

Counterterrorism policies, measures and tools in the EU

An assessment of the effectiveness of the EU counterterrorism policy ¹

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, aims to provide background information and policy recommendations concerning the impact and effectiveness of the counterterrorism policies, measures and tools in the EU. Besides a mapping of the evolution of the EU counter-terrorism policy architecture, this study assesses the impact and effectiveness of the EU counterterrorism policy by focusing on key policy areas. On the basis of the mapping exercise and the examination of the areas covered by this study, the research team has provided recommendations that could inform future policy developments.

Background

Since the 1970s, the fight against terrorism has evolved considerably. While the attacks of 9/11 acted as a catalyst for the development of the EU counter-terrorism policy, EU action in this area has subsequently continuously broadened to include new priorities to address the evolving terrorist threat. In 2013, in an attempt to provide a catalogue of EU counter-terrorism measures, a research project – SECILE – identified 239 counter-terrorism measures adopted between the autumn of 2001 and the summer of 2013, 88 of which were 'legally binding'². Researchers pointed out the lack of systematic, participatory, evaluative review of EU counter-terrorism measures which undermines their legitimacy while making it difficult to understand their impact and assess their effectiveness³. In another 2017 study commissioned by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament, the plethora of sub-strategies, actions plans and sometimes overlapping policy fields that are part of the EU counter-terrorism policy have been identified as

¹ Full study in English: [https://www.europarl.europa.eu/RegData/etudes/STUD/2022/730581/IPOL_STU\(2022\)730581_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/730581/IPOL_STU(2022)730581_EN.pdf)

² Voronova, S., 'Understanding EU counter-terrorism policy' (European Parliamentary Research Service, PE 659.446 2021); Hayes, B. and Jones, C., 'Securing Europe through Counter-Terrorism: Impact, Legitimacy and Effectiveness (SECILE). Catalogue of EU Counter-Terrorism Measures Adopted since 11 September 2001', 2013.

³ Final Report Summary, SECILE (Securing Europe through Counter-Terrorism – Impact, Legitimacy and Effectiveness) which may be found here <https://cordis.europa.eu/project/id/313195/reporting/fr> accessed 30 January 2022.



problematic in terms of coherence, consistency and effectiveness⁴. While these findings are indicative of the challenges posed by the EU counter-terrorism policy, new measures have been adopted since then. EU counter-terrorism policy is increasingly embedded in multiple policy areas of the EU while involving a wide range of actors. In this context, the gradual widening of the range of instruments underpinning this policy but also its sensitivity with regard to national sovereignty as well as its impact on fundamental rights requires an overall assessment. While every policy must be subject to independent evaluation, this requirement is all the more necessary in the context of the fight against terrorism given the sensitivity and impact abovementioned and the relative lack of clarity in which the EU counter-terrorism policy has developed.

Aim

This study aims to provide the European Parliament with background information and policy recommendations concerning the impact and effectiveness of the counter-terrorism policies, measures and tools in the EU. The results of this research should contribute to bring forth policy inputs and options for the future direction of EU counter-terrorism policy.

Key findings

From the first pages, the study tries to highlight **the complexity of the dynamics on which the EU counterterrorism policy is based**. In this regard, several factors have been identified to explain this complex architecture. **First, one cannot fail to take into account the intricate institutional framework in which the EU's counterterrorism policy has developed**. Moreover, while EU action in this field has mainly developed within the framework of the Area of Freedom, Security and Justice (AFSJ), the cross-sectoral approach promoted to combat terrorism goes well beyond this policy. **A second factor is the event-driven nature of EU counterterrorism policy**. The historical perspective clearly shows how the tragic terrorist events alongside the evolution of the terrorist threat have constantly prompted the EU to react, sometimes in a hasty manner and without an overall vision. As a result, the issues addressed by EU counterterrorism policy have gradually broadened to include new priorities, making it at the same time difficult to delineate the scope of this policy and to assess it comprehensively.

One of the findings of this research is the difficulty of evaluating the effectiveness of the EU anti-terrorism policy. Assessing whether this policy succeeds in achieving its objective(s) is proving to be a rather challenging endeavour due to the scarcity of available data and the fact that many of the instruments encompassed by this policy are currently being redesigned. Not to mention the difficulty of assessing certain sub-areas which are governed by a complex legal framework overlapping with rules adopted at national and international levels. It is therefore difficult to determine whether the effectiveness of an action can be attributed to EU intervention alone in such a context. The tendency to design multi-purpose instruments due to the established link between terrorism and broader issues, such as migration, also makes it difficult to rate their effectiveness as the latter cannot be considered in light of the objective to prevent/counter terrorism only (e.g. interoperability of EU information system). It was also found that certain sub-areas covered by this policy currently lack appropriate indicators to assess the effectiveness of their actions, while the assessment of some other instruments is not sufficiently evidenced-based.

Despite these difficulties, several findings of this study contribute to fuel reflections on the challenges of the EU counterterrorism policy in terms of impact and effectiveness. Although concerns about the impact of EU counterterrorism policy on fundamental rights have been expressed for a long time, they are still relevant, if not exacerbated. **As the EU's fight against terrorism has gradually broadened to cover new areas and issues, the scope of freedoms that may be affected has also widened**. One of the most emblematic examples can be found in the focus on the fight against terrorist/extremist content, which is of increasing importance at EU level, while raising new concerns regarding the protection of **freedom of expression** (i.e. the growing involvement of private actors for the purpose of regulating online communication). **Data protection** concerns are also growing in the face of the enhanced mechanisms of information exchange in counter-

⁴ Wensink, W., and al., 'The European Union's Policy on Counter-Terrorism. Relevance, Coherence and Effectiveness' (Study for the European Parliament LIBE Committee, Policy Department for Citizens' Rights and Constitutional Affairs, PE 583.124 2017).

terrorism cases with the EU Agencies and massive data collection/retention practices that are proving particularly useful for law enforcement and intelligence services, especially for terrorist threat detection purposes.

Another cross-cutting issue emerging from this research relates to the coherence of the EU action in the fight against terrorism. **This study finds that the EU's counterterrorism policy continues to pose significant challenges in terms of coherence, notably due to the gradual broadening of its priorities and the proliferation of actors involved.** In some cases, this is manifested by overlaps between the tasks of the many actors involved in the design and implementation of this policy area (i.e. strategic guidelines issued by several institutions at the same time and which do not match perfectly). In other cases, the multidisciplinary approach advocated to combat the complex and multifaceted phenomenon of terrorism leads to overlaps and/or inconsistencies between the different objectives promoted under this policy, i.e. the objective of preventing terrorism which is embedded in both the 'Prevent' and the 'Pursue strand' of the EU's counter-terrorism strategy, albeit using different means which sometimes contradict each other. With regard to this latter case, the impact of the EU's weak competence on certain issues related to prevention should not be underestimated as it is likely to exacerbate these inconsistencies. As the study will show later, problems of coherence also arise with regard to specific legislative instruments whose articulation is not sufficiently clear (e.g. between the proposed revision of the Europol regulation and the new regulation addressing the dissemination of terrorist content online).

These key findings are in addition to a number of others that the study has sought to highlight in order to better capture the operational needs of actors at national and European levels - e.g. appropriate funding and staffing, training activities or the continuous need to foster trust between the actors involved in counterterrorism.

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