Basic information

2010/2311(INI) INI - Own-initiative procedure	Procedure completed
EU counter-terrorism policy: main achievements and future challenges **Subject** 7.30.20 Action to combat terrorism	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	IN 'T VELD Sophia (ALDE)	27/09/2010

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	HANKISS Ágnes (PPE)	22/03/2011
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
TRAN Transport and Tourism	The committee decided not to give an opinion.	
JURI Legal Affairs	DE GRANDES PASCUAL Luis (PPE)	26/01/2011

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	3096	2011-06-09

European Commission

Commission DG	Commissioner
Migration and Home Affairs	MALMSTRÖM Cecilia

Key events

Date	Event	Reference	Summary
20/07/2010	Non-legislative basic document published	COM(2010)0386	Summary
16/12/2010	Committee referral announced in Parliament		
09/06/2011	Resolution/conclusions adopted by Council		Summary
12/07/2011	Vote in committee		Summary
20/07/2011	Committee report tabled for plenary	A7-0286/2011	
12/09/2011	Debate in Parliament		
13/09/2011	Results of vote in Parliament		
14/12/2011	Decision by Parliament	T7-0577/2011	Summary
14/12/2011	Results of vote in Parliament		
14/12/2011	End of procedure in Parliament		

Technical information

Procedure reference	2010/2311(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/04829

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE460.953	29/03/2011	
Committee opinion	JURI	PE460.613	13/04/2011	
Amendments tabled in committee		PE464.701	06/05/2011	
Committee opinion	AFET	PE462.602	27/05/2011	
Committee report tabled for plenary, single reading		A7-0286/2011	20/07/2011	
Text adopted by Parliament, single reading		T7-0577/2011	14/12/2011	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2010)0386	20/07/2010	Summary

Commission response to text adopted in plenary	SP(2012)162	13/03/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N7-0038/2011 OJ C 056 22.02.2011, p. 0002	24/11/2010	Summary

EU counter-terrorism policy: main achievements and future challenges

2010/2311(INI) - 20/07/2010 - Non-legislative basic document

PURPOSE: to define the outlines of the EU Counter-Terrorism Policy.

CONTENT: the 2005 EU Counter-Terrorism Strategy (Doc No 14469/4/05), which continues to be the main reference framework for EU action in this field, consists of four strands: prevention, protection, pursuit and response. This Communication follows that same structure. For each of the four strands some major achievements have been highlighted and future challenges identified.

The main purpose of the communication is to propose a series of actions with a view to **meeting future challenges in regard to counter-terrorism**. These actions may be summarised as follows:

1. Prevention: the main challenge under this strand is preventing radicalisation and recruitment leading to the willingness to commit terrorist offences. But prevention also includes dealing with the way terrorists use the internet – for communication, fund-raising, training, recruitment and propaganda. The Commission intends to:

- identify more accurately the most effective ways of combating radicalisation and recruitment by assessing the effectiveness of national policies that have been put in place and reliable indicators developed to provide data to assist with that assessment ;
- the launch **a Communication in 2011 which will look at the experience that has been gathered in countering radicalisation and recruitment linked to terrorism in the Member States**. This will provide the basis for reviewing and updating the existing EU Strategy and Action Plan;
- find and put in place the most effective approaches for dealing with use of the internet for terrorist purposes by supporting the efforts of the Member States' law enforcement authorities to deal with **illegal internet content** in this context. Public private partnerships will need to be enhanced as well.

2. Protection: protecting people and infrastructure is by far the broadest area of the strategy. It covers a wide range of activity, including EU-wide threat assessments, security of the supply chain, protecting critical infrastructure, transport security and border controls, as well as security research. The proposed actions are as follows:

- the revision of the Directive on Critical Infrastructure to assess its impact and the need to include other sectors, e.g. the ICT sector;
- the revision of the action plan on the security of explosives;
- **the enhancement of transport security, notably through deployment of new technologies to defeat the efforts by terrorists to escape detection** (e.g. by using liquid explosives or non-metallic materials). While respecting fundamental rights, there is a need to ensure the security of passengers;
- the taking forward of the issue of standardisation and certification of security solutions (e.g. detection technology), as part of efforts to develop a European industrial security policy. An EU-wide process for testing and trialling security solutions, as well as a system of mutual recognition of certification results, should be put in place;
- strengthen the links between public sector users - including law enforcement practitioners - the research community, and technology providers and industry in order to ensure an effective security research policy and, by doing so, contribute to a high level of security.

3. Pursuit: this strand covers issues such as information gathering and analysis, impeding terrorists' movements and activities, police and judicial cooperation, and combating terrorist financing. The Commission's main proposals are the following:

- the evaluation of existing instruments so as to allow Member States' authorities to exchange the information necessary to prevent and combat terrorist offences while ensuring full respect for the right to privacy and data protection rules;
- the **determination of the right way to establish a European policy for the use of passenger name records** (PNR) data to combat terrorism and organised crime;
- the creation of a framework for the adoption of administrative measures, such as the freezing of funds or financial assets belonging to, or owned by, natural or legal persons, groups or non-State entities, on the basis of Article 75 of the Treaty on the Functioning of the EU;
- the adoption of EU legislation on investigation techniques which are particularly relevant for investigating and preventing terrorist crimes. This issue may be tackled by way of a legislative proposal for a comprehensive regime on obtaining evidence in criminal matters based on the **principle of mutual recognition and covering all types of evidence**, which the Commission will prepare in 2011;
- the joint establishment of a methodology based on common parameters for analysing threats at European level.

4. Response: this strand brings together issues such as civilian response capacity to deal with the aftermath of a terrorist attack, early warning systems, crisis management in general and assistance to victims of terrorism. The Commission proposes:

- the evaluation of EU civil protection policy;
- the evaluation of ways of reinforcing coordination and cooperation to facilitate consular protection, notably during crises;
- strengthening the EU's role in crisis and disaster management, in particular by developing the EU rapid response **capacity based on existing instruments for humanitarian aid and civil protection**;
- giving priority to the implementation of the CBRN Action Plan;
- considering the introduction of a legislative proposal to provide **a comprehensive instrument on the protection of victims, including victims of terrorism**, in 2011;
- ensuring that the implementing arrangements of the new solidarity clause, introduced in the Treaty on the Functioning of the European Union (Article 222), are established quickly.

A number of horizontal issues are also dealt with, including respect for fundamental rights, cooperation with external partners in the field of combating terrorism, and **funding of this policy**. On this last aspect, the Commission recalls that most of this policy was covered by the programme Security and Safeguarding Liberties, which includes the specific programme for prevention, preparedness and consequence management of terrorism and other security-related risks and the programme for prevention of and fight against crime (for the period 2007-2013, a total amount of EUR 745 million has been made available). The Commission will make proposals on funding for the post-2013 period in the context of the next multi-annual financial framework and will consider the feasibility of **setting up an Internal Security Fund**.

In conclusion, the Commission notes that the Counter-Terrorism Strategy of 2005 has proved its worth in bringing together and encouraging the implementation of a broad array of actions and instruments which have contributed significantly to combating terrorism at the EU level. The new institutional framework offers the Union an unprecedented opportunity to better interlink its different counter terrorism instruments, as well as the internal and external dimension. A study to make a more detailed evaluation of the current policies and priorities is needed in order to support all key players at EU level – Council, Parliament, Commission – **with a common vision and understanding of the future priorities in the counter-terrorism field.**

EU counter-terrorism policy: main achievements and future challenges

2010/2311(INI) - 09/06/2011

The Council discussed and welcomed the latest discussion paper on the implementation of the EU Counter-terrorism Strategy, presented by the EU Counter-terrorism Coordinator (see Council document *10622/1/11*).

In his discussion paper on the EU Counter-terrorism Strategy, the EU Counter-terrorism Coordinator analyses the consequences for the fight against terrorism of Osama Bin Laden's death, and the counter-narrative against Al Qaeda's ideology. He also looks at the risks and opportunities deriving from the recent developments in North Africa and the continuous challenges the international community faces in Pakistan.

The paper then focuses on a number of key challenges in relation to the following issues:

- prevention - developing a vision and countering the terrorist narrative;
- transport security (including land transport such as high-speed trains);
- security related research and an industrial policy for the security industry; and
- the strategy on chemical, biological, radiological and nuclear security (CBRN).

EU counter-terrorism policy: main achievements and future challenges

2010/2311(INI) - 24/11/2010 - Document attached to the procedure

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR (EDPS).

The EDPS recalls that by building on the structure of the 2005 EU Counter- Terrorism Strategy, the Communication first analyzes the four major strands of EU Counter-Terrorism Policy: prevent, protect, pursue and respond.

The areas of ‘prevention’ and ‘protection’ are the most delicate ones from a data protection perspective, for various reasons:

(1) these areas are by definition based on prospective risk assessments, which in most cases trigger a broad and ‘preventive’ processing of vast amounts of personal information on non-suspected citizens (such as, for example, internet screening, e-borders and security scanners);

(2) the Communication envisages increasing partnerships between law enforcement authorities and private companies (such as internet service providers, financial institutions and transportation companies) with a view to exchange relevant information and sometimes to ‘delegate’ to them certain parts of law enforcement tasks. This entails an increased use of personal data, collected by private companies for commercial purposes, for the use by public authorities for law enforcement purposes;

(3) ‘preventive’ use of personal data is more likely to lead to discrimination. The preventive analysis of information would entail the collection and processing of personal data relating to broad categories of individuals (for example, all passengers, all internet users) irrespective of any specific suspicion about them. The analysis of these data — especially if coupled with data-mining techniques — may result in innocent people being flagged as suspects only because their profile (age, sex, religion, etc.) and/or patterns (for example, in travelling, in using internet, etc) match those of people connected with terrorism or suspected to be connected.

The EDPS welcomes the attention that the Communication pays to fundamental rights and data protection, and recommends further concrete improvements in the area of counter-terrorism policy.

The EDPS recommends supporting with concrete initiatives the respect of **fundamental rights** in this area, and in particular of the right to the protection of personal data. It also supports the approach that systematic policy making in this area should be preferred to incident-driven policy-making. In this perspective, it recommends the EU institutions to ensure that policies and initiatives in the area of home affairs and internal security are **designed and implemented in a way which will ensure a consistent approach** and clear links between them, providing for appropriate and positive synergies, and avoiding duplication of work and efforts.

Against this background, EDPS recommends the EU legislator to step up the role of data protection, by committing to specific actions (and deadlines), such as:

- assessing the effectiveness of existing measures while considering their impact on privacy is crucial and should vest an important role in European Union's action in this area.
- when envisaging new measures, considering possible **overlapping with already existing instruments**, taking into account their effectiveness, and limiting the collection and exchange of personal data to what is really necessary for the purposes pursued;
- proposing the establishment of a data protection framework applicable also to the **Common Foreign and Security Policy**;
- proposing a comprehensive and global approach to ensuring, in the area of (**asset-freezing**) restrictive measures, both the effectiveness of the law enforcement action and the respect for fundamental rights, on the basis of Article 75 TFEU;
- putting **data protection** at the heart of the debate of the measures in this area, by ensuring for example that Privacy and Data Protection Impact Assessments are carried out and competent data protection authorities are timely consulted when relevant proposals in this area are put forward;
- ensuring that data protection expertise is fed into the security research at a very early stage, so as to guide policy options and to ensure that privacy is embedded to the fullest possible extent in **new security-oriented technologies**;
- ensuring adequate safeguards when personal data are processed in the context of **international cooperation**, while promoting the development and implementation of data protection principles by third countries and international organisations.

EU counter-terrorism policy: main achievements and future challenges

2010/2311(INI) - 14/12/2011 - Text adopted by Parliament, single reading

The European Parliament adopted by 307 votes to 259 with 54 abstentions, a resolution on the EU Counter-Terrorism Policy: main achievements and future challenges. The resolution adopted in plenary was tabled by the ALDE, S&D et Greens/EFA groups and replaced the draft resolution prepared on the basis of the report by Sophia IN 'T VELD (ADLE, NL).

Parliament recalls that after the attacks of 11 September 2001 the first decade of the 21st century has been marked by the ‘War on Terrorism’, especially with regard to the U.S. approach. Since then, severe terrorist attacks on EU soil, including the 2004 terrorist attacks in Madrid and the 2005 attacks in London, have had a significant impact on the sense of common security among EU citizens. The Europol 2011 EU Terrorism Situation and Trend Report (TE-SAT 2011) indicates that the threat of terrorist attacks in the EU remains serious, even though there is a decreasing trend of terrorist attacks claimed or attributed to separatist terrorist organisations as compared with 2006.

The resolution also stresses that terrorism has taken new forms such as cyber–terrorism, and terrorist networks have become more complex in structure, means and financing, making terrorism a matter affecting the security of the whole EU and not just the national security of Member States.

Accordingly, **a common EU approach** is needed since terrorists make use of European diversity in laws and anti-terrorism capabilities and the abolition of border controls when committing their acts.

General considerations: whilst welcoming the Commission Communication, Parliament regrets that its **scope is rather narrow**, is limited to the implementation of agreed policy measures and does not cover national counter-terrorism policies or national measures that transpose policies agreed at European or international level. Parliament stresses the importance of a **consistent approach on terrorism** and organised crime. Furthermore, the Communication does not give a clear idea how the measures interact and where there are overlaps or gaps since European, national and international measures are complementary.

Parliament feels that assessing individual measures **does not provide a complete picture of the impact of counter-terrorism policies in Europe.** It emphasises the need for the European Union, its Member States and its partner countries to base their **strategy for combating international terrorism** on the rule of law and respect for fundamental rights, aiming for prevention, and the promotion of dialogue, tolerance and understanding among different cultures, civilisations and religions.

Members recall that counter-terrorism policies should meet the standards set with regard to necessity, effectiveness, proportionality, civil liberties, the rule of law and democratic scrutiny and accountability, giving priority to respecting the rights enshrined in the Charter of Fundamental Rights.

Parliament highlights the most effective measures to fight against terrorism, including the following:

- restrictive measures to seize, confiscate or freeze assets and funds linked to natural or legal persons and organisations,
- prevention, tracking and prosecution of terrorist activities based not on emergency norms but on a coherent, necessity-founded strategy, and avoiding duplication of measures;
- deepen and develop the four main strands of the counter-terrorism strategy – prevent, protect, pursue and respond;
- the reinforcement of judicial and police cooperation at EU level, coupled with full parliamentary scrutiny
- training and awareness-raising among judicial and police authorities.

Parliament invites the Commission to **fully assess the set of counter-terrorism policies and measures adopted** and focus on future challenges. The Commission is also asked to consider the need for uniform standards for obtaining evidence and conducting investigations, full implementation of joint investigation teams, a stronger EU framework for judicial and police training, and proper inclusion and integration policies. Counter-terrorism measures must be commensurate with the threat level and that they must be adjusted in response to both an increase and a decrease in threat level.

Parliament also recalls the important contribution of many NGOs and civil society, often co-financed by the EU and its Member States, towards socio-economic development, peace building, nation building and democratisation, all essential in countering radicalisation and recruitment, which are the most significant and continuous long-term threats.

Comprehensive strategy: Parliament calls for the creation of a comprehensive strategy on the interconnection between international organised crime, drug trafficking and terrorism, and encourages **continuous analysis** of new trends and traits in diversification, radicalisation and recruitment, and those related to the role of international non-governmental organisations in terrorism financing. It calls on the Commission and the Member States to prevent the rise of extremism by investment in anti-racism policies and develop strategic partnerships with countries outside Europe including the US.

Underlining that counter-terrorism is an integral part of the Union's relations with third countries, it asks for an **increase in the funding of counter-terrorism assistance measures in the next Instrument for Stability** in order to prevent state failure and agrees, in this respect, with the **priority areas being South Asia,** in particular Pakistan and Afghanistan, the Sahel region (Mauretania, Mali, Niger), Somalia and Yemen. It also insists on the importance of defining a uniform set of standards for the specific support of victims of terrorism.

Evaluation and mapping exercise: Parliament stresses that a proper evaluation of ten years of counter-terrorism policies should focus on examining whether the measures taken to prevent and combat terrorism in the EU have been evidence-based (and not based on assumptions), and part of a comprehensive EU counter-terrorism strategy, based on an **in-depth and complete appraisal**, to be carried out in line with Article 70 of the TFEU. The Commission should report back to a Joint Parliamentary Meeting of the European Parliament and national parliamentary committees.

Parliament also advocates a holistic and comprehensive approach to counter-terrorism policy in the form of alignment of the European Security Strategy and the Internal Security Strategy and a strengthening of existing coordination mechanisms between Justice and Home Affairs Council structures, agencies and the European External Action Service. It stresses that good intelligence is crucial and that the EU is uniquely well placed to facilitate **intelligence-sharing among Member States** provided there is a proper legal base for such cooperation.

Members call on the Commission to produce a full evaluation, including at least the following items:

- a clear analysis of the response to the terrorist threat, based on the definition laid down in Council Framework Decision 2002/475/JHA on combating terrorism, as well as of the framework of counter-terrorism measures to address this threat in terms of effectiveness, gaps in security, prevention, prosecution and increased security in Europe, including the effectiveness of the EU agencies and the proportionality thereof;
- facts, figures and trends relating to terrorist activity and counter-terrorism activity;
- a full overview of the accumulated impact of counter-terrorism measures on civil liberties and fundamental rights, measures by third countries with a direct impact in the EU and all measures taken in this field in connection with external relations, as well as the case law of the ECHR, the European Court of Justice and national courts.

The Commission is also asked to:

- draw up a complete and detailed map of all existing counter-terrorism policies in Europe;
- carry out a comprehensive evaluation on national counter-terrorism policies, with a particular focus on interaction with EU policies, overlap and gaps;
- produce a **full and detailed report on all resources spent by the EU, the EU Member States and private companies on measures with counter-terrorism objectives,** directly or indirectly, including those measures specifically aimed at counter-terrorism activities, at IT counter-terrorism related staff, systems and databases, at the protection of fundamental rights and data protection, democracy and the rule of law, at funding counter-terrorism related research, and on the development of the relevant EU budget lines since 2001;
- ascertain whether counter-terrorism measures are being implemented properly and to report regularly to the Parliament and the Council on its findings;
- carry out a study into the costs of counter-terrorism policies borne by the private sector, as well as an overview of sectors benefiting from counter-terrorism policies.

Democratic scrutiny and accountability: Parliament calls on the Commission to carry out a study to establish if counter-terrorism policies are subject to **effective democratic scrutiny**, including a detailed assessment establishing if either national parliaments or the European Parliament had full rights and the means of scrutiny.

Parliament also stresses that the **proportionality principle** must be taken into account and the **fundamental rights of citizens** be observed. It looks forward to the conclusions of the Parliament Committee follow-up report on alleged transportation and illegal detention of prisoners in European countries by the CIA, and stresses that the EU must help the U.S. in finding appropriate solutions to the issues of **closing Guantánamo.**

In this context, Parliament urges the Council and the Commission, when revising the blacklisting and asset-freezing measures, to consider particularly the position of NGOs and civil society so as to ensure that NGOs are not listed ‘by association’ and that they are not unduly hampered in working with their partner organisations.

Parliament is aware of the Commission appeal against the General Court judgment in the latest case of Kadi v. Commission and calls on all actors to carry out a thorough revision of the sanctions regime and ensure it is fully in line with international human rights standards and the rule of law. It takes the view that those targeted by sanctions should be given the information that substantiates their targeting and be **entitled to effective judicial remedy.**

Monitoring and profiling: Parliament urges the Commission to conduct a compulsory proportionality test and a full impact assessment for each proposal involving the large-scale collection of personal data, detection and identification technologies, tracking and tracing, data mining and profiling, risk assessment and behavioural analysis or similar techniques. It underlines the fact that the **collection of data should only be allowed in accordance with the principle of necessity**, and calls on the European Data Protection Supervisor and the Fundamental Rights Agency to report on the level of protection of fundamental rights and personal data in the field of EU Counter-Terrorism Policy.

Members also suggest the following measures:

- clarifying fully the division of labour between the Counter-Terrorism Coordinator and the High Representative;
- launching proposals for strengthening the protection of civil liberties, transparency and democratic scrutiny in the context of counter-terrorism policies, such as improving access to documents by **creating an EU Freedom of Information Act**;
- amendments to the Council Framework Decision 2002/475/JHA on combating terrorism, with a view to raising the standard of protection of human rights and fundamental freedoms, inter alia by updating the definition of terrorist offences;
- a **uniform legal definition of the concept of 'profiling'**;
- a proposal for a legislative framework for data protection, including the Common Foreign Security Policy, on the basis of Article 16 of the TFEU.