had been keen to deepen their cooperation after the terrorist attacks that took place in the Bardo museum and in Sousse in March and June 2015 respectively. Moreover, discussions on how best to deal with foreign fighters have been ongoing and have included some of the Southern ENP partners. For example, the third Euro-Mediterranean Foreign Fighters meeting, which took place in Baghdad in October 2015, was notably attended by senior officials from Algeria, Egypt, Jordan, Lebanon, and Tunisia (National Security Adviser of Iraq / EU Counter-terrorism Coordinator, 2015).

The higher saliency of the terrorist threat and the renewed emphasis on cooperating with neighbouring countries can also be seen in the 2015 Review of the Neighbourhood Policy. This document notably emphasises that '[there] will be a new focus on stepping up work with our partners on security sector reform, conflict prevention, counter-terrorism and anti-radicalisation policies, in full compliance with international human rights law (European Commission / High Representative of the Union for Foreign Affairs and Security Policy, 2015: 3). It is envisaged that there will be a greater focus on security, including terrorism and radicalisation, in the ENP in future. At the time of writing, it was not yet possible to assess the extent to which these declarations were to be implemented in practice.

Challenges to Counter-terrorism Cooperation between the EU and its Neighbours

As explained above, to date, counter-terrorism cooperation between the EU and its neighbours has overall remained rather modest. Also, it has mainly consisted of political dialogue, especially with the Southern ENP partners. There are several reasons that explain this persistent lack of significant progress. Some of those are general, as they concern difficulties affecting the development and implementation of the ENP as a whole, whereas others are specific to the policy sector of counter-terrorism.

First of all, there has been a widespread perception that the ENP is an EU policy, which has been imposed by the EU upon its neighbours. In the South, most Arab governments have felt excluded from what they largely perceive to be 'a policy adopted by the EU for its neighbours not with them' (League of Arab States 2014: 9). In response to this

common criticism, the EU has recently attempted to adopt a more inclusive approach. This was notably evidenced by the fact that the ENP Review was debated within the two regional components of the ENP, the Union for the Mediterranean and the Eastern Partnership in Spring 2015 (Delcour 2015: 2). This is likely to encourage a greater sense of ownership of the ENP amongst the EU's neighbours, although one should not overestimate their influence on the actual contents of the policies given the wide range of stakeholders included in the Review. Secondly, the ENP has generally been weakened by the contradictions that characterise the EU's approach to its neighbours (Pace 2014; Noutcheva et al. 2013; Biscop 2010; Balzacq 2009; Youngs 2003). The EU has sought to simultaneously fulfil its security objectives and promote its values, such as democracy, by encouraging reforms. However, these two objectives can sometimes enter into conflict, since, for example, reforms can lead to instability and insecurity. Likewise, the EU and its Member States have sometimes sought to cooperate on security issues with regimes that may be lacking as far as democratic standards are concerned. Egypt is a case in point. The political dialogue between the EU and Egypt under the ENP has been *de facto* suspended since 2011. This has not prevented various Heads of State or Government of various EU Member States, including Germany, France, the United Kingdom and Italy, and the representatives of several EU institutions, such as the President of the European Council Donald Tusk and the High Representative of the Union for Foreign Affairs and Security Policy Federica Mogherini, to meet with representatives of el-Sisi's regime, to discuss the fight against terrorism and the development of security cooperation, in the context of the war in Syria and the rise of Daesh. Moreover, these possible contradictions amongst the EU's objectives are

compounded by the existence at times of divergences between the EU's principles and the national interests of some individual Member States (Zajac 2015).

Concerning the challenges that are specific to the terrorism domain, one of them is that counter-terrorism is a particularly sensitive policy, which is very tightly linked to sovereignty. This notably explains that trust can take a long time to develop, whilst traditional, bilateral channels of cooperation persist or are even preferred to cooperation with the EU. According to Wolff (2009: 150), when it comes to counter-terrorism cooperation,

> states prefer to cooperate at a bilateral level, such as between France, Spain and North African countries, notably Morocco and Algeria. Historical relationships and trust between the services have proved to be key elements of bilateral cooperation.

The enduring importance of these bilateral relations was again recently illustrated by the launch of police training programmes by the German and British governments in Egypt, Libya and Tunisia (German Parliament 2015; Die Zeit 2015; United Kingdom 2015).

Another problem that has hindered the development of counter-terrorism cooperation between the EU and its neighbours, particularly in the South, is the persistence of significant differences between their respective domestic conditions and policies. First of all, the lack of institutional capacity in the neighbouring countries, in particular in the South, has been a significant problem. For example, cooperation to tackle the financing of terrorism has faced important challenges because of problems of compliance in the

Southern ENP countries, which have themselves resulted from a lack of financial and technical expertise (Kaunert and Léonard 2011: 304). There have also been persistent differences with regard to the general approach to terrorism. The EU has favoured a criminal justice approach to terrorism, whereas the ENP countries have generally favoured a military response to terrorism (MacKenzie et al. 2013). Operational counter-terrorism cooperation has also been severely restricted with most ENP partners, with some exceptions in the East, such as Moldova and more recently Ukraine, because of the discrepancy between the data protection standards in the EU and those in the partner countries (Kaunert and Léonard 2011; MacKenzie et al. 2013). EU agencies, such as Europol, are only allowed to sign operational agreements with partner countries that fulfil minimum data protection standards. All these obstacles to the development of closer counter-terrorism cooperation between the EU and its neighbours are significant and likely to persist in the foreseeable future, especially in the Southern neighbourhood.

Conclusion

Given the transnational nature of the terrorist threat, the EU has sought to develop counter-terrorism cooperation with countries in its neighbourhood. This has been challenging given the persistence of the divide between internal security and external security in the EU. To date, counter-terrorism cooperation between the EU and its neighbours has mainly consisted of political dialogue. Operational cooperation has been very modest for various reasons, including the priority given to bilateral relations and the significant differences between the EU and its partners regarding institutional capacity, the approach to terrorism, and data protection standards. It has only been developed with

some of the Eastern ENP partners, in particular Moldova and Ukraine, and has remained virtually non-existent with Southern ENP partners. Given the important links of the current terrorist threat to the Middle East, the potential benefits of counter-terrorism cooperation for the EU are greater with its southern neighbours than with its eastern neighbours. However, for the reasons already mentioned, counter-terrorism cooperation with the Southern ENP countries has been restricted to political dialogue. Any major change in that respect is unlikely given the intractable character of the obstacles to the establishment of operational cooperation.

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[i] Although Belarus takes part in the ENP, no Action Plan for Belarus had been drawn up at the time of writing.

[ii] Full texts of the agreements can be accessed at https://www.europol.europa.eu/partners-agreements [Last accessed on 23 January 2017].

[iii] Full texts of the agreements can be accessed at http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Pages/agreements-concluded-by-eurojust.aspx?Page=1 [Last accessed on 23 January 2017].

[iv] Full texts of the agreements can be accessed at http://frontex.europa.eu/partners/third-countries/ [Last accessed on 23 January 2017].

[v] There were no Action Plans in force for Libya and Syria at the time of writing.