

The European Union Committee

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The Members of the Sub-Committee which conducted this inquiry are listed in Appendix 1.

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References in footnotes to the Report are as follows:

- Q refers to a question in oral evidence;
- ISS 1 refers to written evidence as listed in Appendix 2.

SUMMARY

The security of the Member States is often regarded as being their exclusive preserve, but since 1975 the interior ministers of the European Community have been discussing increased cooperation on internal security matters. Since the Treaty of Maastricht the Union has been given an increasing role. Now, following the Treaty of Lisbon, the Council has been given the power to adopt and implement an internal security strategy. It did so in March 2010, and this was followed in November by a Commission Communication setting out the priorities, and how to implement them.

The Communication sets out “Five steps towards a more secure Europe”: the disruption of international crime networks, the prevention of terrorism, security in cyberspace, improved border management, and increased resilience to crises and disasters. We agree that these are the matters on which implementation of the strategy should be focussed. It is this Communication which has been the object of our inquiry.

Progress on these five fronts is designed to lead to a more secure Europe. In each case we have looked in detail at the actions proposed by the Commission to advance security. Most of these will involve increased practical cooperation between the Member States, and some will involve proposals for legislation over the coming three years. We hope that our recommendations may help the Commission when it comes to formulate its proposals. We hope too that the Government—and perhaps also other Member States—may find our views helpful when they come to consider the legislative proposals.

International crime, terrorism, illegal migration and natural disasters have been with us a long time. Cyber-security is a comparative newcomer. Even a few years ago, cyberspace was thought to provide an opportunity only for small-scale criminal acts. It is now clear that, in addition to increasing the outreach of international crime, it can lead to massive disruption of state infrastructure, and can be used for espionage, terrorism, even war. During the course of our inquiry there were major attacks against the EU institutions. It is not surprising that much of the evidence we received concerned the role which the EU might play in fighting cyber-attacks. The Commission’s main proposal is to set up a new Cybercrime Centre. This might be no more than a talking shop, but it could become a useful tool for investigating and analysing past attacks, improving law enforcement, and preventing future attacks. Much will depend on whether it is given adequate resources for what could be an important role.

Security knows no borders. We have looked at the way in which the internal security strategy overlaps with national and international strategies, in the hope that they can be mutually supportive. And lastly we have looked at the implementation of the strategy. The Council has an extraordinary number of committees, working groups and other bodies whose tasks overlap and can conflict. It also has one new committee which, under the Treaties, has the duty of coordinating all the work on internal security. Unless it does so effectively, very little will be achieved; if, with the right membership and the right chairmanship, it properly fulfils its mandate, the EU may play a valuable role in protecting the security of its citizens.

The EU Internal Security Strategy

CHAPTER 1: INTRODUCTION

1. In this report we consider how and to what extent the European Union should be involved in the internal security of the individual Member States, covering matters such as terrorism, serious organised crime, civil protection and cyber-security.

The Treaty Background

2. National Security is the sole responsibility of each Member State. Article 4 of the Treaty on European Union, as amended by the Treaty of Lisbon, asserts that this remains the case. However since December 1975 when the Trevi group of interior ministers was established, Member States have been meeting informally to discuss security issues. Trevi began as a regular meeting of the interior ministers of the Member States—then 9, later 12—together with a gradually increasing number of working groups. The first formalisation of this came at Maastricht in 1992 with the Treaty on European Union (TEU), Title VI, entitled “Provisions on cooperation in the fields of Justice and Home Affairs”. The “matters of common interest” included immigration and asylum, combating drug addiction and fraud, judicial cooperation in civil and criminal matters, and customs and police cooperation. The Member States were required to consult and to coordinate their actions, and were allowed to adopt joint positions, take joint action, and enter into multilateral conventions.
3. But there was no power for the Council to legislate. Power to legislate in the areas covered by Title VI had to wait for the amendments made by the Treaty of Amsterdam, which came into force on 1 May 1999. In addition for the first time the words “internal security” appear in an EU Treaty, but this is only to state: “This Title [Title VI] shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.”¹ While the Union’s external security policy was the subject of Title V of the TEU—Provisions on a Common Foreign and Security Policy—internal security was seen as remaining largely a matter for the Member States.
4. This changed with the entry into force of the Treaty of Lisbon on 1 December 2009. While Article 72 of the Treaty on the Functioning of the European Union (TFEU) repeats that the Title² does not affect the responsibilities of Member States with regard to internal security, Article 71 sets up a standing committee within the Council whose prime aim is “to ensure that operational cooperation on internal security is promoted and strengthened within the Union”.³

The Stockholm Programme

5. Since the entry into force of the Treaty of Amsterdam, work on JHA matters has been the subject of 5-year programmes agreed by the European Council.

¹ Article 33 TEU

² By now this is Title V of Part Three of the TFEU.

³ We consider the role of this Committee in Chapter 6.

The latest of these is the Stockholm Programme,⁴ agreed by the European Council on 10 December 2009.⁵ It includes an invitation to both the Council and the Commission “to define a comprehensive Union internal security strategy”: see Box 1.

BOX 1

Extract from paragraph 4.1 of the Stockholm Programme

The European Council is convinced that the enhancement of actions at European level, combined with better coordination with actions at regional and national level, are essential to protection from trans-national threats. Terrorism and organised crime, drug trafficking, corruption, trafficking in human beings, smuggling of persons and trafficking in arms, inter alia, continue to challenge the internal security of the Union. Cross-border widespread crime has become an urgent challenge which requires a clear and comprehensive response. Action of the Union will enhance the work carried out by Member States’ competent authorities and will improve the outcome of their work. The European Council calls upon the Council and the Commission to define a comprehensive Union internal security strategy...

6. It was perhaps a source of confusion for the European Council to invite both the Council and the Commission to define an internal security strategy. In February 2010 the Council, seemingly without any formal consultation of the Commission, prepared its own “Draft Internal Security Strategy for the European Union: “Towards a European Security Model””,⁶ which was agreed by the Council on 25–26 February 2010, and subsequently adopted by the European Council.⁷ At the same time the Commission was preparing an Action Plan to “translate the aims and priorities of the Stockholm Programme into concrete actions with a clear timetable for adoption and implementation” which it had been invited to produce.⁸ In this Action Plan, submitted to the Council on 22 April 2010,⁹ the Commission undertook to formulate a Communication on the Internal Security Strategy by the end of the year. It did so on 22 November 2010 in a Communication entitled: “The EU Internal Security Strategy in Action: five steps towards a more secure Europe”.¹⁰

The Council Strategy and Commission Communication

7. The Council Strategy is an anodyne document, phrased in broad generalities and lacking in specificity. According to the United Kingdom National

⁴ OJ C115 (4 May 2010) p 1

⁵ This was the subject of our brief report *The Stockholm Programme: home affairs* (25th Report, Session 2008–09, HL Paper 175).

⁶ Document 5842/2/10

⁷ Document 7120/10, referred to hereafter as the Strategy or the ISS

⁸ Paragraph 1.2.10 of the Stockholm Programme

⁹ “Delivering an area of freedom, security and justice for Europe’s citizens: Action Plan implementing the Stockholm Programme” (Document 8895/10). This was the subject of our brief report *Implementing the Stockholm Programme: home affairs* (9th Report, Session 2010–11, HL Paper 90).

¹⁰ COM(2010)673 final, document 16797/10. It should be noted that this Communication and the Commission Action Plan of 22 April 2010 to implement the Stockholm Programme both take the forms of Commission Communications to the European Parliament and the Council. References subsequently in this report to “the Commission Communication” or “the Action Plan” are to the document of 22 November 2010 on the Internal Security Strategy.

Security Strategy, “A national security strategy, like any strategy, must be a combination of ends (what we are seeking to achieve), ways (the ways by which we seek to achieve those ends) and means (the resources we can devote to achieving the ends).”¹¹ We agree. By this definition, the Council Strategy is hardly a strategy at all. As the Institute of Civil Protection and Emergency Management (ICPEM) pointed out, the Council document does not match these criteria.¹²

8. The Strategy does however state in its final paragraph that the Commission will adopt a Communication “which will include action-oriented proposals”. And so it does. The Communication, in contrast to the Strategy, has a practical and pragmatic focus on five main objectives: the disruption of international crime networks; prevention of terrorism; security in cyberspace; improved border management; and increased resilience to crises and disasters. We have taken it as the main focus of our inquiry. We reproduce it (without its Annex) in Appendix 4.
9. Professor Wyn Rees, Professor of International Security at the University of Nottingham, criticised both documents as having no “big, underlying vision”, and little in the way of a “grand objective”.¹³ We agree that this is true of the Council Strategy; but the Communication does not purport to have either. It will be followed by proposals from the Commission for legislation to implement its objectives. One of these, the proposal for a Directive on the use of PNR data,¹⁴ has already been submitted. Others will be put forward later this year and in the course of the next three years. We therefore hope that our inquiry is well timed to allow our recommendations to be taken into account by those working on such proposals, and by the Government in reacting to them.

Conduct of the inquiry

10. This inquiry has been conducted by the Home Affairs Sub-Committee, a list of whose members is printed in Appendix 1. They issued a call for written evidence in November 2010; this is printed in Appendix 3. In reply they received written evidence from 13 persons and bodies. Between December 2010 and March 2011 they took oral evidence from 20 witnesses, and received supplementary evidence from a number of them. They are listed in Appendix 2. To all of them we are most grateful.
11. Three of the oral evidence sessions were in Brussels. The first of these was with Cecilia Malmström, the Commissioner responsible for the Communication. We particularly appreciate her having made time to speak to us in such a helpful and informative way. The Sub-Committee also obtained valuable informal information from Mr Juan Fernando López Aguilar, the Chairman of the European Parliament’s Civil Liberties, Justice

¹¹ A Strong Britain in an Age of Uncertainty: The National Security Strategy (October 2010, Cm 7953), paragraph 0.14

¹² ISS 6

¹³ ISS 13

¹⁴ Proposal for a Directive of the European Parliament and of the Council on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, COM(2011)32, Document 6007/11. This was the subject of our report *The United Kingdom opt-in to the Passenger Name Record directive* (11th Report, Session 2010–11, HL Paper 113). The report was debated on 17 March 2011, when the House agreed our recommendation that the Government should opt in to the proposed directive: HL Deb 17 March 2011, col. 433. See further paragraphs 71–72.

and Home Affairs (LIBE) Committee, and from Ms Rita Borsellino MEP, that Committee's rapporteur on the subject.

12. Throughout this inquiry we have had the assistance of Stephen Hawker CB as our specialist adviser. His wide knowledge and experience of counter-terrorism and national security issues in the United Kingdom and overseas have been invaluable to us. We are most grateful to him for all his help.
13. **We recommend this report for debate.**

CHAPTER 2: THE EU'S ROLE IN INTERNAL SECURITY

The EU's role in Internal Security

14. The Council's view of the meaning of "internal security", set out in the Strategy, is all-embracing: see Box 2.¹⁵

BOX 2

Council definition of "internal security"

The main crime-related risks and threats facing Europe today, such as terrorism, serious and organised crime, drug trafficking, cyber-crime, trafficking in human beings, sexual exploitation of minors and child pornography, economic crime and corruption, trafficking in arms and cross-border crime, adapt extremely quickly to changes in science and technology, in their attempt to exploit illegally and undermine the values and prosperity of our open societies ...

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.

15. Probably wisely, the Commission does not attempt to define "internal security", and nor do we. However none of our witnesses suggested that any of the five priorities identified by the Commission fell outside a reasonable view of internal security. There was agreement that youth or hooligan violence at sports events, and road traffic accidents, both mentioned in the Council strategy, fell below the threshold for internal security and were rightly excluded from the Communication. We agree.
16. **For the purposes of this report we are treating internal security as the ground covered by the Communication, and believe this provides reasonable and pragmatic boundaries for a strategy and for its implementation.**
17. National security of a State is the responsibility of that State, but it cannot be dealt with by that State acting alone. Many threats to security—and especially to cyber-security—are global in nature, and have to be dealt with in conjunction with other States, including other Member States. **The security of the United Kingdom does not begin or end at the water's edge, and cannot be defended independently of the security of other States.**
18. Whilst it does not necessarily follow that the EU as such has a role to play, in our earlier report *Protecting Europe against large-scale cyber-attacks*¹⁶ we concluded that the EU does have a part to play in cyber-security, and we believe this is true of internal security generally. Hugo Brady, Senior Research Fellow at the Centre for European Reform, put it well: "No other organisation [other than the EU] has the legal or political clout to put minimum judicial standards in place across the continent, to steer the private

¹⁵ Document 7120/10, Introduction

¹⁶ March 2010; 5th Report, Session 2009–10, HL Paper 68, Chapter 3

sector in areas like aviation and container security, to get police and prosecutors working together across borders, or to put pressure on foreign countries to crack down on counterfeiters and other malefactors. Hence the EU has a *bona fide* role in some security matters.”¹⁷

19. The threats identified in the Communication do not of course affect all Member States equally. William Shapcott, the former director of SitCen, told us: “You can roughly divide the Member States into three groups: those who are threatened and who really understand it. The UK is clearly in that group, and the Germans and the French are as well. Then there is a group that possibly is threatened but maybe doesn’t properly register it, and then maybe some that aren’t terribly threatened.” He went on to explain that, as the threats changed, so would the groups, which could learn from one another.¹⁸
20. Member States are jealous of their sovereignty, and retain tight control over their national security. It would not have been difficult for the Commission to trespass on their territory. But it seems to have avoided this trap, for the Home Office stated in their written evidence: “Our view is that neither the Council’s ISS nor the Commission’s Communication strays into matters of national security; however we will continue to monitor this closely as proposals are brought forward.” They added: “The Government largely agrees with the priority threats identified in the strategy ...”¹⁹ James Brokenshire MP, the Parliamentary Under Secretary of State at the Home Office, confirmed this: “I think that the strategy does broadly capture the priorities that we would seek to see addressed in an Internal Security Strategy.”²⁰
21. Mr Shapcott’s view was that “the strategy looks at ways in which the EU can help Member States deal with their responsibilities. In my view, it is not an attempt to Europeanise national security; it is an attempt to identify ways in which the Union can assist.” Sir Richard Mottram, a former chairman of the Joint Intelligence Committee, without attempting to define either national security or internal security, pointed out that “there is obviously a very substantial overlap which has grown between how national security is defined by those who put labels on things and how internal security is defined by those who basically come from the justice and police environment.” He added that the Commission had framed its actions in a way which seemed to be “sensible and achievable”.²¹
22. **Member States’ national security and the EU’s internal security are inextricably linked. We do not believe that these proposals intrude upon or threaten Member States’ primary responsibility for national security.**
23. **We welcome the Communication as the first pragmatic attempt to articulate a comprehensive approach to the EU’s internal security.**
24. **The five objectives proposed in the Communication, while broad and demanding, are sensible, practical and achievable, with the potential**

¹⁷ ISS 12

¹⁸ Q 51

¹⁹ ISS 10

²⁰ Q 406

²¹ Q 369

to raise standards among Member States and therefore to enhance the EU's security as a whole. All future proposals in this area should be developed on a sound evidential base, with priority given to tackling identifiable threats, and with full impact assessments and cost-benefit analyses.

25. The Home Office said in their written evidence: “The Stockholm Programme was agreed under the previous Administration. The current Government therefore did not sign up to the Stockholm Programme and does not support all the proposals within that document.”²² We accept this. But, they continued, “we believe that future EU JHA measures must at the very least not stray outside the boundary of this Programme, which was agreed by the Heads of Government.”²³ This we do not accept.
26. **We believe that it is shortsighted of the Government to criticise some Commission proposals solely on the ground that they go beyond what was agreed in the Stockholm Programme or the Strategy itself. Achieving internal security is a moving target; over the five years covered by this Communication it may well require action beyond what is envisaged in the Stockholm Programme. Each proposal should be assessed on its merits.**

Fundamental rights

27. “What is to be delivered by the Internal Security Strategy? Is it security only or is it liberty, security and justice?” This question, posed by Professor Didier Bigo of King's College London,²⁴ is one which has exercised us too.
28. The Strategy itself explains that “the values and principles established in the Treaties of the Union and set out in the Charter of Fundamental Rights have inspired the EU's Internal Security Strategy”. It states that the EU's accession to the European Convention on Human Rights will also contribute to improved protection for the human rights of people in Europe.
29. The Communication says much the same:

BOX 3

Fundamental rights—the Commission view

The Internal Security Strategy in Action, and the tools and actions for implementing it, must be based on common values including the rule of law and respect for fundamental rights as laid down in the EU Charter of Fundamental Rights. Solidarity must characterise our approach to crisis management. Our counter terrorism policies should be proportionate to the scale of the challenges and focus on preventing future attacks. Where efficient law enforcement in the EU is facilitated through information exchange, we must also protect the privacy of individuals and their fundamental right to protection of personal data.

²² ISS 10

²³ They repeated this mantra on two subsequent occasions: “... we do not endorse legislative proposals that go beyond the Stockholm Programme” (section 5); and “... measures arising from these two documents must not go beyond the Stockholm Programme.” (section 12)

²⁴ ISS 7

30. Are these statements more than “formalistic sentences and announcements”? Professor Elspeth Guild and Sergio Carrera of the Centre for European Policy Studies (CEPS) do not think so.²⁵

BOX 4

Fundamental rights—the views of CEPS

Both official documents illustrate how the insecurity concerns enshrined in the ISS are attempting to take over the EU’s AFSJ [the Area of Freedom, Security and Justice] agenda. Justice is relegated second to the service of security, and individuals’ security and liberty remain absent from the overall objectives of the strategy. The concrete steps presented by the Commission Communication exclusively serve ‘internal security’ purposes and interests, an approach that positions rule of law and fundamental rights (aside from formalistic sentences and announcements) at the margins.

31. The reference here to the whole Area of Freedom, Security and Justice is apposite, because these are questions which arise whenever coercive measures are proposed, at national or international level, and especially when they involve the collection and exchange of information, as many proposals in the Communication do. These are matters we have considered in, among others, our inquiries into SIS II,²⁶ Prüm,²⁷ PNR,²⁸ and Europol.²⁹ In our report on Money Laundering we were strongly critical of the handling of Suspicious Activity Reports by the Serious Organised Crime Agency,³⁰ and this has led to an investigation by the Office of the Information Commissioner and a further report.³¹
32. CEPS were not alone. Many witnesses expressed concerns that the “freedom” and “justice” aspects of the Area of Freedom, Security and Justice should not be compromised by placing too much emphasis on “security”. For the Home Office Peter Storr, the Director of the International Directorate, would have liked to see greater concentration in the Communication on the issue of information exchange. “Clearly”, he said, “there is, as with all data issues, a balance to be struck between the security aspect and the civil liberties and privacy aspects. We felt that that perhaps should have been picked up in the Commission Communication.”³²
33. In her oral evidence to us Commissioner Malmström placed great emphasis on fundamental rights: “I am very aware of the importance of fundamental rights and I do not see it as a trade-off. High security in the European Union

²⁵ ISS 2

²⁶ *Schengen Information System II (SIS II)* (March 2007; 9th Report, Session 2006–07, HL Paper 49), Chapter 6

²⁷ *Prüm: an effective weapon against terrorism and crime* (May 2007; 18th Report, Session 2006–07, HL Paper 90), paragraphs 81–98

²⁸ *The EU/US Passenger Name Record (PNR) Agreement* (June 2007; 21st Report, Session 2006–07, HL Paper 108), paragraphs 110–123; and *The Passenger Name Record (PNR) Framework Decision* (June 2008; 15th Report, Session 2007–08, HL Paper 106), paragraphs 27–29

²⁹ *EUROPOL: coordinating the fight against serious and organised crime* (November 2008; 29th Report, Session 2007–08, HL Paper 183), Chapter 8

³⁰ *Money laundering and the financing of terrorism* (July 2009; 19th Report, Session 2008–09, HL Paper 132-I), paragraphs 174–183

³¹ *Money laundering: data protection for suspicious activity reports* (January 2011; 6th Report, Session 2010–2011, HL Paper 82).

³² Q 210

can come only with a very strong safeguarding of individual rights and data protection.”³³

34. The Minister did not like use of the word “balance”: “it almost implies that security and the values [of fundamental rights] are, in some way, in conflict ... that being safe and being free are in some way at variance or at odds with each other. I think both are possible ...”³⁴ “Balance” was a word Professor Bigo also disliked: “Security cannot ‘balance’ liberty. Security is a means to achieve liberty”.³⁵ We agree. But it could be said that some restrictions on liberty are the price to be paid for security which, as the Strategy points out, is itself a basic right.
35. The European Arrest Warrant (EAW) is a measure which demonstrates the problem. It is considered to be a valuable tool in tackling organised crime, and there is the much-cited example of one of the plotters of the failed London bomb attacks on 21 July 2005 having been extradited from Italy within 21 days.³⁶ But the EAW is now used by some countries as a means of extraditing persons suspected of having committed relatively trivial offences; some 40% of EAWs are issued by Poland. There are proportionality concerns, and Mr Brady thought there should be a *de minimis* rule.³⁷ These are matters currently being looked at by the Joint Committee on Human Rights.³⁸ Additionally, the whole question of extradition is being considered by the review chaired by Sir Scott Baker, which is looking among other things at “the operation of the European arrest warrant, including the way in which its optional safeguards have been transposed into UK law”. This review is due to report later this year.
36. The lack of prominence given to liberty and justice in the Communication does not necessarily indicate the direction the Commission is likely to take when formulating proposals for legislation to implement its objectives. The Commissioner said: “All the proposals we make will have to be thought through when it comes to proportionality, subsidiarity and data protection.”³⁹
37. **Enhancing security while at the same time safeguarding fundamental rights is best done by careful scrutiny of the individual legislative proposals as they are brought forward, to see whether too much freedom is being sacrificed to achieve a high degree of security. The European and national Parliaments have an important role to play.**
38. By the time most of these individual proposals are brought forward, the issue of data protection will already have been considered in the round. Currently data protection in relation to matters which, prior to the entry into force of the Treaty of Lisbon, were first pillar matters,⁴⁰ are governed by the Data

³³ Q 3

³⁴ Q 442

³⁵ ISS 7

³⁶ E.g. by Peter Storr, Q 264

³⁷ Q 152

³⁸ Inquiry into the human rights implications of UK extradition policy

³⁹ Q 3

⁴⁰ i.e. matters previously falling within Title IV TEC: visas, asylum, immigration and other policies related to the free movement of persons.

Protection Directive,⁴¹ while third pillar measures⁴² are governed by the Data Protection Framework Decision.⁴³ It is unsatisfactory to have two such documents; additionally, some of the most important law enforcement measures which rely on the collection, retention, and use of personal data, which should be governed by either the Directive or the Framework Decision, are governed by neither, but have their own data protection provisions.

39. The Commission has therefore embarked on a comprehensive review of the topic. It issued a Communication on 4 November 2010.⁴⁴ This was considered by the JHA Council on 24–25 February 2011, and proposals for legislation are expected from the Commission later this year. The Government have already made clear that they do not believe in a “one size fits all” approach, but would like the revised rules to “cater for the operational needs of the specific types of processing such as that done by law enforcement bodies”.⁴⁵
40. **We look forward to considering the Commission’s proposal for a comprehensive data protection framework when it is published later this year. However there is already some risk that the Council and the Government will pursue a line which could result in different principles governing different measures.**

⁴¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281 of 23 November 1995, page 31)

⁴² i.e. provisions on police and judicial cooperation in criminal matters, falling within Title VI TEU prior to its amendment by the Treaty of Lisbon.

⁴³ Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350 of 30 December 2008, page 60)

⁴⁴ Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: A comprehensive approach on personal data protection in the European Union (COM(2010)609; Council Document 15949/10)

⁴⁵ Letter of 9 March 2011 from the Rt Hon Kenneth Clarke QC MP, Lord Chancellor and Secretary of State for Justice, to our Chairman

CHAPTER 3: THE INTERNATIONAL DIMENSION

41. Just as the security of each Member State individually does not stop at its national borders, so the security of the Member States collectively stretches beyond the borders of the Union. In this chapter we consider the relationship between the internal security strategy and the European Security Strategy; the impact of the formation of the European External Action Service; and the relations with other international organisations and with countries of particular strategic significance.

European Security Strategy

42. In a note of 25 January 2011 to the Standing Committee on operational cooperation on internal security (COSI), the Hungarian Presidency referred to the “plethora of security strategies” which the EU has already adopted.⁴⁶ Foremost among these is the document adopted in 2003 whose true title is European Security Strategy (ESS) but which, to avoid confusion with the internal security strategy (ISS), is often referred to as the External Security Strategy.⁴⁷ This is what the Stockholm Programme has to say: “The internal security strategy should also take into account the external security strategy developed by the Union as well as by other Union policies, in particular those concerning the internal market. Account should also be taken of the impact it may have on relations with the Union’s neighbourhood and particularly with the candidate and potential candidate countries, since internal security is interlinked with the external dimension of the threats.”⁴⁸
43. Some of the threats dealt with by the ESS are truly international, and do not overlap with the ISS. These include the proliferation and use by States of weapons of mass destruction, regional conflicts, and State failure. But others, like terrorism and organised crime, are common to both the ESS and the ISS. Sir Ian Andrews, the Chairman of the Serious Organised Crime Agency (SOCA) told us that “it is entirely consistent with the declaration of the Stockholm programme that the heads of Government adopted towards the end of 2009, that there is a seamless relationship between an internal security strategy and an external one”.⁴⁹ Certainly the relationship between internal and external security threats is seamless; as Professor Paul Wilkinson said, “The threat to Europe’s internal security and the global struggle against international terrorism are inextricably intertwined”.⁵⁰ But whether the relationship between the two strategies is as yet seamless is more open to doubt. It is for those dealing with the implementation of the two strategies to ensure that this is the case. We consider this in Chapter 6.

European External Action Service

44. The EU has had a Common Foreign and Security Policy (CFSP) since the Maastricht Treaty on European Union, but it is only since the entry into

⁴⁶ Council document 5620/11

⁴⁷ A Secure Europe in a Better World – European Security Strategy, adopted by the European Council in Brussels on 12 December 2003

⁴⁸ Paragraph 4.1

⁴⁹ Q 343

⁵⁰ ISS 1. Professor Wilkinson is Emeritus Professor of International Relations and Chairman of the Advisory Board of the Centre for the Study of Terrorism at St Andrews University.

force of the Treaty of Lisbon that there has been a European External Action Service (EEAS) to assist the High Representative for Foreign Affairs and Security Policy. The EEAS is formed through a merger of the Commission Directorate-General for External Relations (DG Relex), parts of DG Development, and parts of the Council Secretariat, with a significant number of national diplomats and the existing overseas offices of both the Commission and the Council. When we took evidence from Mr David O’Sullivan in Brussels on 7 December 2010 he explained that this was in his capacity as the last Director-General of Relex. At the end of the year he would mutate into the first Chief Operating Officer of the new External Action Service. At that stage the structure, senior appointments, relationship with the Commission and many other matters were still being worked out, and there was a need for the appointment of more persons to deal with internal security matters in the delegations overseas.⁵¹

45. In December 2010 Professor Wyn Rees told us: “the interface within the EU between external policies, such as the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP), on the one hand, and JLS⁵² on the other, is likely to remain problematic. The Lisbon Treaty preserves the intergovernmental nature of CFSP and CSDP and their separate decision-making methods. No mechanism has been found to form a bridge between internal and external security policies despite the inevitable synergies between them.”⁵³ Matters are still evolving. It is not yet clear to us or (we suspect) to many others whether or how the EEAS will act as the interface between the EU’s internal and external security strategies, or how its relationship with the Commission and Council will work in practice.
46. Among the matters still evolving are the future role and positioning of SitCen, the Joint Situation Centre, which is responsible for situation monitoring, for assessing threats from both outside and inside the EU, and for early warning to support EU policy-making in a crisis.⁵⁴ Until recently SitCen came under the Council; now it is part of the EEAS. A new Director, Ilkka Salmi from the Finnish Security Intelligence Service, was appointed on 17 December 2010.
47. Another body playing a central role in the EU’s response to a crisis is the Political and Security Committee (PSC), which monitors the international situation in the areas covered by the CFSP and CSDP. Its role in relation to external security is, very broadly, equivalent to the role of COSI for internal security. The Communication proposes that COSI and the PSC “should work together and meet regularly”; but Mr O’Sullivan told us that this was not happening.⁵⁵
48. Hugo Brady was pessimistic about the connection between internal security and foreign policy, and did not believe the Communication addressed this well. “There is no real level of political agreement in Brussels or between many of the Member States on how that can best be done ... Conceptually,

⁵¹ QQ 67–76

⁵² JLS is the French acronym for Freedom, Security and Justice, and was the title of the Commission Directorate-General before it was split into two: Home Affairs and Justice.

⁵³ ISS 13

⁵⁴ For a fuller description of SitCen’s role, see our report *Civil Protection and Crisis Management in the European Union* (March 2009; 6th Report, Session 2008–09, HL Paper 43), paragraphs 12–14

⁵⁵ Q 94

although the EU has adopted strategies and even action plans on this issue, there isn't a great deal of coherence, even in the Commission for example, between Baroness Ashton and Cecilia Malmström, who are as well disposed to each other as any two colleagues. There is no real agreement at the moment in international forums such as the UN on who leads for the EU on areas such as fraud or even counterterrorism ..."⁵⁶ But Mr O'Sullivan regarded as "a great success" the role played by Commission delegations in overseas offices; they were "certainly covering the full spectrum of policies emanating from the Commission, including justice and home affairs".⁵⁷ The EEAS would have to expand on this, including what was covered by the internal security strategy.

49. **We urge the Commissioner for Home Affairs and the High Representative for Foreign Affairs and Security Policy to work closely together to ensure the close alignment of internal and external security. We believe that structures to ensure that alignment is made a practical reality should be established urgently.**
50. **COSI and the Political and Security Committee should hold regular joint meetings on a similar basis.**
51. **We welcome the appointment of JHA staff to work in some overseas EU missions, and hope that this will be extended so that the EEAS may become an effective means of achieving good cooperation between those responsible for the EU's internal and external security.**
52. **We welcome the recent appointment of the new director of SitGen. We hope that it will continue to develop a wider security assessment role within the new EEAS structure, and will make an effective input to internal security threat assessments.**

Relations with the United Nations and NATO

53. The EU's action on the international scene is built on "respect for the principles of the United Nations Charter",⁵⁸ and Professor Wyn Rees told us that the UN, as the premier international security organisation, must be the focus of the effort to make internal security cooperation effective on a global scale. He pointed out that the UN is home of the 2000 Convention Against Transnational Organised Crime, and that in 2001 it passed UN Security Council Resolution 1373 which declared terrorism to be a threat to international peace and security, and created a Counter Terrorism Committee (CTC) to monitor the compliance of its members with existing UN Conventions. European governments had regarded the UN as a vital part of an international campaign. He thought that only in this way would the norms contained within the EU's approach to internal security be diffused throughout the wider international community.⁵⁹
54. Relations between the EU and the UN are good; relations with NATO are not. Dr Paul Cornish, Carrington Professor of International Security at Chatham House, thought there was "a history. 'Bad blood' would probably

⁵⁶ Q 150

⁵⁷ Q 73

⁵⁸ Article 21.1 TEU

⁵⁹ ISS 13

be too strong a term, but they have not collaborated all that well or all that effectively, over the last several decades.”⁶⁰

55. This does no more than bear out what we have heard in previous inquiries. In our 2009 report on Civil Protection in the EU we noted the lack of cooperation between the two organisations, especially in their early warning systems, their mechanisms for communicating during a crisis, and their exercises.⁶¹ In Chapter 5⁶² we explain the particular effect of this in the field of cyber-security. In our report on Cyberattacks we noted that the Commission Communication on Protecting Europe from large-scale cyber-attacks and disruptions referred to NATO only once, and that there was a considerable overlap between the functions of the two organisations but duplication in their working. We urged the Government to encourage cooperation rather than duplication.⁶³ The ISS Communication mentions NATO not even once. This does not bode well. Like Sir Richard Mottram, we think that there is “obvious sense in a dialogue with NATO”;⁶⁴ so obvious that it should not need saying.
56. **Vigorous engagement by the EU with the international community on security matters is crucial in order to tackle new and developing security threats. The EU should use its negotiating weight to influence the agenda accordingly.**
57. **We have repeatedly urged that relations between the EU and NATO should be improved and developed. The current situation cannot be allowed to continue. The Government, as a major participant in NATO, must take urgent steps to improve cooperation and avoid unnecessary duplication.**

Relations with strategically important third countries

58. The part that third countries can play in the security of the EU is recognised in both the Strategy and the Commission Communication. Foremost among these countries is the United States. Professor Rees regards as “striking” the importance attached in both documents to cooperation with the US. “In fact, since 9/11, America has been treated as the 28th member of the EU: it enjoys a presence in Europol and Eurojust and has signed a range of agreements with Brussels on internal security matters. Whilst the EU has reacted to a stream of American ‘homeland security’ initiatives, it is less clear what the Europeans have received in return from Washington.”⁶⁵
59. In recent meetings of the G6⁶⁶ the US Secretary for Homeland Security has always attended part of the meeting. The US was the first State with which the EU concluded an agreement on the exchange of Passenger Name Record

⁶⁰ Q 184

⁶¹ *Civil Protection and Crisis Management in the European Union* (6th Report, Session 2008–09, HL Paper 43), paragraphs 21–36

⁶² Paragraphs 160–164

⁶³ Paragraphs 80–93

⁶⁴ Q 392

⁶⁵ ISS 13

⁶⁶ The informal, usually bi-annual, meetings of the interior ministers of the six largest Member States: France, Germany, Italy, Poland, Spain and the United Kingdom

(PNR) data,⁶⁷ and there is an agreement in force on the transfer of financial messaging data for the purposes of the US Terrorist Finance Tracking Program (TFTP). Negotiations are currently taking place on data protection. An EU-US working group on cybercrime has been set up; this was described as a “real step forward” by a member of the Commissioner’s Cabinet.⁶⁸

60. As Professor Rees explained, third countries can export security problems to the EU, and therefore the Union has sought to embed internal security provisions in its external policies. For example, the EU places requirements in its trade agreements for countries to enter into counter-terrorism cooperation.⁶⁹ Readmission Agreements, under which third countries agree to accept the return of their own failed asylum seekers or people who have transited across their territory, are in force between the EU and 13 States.⁷⁰ Their value has been confirmed in a recent Commission report, which has however recommended a number of changes.⁷¹ Negotiations for an agreement with Turkey have been under way since 2002. In her evidence to us the Commissioner voiced her frustration that a final agreement had still not been concluded.⁷² While the negotiations have now been completed, the agreement is still not in force, and it includes a 3-year transitional provision before full implementation.
61. Negotiations have recently begun for an agreement with Belarus. The United Kingdom is a party to all the EU readmission agreements which have so far been concluded, but the Minister for Immigration has written to tell us that the Government have decided not to opt in to the Decision agreeing the negotiating mandate of the EU. Even if, which we doubt, there are good reasons for the United Kingdom not ultimately to be party to the agreement once it is negotiated, there can be no justification for not taking part in the negotiations.⁷³ Participation in the negotiations, while not in any way requiring the United Kingdom ultimately to be a party to the agreement, would have allowed ministers to stress the importance of protecting the human rights of Belarus citizens.
62. Mr Shapcott explained that for operational matters third countries still tended to deal with individual Member States, but it was the EU’s ambition to go further in its relationships with Russia, China, India and Pakistan. Yet with the exception of Pakistan, where there had been fruitful cooperation, this had not got very far. Discussion with the Russians had been rather empty.⁷⁴ Professor Rees thought that Russia was resistant to EU incentives because the Kremlin considered itself to be too important to have its policies moulded by Brussels.⁷⁵

⁶⁷ See our report *The EU/US Passenger Name Record (PNR) Agreement*, 21st Report, Session 2006–07, HL Paper 108.

⁶⁸ Q 80

⁶⁹ ISS 13

⁷⁰ Hong Kong, Macao, Sri Lanka, Albania, Russia, Ukraine, Former Yugoslav Republic of Macedonia (FYROM), Bosnia-Herzegovina, Montenegro, Serbia, Moldova, Pakistan and Georgia

⁷¹ Communication from the Commission to the European Parliament and the Council: Evaluation of EU Readmission Agreements, COM(2011)76, Council document 7044/11.

⁷² Q 34

⁷³ Letters of 28 March and 18 April 2011 from Damian Green MP, Minister for Immigration, to the Chairman; replies from the Chairman of 6 April and 11 May 2011.

⁷⁴ Q 48

⁷⁵ ISS 13

63. The Director of Europol told us that there were already legal cooperation agreements in force between Europol and some 20 third countries.⁷⁶ Negotiations on an agreement between Europol and Russia were ongoing.⁷⁷
64. **We note the continuing importance of EU-US cooperation on security matters, but believe that the EU should also step up its cooperation, however challenging this may be, with other strategically important third countries such as Russia, China, Turkey and Pakistan in order to mitigate the external risks to the EU's internal security.**
65. **We welcome the endorsement by the Council of a readmission agreement with Turkey, but regret the delay in its implementation. We also regret that the Government have decided not to participate in the Decision authorising negotiation of a readmission agreement with Belarus.**

⁷⁶ QQ 108–109: Albania, Australia, Bosnia-Herzegovina, Canada, Colombia, Croatia, FYROM, Iceland, Moldova, Montenegro, Norway, Russia, Serbia, Switzerland, Turkey, Ukraine, and the USA.

⁷⁷ Q 116

CHAPTER 4: THE OBJECTIVES

66. In order to achieve the Strategy’s aims, the Communication sets out five strategic objectives, each including a number of specific actions, to be implemented during the period 2011 to 2014. These are to:
- (1) Disrupt international crime networks;
 - (2) Prevent terrorism and address radicalisation and recruitment;
 - (3) Raise levels of security for citizens and businesses in cyberspace;
 - (4) Strengthen security through border management; and
 - (5) Increase Europe’s resilience to crises and disasters.

We now consider each of these objectives in turn except security in cyberspace which, because of its particular current significance, is considered in Chapter 5. In practice, the division between these categorisations is not absolute and some of the actions falling under one objective will have an impact on others.

Serious and organised crime

67. The Communication talks of the need for cooperation at EU level, through practical law enforcement cooperation and overcoming divergent legal approaches at Member State level, to “... disrupt criminal networks and combat the financial incentive which drives them.” CEPS emphasised the variations in the nature of the threat across Europe and cautioned that “Any one-size-fits-all approach to policy is therefore likely to be highly counterproductive.”⁷⁸ However, Dr Cornish was more positive, stating that the nature of the international threat in this area was clearer and that therefore international cooperation was “utterly indispensable.”⁷⁹
68. Curiously, the Communication does not mention the role of regular common threat assessments in identifying the challenges and deciding the EU’s strategic priorities in this area. Since 2006, Europol has produced an annual Organised Crime Threat Assessment (OCTA), which includes an analysis of current and anticipated trends in organised crime across the EU, based upon information provided by the Member States (including contributions from SOCA) and a number of EU agencies.⁸⁰ A related development saw the adoption of an “EU policy cycle for organised and serious international crime”. This was a Belgian-led initiative, supported by the United Kingdom, the Netherlands and Europol, and adopted by the Justice and Home Affairs Council on 8 and 9 November 2010,⁸¹ following COSI’s agreement to establish such a policy cycle. This was welcomed by Rob Wainwright, the Director of Europol, who considered that the OCTA would become the “cornerstone” of the policy-making process.⁸² Further information about this initiative—Project Harmony—is in Box 5.

⁷⁸ ISS 2

⁷⁹ Q 189

⁸⁰ The 2009 OCTA is available here:

[http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_\(OCTA\)/OCTA2009.pdf](http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_(OCTA)/OCTA2009.pdf)

⁸¹ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/117583.pdf

⁸² Q 104

BOX 5**Extract from JHA Council Conclusions, 8 and 9 November 2010**

The Council concludes to:

Establish and implement a multi-annual policy cycle with regard to serious international and organised crime in order to tackle the most important criminal threats in a coherent and methodological manner through optimum cooperation between the relevant services of the Member States, EU Institutions and EU Agencies as well as relevant third countries and organisations.

The policy cycle for serious international and organised crime consists of four steps:

Policy development on the basis of a European Union Serious and Organised Crime Threat Assessment (EU SOCTA) that must provide for a complete and thorough picture of criminal threats impacting the European Union.

Policy setting and decision-making through the identification by the Council of a limited number of priorities, both regional and pan-European. For each of the priorities a Multi-Annual Strategic Plan (MASP) needs to be developed in order to achieve a multidisciplinary, integrated and integral (covering preventive as well repressive measures) approach to effectively address the prioritised threats.

Implementation and monitoring of annual Operational Action Plans (OAP) that need to be aligned to the strategic goals which have been determined in the MASP, building upon the COSPOL framework as the multilateral cooperation platform to address the prioritised threats.

At the end of the policy cycle a thorough evaluation needs to be conducted and will serve as an input for the next policy cycle.

Align the timing and methodology when in the future other policy cycles for areas identified in the Internal Security Strategy were to be created so as to allow the political level to decide at the same time on the priorities.

69. Sir Ian Andrews, the Chairman of SOCA, was enthusiastic about the benefits that cooperation between Member States at EU level can and does provide in this area, and we were encouraged that SOCA has already presented a paper to an early meeting of COSI about the UK's approach in the "disruption and denial" of criminal activities, which we understand was well-received by the other representatives on that body.⁸³ SOCA has also presented other suggestions for initiatives at the EU level, including tackling organised crime in the Western Balkans.⁸⁴
70. **We welcome the establishment of the organised crime "policy cycle" by the Council and commend SOCA's positive engagement with COSI on organised crime matters.**

Passenger Name Record (PNR) data

71. The Communication makes reference to a forthcoming proposal⁸⁵ for a Directive on the collection of passenger name record (PNR) data from

⁸³ Q 318. See Council Document No 11401/10, 22 June 2010

⁸⁴ Q 342

⁸⁵ *The EU Internal Security Strategy in Action, Objective 1, Action 1*, p 5

passengers on flights entering or leaving the EU in order to help Member States prevent and prosecute terrorist offences and serious crimes. This proposal was subsequently published by the Commission on 2 February 2011⁸⁶ and while many of our witnesses supported it, they considered that it should also apply to intra-EU flights, which the current proposal does not. Mr Brokenshire told us that the Government were arguing in Brussels for the scope of the measure to be extended, and that they had not yet decided whether to opt in.⁸⁷ In a separate report we urged the Government to opt in to this proposal, and the House agreed our recommendation.⁸⁸

72. The last day of the three months within which the Government had to opt in if they wished to do so was 9 May 2011.⁸⁹ The following day Damian Green MP, the Minister for Immigration, made an oral statement in the House of Commons in which he announced that the Government had informed the Presidency of their decision to opt in to the draft Directive. He added that the Government were making progress in attempting to persuade other Member States that the Directive should apply to intra-EU flights, though it might apply only on those routes thought to present a high risk.⁹⁰ **We welcome the Government's decision to opt in to the draft Directive, and support their intention to continue to argue that the Directive should apply to intra-EU flights.**

Money laundering

73. The Communication also supports the revision by 2013 of EU money laundering legislation, in order to enable better identification of owners of companies and trusts.⁹¹ The nature and necessity of further revisions are not clear at this stage and we reserve our position on this point until a more detailed proposal is published by the Commission. We considered the existing EU legislation in this area, as well as the international dimension, in our 2009 report *Money laundering and the financing of terrorism*,⁹² which among other things was critical of the fact that the United Kingdom had not yet ratified the Council of Europe's Convention on Money Laundering and Terrorist Financing (the Warsaw Convention)⁹³ despite having chaired the negotiations. In their evidence to the inquiry which preceded the report, the previous Government suggested that they were on course to have ratified the Convention by September 2010.⁹⁴ Nearly nine months after this working deadline has passed the situation remains unchanged.

⁸⁶ Proposal for a Directive of the European Parliament and of the Council on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, COM (2011) 32 final, Council Document 6007/11

⁸⁷ QQ 436 & 437

⁸⁸ *The United Kingdom opt-in to the Passenger Name Record directive* (11th Report, Session 2010–11, HL Paper 113). The report was debated on 17 March 2011, when the House agreed our recommendation that the Government should opt in to the proposed directive: Official Report, 17 March 2011, col. 433.

⁸⁹ The document was dated 2 February 2011, and in our report we stated that 2 May 2011 was the closing date for opting in. Subsequently the Council Secretariat agreed to amend the date from which the three months are calculated, which in the case of this draft Directive put the closing date back by a week.

⁹⁰ HC Deb 10 May 2011, cols

⁹¹ *The EU Internal Security Strategy in Action*, Objective 1, Action 1, p 5

⁹² 19th Report, Session 2008–09, HL Paper 132

⁹³ Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Warsaw, 16.V.2005

⁹⁴ *Money laundering and the financing of terrorism*, paragraph 45

74. **The Government's continuing failure to ratify the Warsaw Convention is inexcusable. We repeat our view that this prevarication sends out a negative message about the Government's commitment to this important matter. We again urge the Government to sign and ratify the Warsaw Convention without further delay.**

Confiscation of criminal assets

75. The Communication proposes strengthening the EU's existing legal framework for the confiscation of criminal assets, as well as conferring additional functions on the Asset Recovery Offices (AROs), which each Member State is required to establish by 2014.⁹⁵ Hugo Brady considered the Commission's focus on this area to be wise as the EU has pre-existing systems in place which continue to play an effective role.⁹⁶ However, while the Government were also supportive of the Commission's goals, they believed that the same outcomes could be achieved by improving practical cooperation and by better utilisation of existing powers, rather than by adopting new legislation, which they considered had no basis in the Stockholm Programme.⁹⁷ Their view was the same on expanding the role of AROs, which they noted had not yet been established in all Member States.⁹⁸
76. **The establishment of functioning Asset Recovery Offices in each Member State should be given a higher priority before the conferral of additional functions is considered.**

Joint Investigation Teams (JITs)

77. The Communication supports the more extensive use of Joint Investigation Teams (JITs),⁹⁹ which consist of judicial and police authorities from at least two Member States. JITs are responsible for carrying out criminal investigations into specific matters for a limited period on a cross-border basis, with expert assistance usually being provided by Europol and Eurojust.¹⁰⁰
78. The Government consider JITs to be a "valuable tool" in tackling cross-border organised crime and therefore support the Commission's plan to expand their application.¹⁰¹ Their use throughout the EU already appears to be well established. Mr Wainwright told us that by the end of 2010 Europol had facilitated 13,000 major cross-border operations.¹⁰² SOCA echoed the Government's enthusiasm, and their Head of Strategy in the international department, Mark Bishop, told us that they had recently appointed a

⁹⁵ *The EU Internal Security Strategy in Action*, Objective 1, Action 3, p 6

⁹⁶ Q 149

⁹⁷ Q 438

⁹⁸ According to the Home Office the Member States that have not yet established AROs are Slovenia, Italy, Portugal, Malta and Romania (ISS 18).

⁹⁹ *The EU Internal Security Strategy in Action*, Objective 1, Action 1, p 5.

¹⁰⁰ Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (OJ L 162 of 20 June 2002, p 1). This ceased to have effect on the entry into force for all Member States of the Convention on Mutual Assistance in Criminal Matters. See further our report *EUROPOL: coordinating the fight against serious and organised crime* (November 2008; 29th Report, Session 2007–08, HL Paper 183), paragraphs 109–112.

¹⁰¹ ISS 10

¹⁰² Q 104

national JIT expert who takes part in the EU level forum for national JIT experts, as well as seconding another member of staff to Eurojust, which has a role in the JIT process, to promote the use of JITs by United Kingdom law enforcement agencies.¹⁰³ We also heard about some recent examples of United Kingdom-led JITs operations.¹⁰⁴

79. **We share the Government’s enthusiasm for the work of Joint Investigation Teams and support the greater use of this tool in the fight against cross-border organised crime.**

Counter-terrorism

80. The Communication considers that the terrorist threat to the EU is still significant and is a constantly evolving one, and that therefore any efforts taken at the EU level in response must also evolve and stay ahead of that threat. On a similar basis to its work on threats posed by organised crime, Europol produces regular Terrorism Situation and Trend (TE-SAT) reports,¹⁰⁵ which provide law enforcement officials, policymakers and the general public with facts and figures regarding terrorism in the EU, while also seeking to identify trends and developments. However the Communication considers that Member States have the primary responsibility for achieving this objective, but with the Commission and the Counter-Terrorism Coordinator providing full support.¹⁰⁶
81. Professor Wilkinson noted that while “... by far the most dangerous of these [terrorist] threats ... is from transnational religio-political terrorism of the Al-Qaida movement and its affiliates, ... European governments and their counterterrorist agencies cannot afford to neglect continuing threats from the other types of terrorist groups, such as ethno-separatist extremists, ideological groups, single issue groups and state-sponsored groups which remain active and capable of attacks.”¹⁰⁷ The Communication does not consider the threat posed by the latter type of organisation, possibly because the scope of their activities falls predominantly within the borders of the affected Member States. CEPS and ICPEM suggested that as the most numerous terrorist attacks were still mainly of a local nature, they were best tackled by the Member States concerned.¹⁰⁸ Dr Cornish similarly emphasised the growing problem of “home-grown radicals” and the threat from single issue extremists.¹⁰⁹

EU Counter-Terrorism Strategy and Counter-Terrorism Coordinator

82. The EU has already been active in this area with the adoption in 2002 of a Framework Decision on combating terrorism¹¹⁰ which provided for a

¹⁰³ Q 326

¹⁰⁴ QQ 331–333

¹⁰⁵ These have been produced since 2007 and the most recent 2010 TE-SAT report is available here: http://www.europol.europa.eu/publications/EU_Terrorism_Situation_and_Trend_Report_TE-SAT/Tesat2010.pdf

¹⁰⁶ See paragraphs 81–83

¹⁰⁷ ISS 1. In terms of what should be done in response, Professor Wilkinson goes on to state that “It calls for the highest quality of intelligence, policing and judicial coordination and skill within our national systems, on a pan-European scale and globally.”

¹⁰⁸ ISS 2 & ISS 6

¹⁰⁹ Q 205

¹¹⁰ Council Framework Decision of 13 June 2002 on combating terrorism (2002/475/JHA), OJ L 164 (22 June 2002) p 3

