

## BOJ PROTI TERORIZMU V BELGIJI: PRAVNI, STRUKTURNI IN KONCEPTUALNI PRISTOP

### THE FIGHT AGAINST TERRORISM IN BELGIUM: A LEGAL, STRUCTURAL AND CONCEPTUAL APPROACH

Professional article

**Povzetek** 11. september 2001 je nedvomno izoblikoval novo mednarodno ureditev in Belgija se je, kot večina evropskih držav, temu prilagodila. Belgijski zakonodajni okvir se ujema z evropskimi direktivami, medsebojnemu sodelovanju med zveznimi telesi, policijo in obveščevalnimi službami pa je bilo dodeljeno več sredstev, čeprav še vedno premalo. Poleg tega se je povečalo tudi mednarodno sodelovanje. Obveščevalna sredina se je nekaj naučila iz očitnih globalnih organizacijskih neuspehov, ki so teroristom omogočili doseči njihove cilje. Večina evropskih obveščevalnih služb so ali prilagodile njihovo strategijo ali pa so bile del notranje reorganizacije. Vseeno pa si v globaliziranem svetu, v katerem globalna tveganja zahtevajo globalne odgovore, države ne morejo privoščiti delovanja v osami, temveč morajo sodelovati. Ne glede na vse se trenutno sodelovanje kaže kot pomanjkljivo. Kakšna naj bi bila idealna evropska varnostna struktura, da bi lahko predvidela nekaj nepričakovanega in ob tem zagotovila varnost naših interesov in varnost sodržavljanov? Razpeta med »globalno vojno proti terorizmu«, izraz, ki ga Združene države Amerike umikajo, in večstranskim sodelovanjem, je Evropa pokazala svoje meje. Transnacionalna evropeizacija obveščevalnih služb bi lahko bila rešitev, ki jo je treba upoštevati, ko gre za evropsko globalno varnost.

**Ključne besede** *Protiterorizem, transnacionalizacija, globalna varnost, obveščevalni sistem.*

**Abstract** 11 September 2001 has undoubtedly shaped the new international order, and Belgium like most European countries adapted to it. The Belgian legal framework is in compliance with the European directives. Although more means have been allotted for mutual cooperation between entitled federal bodies, police and intelligence services, they are nonetheless insufficient. Besides, international cooperation has grown too. The intelligence community has learnt from the glaring global organizational failures that make it possible for terrorists to achieve their

goals. Most European intelligence services have either adapted their strategy or been subject to internal reorganization. Still, in a globalized world where global risks demand global answers, the States cannot afford to operate in isolation, they need to co-operate. Nonetheless, the current cooperation proves insufficient. How should the ideal European Security Structure look like to foresee and prepare for the unthinkable, the unexpected and to ensure the security of our interests and fellow citizens? Torn between the ‘global war on terror’, term the USA is moving away, and the multilateral cooperation, Europe has shown its limits. The transnational Europeanization of the intelligence could be an avenue worth considering for Europe’s global security.

**Key words** *Counter-terrorism, transnationalization, global security, intelligence system.*

**Introduction** Belgium had been presiding over the European Council since the beginning of July when the 11 September terrorist attacks occurred. As of 12 September, then Prime Minister Guy Verhofstadt suggested to the European Union that Belgium (should) be one of the mediums of the North Atlantic cooperation in matter of fight against terrorism. At the initiative of Belgium, an extraordinary European Council gathering Heads of State and of Government as well as Foreign Ministers of the EU met on 21 September. In the course of this Summit, our politicians decided to step up EU’s action against terrorism. To that end the European Council adopted a plan of action along 5 axes: enhancing police and judicial cooperation, developing international legal instruments, putting an end to the funding of terrorism, strengthening air security and coordinating the EU’s global action.

The European Parliament resolution of 4 October 2001 on the extraordinary Council meeting considered that fighting against terrorism necessitates a strengthening of the relevant European Union competencies albeit it thought that “combating terrorism first of all requires a criminal justice approach as well as stronger crime prevention policy at international level” (Journal Officiel des Communautés Européennes , 2002 :217).

The European Parliament ‘encourages the police forces and the intelligence services of the EU member states to work closely with American authorities in trying to fight terrorism and bring those responsible to justice’ (Journal Officiel des Communautés Européennes, 2002 :218).

The European arrest warrant and the working-out of a common definition on terrorism are both part of the major recent progress. Belgium wanted to go further and suggested the creation of a European Intelligence Unit but it was not approved by the other member states.

Still, our civil intelligence service, the State Security, reached a consensus with their European colleagues of the intelligence services about the creation of a ‘Counter-Terrorism Group – CTG’ (Coolsaet and Struye de Swielande, 2007).

Subsequent to the bomb attacks in Madrid (2004), the European Council decided to complete the 2001 action plan. In its declaration of 25 and 26 March 2004, the European Council approved of the creation of the establishment of the position of a Counter-Terrorism Coordinator. It emphasizes that “a comprehensive and strongly coordinated approach is required in response to the threat posed by terrorism” (European Council Statement on combating terrorism, 2004).

As a consequence of the bomb attacks in London (2005), the European Council completed the 2001 action plan with a strategy of fight against terrorism that has been taken along four main tracks: ‘Prevention’, ‘Protection’, ‘Prosecution’ and ‘Response’.

This decision of the European Council had a great legal and structural impact on Belgium (see below).

## **1 ADAPTATION OF BELGIUM’S LEGAL AND STRUCTURAL FRAMEWORK**

### **1.1 Prevailing administrations**

The Royal Decree of 21 June 1996 established the Ministerial Committee for Intelligence and Security – called CMRS, political body that lays down the intelligence and security policy. This body also advises on political legislative policies. The prime minister chairs this Committee and the Interior, Justice, Defence and Foreign ministers are members of it.

The political lines established by the Ministerial Committee are then transposed into operational terms and sent to the CRS College, established by the second Royal Decree of 21 June 1996. The CRS is an administrative body used as go-between for the CMRS and the services applying the intelligence and security policy on the field. The College chaired by a delegate of the prime minister is composed of heads of services who give substance to the intelligence and security policy: the intelligence services, OCAM, national police force of the kingdom, federal police, Foreign Affairs’ Federal Public Service, General Direction of the Governmental Coordination and Crisis Centre (DGCC), College of Public Prosecutors and the National Security Authority (NSA).<sup>1</sup>

### **1.2 Decisions post 9/11**

#### **1.2.1 Strengthening of joint police and judicial cooperation**

Sharing information between partners is one of the fundamental elements of the fight against terrorism. A common evaluation of the threat is indeed the best basis for joint

<sup>1</sup> *The NSA is a collegial institution competent to grant accreditation under the Law of 11 December 1998 on classification and security accreditations. Both State Security and SGRS are authorized to exert the activities ascribed to the NSA.*

actions. To this end, the *Ministerial Committee for Intelligence and Security (CMRS)* decided on 10 November 2004 to reinforce the *Intelligence and Security College (CRS)* and to reform the *Inter-Forces Counter-Terrorism Group (GIA)*<sup>2</sup> in a body capable of gathering and analyzing the relevant information to assess the threat. For this purpose, the Law of 10 July 2006 reformed the GIA into a *Coordination body for the analysis of the threat (OCAM)*.<sup>3</sup> This body aims at developing a consistent and structured information flow between the partners involved in the fight against terrorism and extremism and at coming to common analyses of the threat and the risks inherent to intelligence information sharing. Therefore, OCAM gathers the relevant intelligence information coming from all bodies (State Security, military intelligence service, police services, federal public prosecutor's department and Crisis Centre). Besides, in the framework of its legal missions, it makes analyses and processes them in order to make a common analysis of the threat.

OCAM is not a 'new' service analogous to the current services though. This body is more precisely intended for different partners and is evenly part of them. It is made up of specialists who come from services cooperating together and with equal footing intelligence information, having in mind a common analysis of the threat. This aspect constitutes OCAM's obvious surplus-value. These analyses are either specific analyses or periodical strategic analyses focusing on certain phenomena. They are then handed over to competent authorities and services so that they can determine the opportunity of precise measures, evaluate whether the measures taken by different services are adapted to this evaluation, and make sure these measures are carried out jointly and commonly.

The *Ministerial Committee for Intelligence and Security (CMRS)* sets OCAM's main missions. It is important to standardize the guidelines according to the results of the evaluations. The CMRS is competent to lay down the Intelligence and Security policy. The Intelligence and Security College looks after the joint implementation of it.

## 1.2.2 Transposition of international legal instruments

Two framework decisions<sup>4</sup> were adopted by the Council of the European Union and transposed into the Belgian Law in 2002. Belgium transposed the provisions of the first framework decision relative to the European arrest warrant into national law (law of 19 December 2003). It simplifies, facilitates and accelerates the surrender of wanted persons whereby it substitutes itself to the standard extradition procedures.

<sup>2</sup> *The Inter-Forces Counter-Terrorism Group (GIA) established by Jean Gol, Minister of Justice in 1984, gathered experts from the gendarmerie, judicial police, State Security and SGRS. This body was under the joint authority of the Interior and Justice Ministers. It was commissioned to analyze the information originating from these services with a view to assessing the terrorist threat. It daily evaluated the terrorist threat on the Belgian territory.*

<sup>3</sup> *Law of 10 July 2006 relative to the analysis of the threat.*

<sup>4</sup> *Council Framework Decision 2002/584/JHA of 13 June 2002 on the EU arrest warrant and the surrender procedures between Member States (vide L190/Volume 45/18 July 2002 as well).*

The second framework decision defines a common concept of terrorist offences, and the EU prompts the Member States to include it into their legal system. The existence of a common framework makes the police and judicial cooperation easier and prevents terrorists from being able to find refuge in a more lenient European Member State. This framework decision shows in the law of 19 December 2003, defining what a terrorist offence is and foreseeing heavier sentences when the offense is considered as terrorist.

The article 137 §1 of the penal code defines the terrorist offence as: “any act (§§ 2 and 3) that by nature or context may seriously damage a country or an international organization where committed with the aim of: seriously intimidating a population, or unduly compelling a Government or international organisation to perform or abstain from performing any act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation” (Council Framework Decision, 2002:3).

These terrorist offences are divided into two categories in the paragraphs 2 and 3, namely some existing offences of common law (§2) for which the incrimination as ‘terrorist offence’, under art. 138 §1 PC, brings about a worsening of the sentence, and a few new offences (§3) whose sentences are fixed by the art. 138 §2 PC.

Article 139 of the Penal Code (PC) describes a ‘terrorist group’ as being: ”A structured group of more than two persons, established over a period of time and acting in concert to commit terrorist offences as mentioned under article 137. An organization whose real purpose is exclusively political, trade union related, philanthropic, philosophical or religious or that purely seeks after other legitimate goal cannot as such be considered a terrorist group in the sense of the 1st paragraph”. The participation in a terrorist group will be punished under articles 140 and 141 of the Penal Code, depending on the nature of the participation.

### The fight against founding terrorism

*Belgian Financial Intelligence Processing Unit (CTIF)*, established by the Law of 11 January 1993<sup>5</sup> on preventing the use of the financial system for purposes of laundering money and terrorism financing, is the core of Belgium’s fight against laundering of money coming from crime and against the financing of terrorism.<sup>6</sup> The Unit is an independent administrative authority with a legal status. The CTIF is charged with the analysis of suspicious financial transactions conducted by institutions or individuals. Information showing obvious offence evidence is handed over to the public prosecutor. The analysis of several files related to terrorism financing (CTIF, 2007:84) attest the importance of the necessary means to the upkeep of the networks. The CTIF maintains many relations internationally, for example with the *Office for Money Laundering Prevention* of the Republic of Slovenia.

<sup>5</sup> *Law of 11 January 1993 on preventing the use of the financial system for purposes of laundering money and terrorism financing.* ([http://www.ctif-cfi.be/doc/en/bel\\_leg/Law\\_1993\\_EN-25\\_April\\_2008.pdf](http://www.ctif-cfi.be/doc/en/bel_leg/Law_1993_EN-25_April_2008.pdf))

<sup>6</sup> <http://www.ctif-cfi.be/menu.php?lang=fr&page=about>

### 1.3 Decisions Post (to) Madrid attacks (2004)

In the midst of the Spanish trauma (25 March 2004), the position of an anti-terrorism coordinator was established by the Heads of State and the Government of the EU Member States. ‘Mister Terrorism’ is mainly in charge of coordinating the work of the EU Council in the field of terrorism and of ensuring the optimization of the exchange of information between the different Member States and with third countries as well. Belgian Mr. Gilles de Kherkove is currently in office.

### 1.4 Decisions Post (to) London attacks (2005)

Following the attacks in London, the Council of the European Union completed the 2001 action plan with an EU Counter-Terrorism Strategy.<sup>7</sup> This strategy is based on four pillars known as the ‘4 Ps’.<sup>8</sup> Belgium has taken this strategy over and has intensified its efforts to combat terrorism by a group of measures described below.

#### 2.4.1 Prevention

The ‘prevention’ pillar aims to combat radicalization and recruitment of terrorists by identifying the methods, propaganda and instruments they use. Although these challenges lie with the Member States, the EU helps to coordinate the national policies, determine good practices and share information<sup>9</sup>, clarifies the EU. In Belgium, this pillar has been subject to an update of the ‘anti-radicalisation’ plan (see below).

#### 2.4.2 Protection

The ‘protection’ pillar aims to reduce the vulnerability of targets. At the meeting of the Defence Ministers in Berlin in 2005, Belgian Defence Minister André Flahaut suggested that Belgium (should) run the research on the protection of critical infrastructures in the framework of combating terrorism also known as Defence Against Terrorism (DAT).

A working-group has been established within the Defence staff-headquarters that, in cooperation with the *Commission for Defence related National Problems (CPND)*<sup>10</sup> updates the list of critical infrastructures depending on the evolution of the threat and risks (*Defence against Terrorism/Critical Infrastructure Protection - DAT/CIP*). This initiative aims to improve the concepts, doctrines and emergency response plans of the countries to increase the protection of infrastructures of utmost importance (Riga/guide, 2006:154).

<sup>7</sup> *European Union: Council of the European Union, The European Union Counter-Terrorism Strategy, 30 November 2005, 14469/4/05 REV 4.*

<sup>8</sup> <http://register.consilium.eu.int/pdf/en/05/st14/st14469-re04.en05.pdf>.

<sup>9</sup> [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/fight\\_against\\_terrorism/l33275\\_fr.htm](http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_terrorism/l33275_fr.htm).

<sup>10</sup> *The CNDP is a cell that is administratively dependent upon the ministry of Defence. For its effectiveness, this cell has been integrated within the General Direction of the Crisis Centre also known as DGCC.*

### 2.4.3 Prosecution

The aim of the third pillar is to pursue terrorists across borders by disrupting terrorist networks, cutting off access to materials, putting an end to sources of terrorist financing and impeding the communication. In Belgium, various instruments have been installed. The federal police received as of 2003 ‘special search methods’ enforced by law (see below).

### 2.4.4 Preparedness/Response

The risk of terrorist attacks cannot be reduced to zero. It is for the Member State to take into account a possible terrorist attack on their territory. It is therefore necessary for the institutions and citizens to be aware of the risk and for the state to be able to deal with it when it occurs.

## 3 THE FIGHT AGAINST TERRORISM IN BELGIUM

### 3.1 Terminological caution

Although subject to caution in terms, it is widely accepted – also in Belgium – that the fight against terrorism comprises four interrelated parts: counter-terrorism, anti-terrorism, consequences management and information to the citizens.

The 2003 Belgian Defence Strategic Plan, under chapter II, went back to this approach to state the will of then minister of Defence André Flahaut to participate in the fight against terrorism to the best of their means.

Counter-terrorism ”is a group of measures aimed at fighting terrorism before the terrorist act occurs. It is the preventive component of the act and it implies a combination of political measures, of very specialized methods of network infiltration and the search for active intelligence information abroad etc. It requires very few but highly qualified personnel and a close international cooperation as well” (Baud, 2005: 298).

Anti-terrorism ”gathers means of fight against terrorism after the terrorist act occurred. It is a pre-emptive and reactive component of the act and often results from a failure (or a defect) in the counter-terrorist strategy. It generally implies heavier structures, an important surveillance system requiring expensive technical means and more personnel. It also calls for an intervention capacity”.

Counter-terrorism is therefore this part of fight against terrorism whose purpose is to work at understanding the CAUSES of terrorism, whereas anti-terrorism aims at working on its EFFECTS.

Usually, counter-terrorism is perceived as a task allotted to the intelligence services before the federal police proceeds to repression, even if pro-active research under



the law of 06 January 2003 on particular research methods looks similar to the intelligence services' tasks.

Consequences management is the use of reactive measures to soften the destructive effects of terrorism. The General Direction of the Crisis Centre (DGCC) has the jurisdiction to do this (see below).

### Authorities' communication in matter of terrorism

The information given to the population with regard to the missions and measures taken by the Belgian authorities towards terrorism requires coordination and standardization. Factual, political, strategic and operational information is coordinated thanks to all involved players who act in accordance with the communication strategy. The Intelligence and Security Ministerial Committee (CMRS) of 27 January 2006 also approved a communication strategy for terrorist threats or attacks. This strategy determines the coordination of the information in order to answer comprehensively the population's need for information. The document defines a 'ONE VOICE' principle in communication among the different authorities to avoid any contradiction in the release of information.

## **3.2 A joint cooperation in the fight against terrorism**

There is of course international cooperation in matter of fight against terrorism to apprehend the whole problem. As a matter of fact, the 'Club of Berne' gathers the Heads of EU Member States' security and intelligence services and the 'Atlas Network'<sup>11</sup>, i.e. a structure coordinating formations and techniques of fight against terrorism for intervention units.

Europe decided in November 2009 to enhance the cooperation instruments by the establishment of a Coordination Committee of Anti-Terrorist Centers (CCCAT) that should make possible a general risk assessment. This step turns out to be interesting and important because the international cooperation falls off and "nations turn on themselves", a trend that shows again within most intelligence services. Europe has been spared attacks from Islamist terrorist organizations for a couple of years. Al-Qaeda has moved its action radius in their fight against western imperialism to conflict zones in AFG-PAK where NATO troops are the targets of terrorist attacks.

This chapter focuses more specifically on the coordination of the fight against terrorism in Belgium. Ten years ago our members of Parliament said: "It is clear that the judicial authorities as well as the intelligence and security services will never be able to fully achieve their purposes, among others in matter of follow up and fight against organized crime and terrorism if there are failures in the information flow and communication" (Rapport d'Activités du Comité Permanent de Contrôle des Services de Renseignemen», 2004 :104).

<sup>11</sup> [http://www.interieur.gouv.fr/misill/sections/a\\_l\\_interieur/le\\_ministre/interventions/pfue-seminaire-atlas](http://www.interieur.gouv.fr/misill/sections/a_l_interieur/le_ministre/interventions/pfue-seminaire-atlas).



In Belgium, coordination has been established at several levels.

### 3.2.1 Inter-intelligence cooperation

The inter-intelligence cooperation has been established by (1) the Law relative to the intelligence services<sup>12</sup> (under articles 7, 8 and 11) which defines the missions each service has, and (2) by a draft agreement<sup>13</sup> that sees to the organization of bilateral meetings, the aim of which is to share intelligence between analysis desks on main and specific phenomena such as terrorism. Intelligence flow can also be organized at operational level either occasionally or monthly.

### 3.2.2 Cooperation with the federal police and public prosecutor's department

Public prosecutors of the Court of Appeal form together a College, also known as 'The College of Public Prosecutors'. This college comes under the minister of Justice. The College is entitled to implement a coherent and coordinated policy in matter of crimes. Since 2005, the federal public prosecutor, federal police and intelligence community have established a three-way relationship as contained in the Public prosecutors' agreement.<sup>14</sup> This agreement regulates the relation between judicial authorities and intelligence services, meaning that the public prosecutor can file the technical assistance request at the named services. The agreement also envisages a procedure that will enable an inclusion of a group of protective measures and intelligence services data in judicial procedure. As for our relationship with the federal police, there is no agreement regulating our operational contacts. They are based on 'gentlemen agreements' for the exchange of 'soft information' and through the federal public prosecutor and technical assistance for the operational part. In other words, the federal public prosecutor fulfils and coordinates the public action in matter of terrorism and makes the international investigation coordination easier. The federal public prosecutor's special missions consist in an unchanging and coherent implementation of *specific investigations methods*, monitoring of the working of the federal police and the chairmanship of the *commission for the protection of witnesses* (Delval, 2008).

**3.2.3** The analytical coordination of inter-intelligence services results from an agreement that provides for the exchange of information. It also happens that common studies are handed over to our decision-makers. Globally, OCAM works as a 'fusion centre', i.e. the analytical cooperation, the summary of analyses from different support services, such as the intelligence services, federal police, Foreign Affairs, Customs and Taxes among others. The result of this analytical fusion is redirected to different services but, above all, to the Ministerial Committee of Intelligence and Security (CMRS) and to the Prime Minister's staff where OCAM has a representative.

<sup>12</sup> *The Organic Law of 30 November 1998 on the Intelligence and Security Services.*

<sup>13</sup> *Agreement of 12 November 2004 that lays down the collaboration between the State Security and SGRS.*

<sup>14</sup> *Legislative document n° 3-1150/1, 9 March 2006: a report covering the activities of the Permanent Committee R for the year 2004.*

### 3.2.4 National (or governmental) plans

A couple of years ago, Belgium launched several ‘national plans’, whereby making possible a cross-disciplinary reading of cooperation in matter of fight against terrorism. Indeed a few themes require the mobilization of several ministerial services. The department Criminal Policy of the Federal Public Service of Justice made at the initiative of both Interior and Justice Ministers a framework note on comprehensive security (2004). This document aims to carry on the making of a framework for a comprehensive and integrated security policy. This note provided the basis for a ‘National Security Plan’ managed by the Federal Police and for the ‘NBRC Emergency Plan’ managed by the ministry of Defence under the aegis of the Direction of the Governmental Coordination and Crisis Centre.

Following the judicial interventions in Belgium in response to the 11 September 2001 attacks, the Ministerial Committee for Intelligence and Security came to a decision in which the ‘Radicalism Plan’ (2006) took off. It is a plan of action aiming to prevent the expression and diffusion of subversive, racist, anarchist and extremist ideas and whose purpose is the promotion of democratic values and mutual respect as well as the avoidance of radicalization among the different fringes in our society.

The Plan gathers a panel (National Task Forces) Intelligence/Police that applies an integrated global policy under the supervision of the Intelligence and Security College. In March 2009, the minister of Justice, Interior minister and the Federation of Belgian Enterprises (FEB) signed an agreement for the creation of an Early Warning System (EWS) in the context of the Panel for permanent dialogue for the Security of Enterprises (PSCE). This Early Warning System is presided by the Criminal Policy Service and sees to procedures of information exchanges in the context of protection of the economic sector against acts committed by terrorist organizations. The OCAM is responsible for the analytical follow-up on this matter.

## 4 THE MUCH NEEDED CONCEPTUAL UPDATE OF THE INTELLIGENCE SERVICES IN THE FACE OF EMERGING RISKS AND THREATS – MAKING OF A EUROPEAN TRANSNATIONAL STRATEGIC INTELLIGENCE

Since 11 September 2001, the intelligence services have learnt from the glaring global organizational failures that make it possible for terrorists to achieve their goals (Barger, 2005). Most European intelligence services have either adapted their strategy or been subject to internal reorganization. Some countries, such as France, have rethought the ‘intelligence community’ with a result of reduction and rationalization of their structures, preservation of the know-how (Squarcini, 2009). The international and European cooperation in the fight against terrorism has been enhanced over the last ten years in a complex way though. Very little room is left for the intelligence services in the policy of fight against terrorism in Europe. As a matter of

fact, the policy adopted is essentially judicial and police-related, i.e. ensuring the legal and practical structures for counter-terrorism co-operation. Still, the *EU's Joint Situation Centre* (SitCen) regularly provides assessments on the evolution of the terrorist threat to the EU authorities.

“SitCen’s files combine intelligence gathered from both the internal and external security services at national level, and the Club of Berne. These analyses are often shared with EUROPOL (the EU’s police agency) and EUROJUST (the EU’s unit of national prosecutors). [There is a lack of confidence between intelligence services and these two bodies] that have a tendency to duplicate each others’ efforts and still fail to work properly together, despite habitual pressure to do so from their political masters”, states Hugo Brady. “One reason for such failings is that these two bodies operate in a horrendously complex legal environment. EUROPOL in particular must adhere to an inflexible and dogmatic data protection regime. This means that the office is often held to higher standards than national police forces when sharing information within the EU and with outsiders. The Bundeskriminalamt (BKA), Germany’s federal criminal agency, exchanges data on individual suspects with its Russian counterpart, while EUROPOL cannot do likewise, even though it has a co-operation agreement with Russia” (Brady, 2009). In a briefing to interior ministers in mid-2009, Mr. Gilles de Kerkhove, EU Counter-Terrorism Coordinator, lamented the continual failure of many Member States to transpose EU rules designed to combat terrorist groups into national law and insisted on the need of national intelligence services’ cooperation with SITCEN and EUROPOL. Mr. Gilles de Kerkhove also “recommended that all Member States set up *fusion centres* like the British Joint Terrorism Analysis Centre (JTAC), the German Joint Counter-Terrorism Centre (GTAZ), the French Counter-Terrorism Co-ordination Centre (UCLAT) and Belgium’s OCAM, where strategic analyses are strongly based on intelligence coming from police and intelligence services” (Brady, 2009). We can therefore suppose that the intelligence and security structures at the European level have not yet fully reached their effectiveness capacity. Nevertheless, the Belgian and European intelligence services have set Islamist terror, which they consider to be an important risk, as a priority, namely the fight against radicalization and jihadist recruitment for conflict areas. Other risks posed to the national and international security are pandemics, climate changes and more specifically, the resurgence of the extreme left that becomes violent as the social and community crisis worsens. Over the last months there has been an increase in ‘micro-attacks’, especially with Molotov cocktails. They are attributed to anarchists and/or escheating youth.

The police forces most specifically, but also banks and any other symbols of capitalism are targeted and considered to be responsible for the crisis (Snoeck, 2009). The first elements state that the anarchist and autonomous networks responsible for these acts are ‘transnational’.

In a global world where global risks require global responses/answers, the States cannot operate in isolation, and the current cooperation proves insufficient. In the

past, the States ensured their security through temporary (cooperation in conflict areas) and durable alliances (NATO). These security alliances are more interdependent than globalizing and will remain.

How should the today's ideal European security structure look like to prepare the unthinkable, the unexpected? Torn between the 'global war on terror', term the USA is moving away, and the multilateral cooperation, Europe has shown its limits. The transnational Europeanization of the intelligence could be an avenue worth considering for Europe's global security.

#### 4.1 A few brief considerations on Europe's global security

Europe does not interfere in the home security affairs of EU Member States. Article 4.2. (article 3 a under 2) of the Lisbon Treaty does remind this clearly: "The Union shall respect the essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State". The Lisbon treaty sees to the setting-up of a standing committee for EU's internal security committee (COSI) involving SITCEN, EUROPOL, EUROJUST and FRONTEX.

"A permanent committee has been established within the Council in order to promote and strengthen coordination of operation actions of the Member States competent in the field of internal security", clarifies Article 71 of the Lisbon Treaty. "Without prejudice to article 240, the Standing Committee shall facilitate and ensure effective operational cooperation and coordination of the entitled EU bodies". COSI should therefore not be over stated: it would be concerned with day-to-day issues. Clearly, COSI would never be a policy-maker in position to be assimilated to a tool at the disposal of decisions-makers, even though the presence of a European External Action Service (EAS) is ensured in the future (Brady, 2009). The EAS shall not be involved in conducting operations but will cover where appropriate judicial and intelligence-related cooperation.

When looking back to the deep divisions between European countries over the operation '*Iraqi freedom*' in 2003, is it not high time Europe adopted a trans-governmental intensive regime (Grevy, 2006–2007) instead of a competitive international intergovernmental regime. In matter of security and international relations, now that security is a global issue (Vercauteren, 2009), should not Europe see its future as an international player at the risk of not being considered a reliable international security player by lack of a strategic culture (Grevy, 2006–2007)? In this case, the transnationalization of strategic intelligence is essential as a tool at the disposal of the EAAS because the intelligence is a key element to international relations (Forcade, 2009). When applied to research on national security, the intelligence is core to the process of political decision. Transnationalization of the intelligence cannot exist if there is no 'homeland security'.

What kind of homeland security for the European Union? (Sablon, 2009). This question is even more relevant with the implementation of the Lisbon Treaty and the pinpointed obstacles ahead (cross-pillar divisions, fragmentation, intra-institutions turf wars, opaque situation etc.) post the publication of Sablon's paper.

Europe needs a governing body offering a devised, coordinated, coherent and common homeland security approach based on a simplified administration financially and legally entitled with reduced running costs.

Transnationalization cannot operate without the civil society. The British intelligence community has already some experience contrary to France and Belgium where there is opaqueness (Squarcini, 2009). Initiatives have been and are taken to establish/strengthen the relationship with the civil society. In Belgium, the Belgian Intelligence Studies Association has fizzled out mostly due to disinterest from a group of elite of the intelligence community who were still imbued with the Cold War practices and policies. Nonetheless, stepping back and realizing they do not have the monopoly on knowledge and coming to the basic idea of admitting that the university world, think tanks or well-established NGOs would be advantageous albeit the strict observance of classification. It is what the initiative Global Futures Forum (GFF) initiated by the CIA tries to do and bears today.

Transnationalization cannot operate without the creation of a European Intelligence Community. The way terrorist, public health, economic, climate and other risks/threats are perceived is State-related. The concept security as well as the 'realistic' conception of international relations is inevitably called into question due to an increasing complexity of security problems the States are facing (Vercauteren, 2009).

Transnationalization of intelligence needs a *European Agency for Prospective Analysis* that examines issues transcending the 'day-to-day issues' that are to be handled by the COSI. It is impossible to tell the future indeed, still, it is possible to work on how to better anticipate the events through 'analysing prospects' (Tan Hong Nghoh Edna and Hoo Tiang Boon, 2008). The European diplomacy needs such a tool that is part of the European intelligence and connected to different agencies. To prepare for the unthinkable will most certainly be a very useful tool for the EAS.

**Conclusion** Today, the intelligence concept is in a real turmoil nationally and internationally to achieve our goals: ensuring the global security of our institutions and fellow-citizens against the multiplicity of global risks. In order to deal with these risks, the intelligence community must adapt ahead of the times (Barger, 2005), regularly reconsidering the 'state of the strategic revolution' of its structures. Is the concept Intelligence Community out of date? The question is legitimate. Can we speak of an 'intelligence system'?

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