

EU counter-terrorism policy: main achievements and future challenges

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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 cyberterrorism, 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.