

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council — the EU Counter-Terrorism Policy: main achievements and future challenges’

COM(2010) 386 final

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On 20 July 2010 the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament and the Council — The EU Counter-Terrorism Policy: main achievements and future challenges

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The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 24 March 2011.

At its 471st plenary session, held on 4-5 May 2011 (meeting of 5 May 2011), the European Economic and Social Committee adopted the following opinion by 167 votes to 2 with 1 abstention.

1. Conclusions and recommendations

1.1 In view of the effects of the current economic crisis, the EESC draws attention to the growing danger of radicalisation, as regards both religiously and ideologically motivated terrorism. Protection of fundamental rights must be a key criterion for evaluation when planning and implementing counter-terrorism policy.

1.2 The EESC believes that the prevention aspect should be reviewed, and a new dimension added further upstream, involving the development of cooperation and the timely resolution of tensions. This is a horizontal issue which is connected to both counter-terrorism policy and other EU and national policies, in areas such as youth, culture, education and political and civic participation.

1.3 The EESC recommends that the term ‘terrorism motivated by bigotry, racism and xenophobia’ be used in official documents of the EU and its agencies instead of ‘Islamist terrorism’.

1.4 The EESC recommends that all the EU institutions and national governments should shape their policies using qualitative and quantitative information on the dynamics of terrorism. Terrorism has many facets and so a one-size-fits-all policy could be inappropriate, costly and ineffective. The principle of proportionality must also be brought into play, so that the response is proportionate in terms of effort and cost to the scale of this type of threat.

1.5 The EESC recommends that in addition to the four strands (prevent, protect, pursue, respond) and horizontal issues (respect for fundamental rights, international cooperation and partnerships with non-EU countries, funding), strategic documents on combating terrorism in the EU should also

refer to types of terrorism, classified by motivation and impact: separatist, left-wing or anarchist, right-wing, single issue and religiously motivated terrorism. This strategic structure would help national governments, EU institutions and other stakeholders to adapt their approach and instruments to the specific challenges of the different types of terrorism.

1.6 The EESC recommends that the EU Strategy for combating radicalisation and recruitment to terrorism and the related action plan should include practical measures to curb inequalities and discrimination and should build interalia upon the work of the European Agency for Fundamental Rights.

1.7 The EESC recommends that the Commission and national governments should thoroughly assess the economic impact of security measures on the activities of private operators. The EESC warns that the development of costly technologies and the introduction of complicated procedures may affect the activities of economic operators and members of the public.

1.8 The EESC warns that unlawful or inappropriate use of (sometimes sensitive) personal information, coupled with the broad powers held by authorities, may lead to discrimination and stigmatisation of specific persons and/or groups of people.

1.9 In order to boost the credibility of counter-terrorism policy and to drive home the importance of respect for fundamental rights, the EESC recommends that the Commission should accede to the European Parliament’s request, set out in the 2007 resolution on the alleged use of European countries

by the CIA for the transportation and illegal detention of prisoners, for an evaluation of counter-terrorism legislation at Member-State level and of other procedures which could open the door to such actions.

1.10 The EESC recommends that the EU should be more vigorous in promoting the counter-terrorism model based on democratic standards and procedures in countries where counter-terrorism policy can affect the quality of democracy and respect for fundamental rights.

2. Introduction

2.1 This communication provides the core elements of a political assessment of the current EU counter-terrorism strategy, as requested by the European Parliament, and constitutes an important preparatory step in the framework of the broader internal security strategy.

2.2 Taking stock of past achievements and looking ahead to future challenges is particularly relevant following the entry into force of the Lisbon Treaty, as well as the adoption of a new multi-annual work programme and action plan for the area of justice, freedom and security (the 'Stockholm programme'), and such an assessment is needed. This communication builds upon and complements the counter terrorism-related measures and initiatives identified in the Stockholm programme⁽¹⁾ and its implementing action plan⁽²⁾ which broadly outline the EU's future actions.

2.3 The 2005 EU counter-terrorism strategy⁽³⁾, which continues to be the main reference framework for EU action in this field, consists of four strands: prevent, protect, pursue and respond. This communication follows that structure. For each of the four strands some major achievements have been highlighted and future challenges identified.

2.4 The EESC salutes the integrated assessment of EU counter-terrorism policy and considers that it is an important step towards achieving a balanced approach to terrorist threats and the instruments to combat them.

2.5 The EESC calls for the revised counter-terrorism strategy, together with the new internal security strategy, to establish objectives and instruments which will ensure that the imperatives of individual security do not affect the protection of fundamental rights and freedoms. These rights and freedoms are the cornerstone of the rule of law and democratic society and must not be suspended or limited in any way.

2.6 The EESC has already issued two opinions which directly addressed the issue of counter-terrorism policy. These two opinions focused on prevention, particularly on combating

radicalisation, and outlined the Committee's position. The main thrust of this position will be revised and reformulated in order to help gear counter-terrorism policy to new trends.

3. General comments

3.1 The economic crisis has shaken up not only Europe's economies but also its social, political and cultural relationships. It has weakened the links of solidarity between people, groups and political institutions. In this context, mistrust and intolerance towards minority communities have spread swiftly, pushing them into a defensive position.

3.2 The EESC considers that the EU's counter-terrorism policy is a complex and delicate area in which the imperatives of guaranteeing security and the development of technologies and legislative instruments must always fall in the context of protection of fundamental rights.

3.3 In view of the many facets of terrorism and its underlying causes, the EESC recommends completing the EU's counter-terrorism policy with a broad strategy for political cooperation and integration which would render terrorist actions pointless. Consolidating objectives such as social inclusion, combating poverty, gender equality and improving employment quality, particularly within the social dimension of the Europe 2020 Strategy, has become an urgent and pertinent factor in the debate on prevention.

3.4 The latest Europol report provides information on the dynamics of terrorism in the EU⁽⁴⁾. In 2009, the number of failed, foiled or completed terrorist attacks fell. Compared to 2007, the number fell by half, reflecting a clear downwards trend.

3.5 Not only the impact but also the structure of terrorist attacks has undergone a change. In 2009, the most common type was separatist attacks (257), followed by left-wing or anarchist attacks (40), right-wing attacks (4) and 'single issue' attacks (2). It should be pointed out that religiously motivated terrorism, publically perceived as the most common and dangerous type of terrorism, is in fact the rarest; in 2009, only one such attack took place, in Italy.

3.6 The EESC deplores the loss of human life and the material damage caused by terrorist activities. The decreasing impact of terrorism shows that through an intelligent and judicious combination of policies and actions this phenomenon can be contained. Counter-terrorism policies must tailor their response to terrorism depending on the arena, motivation, type and causes.

⁽¹⁾ OJ C 115, 4.5.2010, p. 1.

⁽²⁾ COM(2010) 171 final, 20.4.2010.

⁽³⁾ Doc. 14469/4/05, 30.11.2005.

⁽⁴⁾ 2010 Europol terrorism situation and trend report (TE-SAT), available online at http://www.europol.europa.eu/publications/EU_Terrorism_Situation_and_Trend_Report_TE-SAT/Tesat2010.pdf.

3.7 In view of the profound differences between the public perception of terrorism and the reality, the EESC urges governments and EU institutions to play their part in educating people on its causes, scale and effects. The EESC highlights the risks of incorrect and incomplete information about terrorism, as well as the danger of turning the terrorist threat into a pretext for social exclusion, intolerance and discrimination. As the aim of terrorism is to spread fear, overstating terrorist threats could serve the interests of those who might carry out such actions. On the other hand, it is vital to block the trend towards a 'terrorism market' which supports the special interest of various economic and institutional operators in the field of combating terrorist threats.

3.8 There is an important trend as regards the prosecution and punishment of terrorism-related offences. Most arrests have been on the grounds that the suspects are members of terrorist organisations and not for offences related directly to preparing or implementing attacks. This shows that national authorities are successful in preventing the planning and perpetration of terrorist attacks at the earliest stages.

3.9 The development and use of technology in this area, especially for surveillance and data collection and storage, must be proportionate to the severity of the threat. Counter-terrorism policy must not become an invasive presence in people's lives. This would encourage rather than curtail a general feeling of insecurity, and could undermine confidence in the actions of national governments and EU institutions.

3.10 The EESC considers that European civil society has an important role to play in limiting the spread of terrorist threats. Despite a broad spectrum of values, organisational models and means of taking action, civil society must be involved in every aspect of counter-terrorism policy and especially in prevention. Similarly, civil society can be involved in constructing a communication, cooperation and solidarity model to precede actual prevention (the phase when individuals are already prepared to undertake terrorist actions) ⁽⁵⁾. The EESC believes that the most effective way of combating terrorism is to tackle the causes rather than the effects.

3.11 The EESC believes that European civil society has the capacity to form a bridge between the general public, national and local governments and communities and groups which may support terrorist actions. Civil society can take on a specific role

alongside public intervention, contributing by means of specific instruments and programmes (such as mediation and education).

4. Specific comments

Main EU achievements and future challenges

4.1 Prevent

4.1.1 The EESC welcomes the recent policy shift towards prevention. Under the Stockholm programme, this strand of the strategy is set to be reinforced in the next five years, with particular regard to security research as well as policy-related and societal aspects. The Committee also welcomes the priority being given to the way terrorists use the Internet – for communication, fund-raising, training, recruitment and propaganda. Such monitoring of communications should not, however, be developed into an instrument that can impinge on the privacy of the general public.

4.1.2 The EESC backed the initiative to draw up a specific EU strategy for combating radicalisation and recruitment to terrorism ⁽⁶⁾. This strategy has three main targets: to disrupt the activities of the networks and individuals who draw people into terrorism; to ensure that the voices of mainstream opinion prevail over those of extremism and to promote democracy, security, justice and opportunity for all. The Committee awaits with interest the findings of the interim assessments of the implementation of this strategy and is willing to help adjust the strategy in light of these findings. The EESC would point out, however, that the recent counter-terrorism action plan does not include any actions in the area of targeting inequality and discrimination wherever it may be found in the EU and promoting long-term integration wherever necessary ⁽⁷⁾.

4.1.3 Although the focus on prevention is to be welcomed, it is still not properly tackling the causes of terrorism. As the Committee has previously pointed out, '*many lapses into terrorism may be explained as the end result of processes of alienation, radicalisation and recruitment fed by broad inequalities between groups in an area, exclusion and discrimination (social, political or economic)*' ⁽⁸⁾. We would thus propose stepping up dialogue aimed at identifying political responses to the development of terrorism. These responses should reconsider political, institutional, social and economic relations at Member State level and aim to effectively pacify historically rooted tensions.

⁽⁵⁾ OJ C 128, 18.5.2010, p. 80.

⁽⁶⁾ The EU strategy for combating radicalisation and recruitment to terrorism was revised in November 2008 (CS/2008/15175).

⁽⁷⁾ Council of the European Union; *EU Action Plan on combating terrorism*, Brussels, 17 January 2011.

⁽⁸⁾ OJ C 211, 19.8.2008, p. 61.

4.1.4 The EESC endorses the European Commission's establishment of a European Network of Experts on Radicalisation (ENER) in 2008, and believes that an institutional contribution that takes account of the specific nature of each society and type of terrorist act could help adjust EU and Member State policies in this area.

4.1.5 As the majority of terrorist acts carried out in the EU derive from historical, separatist issues, the EESC believes that the Committee of the Regions should be more closely involved in the European debate, as the EU body that brings together local and regional representatives, with which it is more than willing to engage in dialogue.

4.1.6 The EESC welcomes the Commission's intention to issue a communication which will look at the best practices developed by Member States in countering radicalisation and recruitment linked to terrorism. The Committee recommends that in this forthcoming Communication to the Commission takes into account the conclusions and recommendations in the Committee's opinion on the role of the EU in the Northern Ireland peace process⁽⁹⁾. The best practices identified will help all stakeholders to gain a better understanding of the different types of terrorism, categorised according to their motivation and impact. This would be a step towards framing specific policies for each Member State and each type of terrorist threat.

4.2 Protect

4.2.1 The EESC welcomes the efforts by the Commission, Member States, research community and private sector to protect people and infrastructure. This strand of the strategy, which covers EU-wide threat assessments, security of the supply chain, protecting critical infrastructure, transport security and border controls, as well as security research, is the most complex and costly. The development of protection systems should, however, be proportional to the scale of the threat and adapted to the different types of terrorism.

4.2.2 The security of transport in the Member States is a key area. The internal market is based on the free movement of goods, capital, services and people. The mobility of Europeans within and beyond the borders of the EU Member States is an important element of Europe's economies and lifestyles. Mobility facilitates mutual understanding, communication and tolerance. The Committee believes that transport security in all of its facets merits considerable attention from the EU institutions and national governments.

4.2.3 The EESC notes the efforts of the security research community to develop technologies to protect people and infrastructure. However, the research community should be mindful of the impact such technologies can have on people's lives and privacy, and must ensure that they cannot be used abusively or in a way that affects people's dignity and rights.

4.2.4 The EESC welcomes the cooperation of the private sector, including the ICT and chemical industries, in countering the terrorist threat. It also welcomes the openness of private transport operators to heightened security measures, which could potentially generate losses. The EESC therefore urges the Commission and national governments to thoroughly assess the economic impact of security measures on the activities of private operators. The EESC warns that the development of costly technologies and the introduction of complicated procedures may affect the activities of economic operators and members of the public.

4.2.5 In view of the fact that in Europe many of the activities relating to passenger transport security are carried out in cooperation with private agents, these agents must be included in training and information programmes so that security procedures do not jeopardise passengers' security or dignity.

4.3 Pursue

4.3.1 The EESC welcomes the recent developments in this strategic strand, which covers issues such as information gathering and analysis, impeding terrorists' movements and activities, police and judicial cooperation, and combating terrorist financing. In this strand, all stakeholders can demonstrate their vision in framing their responses to the different types of terrorist threat.

4.3.2 The EESC believes that successfully countering terrorism also depends on bilateral cooperation between national authorities and between those authorities and specialist European agencies. However, attention should be drawn to the delicate issues related to the collection and use of private information. Protecting the right to privacy should be a constant concern underpinning counter-terrorism efforts. As pointed out by the European Data Protection Supervisor (EDPS), unlawful or inappropriate use of (sometimes sensitive) personal information, coupled with the broad powers held by authorities, may bring about discrimination and stigmatisation of specific persons and/or groups of people⁽¹⁰⁾.

⁽⁹⁾ The EESC opinion on *The role of the EU in the Northern Ireland Peace process* of 23/10/2008, OJ C 100 of 30.04.2009, p. 100.

⁽¹⁰⁾ EDPS 2010. Opinion on the European Commission's Communication on the EU Counter-Terrorism Policy, Counter-Terrorism Policy and Data Protection – contribution by Mr Giovanni Buttarelli at the EESC hearing on 9 February 2011.

4.3.3 Curbing terrorist financing is an important element of counter-terrorist policy. The EESC notes that EU legislation concerning the procedures for listing persons and entities related to terrorism has been amended to ensure its compliance with fundamental rights. The EESC believes that procedures for sanctions against individuals such as freezing assets must be correct, clear and transparent. Suspects must be able to defend themselves and to contest authorities' decisions.

4.3.4 The EESC agrees that transparency, good governance and accountability are vital for NGOs. Voluntary procedures at European level could be helpful but must not result in the creation of another layer of rules (introducing unrealistic regulatory and/or financial barriers) which go against Member States' legislation and which could have an impact on the sector's ability or the public's willingness to support those they aim to help. The EESC is willing to cooperate in order to identify solutions with a view to framing a common strategy for counter-terrorism policy and bolstering the public's right and wish to organise themselves in independent associations, a fundamental right which must be respected.

4.4 Respond

4.4.1 The EESC welcomes the recent developments in this strand of the strategy, which covers strengthening the civilian response capacity to deal with the aftermath of a terrorist attack, early warning systems, crisis management in general and assistance to victims of terrorism. The EESC believes that the Member States should bolster their response capabilities, with the aim of ensuring efficient protection of human life and safety in crisis situations.

4.4.2 The EESC welcomes the efforts to limit access to chemical, biological and radiological/nuclear (CBRN) materials, which could be used in terrorism. The implementation of the EU's CBRN action plan – which consists of 130 specific actions in the areas of prevention, detection and response to CBRN incidents – should be pursued as a priority, taking account, however, of the potential effects of the proposed measures on the sector in question. Extensive consultations should be held with industry representatives.

4.4.3 The EESC also appreciates the Commission's efforts to assist victims of terrorist attacks by providing around EUR 5 million in victim support and by funding a network of associations of victims of terrorism. It would like to see this support continued and increased.

Horizontal aspects

4.5 Respect for fundamental rights

4.5.1 The EESC is pleased that respect for fundamental rights has been made a horizontal priority. However, the Commission's commitment to respect for fundamental rights

should be coupled with a similar commitment from national governments. Moreover, the protection of fundamental rights should not be limited to devising and drawing up instruments, but should also encompass their implementation.

4.5.2 The European system for the protection of human rights is legally sound and this must be reflected more clearly in the Commission's communications and actions. National governments must display greater determination in using specific instruments. Political commitments must be reflected in governments' actions. The practice of tolerating or carrying out torture in the Member States must be penalised and eradicated. The principle of non-refoulement must be upheld. Discriminatory practices explicitly identified and penalised in international, European and national law must be sought out and opposed.

4.5.3 The EESC suggests that the Commission identify the fastest feedback and decision-making mechanisms in respect of protecting fundamental rights in the context of counter-terrorism policy. To this end, there is scope to further tap the potential of European civil society, whose inherent concern is to safeguard the rights and freedoms of the European people.

4.6 International cooperation and partnerships with non-EU countries

4.6.1 Terrorism, particularly that motivated by religion, has a significant international dimension. The EU should cooperate with other countries with a view to curbing terrorist threats, even though, as discussed above, there is no longer a preferred target for these types of threat.

4.6.2 In its relations with non-EU countries, the EU should promote democratic counter-terrorism procedures and standards. A range of systems exist in the EU for properly guaranteeing and promoting human rights. In many countries outside the EU, however, counter-terrorism policy risks being diverted and impinging on the quality of democracy and the defence of fundamental rights.

4.7 Funding

4.7.1 The EESC endorses the programme on *Security and Safeguarding Liberties*, which includes the specific programme for prevention, preparedness and consequence management of terrorism. The weight of expenditure on each strand of the strategy (prevent, protect, pursue, respond) must be rebalanced and the political commitment to prevention must be flanked by appropriate budgetary resources. There must also be a stronger focus on public-private relations in the fight against terrorist threats. The EESC awaits with interest the findings of the interim assessment of this programme; it hopes that the funds available have been easily accessible and that their use has produced the desired results.

5. Way forward

5.1 The entry into force of the Lisbon Treaty paves the way for closer coordination between Member States, including in the area of counter-terrorism policy. The Treaty also extends the EU's responsibilities with regard to respect for human rights. It is therefore possible to construct a counter-terrorism policy which incorporates into every stage, including implementation, the most advanced standards of and procedures for respect for human rights. The EESC believes that counter-terrorism policy should be brought in line with actual trends in terrorism, with the emphasis placed firmly on prevention, understood in its broad sense as a process whereby the societal, political and economic causes of terrorism are dealt with directly.

Brussels, 5 May 2011.

The President
of the European Economic and Social Committee
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