

The role of the European Council in internal security policy

INTRODUCTION

The numerous terrorist attacks across Europe in recent years, together with the growing concerns of EU citizens, have resulted in the European Council paying an increased level of attention to the issue of internal security. This briefing outlines the Treaty-based role of the European Council, and shows that, on several occasions, in keeping with its institutional role, the European Council has set the strategic framework for internal security and for the area of justice and home affairs (JHA) in general. However, European Council activities have often been a reaction to specific crisis moments – first and foremost, to terrorist attacks in the EU. The analysis looks at the extent of correlation between the European Council’s activities in this area and the evolving views of EU citizens, assessing the frequency, focus and nature of European Council discussions on internal.

The paper also outlines the results of the informal European Council meeting of 20 September 2018 in Salzburg. It focuses on the results of the meeting related to internal security, which was to be the only topic, as set out in the Leaders’ Agenda. However, as the agenda of the meeting was later broadened to include migration, the briefing also addresses the growing linkages and overlaps between internal security and migration in the European Council.

1. Role of the European Council in internal security

Article 3 TEU states that ‘the Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.’ However, the term ‘internal security’ is not specifically referred to in this article, nor defined in the Treaties, but is mentioned with regard to setting up a Council committee to ‘ensure that operational cooperation on internal security is promoted and strengthened within the Union’ (Article 72 TFEU).

Despite this, the [Internal Security Strategy](#) 2010-2014, which was endorsed by the European Council, outlined the main challenges for the internal security of the EU as ‘terrorism, in any form; serious and organised crime; cybercrime; cross-border crime; violence itself; natural and man-made disasters; and others including road traffic accidents’. Moreover the strategy provided the following definition of internal security:

‘The concept of internal security must be understood as a wide and comprehensive concept which straddles multiple sectors in order to address these major threats and others which have a direct impact on the lives, safety and well-being of citizens, including natural and man-made disasters such as forest fires, earthquakes, floods and storms.’

Source: Internal Security Strategy 2010-2014.

All policy issues encompassed by the concept of internal security are part of the area of freedom, security and justice.¹ Together with the Common Foreign and Security Policy (CFSP), this is the policy field in which the European Council is most often mentioned in the Treaties, and its policy-making role is most frequently recognised (see Table 1).

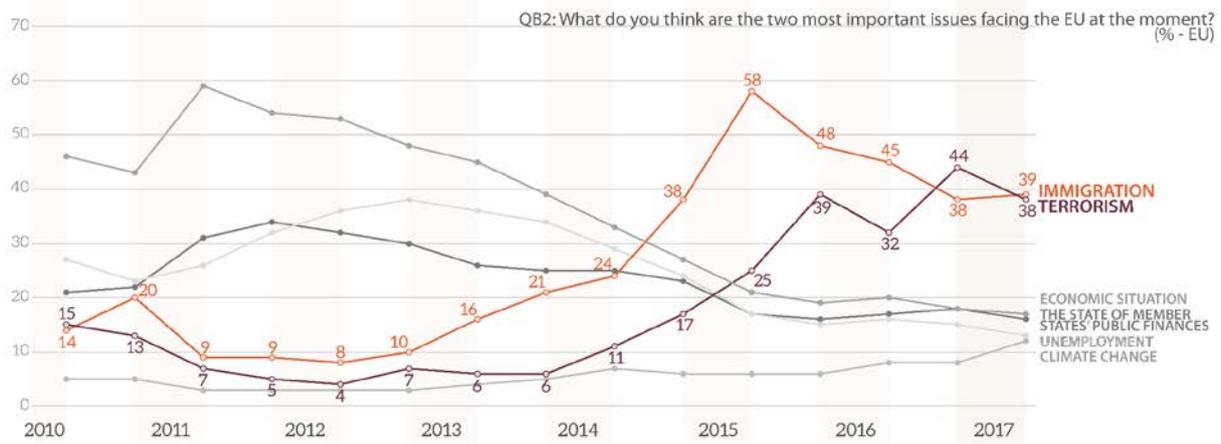
Table 1: Treaty articles on the role of the European Council in the area of freedom, security and justice

Treaty article	Topic	Action /role
68 TFEU	Area of freedom, security and justice	Define the strategic guidelines for legislative and operational planning.
82(3) TFEU	Criminal justice system	Refer a draft directive to the European Council to be decided by consensus.
86(1) TFEU	European Public Prosecutor's Office	Refer a draft directive for establishing the EPPO to the European Council to be decided by consensus.
86(4) TFEU	European Public Prosecutor's Office	Adopt a decision to extend the powers of the EPPO to include serious crime having a cross-border dimension.
87(3) TFEU	Police cooperation	Refer a draft directive to the European Council to be decided by consensus.
222 TFEU	Solidarity clause if a Member State is the object of a terrorist attack or other disaster	The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.

Article 68 TFEU, in particular, gives the European Council an important role in the area of freedom, security and justice, as it is to define the strategic guidelines for legislative and operational planning within this area. In pursuit of this strategic role, the European Council [defined](#), at its meeting of 26-27 June 2014, the 'strategic guidelines for legislative and operational planning' within the area of freedom, security and justice for the coming years. In order to achieve one of the EU's key objectives, namely to build an area of freedom, security and justice without internal frontiers, policy measures should focus on: asylum, immigration, borders, and police and judicial cooperation. At the same meeting, Heads of State or Government also agreed on the strategic agenda of key priorities for the next five years, entitled the 'strategic agenda for the union in times of change'. Regarding the [area of freedom, security and justice](#) they set the following priorities: 'to better manage migration in all aspects; prevent and combat crime and terrorism; [and] improve judicial cooperation among EU countries'. According to the schedule set out in the Leaders' Agenda, the next strategic agenda for 2019-2024 is [expected](#) to be adopted at the European Council meeting on 20 and 21 June 2019.

2. Internal security: A major concern for EU citizens

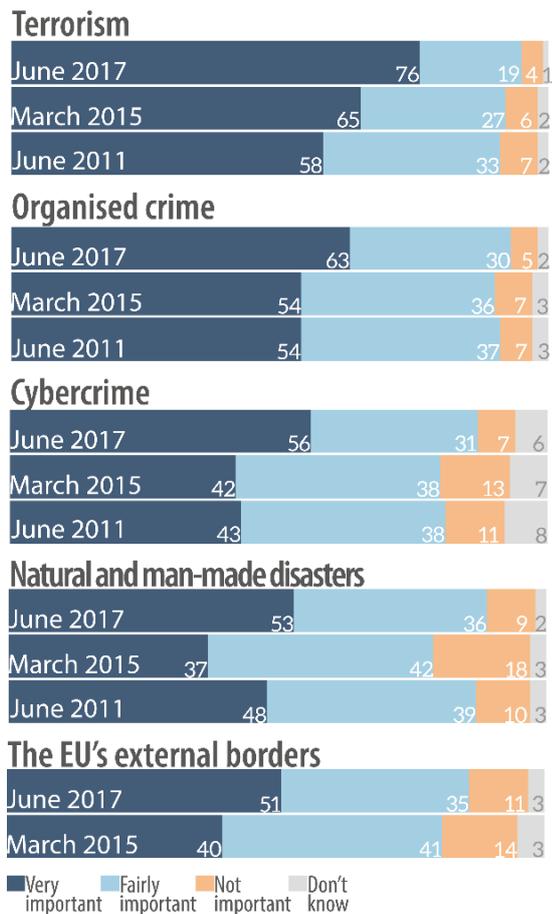
Graph 1: Main concerns for European citizens



Data source: [Eurobarometer 89](#), 2018.

Figure 1: Europeans' attitudes towards security

QB2: In your opinion, how important are the following challenges to the internal security of the EU? (% - EU)



Data source: [Special Eurobarometer 464b](#), 2017.

Over recent years, internal security, and in particular terrorism, has become a central concern for European citizens. The most recent standard [Eurobarometer](#) (from June 2018) shows that terrorism is still one of the two highest concerns for European citizens, with the leading concern being migration. Both topics have been listed continuously as the main concerns for EU citizens since 2015. However, both concerns have fallen from their respective peaks in late 2015 for migration (at 58 %) and in early 2017 for terrorism (at 44 %); at that moment, terrorism was briefly the number one concern for European citizens.

A [special Eurobarometer](#) entitled 'Europeans' attitudes towards security', published in December 2017, shows that 'a large majority of respondents regard terrorism, organised crime and cybercrime as key challenges to the EU security'.

It also shows that these specific security challenges have consistently either remained of high importance to EU citizens from 2011 through to 2015, or even increased.

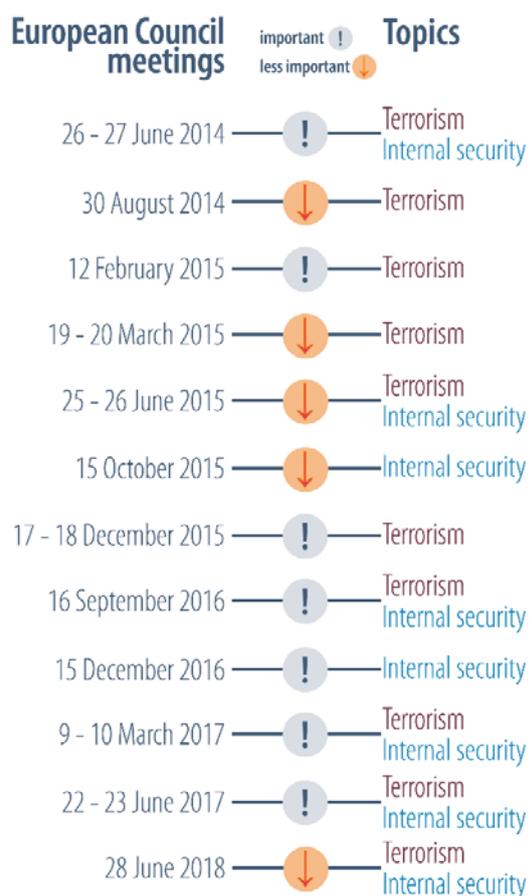
3. Terrorism dominating European Council discussions

When analysing the European Council's discussions on internal security, the following elements need to be taken into account: the principal aspects of internal security discussed by Heads of State or Government, the frequency with which internal security was addressed at European Council meetings, the detailed policy issues discussed; and the nature of the European Council's involvement in this policy area.

As seen above, the comprehensive concept of internal security includes numerous aspects going beyond the fight against terrorism. Nevertheless, terrorism has had a very prominent place in the European Council's discussions on internal security. Moreover, in European Council conclusions, the two terms have been used interchangeably as section headings referring to the same set of policy instruments, while in other cases both terms are used together. Figure 2 shows that 'terrorism' has been referred to slightly more frequently in European Council conclusions in recent years than has the term 'internal security'. While on many occasions both terrorism and internal security were mentioned, at other meetings only one of the two was referred to directly.

When looking at the frequency of the inclusion of internal security and/or terrorism on the European Council's agenda, one can observe that they were mentioned in the conclusions or statements following 11 of the 20 meetings of EU Heads of State or Government between June 2014 and June 2017. At seven of these meetings, internal security and/or terrorism had a prominent place in the

Figure 2 European Council (conclusions) mentioning terrorism and/or internal security June 2014 - June 2018

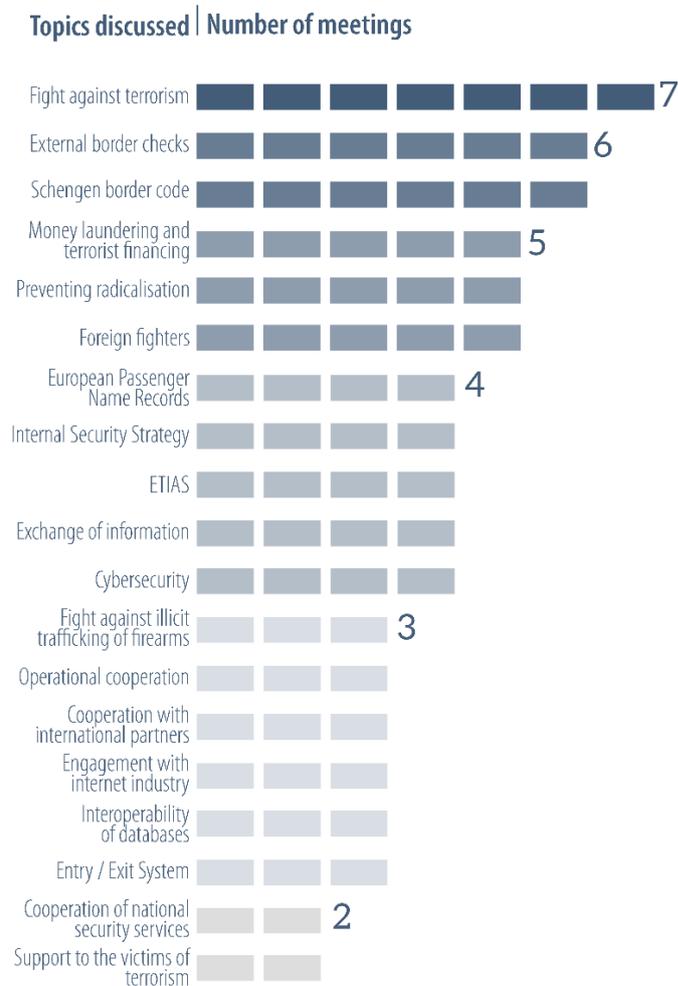


Source: EPRS, 2018.

discussions. This shows that, whilst not being on the agenda as frequently as migration, terrorism was nonetheless a regular issue during this period. In contrast, in the period since June 2017, internal security was mentioned only once, in the European Council conclusions of June 2018, and even there only rather briefly.² This would suggest a decline in attention devoted to this policy area by the European Council, which does not reflect the importance EU citizens gave to the issue at the time. As seen above, terrorism continued to be the second highest concern for EU citizens, although it had already reached and passed its peak. One explanation is that, since the strategic framework was set in the knowledge that they would discuss the topic in September 2018, following the Leaders' Agenda, Heads of State or Government concentrated on other (more) urgent issues such as migration, EMU and defence. Although internal security and terrorism were mentioned less often in European Council conclusions between July 2017 and August 2018, concerns about these issues have persisted in many Member States, and national debates on migration even increased in some countries.

When examining the detailed policy initiatives discussed by the European Council in the area of internal security since June 2014, one sees that the topic most often mentioned in the conclusions is the fight against terrorism in general (mentioned seven times), followed by sub-topics such as money laundering and terrorism financing, external border checks, preventing radicalisation and foreign fighters (each mentioned five times) (see Figure 3).

Figure 3: Overview of the specific issues related to internal security discussed by the European Council

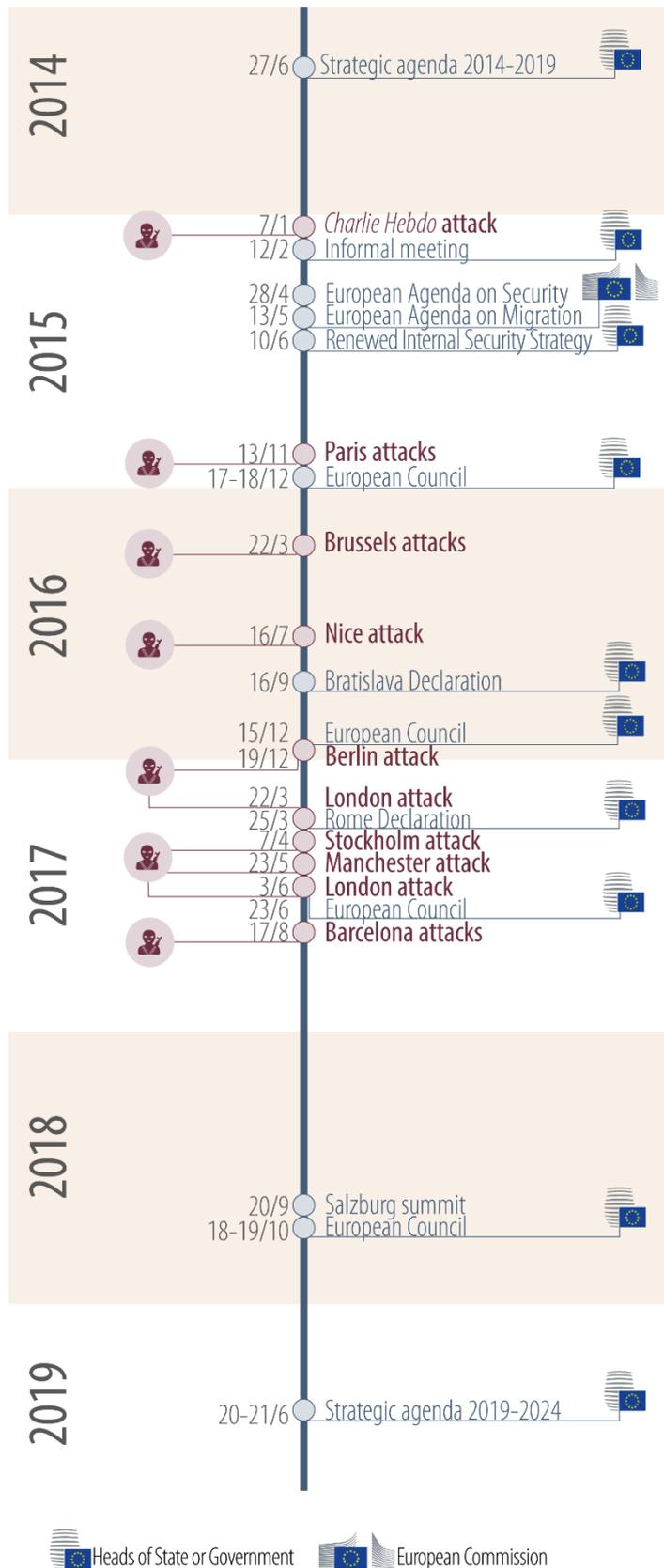


Source: EPRS, 2018.

The analysis also shows that about half of these policy issues, including for example foreign fighters, cybersecurity, European passenger name records (PNR) and external border checks, were already covered by the European Council's 2014 strategic guidelines for justice and home affairs, while the other half, including for example engagement with the internet industry, the European Travel Information and Authorisation System (ETIAS), the fight against illicit trafficking of firearms and support to the victims of terrorism, have gained in prominence since then.

This overview of how frequently specific policy issues are discussed by Heads of State or Government provides useful evidence for determining the role of the European Council in this policy area. As outlined above, the European Council followed its Treaty role and [defined](#), in June 2014, the 'strategic guidelines for legislative and operational planning' within the area of freedom, security and justice for the coming years.

Figure 4: Development of EU policy on internal security in the context of terrorist attacks



Source: EPRS, 2018.

Having set out these guidelines, the European Council then took a more reactive approach, getting involved only as the situation required. As indicated in Figure 4, EU Heads of State or Governments' attention to internal security and/or terrorism mainly increased following major terrorist attacks in Europe. Then, the European Council either held an extraordinary meeting on the topic or devoted significant time to the issue at a previously planned meeting. After the *Charlie Hebdo* attacks, for example, after which millions of people had [expressed](#) their solidarity with the victims (through the 'Je suis Charlie' movement), an informal European Council meeting was held on 12 February 2015. At that meeting, Heads of State or Government adopted a [statement on anti-terrorism measures](#), vowing to take stronger measures against terrorist threats in the coming months. An example of the latter approach was the meeting of 17 and 18 December 2015, for which the [annotated draft agenda](#) did not include this issue, but was amended following the terrorist attacks in Paris in November 2015, becoming one of the main agenda points.

The analysis confirms the general role of the European Council in most policy areas, which is to set the wider strategic framework, while the operational and legislative details are left to the other relevant EU institutions. However, EU Heads of State or Government also get involved at a strategic level at certain 'crisis' moments. As previously pointed out (see EPRS [The European Council in 2016](#)), the deliberations of Heads of State or Government at European Council meetings can take shape in three ways, often

following the same sequence. EU leaders usually start by, 1) setting strategic priorities and calling for a specific action or proposal (legislative or non-legislative); they then 2) discuss and/or endorse an action or proposal; and later 3) comment on the adoption or implementation of this action or proposal, or refer to a previous decision (see Figure 5).

Figure 5: General sequence of deliberations in the European Council



Source: EPRS, 2018.

4. Informal European Council meeting of 20 September 2018

On 1 July 2018, Austria took over the rotating presidency of the Council of the EU, its [slogan](#) being ‘a union that protects’, with the first of its three main priorities being ‘security and the fight against illegal migration’. As part of Austrian Presidency events, an informal European Council took place on 20 September 2018 in Salzburg, Austria. The meeting was included in the European Council’s [Leaders’ Agenda](#), which was endorsed by the [European Council of 19 and 20 October 2017](#).

Figure 6: Main topics of informal meetings of EU Heads of State or Government hosted by the Council Presidency



Source: EPRS, 2018.

Originally, the informal European Council meeting was intended to take place in Vienna, and only to cover internal security. However following the change of government in Austria – now a coalition composed of the Austrian People’s Party (ÖVP) and the Freedom Party of Austria (FPÖ) – the location was changed, and a discussion on migration was added to the agenda. As early as the beginning of June 2018, when talking about the need to resolve the migration question, the Austrian Chancellor, Sebastian Kurz, [indicated](#) that the EU ‘will concentrate on this issue ... with the aim of taking another step towards protecting the EU’s external frontiers’.

Analysts³ have made the case that the rotating EU Council presidency has regained importance: since the [informal summit of 27 EU Member States’ leaders in Bratislava](#), several informal meetings of EU Heads of State or Government have taken place in the country holding the presidency, rather than in Brussels. These meetings have generally been closely related to the priorities of the Council Presidency, as was the case with the informal dinner in the margins of the Digital Summit under the Estonian Presidency, and with the EU-Western Balkans Summit during the Bulgarian Presidency (see Figure 6).

The addition of migration to the informal summit agenda exemplifies how a Council presidency can place one of its priorities on the agenda. In his [speech](#) before the European Parliament on 3 July 2018, Sebastian Kurz had stressed the need for a 'paradigm change' in migration, focusing more on the protection of the EU's external borders. Prior to the meeting in Salzburg, the Austrian Presidency organised a [conference](#) of home affairs ministers of EU Member States and third countries, with a joint focus on security and migration. Furthermore, recent developments shifted the focus of the summit even more towards migration, leading the President of the European Council, Donald Tusk, to dedicate half of his [invitation letter](#) to migration and only a quarter to internal security. The same proportions could be seen in his presentation of the results of the summit.

The discussions on internal security at the informal European Council were based on a Leaders' Agenda [note](#) from President Tusk and concentrated on police and judicial cooperation, border security, cybersecurity and crisis-response capabilities. According to President Tusk, Heads of State or Government [agreed](#) to prioritise the Commission's [proposal](#) for a strengthened European Border and Coast Guard, even though further discussions regarding issues of sovereignty and the size of Frontex are required. They also agreed to step up the fight against all forms of cybercrime, manipulation and disinformation and speed up work on the [Civil Protection Mechanism](#).

When presenting the Leaders' Agenda in October 2017, Donald Tusk [listed](#) internal security as one of the most contentious topics (the others were migration, trade, euro-area reform and the future financing of the European Union). Under the new Leader's Agenda method, contentious topics would be discussed informally in a new European Council format (the 'Leaders' meeting'), which would not result in any decisions or formal conclusions. The idea was to clear the air within the European Council and provide a possible pathway for agreement to be reached at a future, regular European Council meeting (see EPRS [From Rome to Sibiu](#)). Consequently, the results of the informal meeting of Heads of State or Government would form the basis of more detailed conclusions to be adopted at the formal European Council meeting on 18 and 19 October 2018. President Tusk also indicated that other, more long-term issues, will be added to the new Strategic Agenda for the Union, to be adopted in June 2019.

5. EU external border protection: The intersection between internal security and migration policy

Both migration policy and security policy are independent parts of the wider field of justice and home affairs, as defined by the Treaties.⁴ In the past, discussions by Heads of State or Government have clearly distinguished between them, for example in the [Bratislava Declaration and Roadmap](#), where one of the three priorities was internal security and another was migration and external borders.

Internal security

Objective

- Do everything necessary to support Member States in ensuring internal security and fighting terrorism

Source: Bratislava Declaration and Roadmap.

Migration and external borders

Objective

- Never to allow [a] return to [the] uncontrolled flows of [2015] and further bring down number[s] of irregular migrants
- Ensure full control of our external borders and get back to Schengen
- Broaden EU consensus on long term migration policy and apply the principles of responsibility and solidarity

A number of key strategic documents addressing migration, internal security or both have been adopted since 2014 (see Figure 7). Even those documents which addressed both, such as the European Council's strategic guidelines in the area of freedom, security and justice, distinguished clearly between the two.

The definition of internal security contained in the Internal Security Strategy 2010-2014 (see above) does not make any reference to migration. In the renewed EU Internal Security Strategy 2015-2020, the word migration is used only once, when referring to the European Agenda on Migration. The Rome Declaration adopted on 25 March 2017, on the occasion of the 60th anniversary of the Treaty of Rome, was the first European Council document in which migration and internal security were used as part of a common priority.

Figure 7: Key strategic documents regarding migration and/or internal security since June 2014

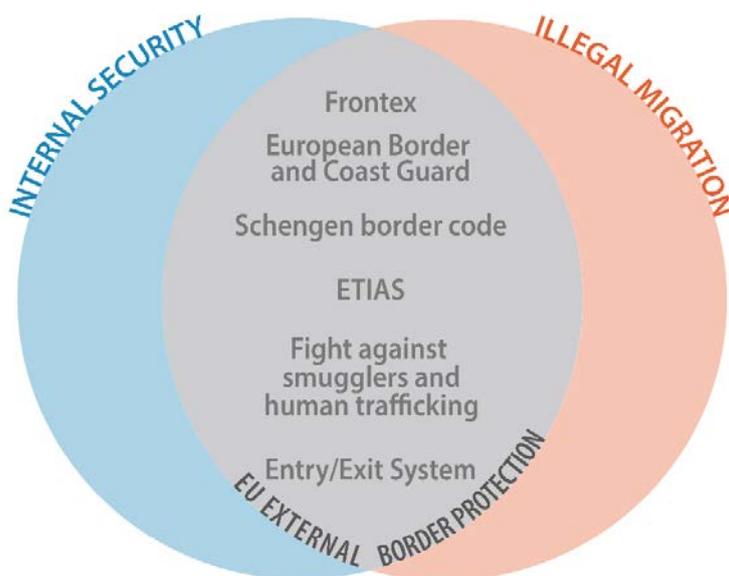


Source: EPRS, 2018.

'A safe and secure Europe: a Union where all citizens feel safe and can move freely, where our external borders are secured, with an efficient, responsible and sustainable migration policy, respecting international norms; a Europe determined to fight terrorism and organised crime.'

Source: Rome Declaration.

Figure 8: Intersection between internal security and illegal migration



Source: EPRS, 2018.

Arguably, this was done more with the aim of having an additional fourth priority on social and economic issues as part of the Rome Declaration rather than because migration and internal security necessarily belong together. However, one can already see external border protection becoming the link between the two policy areas.

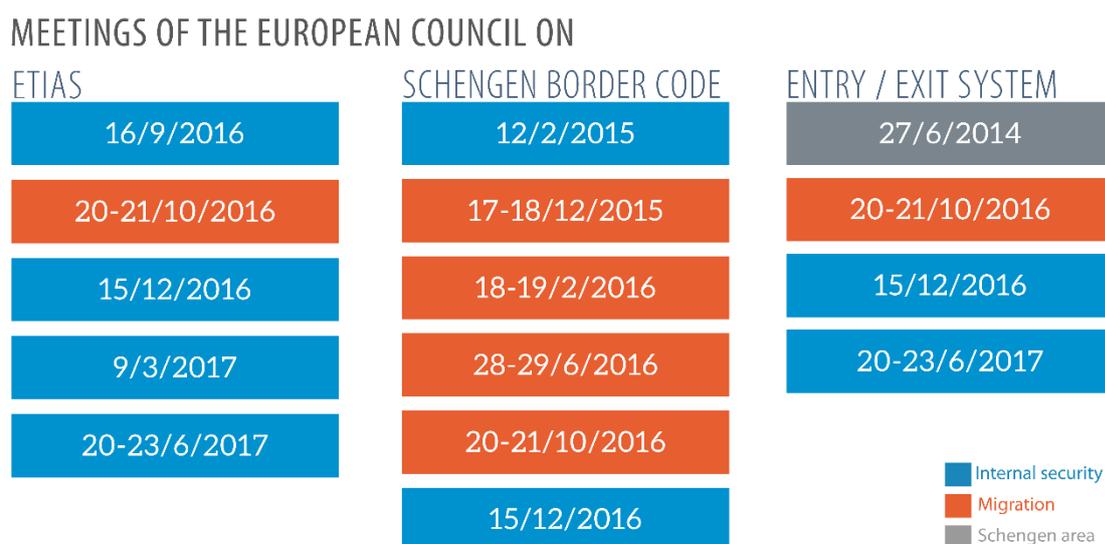
It is precisely the area of **EU external border protection** where internal security and migration intersect, as many of the technical instruments (e.g. [Schengen information system](#)) and EU agencies (e.g. Frontex) in this area work on

both fighting illegal migration and internal security issues. The October 2015 European Council [conclusions](#) illustrate this, as they called to 'devise technical solutions to reinforce the control of the EU's external borders to meet both migration and security objectives, without hampering the fluidity of movement.'

The blurring between migration and internal security is also apparent in the occasional lack of consistency in the categorisation of policy tools and initiatives in the European Council's conclusions. While elements were sometimes mentioned under an internal security heading, at other times the same elements were placed under a migration heading (see Figure 9). A recent addition to the growing list of policy issues, tools or initiatives for EU external border protection is the European Border and Coast Guard, which until now had only been mentioned in European Council conclusions in the area of migration, but has now also been referred to in the context of internal security by President Tusk in his Leaders' Agenda note on internal security.

Another recent example where the terms migration and internal security have been used in the same context is the [June 2018 European Council](#), which called for flexible instruments to combat illegal migration in view of the next multiannual financial framework, and stated that 'the internal security, integrated border management, asylum and migration funds should include dedicated, significant components for external migration management'.

Figure 9: Variations in categorisation of policy issues as either migration or internal security



Source: EPRS, 2018.

5. Conclusion

Due to the various terrorist attacks across the EU in recent years, internal security and the fight against terrorism have become major concerns for EU citizens, and shaped political discussions at EU and Member State level. This analysis shows that the European Council has a significant Treaty-based role to play in the area of justice and home affairs, including on policy issues such as the fight against terrorism and organised crime, police cooperation and cybersecurity, often subsumed under the concept 'internal security'.

In past years, the European Council has acted in its strategic role in this area on various occasions. The main examples include the adoption of the strategic guidelines for legislative and operational planning for the coming years within the area of freedom, security and justice, the endorsement of

the [Internal Security Strategy](#) 2010-2014 and the [commitment](#) to the implementation of the renewed EU Internal Security Strategy 2015-2020. The Bratislava Declaration and the Rome Declaration included important elements on internal security. The analysis has shown that terrorism became the main point of focus in European Council discussions in the field of internal security between June 2014 and June 2017. While addressing the issues of internal security and terrorism frequently during the period between June 2014 and June 2017, often in the aftermath of major terrorist attacks, the European Council has hardly addressed the issue since then. This confirms that the European Council follows its role in this policy area as outlined by the Treaties, namely to set the wider strategic framework and then leave the operational and legislative details to the other relevant EU institutions.

Heads of State or Government came back to the issue of internal security at the informal European Council of 20 September 2018. While originally intended to concentrate on internal security, according to the Leader's Agenda, the focus of the meeting was subsequently broadened to cover migration too. Both issues are also main priorities of the Austrian Council Presidency. This demonstrates the recent trend of EU presidencies to bring together EU Heads of State or Government in their country to discuss policy topics at the top of their own agendas. Moreover, while the policy fields of internal security and migration were usually clearly separated in European Council discussions, the two areas are now increasingly linked, in particular by the subject of external EU border protection.

ENDNOTES

- ¹ The terms justice and home affairs (JHA) and Area of Freedom, Security and Justice will be used interchangeably in this briefing.
- ² In his Leaders' Agenda note on internal security, Donald Tusk places the Salisbury attack within the context of internal security. Others consider this more an example of an external security issue. This paper follows the latter position and therefore does not count the European Council discussions on the Salisbury attack under internal security.
- ³ See EPRS [From Bratislava to Rome](#) and EPRS [From Rome to Sibiu](#).
- ⁴ Article 67(3) of Title V TFEU states that 'the Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.' Aspects of migration or asylum are not part of this description.

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