7

US and EU Counterterrorism Approaches: From Divisive to Convergent?

Andrée WIETOR

Executive summary: This paper attempts to analyze the risks that lie in a military approach to counterterrorism and the development of European Union counterterrorism after 9/11. It describes the immediate responses of the US and the EU to 9/11 and attempts to explain, why they adopted different approaches in the aftermath. Furthermore, it analyzes the reactions to the Paris attacks in 2015 and argues that these attacks, together with the ones perpetrated in 2016, mark a shift in EU counterterrorism. It finally asks whether US and EU approaches to counterterrorism have converged in recent years and what chances and risks this eventual convergence entails.

Keywords: EU counterterrorism, US counterterrorism, terrorism-as-crime, terrorism-as-war, rhetoric, transatlantic divide, transatlantic relations, convergence; EU-US relations

Introduction

The attacks of 9/11 undoubtedly marked a new chapter in the history of terrorism and international politics. The Bush administration did not hesitate to unilaterally launch a military campaign against international terrorism, declaring a "Global War on Terror", while member states of the European Union were rather in favor of a multilateral and comprehensive

approach in the hope to tackle the root causes of terrorism[529]. This transatlantic divide led American political scientist Robert Kagan to argue that Americans and Europeans do not share a common strategic culture anymore. In his article "Power and Weakness", published in 2002, and his bestselling book *Of Paradise and Power: America and Europe in the New World Order*, Kagan claims that Americans are from Mars and cherish an anarchic world view where international law does not exist, while Europeans are from Venus, living in a "post-historical paradise of peace and relative prosperity"[530].

Kagan's controversial representation excludes the possibility of alternative co-existing approaches to terrorism. However, as no policy is perfectly holistic, it might even be necessary to have different approaches that complement each other. Like any other phenomenon in the world, terrorism is constantly changing, and countermeasures must adapt.

Looking at the past 20 years of counterterrorism, it becomes apparent that the success of the US approach was mitigated, and that EU counterterrorism went from hardly relevant to an important and increasingly integrated common policy area. However, when considering the military reaction and rhetoric of the French President after the Paris attacks in 2015, we may wonder if the EU counterterrorism policy is not about to converge with the US approach.

In the present paper, we will first decide on a definition of terrorism and counterterrorism, before analyzing the US and EU approaches to terrorism to assess if there has been a shift in EU policy on terrorism after 2015 and eventually a convergence between US and EU counterterrorism approaches.

---

[529] Pernille Rieker, "Editor's Introduction", *Security Dialogue. Special Section: European Security and Transatlantic Relations in the Age of International Terrorism: Challenges for the Nordic Countries* 36, no. 3 (September 2005): 395.

[530] Robert Kagan, "Power and Weakness", *Policy Review* 113 (June/July 2002): 3.

Terrorism and Counter-Terrorism

The definitions of terrorism are numerous and contested, which makes counterterrorism measures equally heterogeneous as our understanding of terrorism determines, which measures we are willing to take to fight it. According to J. Bowyer Bell the "very word [terrorism] becomes a litmus test for dearly held beliefs, so that a brief conversation on terrorist matter with almost anyone reveals a special world view, an interpretation of the nature of man, and a glimpse into a desired future."[531]. In short, "tell me what you think about terrorism, and I tell you who you are."[532]. Hence, it is not surprising that Schmid's analysis of terrorism definitions reveals that the notion of illegal and criminal actions, the so-called element of opprobrium, is present in 85% of the 88 intergovernmental definitions analyzed, while the same element only reaches 30% in academic definitions. Governments and international organizations are first interested in maintaining order and security, while academics are more interested in the underlying psychological and political elements of terrorism[533].

As I focus my analysis on counterterrorism in the United States of America and the European Union, a definition containing the element of opprobrium is most appropriate: The *Global Terror Index* defines terrorism as the "threatened or actual use of illegal force and violence by a non-state actor to attain a political, economic, religious, or social goal through fear, coercion, or intimidation"[534]. Counterterrorism comprises all measures taken by governments and organizations to combat terrorism. These measures differ from country to country, because countries

---

[531] J. Bowyer Bell, *A Time of Terror: How Democratic Societies Respond to Revolutionary Violence* (New York: Basic Book, 1978); Alex Schmid, "Terrorism – The Definitional Problem", *Case Western Reserve Journal of International Law* 36 (2004): 396. Accessed August 24, 2020, https://scholarlycommons.law.case.edu/jil/vol36/iss2/8.

[532] Schmid, "Terrorism – The Definitional Problem", 396.

[533] Ibid., 405–407.

[534] *Global Terrorism Index 2019 – Measuring the Impact of Terrorism*, Institute for Economics & Peace: 6. Accessed August 24, 2020, https://www.economicsandpeace.org/wp-content/uploads/2020/08/GTI-2019web.pdf.

face different types and degrees in terrorist threats and because they interpret these threats differently depending on their history and previous experiences with terrorist groups.

US and EU Counterterrorism After 9/11: Terrorism as War and Terrorism as Crime

The 9/11 attacks were unprecedented in their scale and nature and were quickly branded as a new form of terrorism that required new counterterrorism measures.

US counterterrorism

Following two major terrorist attacks in the 1990s, the Clinton administration identified terrorism as a priority and threat to national security and developed a counterterrorism strategy based on four policies: economic isolation, multilateral cooperation, increased resource allocation, and retaliation. Military strikes were conducted, but only reluctantly; the emphasis was on law enforcement[535]. This changed after the terrorist attacks of 9/11 in 2001.

The Bush administration had to face a lot of pressure and criticism for not having taken terrorism seriously enough and for having been unable to prevent the attacks. Its response to the attacks, announced before Congress, President George W. Bush proclaimed a long-term fight against terrorism and their supporters, referred to as the "Global War on Terror" (GWOT). He insisted that "[o]ur war on terror begins with al-Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated."[536]. Instead of relying on ex-

---

[535] Thomas J. Badey, "US counter-terrorism: Change in approach, continuity in policy", *Contemporary Security Policy* 27, no. 2 (2006): 308–309.

[536] Whitehouse Archives,"Address to a joint session of the 107th Congress", by President George W. Bush, September 20, 2001, in *Selected Speeches of George W. Bush 2001–2008*: 68. Accessed August 24, 2020, https://georgewbush-whitehouse.archives.gov/infocus/bushrecord/documents/Selected_Speeches_George_W_Bush.pdf.

isting law enforcement policies and instruments, the Bush administration adopted a unilateral and military approach and assigned the lead in its counterterrorism efforts to the Department of Defense[537]. Condoleezza Rice explained the difference between the Clinton and the Bush administrations by declaring that President Clinton had called for bringing the terrorists from Afghanistan to the United States for trial, while President Bush prefers to prepare for military action in Afghanistan itself[538]. However, it is important to acknowledge that the US approach is not purely military; existing policies developed under the Clinton administration, for example economic isolation of terrorism sponsoring states, were maintained[539].

Bush's choice in labeling the US response to terrorism a "Global War on Terror" was an unfortunate choice of vocabulary that has had long term political and legal implications. In a lecture given only a few weeks after the attacks, Oxford Professor Michael Howard referred to Bush's announcement as "a very natural but terrible and irrevocable error"[540]. The use of the term "war" in this context certainly makes a strong impression and emphasizes that the US government rejects any kind of "acquiescence or compromise"[541], but it has a couple of drawbacks: Firstly, a declaration of war is reciprocal and it gives terrorists a status and legitimacy that is normally reserved for states. Thus, the declaration of war raised Bin Laden's status as a warlord and as the one man, who challenged the most powerful nation in the world. Secondly, the state of war gives a free way to violence and puts at risk civilians' rights on the attacked territory as well as human rights in general. This is especially true for the specific rights foreseen by international law for fighters, for example in case of capture and detention. In comparison to a criminal, whose detention is punitive,

---

[537] Badey, "US counter-terrorism", 308–309; Alberto Costi, "Complementary Approaches? A Brief Comparison of EU and United States Counter-Terrorism Strategies since 2001", *Victoria University of Wellington Legal Research Papers* 22 (2019): 178. Accessed August 24, 2020. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3074136.

[538] Ibid., 309.

[539] Ibid., 321.

[540] Michael Howard, "What's in a name? How to fight terrorism", *Foreign Affairs* (January/February 2002): 8.

[541] Gilles Andréani, "The 'War on terror': Good Cause, Wrong Concept", *Survival* 46, no. 4 (2004): 31.

the detention of a fighter mainly prevents him from joining an ongoing war. Thirdly, the use of the term "war" creates an atmosphere of fear and belligerence, a "war psychosis"[542] that calls for immediate military actions expecting to result in the complete destruction of a clearly identified enemy. Suggestions that there are other options are dismissed as appeasement and concerns regarding the impact of war on non-state actors and the limits of armed force are not taken into consideration anymore. Besides, it exaggerates the threat of terrorism in the US compared to other security threats[543]. Ultimately, by referring to terrorist not only as unlawful, criminal actors, but as evil, the President actually leaves the sphere of international law and politics to enter the ground of moral judgement. This "evilization" of the enemy de-politicized the discourse about the War on Terror and gave it an almost religious glint[544]. Consequently, many Muslims in the Middle East and around the world considered the war on terror not only a war against Al-Qaeda, but a war against Islam and Muslims in general, despite the fact that Osama Bin Laden and his supporters are in no way representative for Muslims around the world[545].

Apart from the drawbacks listed above, labeling the fight against terrorism a "war" simply is a misnomer[546]: President Bush admitted himself in 2004 that naming the 9/11 response a "Global War on Terror" was inappropriate. It should rather be called "the struggle against ideological extremists who do not believe in free societies and who happen to use terror as a weapon to try to shake the conscience of the free world."[547].

---

[542] Howard, "What's in the name?", 9.

[543] Howard, "What's in the name?", 9; John Mueller, "Is There Still a Terrorist Threat?: The Myth of the Omnipresent Enemy", *Foreign Affairs* (September/October 2006). Accessed August 24, 2020, https://www.foreignaffairs.com/articles/2006-09-01/there-still-terrorist-threat-myth-omnipresent-enemy.

[544] Pamir H. Sahill, "The U.S. War on Terror Discourse", *Insight Turkey. A New Scramble for Africa? The Role of Great and Emerging Powers*, 21:1 (2019), 190.

[545] Costi, "Complementary Approaches?", 180.

[546] Andréani, "The 'War on terror'", 49; Frank Furedi, "Lost for Words", *The Guardian*, January 17, 2008. Accessed August 24, 2020, https://www.theguardian.com/commentisfree/2008/jan/17/lostforwords ; Hendrik Hertzberg, "War and Words", *The New Yorker*, February 6, 2006. Accessed August 24, 2020, https://www.newyorker.com/magazine/2006/02/13/war-and-words.

[547] Ibid.

The only rightfully called war in the aftermath of 9/11 was the invasion of Afghanistan and the overthrow of the Taliban regime. It was led by the US, sanctioned by the United Nations Security Council, and received considerable offers of support from other states since the attack against the World Trade Centre was not only an attack on the United States of America, but on Western states in general, on their lifestyle and their values. Therefore, the attacks opened an opportunity window for the creation of an international counterterrorism alliance. However, by introducing the concept of preventive war to the war on terror, the US extended the situations under which they can go to war. While the Bush administration managed successfully to sell the invasion of Iraq to the American public as a second phase of the GWOT, it met a lot of opposition in Europe, among heads of government and diplomats as well as in civil society[548]. The invasion of Iraq split the US and EU, undermined the foundation of the international counterterrorism alliance, and lead to divisions within Europe, because France and Germany were opposed to the invasion of Iraq, while Poland, Spain, and the United Kingdom were willing to support the US[549].

The US approach to counterterrorism aimed at preventing potential future attacks[550] and preferred short-term solutions against long-term progress. Bruce Hoffman insists that this is "not a matter of debate but rather was the conclusion of the declassified key judgments of the seminal April 2006 National Intelligence Estimate (NIE)"[551]. Thus, the US approach was not successful in the long run, especially as the invasion and occupation of Iraq as well as the unlawful detention and torture of suspected terrorists allegedly increased the number of recruits of terrorist organizations such as ISIS and considerably damaged the US' status and prestige internationally[552].

---

[548] Andréani, "The 'War on terror'", 32–34; Alexander MacKenzie, "The European Union's Increasing Role in Foreign Policy Counterterrorism'", *Journal of Contemporary European Research* 6, no. 2 (2010): 154. Accessed August 24, 2020, http://www.jcer.net/ojs/index.php/jcer/article/view/269/214.

[549] Ibid.

[550] Costi, "Complementary Approaches?", 179.

[551] Bruce Hoffman, "A Counterterrorism Strategy for the Obama Administration", *Terrorism and Political Violence* 21, no. 3 (2009): 360.

[552] Costi, "Complementary Approaches?", 179; MacKenzie, "The European Union's Increasing Role in Foreign Policy Counterterrorism'", 154; Muhammad Iqbal Roy, "The Global Counter-Terrorism

The Obama administration avoided referring to the Bush doctrine of "Global War on terror". It also strived to build coalitions and to gain international support for its fight against terrorism. However, unilateral action still constituted as an option and the number of drones strikes increased under the Obama administration and were legitimized on the basis of the law of armed conflict. Thus, the Obama administration may have restrained itself from using the term "war"[553], but its strategies in the fight against terrorism remained similar to the ones in use under the Bush administration[554].

EU counterterrorism

Before 9/11, the member states of the European Union had to deal with terrorist attacks within their borders committed by domestic terrorist groups. These experiences shaped the approach of EU member states to terrorism as a matter of national security and their perception of terrorist acts as "criminal offenses to be tackled and contained"[555], while the US aims to defeat terrorism for good and uses this aim to legitimize drone strikes, targeted killings, and detention of alleged combatants[556].

This difference in approaches chosen by the US and the EU are due to a different perception of the threat and different governance arrangements[557]. The US does not have to deal with the same difficulties as the EU as it is able to "marshal its power at home"[558]. The EU is not a federal state and its counterterrorism measures are a matter of national security policies, even if the member states coordinate at the EU level. Besides, the US and the EU had different understandings of Al-Qaeda's goal and there-

---

Strategies", *Journal of Politics and International Studies* 5, no. 1 (2019): 26. Accessed August 24, 2020, http://pu.edu.pk/images/journal/politicsAndInternational/PDF/3_v5_1_2019.pdf.

553 MacKenzie, "The European Union's Increasing Role in Foreign Policy Counterterrorism", 154.

554 Costi, "Complementary Approaches?", 179.

555 Costi, "Complementary Approaches?", 178; Jeremy Shapiro, "Where You Stand Depends on Where You Get Hit: US and European Counterterrorism Strategies", Security Studies Seminar, November 9, 2005, Brookings Institution. Accessed August 24, 2020, http://web.mit.edu/SSP/seminars/wed_archives05fall/shapiro.htm.

556 Ibid., 175.

557 Ibid., 167.

558 Ibid., 178.

fore different interpretations of the threat they faced. The US considered Al-Qaeda to be at war against the West and its values, but from a European perspective, influenced by the tradition of Just War theory, wars can only be thought between states and should be governed by international law. An act of terrorism is thus not an act of war, but a criminal act and should be treated as such[559].

Faithful to their approach of terrorism-as-crime, the first reaction of the EU to the 9/11 attacks was to toughen its criminal law instruments and to focus on threats within its borders[560]. EU leaders rapidly pushed for more integration in this area. The Council of the European Union adopted the Plan of Action to Combat Terrorism in September 2001, condemning the 9/11 attacks and acknowledging the common terrorist threat[561]. In its 2002 Framework Decision on Terrorism, the EU provided its first common definition of terrorism and aims at aligning the Member States' positions on counterterrorism[562]. The Council adopted in December 2003 a document entitled "A European Security Strategy – A Secure Europe in a Better World"[563], containing a list of threats, which was headed by terrorism and called for a coordinated policy. After the attacks in Madrid in 2004 and London in 2006, the priority of counter-terrorism increased further and lead to an even deeper integration. The Declaration on Combating Terrorism and appointment of EU Counterterrorism Coordinator

---

[559] Ibid., 173.

[560] Ibid., 173–181.

[561] Council of the European Union, *Conclusions and plan of action of the extraordinary European Council meeting on 21 September 2001, SN 140/01*, September 21, 2001. Accessed August 24, 2020, https://www.consilium.europa.eu/media/20972/140en.pdf.

[562] Christine Andreeva, "EU Counter-terrorism Policy after 2015", *Institute of International & European Affairs (IIEA)*, (2019): 200. Accessed August 24, 2020, https://www.iiea.com/wp-content/uploads/2019/06/Christine-Andreeva.pdf; Mai'a K. Davis Cross, "Counter-terrorism in the EU's external relations", *Journal of European Integration* 39:5 (2017), 611; Javier Argomaniz, Oldrich Bureš and Christian Kaunert, "A Decade of EU Counter-Terrorism and Intelligence: A Critical Assessment", *Intelligence and National Security* 30:2–3 (2015): 191–206; Jörg Monar, "The EU as an International Counter-terrorism Actor : Progress and Constraints", *Intelligence and National Security* 30, no. 2–3 (2015): 333–356.

[563] Council of the European Union, *A European Security Strategy – A Secure Europe in a Better World*, European Communities, 2009. Accessed August 24, 2020, https://www.consilium.europa.eu/media/30823/qc7809568enc.pdf.

in March 2004[564] increased cooperation between member states in the fields of security, cross-border crime, and terrorism. In 2005, the Council adopted the EU Counter-Terrorism Strategy based on four pillars: prevent, protect, pursue, and respond[565]. The EU Strategy for Combating Radicalization and Recruitment[566] adopted in November 2005 recognized for the first time explicitly the issue of radicalization. The last substantial measure was the Revision of the Framework Decision on Terrorism in November 2008[567]. "Legislation adopted between 2001 and 2008 was deemed satisfactory as a legal framework for the initial stages of EU counter-terrorism policy."[568].

The first EU Counterterrorism Coordinator, Gijs de Vries, even considered the fight against terrorism as changing "the role and functioning of the European Union", arguing that the later adopts an "increasingly operational role"[569]. The most important innovation was the introduction of a new operational instrument, the European Arrest Warrant (EAW)[570] and Europol, the EU Agency for Law Enforcement Cooperation, whose mandate was extended after 9/11, is at the heart of internal measures and clearly treats terrorism as a crime[571].

---

[564] Council of the European Union, *Declaration on Combating Terrorism*, March 25, 2004. Accessed August 24, 2020, https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/79637.pdf.

[565] Council of the European Union, *Counter-terrorism strategy*, November 30, 2005. Accessed August 24, 2020, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Al33275.

[566] Council of the European Union, *The European Union Strategy for Combating Radicalisation and Recruitment to Terrorism*, November 24, 2005. Accessed August 24, 2020, http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2014781%202005%20REV%201.

[567] Council of the European Union, *Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating terrorism*, November 28, 2008. Accessed August 24, 2020, https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32008F0919 ; Andreeva, "EU Counter-terrorism Policy after 2015", 200.

[568] Andreeva, "EU Counter-terrorism Policy after 2015", 199.

[569] Oldrich Bureš, "EU Counterterrorism Policy: A Paper Tiger?", *e-International Relations*, August 22, 2013. Accessed August 24, 2020, https://www.e-ir.info/2013/08/22/eu-counterterrorism-policy-a-paper-tiger/.

[570] Cross, "Counter-terrorism in the EU's external relations", 611; Argomaniz, Bureš, Kaunert, "A Decade of EU Counter-Terrorism and Intelligence", 191–206; Monar, "The EU as an International Counter-terrorism Actor", 333–356.

[571] Cross, "Counter-terrorism in the EU's external relations", 613.

A Shift in EU counter-terrorism policy: from internal threat to a matter of foreign policy

The series of attacks in Paris in 2015 were the deadliest since the Madrid metro bombing in 2004 and resulted in a wave of solidarity all over Europe and beyond, which created a favorable climate for policy advances and pushes. Besides, counterterrorism measures gained in support by public opinion: Eurobarometer research shows that terrorism has been among the main concerns for EU citizens since 2015[572].

After the attack on the satirical magazine "Charlie Hebdo" in January 2015, French President François Hollande promised a strong reaction and announced that "the Republic will be inflexible, implacable"[573]. When the "Charlie Hebdo" attacks in January were followed by attacks on several locations in Paris in November 2015, among them the "Stade de France" and the club "Bataclan", a state of emergency was declared in France and the President announced that "France is at war"[574] and that it will defend its values and "eradicate terrorism"[575].

This unusually martial rhetoric, referring to the notion of "war", the eradication of terrorism, the waging a good war, and the evilization of the enemy, bears a strong resemblance to the speeches of President George W. Bush after 9/11 and his "Global War on Terror". Hollande's Minister of Defense, Jean-Yves Le Drian, had already invoked the notion of a "war against terrorism" in January 2013, when referring to the French military intervention in Mali, revealing already the beginning of a turning

---

[572] Andreeva, "EU Counter-terrorism Policy after 2015", 201.

[573] Embassy of France in Washington, *Press conference given by M. François Hollande, President of the Republic* (excerpts), Paris, February 5, 2015, published on February 9, 2015. Accessed August 24, 2020, https://fr.franceintheus.org/spip.php?article6498.

[574] Permanent Mission of France to the United Nations in New York, *François Hollande's Speech Before a Joint Session of Parliament*, November 16, 2015. Accessed August 24, 2020, https://onu.delegfrance.org/Francois-Hollande-s-Speech-Before-a-Joint-Session-of-Parliament.

[575] Permanent mission of France to the United Nations in New York, *François Hollande's Speech Before a Joint Session of Parliament*, November 16, 2015.

point in the French approach of the fight against terrorism[576]. Discourse analysis of Hollande's speeches in 2015 revealed "a carefully constructed public communication strategy"[577], instilling fear by using a "language of exception"[578] and conjuring a climate similar to the aforementioned "war psychosis". Another indicator for the shift in approach to counterterrorism is the fact that Spain and the United Kingdom were both hit before France by major terrorist attacks in 2004, respectively 2005, but they considered direct military actions against Al-Qaeda at that moment as either unjustifiable or counterproductive[579]. Meanwhile, their positions have changed: "the UK, Germany, Belgium, the Netherlands, Denmark, Italy, Spain, and Poland have all been directly involved in conducting or assisting military action against jihadist groups in the regions surrounding Europe."[580].

Already prepared by the revision of the EU Strategy for Combating Radicalisation and Recruitment to Terrorism in 2014[581], the attacks in 2015 clearly marked a shift in tone and approach in EU counterterrorism – a shift that was further enhanced by the terrorist attacks in 2016, namely the bombing of the Brussels Airport, the explosion of Maalbrek metro station, and the cargo truck driven into crowds in Nice on 14th of July. They opened a window of opportunity for policy-makers and "[t]hese 15 months generated more efforts on counter-terrorism at EU level than the preceding

---

[576] Alice Pannier and Olivier Schmitt, "To fight another day: France between the fight against terrorism and future warfare", *International Affairs* 95, no. 4 (2019): 905.

[577] Ariane Bogain, "Security in the name of human rights: the discursive legitimation strategies of the war on terror in France", *Critical Studies on Terrorism* 10, no. 3 (2017): 477.

[578] Bogain, "Security in the name of human rights", 484; Grégory Chauzal, Ko Colijn, Bibi van Ginkel, Christophe Paulussen and Sofia Zavagli, "Paris: 11/13/15 – Analysis and Policy Options", Policy Brief, *Clingendael Netherlands Institute for International Relations*, November 20, 2015. Accessed August 24, 2020, https://www.clingendael.org/sites/default/files/2017-06/Policy_Brief_Clingendael_ICCT-Paris111315Analysis_and_Policy_Options_November%202015_final.pdf; Giorgio Agamben, *State of Exception*, Chicago University Press (2005).

[579] Anthony Dworkin, "Europe's New Counter-Terror Wars", Policy Brief, *European Council on Foreign Relations*, October 2016, 3. Accessed August 24, 2020, https://www.ecfr.eu/page/-/ECFR192_-_EUROPES_NEW_COUNTER-TERROR_WARS_FINAL.pdf.

[580] Dworkin, "Europe's New Counter-Terror Wars", 2.

[581] Council of the European Union, *Revised EU Strategy for Combating Radicalisation and Recruitment to Terrorism*, May 19, 2014. Accessed August 24, 2020, https://data.consilium.europa.eu/doc/document/ST-9956-2014-INIT/en/pdf.

15 years."[582]. Immediately after the attack on Charlie Hebdo in January 2015, three Council Conclusions were adopted soon after: the Justice and Home Affairs (JAI) Council Conclusions of 30 January 2015, the Foreign Affairs Council (FAC) Conclusions of 9 February 2015, and the Informal Heads of State Summit Conclusions of 12 February 2015[583]. While having been considered a mainly internal issue, the FAC Conclusions of 9 February 2015 acknowledged for the first time the external dimension of the terrorist threat and established the basis for strengthening external action on counterterrorism[584]. The 2005 EU Counter-Terrorism Strategy already prepared the ground and the Terrorism Action Plan, adopted in 2016, emphasized the external actorness of the EU[585]. Thus, the EU counterterrorism took gradually a much more external dimension, governed by the European External Action Service (EEAS) that deals with the EU's foreign policy[586].

In a joint contribution to the European Political Strategy Centre, **Federica Mogherini** and **Sir Julian King** acknowledged in 2017 the link between internal and external security and emphasized that the EU's engagement outside its territory is essential for the safety of EU citizens and complementary to internal counterterrorism measures. They both point out that the EU's cooperation with international partners has grown in the past two years[587].

US-EU convergence in counterterrorism?

While the fight against terrorism initially divided the EU and the US, they cooperated more closely in the past years. However, as their relationship is an asymmetrical one, the EU tended to become a norm-taker instead

---

[582] Andreeva, "EU Counter-terrorism Policy after 2015", 198–199.

[583] Ibid., 202–203.

[584] Ibid., 202-203.

[585] Argomaniz, Bureš, Kaunert, "A Decade of EU Counter-Terrorism and Intelligence", 191–206.

[586] Cross, "Counter-terrorism in the EU's external relations", 609–613.

[587] Federica Mogherini and Sir Julian King. "Navigating the internal-external security nexus", *EU Security and Defence in a Volatile World*, *European Political Strategy Centre* (2017). Accessed August 24, 2020, https://medium.com/eu-security-and-defence-in-a-volatile-world/navigating-the-internal-external-security-nexus-1dced213f380.

of being a norm-maker, especially under political pressure following major terrorist attacks. Hence, during negotiations, it had to adopt US security norms, which did not coincide with European principles in matters of human rights and data protection[588]. This was the case for the Passenger Name Record (PNR) agreement, which the European Parliament initially vetoed because of concerns regarding data protection and human rights. The French President Hollande pressured for the PNR to be adopted, arguing that it is vital for tracking suspected terrorists[589], and the Brussels attacks in March 2016 further enhanced political pressure on the European Parliament resulting in the PNR Package being suddenly adopted within weeks, on the 21st of April 2016[590]. Moreover, EU member states also have accepted to collaborate with the CIA regarding the detention of suspected terrorists and thus engaged in or at least tolerated human rights violations. EU member states also risk following the US in setting dangerously legal precedents for their military actions abroad[591].

The EU is increasingly embracing the external dimension of counterterrorism and cooperates with the US in this area, despite its reluctance to support the US war approach after 9/11. The transatlantic divide, or transatlantic crisis, caused by the invasion of Iraq was a low-point in US-EU relations and made many experts worry about the future of the West. Thus, cooperation between the US and the EU is welcome and necessary for a successful fight against terrorism. The US and the EU have to pool their resources and exchange intelligence to prevent future terrorist attacks and radicalization of its youth.

However, the EU should be careful not to embrace a counterterrorism policy based mainly on military strikes. As mentioned earlier, the US approach

---

[588] MacKenzie, "The European Union's Increasing Role in Foreign Policy Counterterrorism'", 158; Javier Argomaniz, "When the EU is the 'Norm-taker': The Passenger Name Records Agreement and the EU's Internalization of US Border Security Norms", *Journal of European Integration* 31, no. 1 (January 2009): 119–136.

[589] Bogain, "Security in the name of human rights", 488.

[590] Andreeva, "EU Counter-terrorism Policy after 2015", 205; Cross, "Counter-terrorism in the EU's external relations".

[591] Dworkin, "Europe's New Counter-Terror Wars", 2.

and the related human rights violations led to a rise in terrorist recruits[592] and the French military strikes in Syria in 2015 led to "the first high-casualty attacks directly organised by ISIS in Europe"[593], i.e. the Paris attacks in November 2015 and the Brussels bombings in March 2016. Thus, a military approach can be counterproductive. It might even intensify existing tensions and cause more material damage and casualties among civilians than another approach might have done. Moreover, it does not target the root causes for terrorist attacks, which often lie in a lack of social inclusion and intercultural dialogue. Some European officials have not forgotten the dangers that lie in adopting a war paradigm. Despite the show of solidarity with France after the Paris attacks and the support for its military actions, European officials were uncomfortable with the martial rhetoric adopted by President Hollande[594]. German Vice Chancellor Sigmar Gabriel declared that "talking about war would constitute a first success for the Islamic State", Italian Prime Minister Matteo Renzi stated that "Italy wasn't at war.", and Prime Minister Mariano Rajoy of Spain explicitly rejected any reference to war in this context[595]. Accordingly, the Clingendael Netherlands Institute for International Relations warns that "[l]anguage matters and such statements [of President Hollande] are reminiscent of US President Bush's post-9/11 counterproductive approach, and could potentially open the door to disproportional responses, including violations of human rights and the principles of the rule of law. These statements also feed into the terrorists' own rhetoric and intent to draw France and others into the war paradigm. These dreadful terrorist attacks should be dealt with, in a sober manner, via, amongst other things, regular criminal law."[596]. As mentioned before, the EU has already become less reluctant to put human rights concerns aside in order to push the adoption of contested counterterrorism measures.

---

[592] Costi, "Complementary Approaches?", 179; MacKenzie, "The European Union's Increasing Role in Foreign Policy Counterterrorism'", 154; Roy, "The Global Counter-Terrorism Strategies", 26.

[593] Dworkin, "Europe's New Counter-Terror Wars", 5.

[594] Dworkin, "Europe's New Counter-Terror Wars", 5.

[595] Simond de Galbert. "After the Paris Attacks, France Turns to Europe in its Time of Need", Commentary, *Center for Strategic and International Studies* (2015). Accessed August 24, 2020, www.csis.org/analysis/after-paris-attacks-france-turns-europe-its-time-need.

[596] Chauzal, Colijn, van Ginkel, Paulussen and Zavagli, "Paris: 11/13/15", 2.

Nevertheless, France is not the only EU member state that has meanwhile engaged in or assists military operations against terrorists outside of its territory, even if these operations are not the only pillar of EU counterterrorism. "[T]hese operations mark a departure from the previous practice of EU member states, and European governments appear to have paid little attention to the risks they entail."[597]. Military actions might not help to achieve the goal of fighting terrorism and guarantee safety of EU citizens. On the contrary, after drone strikes by the UK in August 2015 and the extension of the French military campaign against terrorists in Syria in September 2015, Europe got hit by the first "high-casualty attacks directly organised by ISIS in Europe"[598], namely the Paris attacks of November 2015, the Brussels airport bombing and the explosion in Maelbeek metro station.

Considering the above, US and EU practices in using military forces have come closer together: While some EU member states have decided to fight terrorism not only with law enforcement instruments, but also by conducting military operations, the US included a greater counter-insurgent element into their military operations against terrorists[599]. According to Dworkin, "[t]here has been an unnoticed convergence in the military practice of European countries and the US."[600].

However, convergence does not mean duplication and duplication would not be possible as the US and the EU do not share the same institutional and operational set-up. The primary responsibility in counterterrorism policy still lies with the EU member states, even if the EU role in this policy area has increased in the past years. Besides, military strikes are not the major part of EU counterterrorism efforts. Thus, there certainly is a convergence of US and EU counterterrorism, at least in the military aspects of it, but differences remain and always will. Even if counterterrorism is growing into an important common policy area, it is unlikely that member states will ever hand over responsibility for their citizens' safety. Counterterrorism

---

[597] Dworkin, "Europe's New Counter-Terror Wars", 1–2.

[598] Ibid., 5.

[599] Ibid., 14.

[600] Ibid., 1.

continues to be a hybrid policy with shared competence between US and the EU, but it has clarified its mandates, introduced new instruments and defined their utilization and there is a high common threat perception within the EU[601].

Conclusion

War on terror has not made the world any safer. On the contrary, it was even counterproductive. Hence, it should not be taken as a role model to follow, not even for rhetorical purposes. As mentioned in this paper, words matter, especially in the area of international politics and terrorism, and political leaders should be aware of the implication of their choice of words. While the transatlantic divide in the aftermath of 9/11 was deplorable, it might have given the EU member states the opportunity to develop a common counterterrorism policy, which they would probably not have done, if they had simply followed the Bush administration's lead.

If it is true that law enforcement instruments are not enough to fight international terrorism, states should restrain from unnecessary or ineffective military operations. Military strikes should never be the first choice to react to terrorist attacks as the costs, risks and civil casualties might be much higher than estimated beforehand. While cooperation between the US and the EU is welcome, experts, policy makers and citizens should keep an eye on the convergence of their counterterrorism policies. Mistakes of the past should be avoided and blind obedience cannot be a condition for cooperation and mutual support. The US and the EU share a history and values and should be allies in the fight against terrorism. However, they are also different in some respects and operate out of a different institutional setting. Their differences in policy approaches should be complementing, not dividing each other.

I agree with Dworkin, who urges EU member states to show more consideration and restraint in military operations and to "help reinforce an

[601] Andreeva, "EU Counter-terrorism Policy after 2015", 210.

international order in line with the EU's interests and values"[602]. The same applies to the US, whose international status suffered from the "Global War on Terror". With Aronofsky's words, "The U.S. war on terror has created many casualties. Perhaps the greatest casualty of all is a loss of the core rule of law focus, which differentiated the U.S. from so many other countries on the global stage decades before this war began. In order to win it, the U.S. must regain its leadership in not only advocating, but practicing rule of law principles predicated on respect for, and protecting, basic individual rights."[603].

[602] Dworkin, "Europe's New Counter-Terror Wars", 1–2.

[603] David Aronofsky. "The War on Terror: Where We Have Been, Are, and Should Be Going", *Denver Journal of International Law & Policy* 40, no. 1, April 2020, 105.