Taking stock of EU Counter-terrorism policy and review mechanisms: Summary of *Statewatch's* findings for SECILE project

Much has been written about the European Union's embrace of the "War on Terror" launched by the USA in 2001. This discourse has focussed primarily on the legal effect of domestic EU measures, their relationship to national law, their impact on fundamental rights and civil liberties, and their transformative effect on the activities and operations of European police forces and security agencies.

Before '9/11' only a handful of the then-15 EU member states had dedicated terrorism legislation, while relevant international conventions dealt only with specific offences and targets favoured by terrorists and the suppression of terrorist financing. After 9/11, counter-terrorism moved rapidly to the forefront of the EU's policy agenda, with the result that the 28 members of the European Union today are now obliged to implement a vast body of legislation and policy. This includes a common legal definition of "terrorism" and terrorist offences, and a host of substantive criminal and procedural laws and mechanisms for cross-border police cooperation, as well as scores of supplementary "security" and "preventative" measures. In addition, numerous EU bodies and agencies have been given a mandate to implement or coordinate EU counter-terrorism policies.

The SECILE project

SECILE is an EU-funded research project examining the impact, legitimacy and effectiveness of European Union counter-terrorism measures (CTMs) led by the University of Durham. *Statewatch's* role in the project is to conduct a 'stocktake' of EU CTMs and to collect and analyse data about their implementation (SECILE work package 2). To this end it has produced four reports; this document summarises the first three.

1) D2.1: Catalogue of EU counter-terrorist measures adopted since 11 September 2001
2) D2.2: Report on the transposition of EU counter-terrorism measures
3) D2.3: Report on how the EU assesses the impact, legitimacy and effectiveness of its counter-terrorism laws
4) D2.4: The EU Data Retention Directive: a case study in the legitimacy and effectiveness of EU counter-terrorism policy

This summary document contains:

1) An overview of *Statewatch's* research findings
2) A commentary on the evolution of the EU counter-terrorism agenda
3) An explanation of the different types of EU legal measures and their effect

1 Overview of *Statewatch's* research findings

1.1 Scope of *Statewatch's* research

The reports produced by *Statewatch* for the SECILE project represent the first concerted attempt to catalogue all relevant EU counter-terrorism measures adopted since 11 September 2001; neither EU institutions nor external evaluators have attempted to produce a comprehensive repository that makes all of the full-text documentation readily available to the public. For the purposes of the studies an EU legal act or policy document is considered to be an EU counter-terrorism measure if it meets the following criteria:

(i) it has at some point in time been part of the EU's counter-terrorism agenda;
(ii) it has been adopted or approved by an EU institution or body or otherwise represents the official policy of the European Union.

However the study omitted those operational measures where no official EU documentation could be located (e.g. in respect to intelligence cooperation or joint investigations) as well as EU agreements with third countries containing basic counter-terrorism commitments (from 2005 standard counter-terrorism cooperation clauses began appearing in all new and updated EU association agreements which set out the framework for cooperation with third countries).

1.2 Key findings on breadth of EU counter-terrorism agenda

If both legislative and non-legislative instruments are taken into account, the EU has adopted at least 239 separate counter-terrorism measures since 9/11.

Of the 239 adopted measures, 88 – or 36 per cent – are legally binding (or "hard law") in the member states, meaning that they have direct effect or require transposition (new national laws or practices) by the member states. The following table shows the breakdown of the different instruments. A commentary on the evolution of the EU counter-terrorism agenda follows further findings.

EU Counter-terrorism measures by instrument

Instrument	**Quantity** (+drafts)	**Purpose, impact**
Action plans and strategy documents	**26**	Sets the EU counter-terrorism agenda through legislative and/or operational programmes that represent a political commitment on the part of EU member states, institutions and agencies to develop and implement specific policies, legal measures or frameworks for cooperation.
Regulations	**25** (+13)	Legal acts that apply directly without requiring national laws to implement them (though states are free to transpose as long as effect is same). All EU institutions, member states and individuals must comply with Regulations.
Directives	**15** (+8)	Legal acts that are binding on the member states in terms of the results to be achieved but leave to the discretion of national authorities the methods by which these results may be achieved.
Framework Decisions	**11**	Legally binding acts used exclusively in the fields of police and judicial co-operation in criminal justice matters between 1999 and 2009. Similar in effect to Directives insofar as they require member states to achieve particular results without dictating the means of achieving those results.
Decisions	**25** (+4)	Legally binding acts that may have "general application" (in which case all member states must take steps to comply) or be directed at specific addressees (meaning only those subject to the Decision must comply).
Joint Actions	**1**	Legally binding instruments under the Common Foreign and Security Policy that provide for the deployment of financial and/or human resources to achieve a specific objective. May also lay down basic rules on how such initiatives should be implemented.
Common Positions	**3**	Legally binding agreements between the member states on the position to be taken with regard to international matters such as strategic relations with third countries, negotiating positions in international fora or the domestic (EU) interpretation of international laws and conventions.
Recommendations	**11**	Not legally binding but representative of a political commitment on the part of EU institutions/bodies or member states toward specific conduct or outline the goals of a common policy.
Resolutions	**4**	Not legally binding but used to signify political agreement to act in a given area.
Conclusions	**111**	Not legally binding but used exclusively by the EU Council to set the policy agenda by signifying political agreement among the member states as to the type, nature or content of specific measures.
International agreements	**8**	Legal effect varies according to the type and nature of the agreement. In the area of counter-terrorism EU treaties have been establishing frameworks for member state police, judicial and customs cooperation with the USA as well as to provide a legal basis for the transfer of personal data from the EU to third states.
Total	**239** (+25)	Note: a more detailed explanation of the legal effect of the different kind of measures is included in section 3 of this document.

1.3 Obligations on the member states stemming from EU counter-terrorism policy

Not all legally binding EU measures require the member states to adopt specific national laws or policies to implement them (EU Regulations, for example, have direct legal effect and so do not require transposition into national law, although significant practical steps may still be required; similarly, some EU Decisions are addressed to the EU institutions rather than the member states. Therefore of the 88 legally binding measures identified in our catalogue of EU counter-terrorism legislation, 50 can be said to explicitly require transposition in the member states.

1.4 Factors affecting the implementation/transposition of EU CTMs

The resources required to assess the implementation of 50 separate EU measures by the 28 EU member states were not available to this project, though *Statewatch* did produce a case study examining the transposition of the EU Data Retention Directive. The following factors can be seen to affect the national transposition process more generally:

- the legislative procedure: "normal" parliamentary processes (also known as primary legislation) versus delegated powers, statutory instruments and implementing regulations etc.;
- "gold plating": the incorporation of additional provisions into national legislation implementing EU texts;
- the structure of the state in federal or decentralised countries;
- the obligation to consult different stakeholders, including "civil society";
- the legal drafting techniques employed;
- the length of the transposition process; and
- a lack of coordination between different administrative departments.

1.5 Key findings with regard to the transposition of EU CTMs

Where information regarding transposition or implementation is available, it can be observed that *only one of the 50 legally binding EU CTMs can be said to have so far been implemented within the requisite time period by all of the member states and to the satisfaction of the EU institutions* (by which we mean that no infringement proceedings were launched and no censure or complaint against the member states were recorded in the implementation reports). None of the other measures were implemented on time or satisfactorily from the perspective of the European Commission or EU Council.

Member states have frequently been slow to implement EU CTMs and in many cases have not implemented them at all until faced with legal action. The European Commission can initiate infringement proceedings against individual member states for failure to fulfil their obligations under the EU treaties to implement Directives. Ultimately the Commission can bring the matter before the European Court of Justice (ECJ) and request the imposition of a fine. *Eight out of 11 EU Directives related to counter-terrorism that should have by now been implemented in full have resulted in full infringement proceedings against one or more member states at the ECJ*.

The magnitude of the task facing anyone seeking to understand how EU counter-terrorism law has been transposed is compounded by a failure to include on a systematic basis provisions for review in the legislation itself, failures on the part of the EU institutions to actually conduct those reviews, and failures to make reviews readily available and easily accessible where they have taken place. All of this leaves the public and indeed the EU institutions with little knowledge of whether these measures have actually been implemented, and, more importantly, how they function in practice. This is particularly problematic in light of the fact that legislation intended to deal with the problem of terrorism frequently impinges upon fundamental rights.

The democratic legitimacy of EU legislation is ostensibly derived from the member states' participation in the decision-making process (a process they monopolised in respect to the old "third pillar"), yet the European Commission frequently takes those states to task for failing to properly implement the measures they have developed. It is arguably even more problematic that it does so largely in the absence of any qualitative assessment of the factors that might have caused these failures. Given the stated goal of the EU to create a common "Area of Freedom, Security and Justice", this should be of some concern for the Commission and for all those who wish to see common and consistent application of the law across the EU.

1.6 Assessing the impact, legitimacy and effectiveness of EU CTMs

The EU has a range of consultative, legislative and review procedures at its disposal. Applied in full to the EU law and policy-making process, these procedures have the potential to provide for a competent if not comprehensive evaluation of the impact, legitimacy and effectiveness of all EU legislation, from conception through to design, adoption and implementation. Our research suggests that these resources are at best underutilised and at worst applied in a manner that ultimately ignores crucial issues of civil liberties and human rights, necessity and proportionality, accountability and democratic control. Such an approach is fundamentally at odds with the values espoused by the EU Treaties.

1.7 Minimal public consultation on EU counter-terrorism measures

Despite the decade-old commitment on the part of the European Commission to consult the public more widely, the number of public consultations held in relation to the 88 binding counter-terrorism measures adopted since 2001 is incredibly low: *only three public consultations have been undertaken, equating to a rate of just 3.4%*.

1.8 Minimal use of impact assessments

The purpose of impact assessments (IAs), which should be carried out for all major initiatives, is to provide legislators with "more accurate and better structured information on the positive and negative impacts [of EU proposals], having regard to economic, social and environmental aspects".

However, only 22 of the 88 legally binding counter-terrorism measures (25%) have been the subject of such evaluations.

1.9 Exclusion of the European Parliament from the decision-making process

Of the 88 legally binding CTMs adopted since September 2001, 70 (79.5%) were the subject of some form of deliberation by the European Parliament, but in 44 cases these deliberations took place as part of the "consultation procedure" (where the Parliament adopts an opinion but the member states in the Council, acting as sole legislator, are free to ignore it). "Co-decision", where the Parliament enjoys full legislative powers, only occurred in respect to 23 of the 88 measures. The European Parliament was thus effectively excluded from what is now the normal EU decision-making process in respect to almost three-quarters of the EU's counter-terrorism "acquis".

1.10 Reviewing the effectiveness of EU counter-terrorism policy

Once legislation has been adopted, it must be implemented by the member states, EU bodies or private actors (or a combination of these stakeholders). Depending on the legislative instrument in question and the provisions made by the legislator, the implementation or transposition of the legislation may be subject to a review by the European Commission, Council of the EU or expert advisors/contractors. However, the primary concern in respect to measures adopted in the name of counter-terrorism has been whether or not the member states have implemented the legislation rather than how effective that legislation has been in respect to its purported aims. Whereas the transposition of EU Directives is subject to systematic monitoring by the European Commission, the ex-post review of other instruments has been more *ad hoc*.

Of the 88 legally binding measures counter-terrorism measures identified in our research, 59 (or 67 per cent) contain provisions for review by the European Commission and nine of these provide for further reviews by the Council. One third of the EU's legally binding CTMs contain no provisions for review at all, suggesting little or no concern for their impact or effectiveness. Of the 59 measures that are subject to review by the Commission, only 33 of those reviews can be located. Sixteen reviews have either not taken place or cannot be located while a further ten are yet to be undertaken in accordance with the deadline provided for in the legislation.

1.11 Conclusions

The EU appears far more concerned with assessing the exercise of its authority than with evaluating its effectiveness in the context of counter-terrorism. The legitimacy of EU counter-terrorism policy is simply taken for granted by legislators while challenges to the EU's legitimacy have consistently been met with the conviction that "more Europe" is the only solution.

Of all the evaluation processes at the EU's disposal, much greater weight has been ascribed to the needs and assessments of law enforcement and security agencies than the other "stakeholders" courted in debates about the "disconnect" between the EU and the citizen. The "mutual

evaluations" of the member states' counter-terrorism and crisis management capabilities and the creation of the post of EU Counter-Terrorism Coordinator have further attempted to impose uniformity amongst the structures of member states' law enforcement and security forces and the implementation of EU law, while those bodies and organisations that have concerned themselves with questions of impact, legitimacy and effectiveness in any broader sense have been have been marginalised or ignored. The views of the European Parliament's Civil Liberties Committee (outside of the co-decision procedure), the European Data Protection Supervisor, the now-disbanded EU Expert Network on Fundamental Rights and civil society organisations have had little discernible impact on specific measures (with a few notable exceptions) and less still on the overall trajectory of EU counter-terrorism policy.

Given these trends, it must be asked whether the increased use of public consultation, impact assessment, advisory opinions and the EU's other preferred mechanisms for assessing legitimacy genuinely offer the prospect of "better law-making", as promised by the Commission, or whether novel and more robust procedures are required.

Finally, it must be observed that the "full and detailed evaluation" of EU counter-terrorism policy requested by a European Parliament report[1] in 2011 is long overdue. It is abundantly clear that the vast majority of the EU's counter-terrorism legislation has not been subjected to the kind of scrutiny that should be expected of laws that can have such a significant impact upon individuals and public and private institutions. Indeed, the fact that so much counter-terrorism legislation across Europe stems from the European Union, coupled with the limited mechanisms for ensuring democratic accountability in decision-making, national transposition and *ex-post* review appears to have compounded the problems that have become synonymous with the protection of fundamental rights in this field. The research in the reports by *Statewatch* produced for the SCEILE project strongly supports the European Parliament's call for "a proper evaluation of ten years of counter-terrorism policies [focused] on examining whether the measures taken to prevent and combat terrorism in the EU have been evidence-based (and not based on assumptions), needs-driven, coherent and part of a comprehensive EU counter-terrorism strategy, based on an in-depth and complete appraisal".

[1] European Parliament, 'EU counter-terrorism policy: main achievements and future challenges', 2010/2311(INI), 14 December 2011, http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0286&language=EN

2 Commentary on the evolution of the EU Counter-terrorism agenda

2.1 The 9/11 effect

The EU responded immediately to the terrorist attacks in the USA on 11 September 2001 by developing an *ad hoc* programme of measures drawn-up by the General Secretariat of the Council[2] and expediting proposals for Framework Decisions on Terrorism[3] and the European Arrest Warrant (EAW),[4] both of which the European Commission was already preparing in accordance with an EU Action Plan of 2000 to implement the principle of "mutual recognition" in civil and criminal matters published in January 2001.[5]

These two pieces of legislation were "politically agreed" by the member states following just six weeks of negotiations;[6] less than the time it subsequently took to translate the text into all of the EU's official languages. The speed at which agreement was reached is notable given that the 1996 EU Convention on Extradition that the EAW replaced had taken almost four years to agree and had not yet even been ratified by all member states.

There was even less debate over the EU legislation implementing UN Security Council Resolutions on Terrorism and creating the dedicated EU terrorist "blacklists" (see 5.10.1 and 5.10.2): the relevant texts were simply faxed around the EU's foreign ministries two days after Christmas and adopted by "written procedure" when none objected.[7]

2.2 A plethora of further measures

The origins of the EU's counter-terrorism agenda can be traced to the Conclusions of the extraordinary EU Justice and Home Affairs Council convened on 20 September 2001 in response to the 9/11 attacks. These conclusions called for concerted action in 33 specific areas, with a further eight measures relating to cooperation with the USA.[8] A month later, the US government wrote to the European Commission with a further 40 specific requests regarding cooperation on anti-

[2] *Conclusions adopted by the Council (Justice and Home Affairs)* on 20 September 2001, 12156/01, 25 September 2011 (see section 5.13.1).
[3] *Proposal for a Council Framework Decision on combating terrorism*, COM(2001) 521 final, 19 September 2001 (see section 5.6.1).
[4] *Proposal for a Council Framework Decision on the European arrest warrant and the surrender procedures between the Member States*, COM(2001) 522 final, 25 September 2001 (see section 5.6.3).
[5] *Draft programme of measures for implementation of the principle of mutual recognition of decisions in civil and commercial matters* (OJ 2001 C 12/01), available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2001:012:0001:0009:EN:PDF.
[6] The two Commission proposals were published on 19 September 2001. "Political agreement" was reached by ministers at the EU Justice and Home Affairs Council meeting on 6-7 December 2001.
[7] This process is detailed in 'EU announces first lists of terrorists and all refugees to be vetted', *Statewatch news online*, January 2002, available at: http://www.statewatch.org/news/2002/jan/02euterr.htm.
[8] *Conclusions adopted by the Council (Justice and Home Affairs)* on 20 September 2001, 12156/01, 25 September 2011 (see section 5.13.1).

terrorism measures.[9] By now the EU had adopted its first counter-terrorism "roadmap", containing 64 detailed objectives, the majority of which were marked as "urgent".[10] An update of the "roadmap" published in 2002 showed significant progress with regard to almost all of the 64 objectives.[11]

The terrorist attacks in Madrid on 11 March 2004 galvanised the EU into renewed action. The European Council adopted a new declaration on combatting terrorism on 25 March containing 57 specific measures, many of which were new.[12] As *Statewatch* observed at the time, "27 of the proposals have little or nothing to do with tackling terrorism – they deal with crime in general and surveillance".[13] In June 2004 the "roadmap" was replaced by an "EU Plan of Action on Combating Terrorism" containing at least 129 specific measures divided across seven strategic objectives.[14]

In 2005, following the '7/7' bombings in London, the EU's counter-terrorism programme was renewed again with the adoption of a new "EU Counter-Terrorism Strategy" subtitled "Prevent, Protect, Disrupt, Respond",[15] clearly inspired by the UK's "CONTEST" strategy ("Prevent, Pursue, Protect, and Prepare"). Although the EU strategy was described as "new", the updated Action Plan that accompanied it had changed little from the previous version.

2.3 A series of sub-programmes

By 2006 the objectives and measures set out in the EU's Action Plans and Counter-Terrorism Strategy had spawned a series of sub-programmes on different aspects of counter-terrorism, each with their own dedicated action plans or implementing measures, including:

- Radicalisation and recruitment
- European Critical Infrastructure Protection
- Strategy on terrorist financing
- Customs initiatives
- Proliferation of Weapons of Mass Destruction
- Civil protection and crisis management
- Chemical, Biological, Radiological and Nuclear (CBRN) protection
- Integrated border management
- Information management strategy

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[9] *Text of US letter from Bush with demands for EU for cooperation*, Statewatch news online, October 2001, available at: http://www.statewatch.org/news/2001/nov/06uslet.htm.
[10] *Coordination of implementation of the plan of action to combat terrorism*, 12800/1/01, 17 October 2001? (see section 5.1.1).
[11] *European Union action plan to combat terrorism – Update of the roadmap*, 13909/1/02, 14 November 2002 (see section 5.1.1)
[12] *Declaration on Combatting Terrorism*, 25 March 2004 (see section 5.1.1).
[13] 'Statewatch "Scoreboard" on post-Madrid counter-terrorism plans', *Statewatch news online*, March 2004, available at: http://www.statewatch.org/news/2004/mar/swscoreboard.pdf.
[14] *EU Plan of Action on Combating Terrorism*, 10586/04, 15 June 2004 (see section 5.1.1).
[15] *The European Union Counter-Terrorism Strategy*, 14469/4/05 REV 4, 30 November 2005 (see section 5.1.1).

- Security research

While our research catalogued the legislative acts stemming from these sub-programmes, many of the measures that they contain are non-legislative and for the most part require specific actions to be undertaken by EU agencies and national security forces. The second iteration of the "radicalisation and recruitment" action plan, for example, contained 79 specific measures. But despite the Swedish Presidency, which oversaw the update, being "of the firm opinion that the revised version of the Radicalisation and Recruitment Action Plan should be a public document",[16] all of the specific actions were redacted from the publicly available text. All of the other key documents relating to the EU's radicalisation and recruitment strategy received the same treatment. Needless to say, if the public and civil society is prevented from knowing what a particular EU strategy entails, it is impossible for them to even attempt to ascertain its legitimacy or effectiveness or otherwise play any part in the democratic process.

2.4 "Terrorism fatigue"?

The "EU Plan of Action on Combating Terrorism" was regularly updated until March 2007, by which time it had grown to more than 140 measures. After this point, no further updates can be identified, save for a European Commission Communication of November 2007 entitled "Stepping up the fight against terrorism" containing several new proposals.[17] The EU Counter-Terrorism Coordinator (EU CTC) continues to report twice yearly to the member states in the Council on the implementation of both the strategy and action plan.[18]

The cessation of regular updates coincided with the onset of the banking liquidity crisis in the autumn of 2007, which would develop into a full blown financial crisis and economic depression. By 2009 even the EU CTC was talking of "counter-terrorism fatigue" caused by "a string of other global crises with more immediate impact on peoples' lives".[19]

While the EU CTC warned of complacency amid dwindling public support for counter-terrorism measures – a concern that British "securocrats" have expressed[20] – the EU's strategy was by now entrenched in a wide range of legislative and operational frameworks and security sub-programmes.

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[16] *Revised EU Radicalisation and Recruitment Action Plan*, 15374/09, 5 November 2009 (see section 5.1.2).
[17] *Stepping up the fight against terrorism*, COM(2007) 649 final, 6 November 2007 (see section 5.1.1).
[18] *EU Counter-Terrorism Strategy - discussion paper*, 15359/1/09, REV 1, 26 November 2009(see section 5.1.1). See further *10 years - 10 lessons: What our experiences since 9/11 can teach us for the future By Gilles de Kerchove, EU Counter-terrorism Coordinator*, EU Media Release, September 2011, available at: http://www.consilium.europa.eu/media/1267061/10-years-10-lessons.pdf.
[19] All of the publicly available versions of these reports are listed in section 5.1.1.
[20] 'Securocrat' is a blend of the terms 'security' and 'bureaucrat' and is used to describe senior members of the police and military or public officials representing their interests who hold influential positions in government or can otherwise influence government policy. British 'securocrats' who have warned of 'terrorism fatigue' include John Yates, assistant Commissioner of the Metropolitan Police and Jonathan Evans, former Director General of MI5. See *Anti-terror chief warns of budget cuts*, *guardian.com*, 7 July 2009 and *UK is winning terror fight: MI5 chief Jonathan Evans talks to the Mirror*, Mirror, 7 January 2009.

This state of affairs was tacitly acknowledged in the European Commission's review of EU Counter-Terrorism policy in 2010,[21] which noted that while the core strands of the 2005 CT strategy ("Prevent, Protect, Disrupt, Respond") remained integral, much of the Action Plan had been taken up by the broader EU Internal Security Strategy[22] and the new multi-annual work programme and action plan for the Area of Freedom, Security and Justice (the "Stockholm Programme").[23] According to the Commission, the new institutional framework of the Lisbon Treaty "offers the Union an unprecedented opportunity to better interlink its different counter terrorism instruments, as well as the internal and external dimension".

2.5 All things security

Some 26 dedicated counter-terrorism and security strategies and sub-programmes are included in our catalogue of CTMs (see deliverable 2.1, section 5.1). While the early years of EU counter-terrorism cooperation were focussed primarily on the "prevent" and "disrupt" elements of the EU strategy (as noted above), the last six years have focussed more and more on the "protect" and "respond" dimensions, which has in practice been translated into an increasing number of generalised "security", surveillance and "crisis management" initiatives. These include transport security, "cybersecurity", border control, information management (a euphemism for EU law enforcement databases and information exchange) and a series of measures designed to support the emerging EU "Homeland Security" industry.

All of these initiatives, which are overseen by the European Commission, require a high degree of cooperation with the private sector. Many are underwritten by generous funding programmes, such as the security components of the EU's "FP7" and "Horizon 2020" framework research programmes; the critical infrastructure ("CIPS") and crime ("ISEC") components of the Programme on "Security and Safeguarding Liberties" (see sections 5.7.13 and 5.7.14); and the proposed Internal Security Fund.

2.6 Taking stock

The extensive catalogue of EU counter-terrorism measures identified in this report gives rise to five substantive concerns. First is the sheer scope of the programme. If both legislative and non-legislative measures are included, some 239 separate counter-terrorism measures can be identified, rising to 264 if draft legislation is taken into account. Of the 239 adopted measures, 88 – or 36 per cent – are legally-binding (or "hard law"), meaning that they have direct effect or require transposition by the member states. This process is examined in a separate report (see SECILE deliverable 2.2).

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[21] *EU Counter-Terrorism Policy: main achievements and future challenges*, COM(2010) 386 final, 20 July 2010; *Taking stock of EU Counter-Terrorism Measures*, SEC(2010) 911 final, 20 July 2010 (see section 5.1.1).
[22] *Draft Internal Security Strategy for the European Union: "Towards a European Security Model"*, 7120/10, 8 March 2010 (see section 5.1.15).
[23] *The Stockholm Programme—An open and secure Europe serving and protecting citizens*, OJ C 2010 115/01 (see section 5.1.26).

As noted above, the list of 239 measures is far from comprehensive because of the exclusion of "operational" and "non-legislative" measures and generalised counter-terrorism cooperation with third states. The scope of the EU's counter-terrorism programme is important not just because it has grown to encompass issues that appear to have little to do with combatting terrorism *per se*, but because, as the annual British Social Attitudes report found in 2007, "[t]he very mention of something being a counter-terrorism measure makes people more willing to contemplate the giving up of their freedoms".[24] "It is as though society is in the process of forgetting why past generations thought these freedoms to be so very important", warned the authors.

The second major concern is the breadth of the EU's counter-terrorism agenda. In the aftermath of terrorist attacks in the USA and Europe, the instinctive reaction of EU governments was apparently to include as many justice and home affairs and security measures as possible under the rubric of counter-terrorism, so as to appear decisive and resolute. This in turn gave a tremendous impetus to the development of the EU's security apparatus as a whole, leading Romano Prodi, former President of the European Commission, to joke that Osama Bin Laden had done more for justice and home affairs cooperation than Jean Monnet. Any subsequent onset of "counter-terrorism fatigue" has since had little impact on an agenda that continues to develop apace in the name of "security" (or interchangeable security "threats").[25]

The third major concern stems from the first two: the EU's counter-terrorism agenda has become so bloated as to make it extremely difficult for citizens and even specialist researchers to understand which specific policies fit in where and why, never mind what those policies do; where they came from; whether they have been properly implemented or whether they are effective (questions that the SECILE project is now addressing). If the public does indeed have "terrorism fatigue", a catalogue of well over 200 largely impenetrable measures – many of which simply cannot be understood in isolation – is unlikely to inspire confidence or assuage widely held concerns about negative impacts on fundamental rights or the unchecked accrual of powers by police and security forces.

The fourth concern that emerges from this report is democratic control over the EU policy-making agenda. The "democratic deficit" that has long been synonymous with EU decision-making has been particularly pronounced in the area of justice and home affairs and security policy, with long-standing concerns about national sovereignty seeing the European Parliament excluded from key counter-terrorism decisions. While the EP now has a much greater role in the EU legislative process, the member states acting within the Council still retain substantial control over the security and counter-terrorism agendas (and complete control over operational issues), despite recent extensions

[24] *New British Social Attitudes Report Published Today*, National Centre for Social Research press release, 24 January 2007.

[25] See for example the 2010 Stockholm Programme, which states that "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 wide-spread crime** has become an urgent challenge which requires a clear and comprehensive response" (emphasis added; *The Stockholm Programme—An open and secure Europe serving and protecting citizens*, OJ C 2010 115/01 (see section 5.1.26)).

of the mandate and powers of the European Parliament in these areas. That more than 100 sets of Council Conclusions covering every conceivable aspect of EU counter-terrorism policy have been identified is testimony to the political control that the Council exercises. This body of "soft law" has ensured that counter-terrorism has remained at the centre of the EU's political agenda. Wider concerns about the democratic control of this process arise because there is no national or European parliamentary scrutiny over the drafting or adoption of Council Conclusions. And while the powerful governments among the 28 member states clearly exert significant influence, it is the General Secretariat of the Council, which – on behalf of the Presidency of the day – drafted all of the Conclusions and many of the Action Plans identified in our research.

Finally, whereas the role played by the General Secretariat of the Council raises concerns about democratic control of the EU counter-terrorism agenda, the increasing involvement of the security and defence industry in many of the security and counter-terrorism policies overseen by the European Commission[26] gives rise to concerns about democracy, accountability and undue corporate influence over critical issues affecting the fundamental rights of everyone in the European Union.[27]

[26] See in particular the Commission initiatives on support for the emerging EU "Homeland Security" industry (see section 5.1.23); European Critical Infrastructure Protection (see section 5.1.3); security research (see sections 5.7.11, 5.7.12 and 5.3.3); transport security (see sections 5.1.11, 5.1.12 and 5.1.13) and "cybersecurity" (see section 5.1.17).

[27] These issues are explored in Hayes, B (2009), *NeoConOpticon: the EU Security-Industrial Complex* (Amsterdam: Transnational Institute/Statewatch).

3. EU legal measures and their effect

3.1 Regulations

EU Regulations are binding in their entirety and directly applicable.[28] National measures to incorporate EU Regulations into national law are not expressly required, although member states may still enact implementing measures as long as they preserve the intended effect of the Regulation.[29] A distinction is made between "basic Regulations" and "implementing Regulations": the former set out fundamental rules, the latter may contain additional technical provisions and be adopted by the Commission alone under delegated legislation.[30] The date that Regulations enter into force (become law) is set out in the legislation and is typically on or soon after the date of publication in the EU's Official Journal. The European Commission may initiate legal action against member states at the European Court of Justice for failing to adhere to EU Regulations (so-called "infringement proceedings").[31] In respect to EU counter-terrorism policy, Regulations have been used to freeze the assets of terrorist suspects;[32] to harmonise the features of national identity and travel documents;[33] to introduce common customs,[34] maritime[35] and aviation security rules[36] (including the notorious "liquids ban"); to establish databases such as the Schengen Information System[37] (SIS II) and Visa Information System[38] (VIS); and for the creation of EU security agencies like Frontex[39] (the EU Border Police) and ENISA[40] (European Network and Information Security Agency).

[28] Article 288, Treaty on the Functioning of the European Union, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0047:0200:en:PDF

[29] European Commission, 'Regulations', http://europa.eu/legislation_summaries/institutional_affairs/decisionmaking_process/l14522_en.htm

[30] Ibid.

[31] Article 258, Treaty on the Functioning of the European Union

[32] Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

[33] Council Regulation (EC) No 334/2002 amending Regulation (EC) No 1683/95 laying down a uniform format for visas

[34] Commission Regulation (EC) No 1875/2006 Commission Regulation amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

[35] Council Regulation (EC) No 871/2004 Regulation concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism

[36] Parliament and Council Regulation (EC) No 2320/2002 establishing common rules in the field of civil aviation security

[37] Council Regulation (EC) No 871/2004 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism

[38] European Parliament and Council Regulation (EC) No 767/2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)

[39] Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

[40] Proposal Regulation of the European Parliament and of the Council concerning the European Union Agency for Network and Information Security (ENISA) and repealing Regulation (EC) No 460/2004

3.2 Directives

EU Directives are binding on the member states (or the specific states that they address) in terms of the results to be achieved but leave to the discretion of national authorities the methods by which these results may be achieved.[41] The ECJ has confirmed that:

> [T]he transposition of a directive into domestic law does not necessarily require that its provisions be incorporated formally and verbatim in express, specific legislation; a general legal context may, depending on the content of the directive, be adequate for the purpose provided that it does indeed guarantee the full application of the directive in a sufficiently clear and precise manner so that, where the directive is intended to create rights for individuals, the persons concerned can ascertain the full extent of their rights and, where appropriate, rely on them before the national courts.[42]

This judgment outlines one of four "general criteria"[43] based on EU case law that the European Commission uses to assess the legitimacy of member states' implementation of Directives. The other three criteria are:

- Form and methods of implementation of the result to be achieved must be chosen in a manner which ensures that the Directive functions effectively with account being taken of its aims;[44]
- Each Member State is obliged to implement Directives in a manner which satisfies the requirements of clarity and legal certainty and thus to transpose the provisions of the Directive into national provisions having binding force;[45]
- Directives must be implemented within the period prescribed therein.[46]

All Directives include a deadline for the member states to transpose the measures into national law but in some instances the laws of a member state may already comply with the EU provisions, in which case no further measures are required. The date that Directives enter into force (become law) is set out in the legislation and is typically on or soon after the date of publication in the EU's Official Journal; it is meant to be "as short as possible" and "not exceed two years".[47] Member states are then supposed to inform the European Commission of the implementing legislation or mechanisms

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[41] Article 288, Treaty on the Functioning of the European Union

[42] Judgment of 28 Feb. 1991, Commission v Germany, C-131/88 (Groundwater), ECR 1991, p. 825, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61988CJ0131:EN:PDF

[43] European Commission, *Report from the Commission based on Article 11 of the Council Framework Decision of 13 June 2002 on combating terrorism*, COM(2004)409 final, 8.6.2004, available at: http://www.statewatch.org/semdoc/assets/files/commission/COM-2004-409.pdf

[44] European Court of Justice, Case 48/75 *Royer*, 1976, http://curia.europa.eu/juris/showPdf.jsf?text=&docid=89046&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=432737

[45] European Court of Justice, Case 239/85 *Commission v Belgium*, 1986, http://www.statewatch.org/semdoc/assets/files/commission/COM-2004-409.pdf

[46] European Court of Justice, Case 52/75 *Commission v Italy*, 1975, http://curia.europa.eu/juris/showPdf.jsf?text=&docid=88978&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=433303

[47] European Parliament, Council and Commission, 'Interinstitutional agreement on better law-making', OJ C 321/1, 31 December 2012, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2003:321:0001:0001:EN:PDF

they have in place before the deadline for implementation expires. A summary of the transposing legislation in the member states is then published on the EUR-Lex website.[48]

If a member state fails to adopt the requisite national provisions within the specified timeframe, or if those provisions do not adequately comply with the requirements set out above, the European Commission may initiate legal action against the member state at the European Court of Justice (so-called "infringement proceedings").[49] This may also happen if a member state has "transposed" an EU Directive but failed to adhere to its provisions in practice.[50] Most Directives contain a provision mandating a review of its implementation by the Commission within a few years of its practical application. In respect to EU counter-terrorism policy, Directives have been used to control dangerous substances (explosives etc.);[51] to impose obligations on the transport,[52] financial[53] and telecommunications[54] industries to enhance security or cooperate with law enforcement and criminal investigations; and to set minimum standards regarding the rights of suspects, defendants[55] and victims[56] in legal proceedings.

3.3 Framework Decisions

Prior to the Lisbon Treaty, EU Framework Decisions were used exclusively in the fields of police and judicial co-operation in criminal justice matters.[57] Although those that predate the Lisbon Treaty remain in force[58] the option to introduce new Framework Decisions no longer exists.[59] In terms of their legal effect they are very similar to Directives insofar as they require member states to achieve particular results without dictating the means of achieving that result.[60] The introduction of Framework Decisions under the Amsterdam Treaty effectively heralded the end of the use of intergovernmental Conventions in this area, which had taken much longer to implement (since national parliaments had to formally ratify them in their entirety) and enter into force (which usually required ratification by all signatories). Framework Decisions may be transposed by modifying

[48] EUR-Lex, 'Legislation: Directives', http://eur-lex.europa.eu/SuiteLegislation.do?T1=V112&T2=V1&T3=V1&RechType=RECH_legislation&Submit=Search
[49] Article 258, Treaty on the Functioning of the European Union
[50] Ibid.
[51] Commission Directive 2008/43/EC setting up, pursuant to Council Directive 93/15/EC, a system for the identification and traceability of explosives for civil uses
[52] Council Directive 2004/82/EC on the obligation of carrier to communicate passenger data
[53] Parliament and Council Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing [Third anti-money laundering Directive]
[54] Council and Parliament Directive 2006/24/ECon the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC
[55] Proposal for a Directive on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest
[56] Parliament and Council Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA
[57] Article 34(b), Treaty on European Union, http://www.statewatch.org/news/2003/jan/nicetreaty.pdf
[58] Article 9, Protocol (No 36) on transitional provisions, Treaty on the Functioning of the European Union
[59] Article 288, Treaty on the Functioning of the European Union
[60] Article 34(b), EC Treaty

national legislation or by introducing new acts. The European Court of Justice, in its judgment on Case C-105/03 ('Pupino'), further clarified that:

> "[T]he principle of conforming interpretation is binding in relation to framework decisions adopted in the context of Title VI of the Treaty on European Union. When applying national law, the national court that is called upon to interpret it must do so as far as possible in the light of the wording and purpose of the framework decision in order to attain the result which it pursues… [This interpretation is] limited by general principles of law, particularly those of legal certainty and non-retroactivity."[61]

According to the European Commission the list of "general criteria" that have been developed through EU case law with regard to the implementation of Directives (listed above) should also "be applied *mutatis mutandis* to framework decisions".[62]

As with Directives, the date that Framework Decisions enter into force (become law) is set out in the legislation and is typically on or soon after the date of publication in the EU's Official Journal. A second deadline stipulates how long the member states have to comply with the provisions in the Framework Decisions. However unlike Directives, Framework Decisions were only subject to the optional jurisdiction of the European Court of Justice and enforcement proceedings could not be taken by the European Commission for failure to transpose Framework Decisions into domestic law.[63] In respect to EU counter-terrorism policy Framework Decisions have been used for harmonising national criminal law and practice by establishing common definitions and sentencing regimes for offences like terrorism[64] and "cybercrime";[65] enacting novel procedural frameworks such as the European arrest[66] and evidence[67] warrants; and ensuring that member states cooperate with one another by exchanging information or freezing property or evidence[68] and confiscating the proceeds of crime.[69]

3.4 Decisions

EU Decisions are legally binding acts which either have "general application" (in which case all member states must take measures to comply), or are directed to specific addressees (meaning only

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[61] ECJ, C-105/03, Pupino, para. 43-44, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62003CJ0105:EN:HTML

[62] *Report from the Commission based on Article 11 of the Council Framework Decision of 13 June 2002 on combating terrorism*, COM(2004)409 final, 8.6.2004 (p.4), available at: http://www.statewatch.org/semdoc/assets/files/commission/COM-2004-409.pdf

[63] Article 35, Treaty on European Union, http://www.statewatch.org/news/2003/jan/nicetreaty.pdf

[64] Council Framework Decision 2002/475/JHA on combating terrorism

[65] Council Framework Decision 2005/222/JHA on attacks against information systems

[66] Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States

[67] Council Framework Decision 2008/978/JHA on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters

[68] Framework Decision 2003/577/JHA on the execution in the European Union of orders freezing property or evidence

[69] Council Framework Decision 2005/212/JHA on confiscation of crime-related proceeds, instrumentalities and property

those individuals or companies subject to the Decision must comply).[70] A distinction is also made between "legislative" and "non-legislative" Decisions. The former are adopted by the EU Council and European Parliament under the "normal" co-decision procedure whereas the latter are adopted unilaterally by a specific EU institution.[71] Since the entry into force of the Lisbon Treaty, Decisions have become the standard instrument in the field of the Common Foreign and Security Policy (CFSP), and are used to define actions and positions to be taken by the EU at international level and how they should be implemented.[72]

The date that Decisions take effect (become law) is set out in the legislation itself and is typically on or soon after the date of publication in the EU's Official Journal. EU Decisions that require member states to introduce dedicated implementing measures may contain a second deadline stipulating how long they have to undertake such actions. There is no enforcement mechanism should member states fail to comply, and, as with Framework Decisions, optional jurisdiction of the European Court of Justice for EU police and criminal law Decisions. However, the ECJ has established that certain types of Decision have direct effect, so in such cases can be challenged by affected parties in national courts and in turn referred to the EU courts, unless those states have opted out of the court's jurisdiction. With regard to EU counter-terrorism policy, Decisions have been widely used to facilitate cooperation between national police and judicial authorities;[73] to set up EU law enforcement bodies like Europol[74] (the EU Police Office) and Eurojust[75] (the EU Judicial Cooperation Unit); to establish funding programmes in the area of security and counter-terrorism;[76] and to supplement existing EU legislative acts by setting out how they should be implemented.

3.5 Common Positions

Common Positions are legally binding agreements between the member states that are widely used under the EU's Common Foreign and Security Policy (CFSP) to adopt a position to be taken with regard to international matters such as strategic relations with third countries, negotiating positions on international treaties or the interpretation of international law.[77] In respect to EU counter-terrorism policy their use has been limited to two Common Positions interpreting/implementing UN

[70] European Commission, 'The European Decision', http://europa.eu/legislation_summaries/institutional_affairs/decisionmaking_process/ai0036_en.htm
[71] Ibid.
[72] Ibid.
[73] Council Decision 2003/48/JHA on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with Article 4 of Common Position 2001/931/CFSP; Council Decision 2005/671/JHA on the exchange of information and cooperation concerning terrorist offences
[74] Council Decision 2009/371/JHA establishing the European Police Office (Europol)
[75] Council Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime
[76] Council Decision 2006/971/EC concerning the Specific Programme "Cooperation" implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013)
[77] Article, 25 TEU. A common position is also the name given to the "first reading" position of the Council of the EU in respect to draft EU legislation subject to the co-decision procedure.

Security Council Resolutions[78] and one on the exchange of data between member states and INTERPOL (the International Criminal Police Office).[79]

3.6 International agreements

There are three main types of agreement between the EU and third states or international organisations:

(i) "Community agreements", which regulate matters of Community law/EC competence;
(ii) "EU agreements", which regulate matters for which the member states are responsible: CFSP and JHA; and
(iii) "mixed agreements", which contain provisions affecting both national and EU competences.[80]

Our research shows that in the area of counter-terrorism, the EU has agreed eight treaties with third states covering both EC and JHA matters. In addition, from 2005 standard counter-terrorism cooperation clauses began appearing in all new and updated EU association agreements (these are "mixed agreements" that set out the framework for cooperation with third countries).[81] There are also numerous agreements between EU agencies such as Europol and Eurojust and their counterparts in third states, which include a counter-terrorism dimension.[82]

The eight treaties on counter-terrorism matters with third states include six with the USA, covering (i) mutual legal assistance,[83] (ii) extradition,[84] (iii) cooperation on container security and related matters,[85] (iv) the transfer of "Passenger Name Record" (PNR) data to the US Department of Homeland Security,[86] (v) the security of classified information[87] and (vi) the transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist

[78] Council Common Position 2001/930/CFSP on combating terrorism; Council Common Position 2001/931/CFSP on the application of specific measures to combat terrorism
[79] Council Common Position 2005/69/JHA on exchanging certain data with Interpol
[80] Mario Mendez, *The Legal Effects of EU Agreements*. Oxford: Oxford University Press (2013), p. xvii
[81] In November 2005, at the Barcelona 'EUROMED' summit, a 'Code of conduct on the Prevention of Terrorism' was agreed by the EU and its Mediterranean 'partners' and counter-terrorism clauses were subsequently incorporated into all 'European Neighbourhood Policy' Action Plans. They have since been incorporated into all EU association agreements.
[82] Europol, 'External cooperation', https://www.europol.europa.eu/content/page/external-cooperation-31; and Eurojust, 'Agreements concluded by Eurojust', http://eurojust.europa.eu/doclibrary/Eurojust-framework/Pages/agreements-concluded-by-eurojust.aspx
[83] Agreement on mutual legal assistance between the European Union and the United States of America, OJ 2003 L 181/34, 19 July 2003
[84] Agreement on extradition between the European Union and the United States of America, OJ 2003 L 181/27, 19 July 2003
[85] Agreement between EC and USA on intensifying and broadening the Agreement on customs cooperation and mutual assistance in customs matters to include cooperation on container security and related matters, OJ L 2004 304/24, 30 September 2004
[86] Agreement between EC and USA on the processing and transfer of PNR data by Air Carriers to the United States Department of Homeland Security, Bureau of Customs and Border Protection, OJ L 2004 183/84, 20 May 2004
[87] Agreement between EU and USA on the security of classified information, Council document number 8085/07, 30 April 2007

Finance Tracking Program (the "SWIFT Agreement").[88] The first three treaties govern bilateral relations between the member states and the USA in respect to mutual legal assistance, extradition and container security etc. They are binding on the member states and set parameters for cooperation and must be ratified through new or amended bilateral agreements with the USA. These "EU agreements" were negotiated by the Presidency and adopted by the Council with no parliamentary ratification, although subsequent bilateral agreements will be subject to parliamentary ratification procedures.[89] The last three agreements with the USA – on PNR, classified information and financial transactional data – together with two further agreements on the transfer of PNR data to Australia and Canada, are "Community agreements" negotiated by the European Commission on behalf of the Council of the EU, and subject to the Council's approval.[90] These treaties are legally binding on the Community and the member states but in these particular cases are addressed to private data controllers and the EU institutions, so do not require specific implementing measures by the member states.

3.7 Other measures

EU Joint Actions are binding instruments adopted under the Common Foreign and Security Policy that provide for the deployment of financial resources to achieve a specific objective and lay down basic rules on how such projects should be implemented. In respect to EU counter-terrorism policy our research identified a single Joint Action relating to cooperation on counter-terrorism research with the African Union.[91] EU Recommendations, Resolutions and Conclusions are not legally binding on the member states but may nevertheless have a significant impact on the policy-making process and practice in the member states. Recommendations represent a political commitment on the part of EU institutions/bodies or member states toward specific conduct or outline the goals of a common policy.[92] Resolutions are a political agreement to act in a given area. Conclusions are used exclusively and extensively by the EU Council to set the policy agenda by signifying political agreement among the member states as to the type, nature or content of specific measures and future activities.[93]

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[88] Agreement between EU and USA on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program, OJ L 2010 195/5, 28 June 2010

[89] The EU-USA agreements that were adopted under Treaty provisions regulating EU agreements and do not require ratification by either the European or national parliaments. The bilateral agreements between individual EU member states and the USA envisaged by the EU-USA agreements will be subject to the normal ratification procedures governing bilateral treaties in each member state.

[90] Council of the European Union, 'Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian Customs Service – Adoption of the Council Decision concerning the signing of the Agreement', 25 June 2008, 10439/2/08 REV 2, http://register.consilium.europa.eu/pdf/en/08/st10/st10439-re02.en08.pdf; Council of the European Union, 'Council Decision on the conclusion of an Agreement between the European Community and the Government of Canada on the processing of API/PNR data, 9811/05, 5 July 2005, http://register.consilium.europa.eu/pdf/en/05/st09/st09811.en05.pdf

[91] Council Joint Action 2007/501/CFSP of 16 July 2007 on cooperation with the African Centre for Study and Research on Terrorism in the framework of the implementation of the European Union counter-terrorism strategy, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:185:0031:0034:EN:PDF

[92] EUR-Lex, 'The legal order of the EU', http://eur-lex.europa.eu/en/editorial/abc_c04_r1.htm

[93] See further SECILE deliverable D2.1.