

Combating the Financing of Terrorism: EU Policies, Polity and Politics



Miriam Allam* and Damian Gadzinowski**

This article discusses the activities and initiatives undertaken by the European Union in Combating the Financing of Terrorism (CFT). The introduction of programmes to counter the financing of terrorism are derived from pre-existing anti-money laundering programmes and were the first step taken by the US in its “war on terror” following 11 September 2001. As such, CFT has been the subject of considerable attention, and has given rise to new EU legislation and regulatory guidance to stop the flow of money to terrorist groups and to use the intelligence gathered from financial surveillance to identify and prosecute terrorists. The proposed counter-terrorism measures not only tighten controls on money transfers but also touch upon the highly sensitive issues of preventing the misuse of non-profit organisations by terrorists and the exchange of personal data. This article analyses the EU initiatives adopted (policies), the institutional framework for implementing the activities at the EU level (polity) and the wider consequences of this regulatory guidance on civil liberties (politics). While the European contribution to the “war on terror” is conventionally described as a matter of law enforcement and the execution of civilian and soft power, the article argues that the EU has gone beyond the international policy guidance, as revealed by the case of Kadi and al Barakaat. The article concludes that it is important to engage the public in a dialogue on liberty/security in order to reach a compromise on what is *acceptable to manage the unease* in the face of terrorist threats.

Introduction

Money trails are like financial fingerprints. One reason why the focus after the 9/11 attacks was shifted quickly to measures to combat the financing of terrorism (CFT) was precisely because the money trails of the hijackers revealed blueprints for the architecture of the terrorist organisation. Yet, they also “served to expose all too clearly the vulnerabilities of the international banking system to terrorist fund generation, money laundering and general financial logistics” (Navias 2002: 57). CFT programmes were introduced to address these vulnerabilities and were the first step taken by the US in its “war on terror” following 11 September 2001. As such, they have been the subject of considerable attention and led to new EU legislation and regulatory guidance to stop the flow of money to terrorist groups and to use the

intelligence gathered from financial surveillance to identify and prosecute terrorists. The methods used to combat terrorist financing are related to those initially developed for anti-money laundering (AML).

The aim of this article is first to disentangle terrorist financing from money laundering and to describe the techniques used by terrorist organisations to raise and distribute funds. The article then analyses the EU initiatives (policies) developed for CFT, the EU institutional framework (polity) involved to cooperate on CFT and the politics involved in the struggle to strike a balance between liberty and security.

Defining and disentangling Terrorist Financing and Money Laundering

In its broadest sense, money laundering is defined as “the processing of [...] criminal proceeds to disguise their illegal origin” (Financial Action Task Force 2009: 57). The objective of money laundering is to “clean” and “legitimise” the ill-gotten proceeds of criminal activity. Thus, the process starts with dirty (illegal) money and ends with clean (legal) money.

In turn, terrorist financing is defined in the EU’s Third Money Laundering Directive as “the provision or collection of funds, by any means directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part in order to carry out any of the offences that have been defined as terrorism”.¹

As the definition underlines, the focus is on the purpose for using the funds and not on the cleaning process of money. In fact, funding to support terrorism may rely on both legitimate sources and criminal activities. Some scholars therefore argue that terrorist financing is reverse money laundering because the process may start with “clean” money; however, the purpose for which the money is used is illegal (Roberge 2007). Certainly, the dirty/clean money divide is not rigid but overlaps given that there are terrorist organisations that receive most of their funds through illegal sources such as drug trafficking, kidnapping, political corruption, smuggling, robbery and exploitation of human beings.²

Yet, the most important difference between money-laundering and terrorist financing is the very different purpose for committing a crime. Generally speaking, criminal activity is driven by profit while terrorism is driven by political ends. Related to the immense profit that can be derived from criminal activities are the massive amounts of funds laundered yearly. According to the IMF, 2-5% of global GDP is laundered each year, representing 600 billion – 1.5 trillion US dollar (Camdessus 1998). Since profit is at the core of criminal behaviour, some scholars argue that organised crime acts like any multinational business that is driven by material interests to maximise income and wealth (Robinson 2003). Terrorist organisations, on the contrary, aim to accomplish specific political objectives and need the financing to fund their acts. In addition, terrorist financial requirements can often be relatively small compared to the deadly disruption caused. For example, according to the Financial Action Task Force (FATF), the direct costs required for the London bombing in July 2005 are estimated to amount to 8,000 GBP and the Madrid bombing in March 2004 to 10,000 euros (Financial Action Task Force 2008: 7). Yet, these figures are direct costs for the bombings and disguise the fact that the logistical support for coordinating the terrorist groups may involve a much larger sum of money. Another problem with terrorist financing is related to the definition of terrorism itself. The EU defines acts of terrorism as offences which may “seriously damage

a country or an international organisation [which are] committed with the aim of: (i) seriously intimidating a population, or (ii) unduly compelling a Government or international organisation to perform or abstain from performing any act, or (iii) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation”.³

The EU definition has been widely criticised as being too vague, inasmuch as it is open for interpretation what constitutes, for example, an act that “seriously intimidates a population”.⁴ Indeed, the definition of terrorism has long been an issue for contestation in international law. Depending on the criteria used to define terrorism, a group may be classified by one state as a terrorist organisation but not by other states. For example, the Hezbollah is blacklisted as a terrorist organisation by the US State Department but not recognised as such by the EU.

Such differences may shape evaluations of the various sources of financing that do not involve crime (Navias 2002: 68-69):

- first, state (financial) sponsorship of terrorist organisations. For example, Al-Qaida received support from the Government of Sudan and the former Taliban Government of Afghanistan (Navias 2002: 68);
- second, private (financial) sponsorship. Terrorist organisations receive private donations from political sympathisers. For example, terrorist organisations may receive support through charity organisations or a political arm such as Batasuna in Spain (Europol 2009);
- third, legitimate business activities. For example, the legitimate construction and development corporations of the Bin Laden family funded Al-Qaida network activities.

Given the fundamental differences between money laundering and terrorist financing, it is therefore questionable whether AML measures are suitable for CFT. Effective pre-emptive measures for CFT can hardly rely on the same AML policy response if the funds for financing terrorism originate from legitimate sources. The following sections discuss how the EU has responded to the peculiarities of terrorist financing and how it has addressed the different logics of AML and CFT in its initiatives.

Policies – The EU initiatives to combat terrorist financing

The EU’s effort to combat the financing of terrorism has taken a two-tier, complementary approach. On the one hand, the financial freezing measures were implemented following the adoption of UN Security Council (UNSC) Resolutions 1267 and 1373, thus establishing an EU system for targeting and sanctioning individuals and groups suspected of providing assistance, financial or otherwise, to any terrorist organisation. This has been complemented by money laundering legislation in the form of the three EU money laundering directives and regulations on controls on cash entering and leaving the EU and on information on the payer accompanying transfers of funds.

The adoption of the Treaty of Lisbon may substantially improve the cooperation in the field of CFT because the new Treaty abolishes the EU pillar structure and creates a single legal framework.

Financial freezing measures

In the aftermath of the bombings of American embassies in Kenya and Tanzania in 1998 the UNSC adopted Resolution 1267/1999. This was later extended and modified by Resolutions 1333/2001, 1390/2002, establishing a system for freezing funds and other financial assets or economic resources, as well as the listing of individuals and organisations linked to or part of the Taliban regime of Afghanistan and Al-Qaida (United Nations 2009). At the EU level the implementation of 1267/1999, and the subsequent resolutions, took several legislative steps (for a chronological development of the sanctions regime see Heupel 2009).

The meagre results of Resolution 1267/1999 to extradite Bin Laden and neutralise Al-Qaida's activities, together with the 9/11 attacks, prompted the UNSC to pass Resolution 1373/2001. The key differences between 1373 and 1267 is the option given to UN Member States to establish autonomous lists of suspects, subject only to scrutiny by the Security Council Counter-Terrorism Committee. Secondly, 1373 extended its scope beyond individuals and organisations affiliated to the Taliban and Al-Qaida to encompass all terrorist suspects. The EU promptly established an autonomous system without precedent by adopting measures⁵ providing the legal ground for listing terrorist suspects, freezing their assets and enabling police and judicial cooperation to prevent and combat terrorist acts. The EU has also tried to use its weight to include a counter-terrorism clause in existing and new development assistance instruments with third countries. The clause provides for cooperation in the prevention and suppression of terrorist acts in the framework of Resolution 1373/2001 by exchanging information, know-how and experiences.⁶

Given that the identification of suspects may be based on classified evidence, which may not stand as sufficient at a regular court proceeding, and that the ordered sanctions must be executed swiftly to prevent the assets from being transferred or hidden (Vlcek 2009: 7), financial sanctions have become a powerful tool in the counter-terrorism box. However, as shown below, they are not necessarily the most effective one.

This new mechanism marked a significant change in the EU's role and position in combating terrorism. Until 2001 the EU had focused on the adoption of traditional and general framework legislation to be implemented individually by the Member States. In addition, the balance has shifted from setting standards for the legal fight against terrorism to taking measures that undoubtedly approach enforcement (Eling 2007: 109). The potency of the new mechanism becomes clearer if one takes into consideration that the EU accounts for a high proportion of global financial transactions. However, closer examination of the system's effectiveness reveals that since the initial surge in 2002 of the amounts frozen (as reported to the UNSC) there has been little increase in that quantity. This may indicate that the terrorists have found other means to finance their activities or at least to move their money (Vlcek 2009: 8).

The immediate impact and ex-ante nature of the financial sanctions, along with the virtual impossibility for suspects to defend themselves against the measures, have raised some concerns and doubts about due process in the listing action.

They have also triggered a number of court cases, notably the al Barakaat International Foundation/Yassin Abdullah Kadi case.⁷

The al Barakaat network was believed by the US to support financially Al-Qaida and in consequence its name was put on the blacklist and transposed by the UN Security Council Sanctions Committee into international law. As a result all financial assets and operations of three Swedish citizens of Somali origin who operated money transfers via al Barakaat financial network were blocked on European territory. Third parties were forbidden to support financially the affected citizens. In addition, in the case of sanctions, the burden of proving a suspect guilty is reversed. It is now for the suspect to prove his or her innocence, which those listed in the al Barakaat case did by starting proceedings at the EU's Court of First Instance. Despite the fact that the US itself withdrew legal proceedings against al Barakaat, and the suspected Swedish citizens were delisted by the Security Council Sanctions Committee, the European Court of First Instance ruled against their petition (de Goede 2008: 173). The complaint of Mr. Yassin Abdullah Kadi (a Saudi businessman who allegedly had links with Al-Qaida), was joined to the case of al Barakaat.

To protect fundamental rights and the principle of legal redress, the ECJ issued a ruling establishing the principle of review of EU laws that implement UN Security Council resolutions (Labayle and Long 2009: 4). In September 2008, the European Court of Justice (ECJ) thus annulled the EU Council regulation related to Kadi and al Barakaat. Heupel (2009: 315) concludes that, "as this ruling can be used by other listed parties as a precedent, the EU is under heavy pressure to reform the way in which targeted UN sanctions are implemented in EU member states". The pressure resulting from the court's rulings has already prompted the Commission to put forward a proposal to amend the Council Regulation 881/2002 and thus to change the process of imposing restrictive measures on terrorist suspects.

Money laundering legislation

The other approach to combat the financing of terrorism has its roots in anti-money laundering legislation. These measures have focused on preventive actions as opposed to the more repressive practice of listing suspects and freezing their assets.

The most significant impetus for legislative action against money laundering has come from the Financial Action Task Force (FATF), established by the G-7 Summit in Paris in 1989 to develop a co-ordinated international response to the problem. One of the first tasks of FATF was to develop the 40 Recommendations, which set out a framework for effective anti-money laundering programmes. This standard-setting international forum has gained increased importance after 9/11. To limit the possibilities for terrorist organisations to use the international financial system to transfer funds the FATF has elaborated and recommended 9 Special Recommendations (FATF 2004). The main push for legislative action to implement the FATF Recommendations has been peer reviews and peer pressure exerted on the EU members of FATF - the European Commission and 15 Member States.⁸

The First and Second Money Laundering Directives (MLD), approved in 1991 and 2001 respectively, imposed anti-money laundering obligations first on credit and financial institutions and then in 2001 on the so-called Designated Non-Financial Professional Bodies (DNFPBs) including accountants, lawyers, notaries, real estate agents, casinos and dealers in high-value goods. The legislation made them subject to the obligations of the Directive as regards to customer identification, record keeping and the reporting of suspicious transactions. The Directives also required the Member States to establish Financial Intelligence Units (FIUs) – central national agencies responsible for receiving, analysing, and transmitting reports on suspicious transactions to the competent law enforcement authorities.

While the first anti-money laundering initiatives concentrated on the laundering of profits generated through drug trafficking, the current Third MLD goes well beyond illegal drugs and targets any money generated by criminal activity.⁹ The Third MLD, adopted in 2005, is also the first anti-money laundering legislation to include the measures to combat the financing of terrorism. It has implemented most of the revised 40 FATF Recommendations (2003) and the 9 Special Recommendations against terrorist financing (Financial Action Task Force 2003). The Directive reinforces the oversight regime applicable to transactions in the financial sector, as well as to DNFPBs. In addition, it broadens the scope of offences by including tax fraud and encourages the FIUs to work together more effectively. The Directive has applied an extended version of the “KYC” (Know your Customer) principle, which follows the FATF Recommendation No. 5. It obliges banks and financial institutions not to open accounts in cases where the holder is not identified or identifiable, to notify the competent authority of any suspicious transactions and to keep all supporting documents for a minimum length of time (5 years in the case of the United Nations Convention) (Labayle and Long 2009: 25). Some of the Special Recommendations have been covered by EU Regulations and Directives.¹⁰ Recommendation No. 9 on the use of cash couriers, for example, is covered by Regulation 2005/1889/EC¹¹ on controls of cash entering or leaving the Community requiring individuals crossing a state border to declare cash amounts equal or higher than 10,000 euros. Yet, it should be noted at this point that the Regulation 2005/1889/EC (Art. 2) contains a considerable loophole since the legislation does not relate to gold or other precious commodities with a value lower, equal or higher than 10,000 euros. (Labayle and Long 2009: 25).

However, as discussed below, despite the adopted measures there still remains a significant disparity in the transmission of statements between the different DNFPB professions and, in particular, quite insufficient cooperation of lawyers with the FIUs (Labayle and Long 2009: 26).

Polity – The institutional framework to combat terrorist financing

The key to successful and effective measures for CFT is close cooperation and co-ordination. This involves first and foremost intelligence sharing, which together with special operations constitutes the basis for a successful fight against terrorism (Howell 2007: 35). As discussed above, given the

peculiarities of terrorist financing, the emphasis on the intelligence sharing seems to be even more important with CFT.

However, despite the call for better co-ordination, transparency and flexibility across different agencies, at national and European level,¹² the EU institutions and agencies have not become the focal points for all intelligence cooperation in Europe. EU Member States says they agree that there should be a common European approach to a common threat of terrorism due to its cross-border nature. The European Security Strategy reads: “Europe is both a target and a base for [...] terrorism [...] Concerted European action is indispensable”.¹³ On the other hand, the governments are hesitant to give the EU extra resources and powers. This may stem from the fact that collaboration, from the point of view of Member States’ security agencies, is primarily driven by their national security agenda (Lander 2004). As Bossong (2008: 25) puts it: “the EU’s counterterrorism policy has become more and more limited to technical and supportive policies, whereas the main responsibility of the member states has been underlined.”

Other reasons for reluctance in intelligence-sharing include the lack of trust among the agencies, which follows the logic that the larger the number of actors involved, the greater the probability that the sensitive information will leak. Furthermore, since security, including the protection of citizens and infrastructure, is at the core of national sovereignty, the Member State governments are primarily held accountable and responsible for countering terrorism. Therefore, the national security agencies are tasked to produce and provide national enforcement services with complete intelligence. This is especially true for the assessment and dissemination of operational and tactical counter-terrorism intelligence (Müller-Wille 2008).

The lack of – and the need for – operational collaboration was made clear by the European Counter-Terrorism Coordinator – Gilles de Kerchove, who stated that: “not all cases of prosecution or investigation are sent to Europol or Eurojust, respectively. So it is important for me to remind Member States of this obligation” (de Kerchove 2008).

This point of view was supported by the Opinion of the European Economic and Social Committee, which pointed out that: “the roles of the Member States, EU institutions, Europol, Eurojust, etc. are well defined, but it is above all the operational nature of cooperation within intelligence agencies and investigations which requires constant improvement.”¹⁴

Despite the adoption of Council Decision 2000/642/JHA on cooperation between FIUs, which was intended to harmonise and improve the exchange of intelligence between them, Member States do not cooperate with each other in the same way, nor do they contribute to the same extent to the relevant Europol Analysis Work Files on terrorist financing. The lack of cooperation is also evident between the FIUs and Europol. The FIU.net project has not yet achieved its original ambitions. It consists of a secure system through which the FIUs involved in the project can share financial intelligence. This platform, initiated in 2000 by the Netherlands in cooperation with the UK and Belgium, is still not being used by all

EU Member States, despite its endorsement by the European Counter-Terrorism Coordinator (Labayle and Long 2009: 20). It seems that for the time-being the only type of intelligence which is produced and shared at the EU level is the one to support decision-making at the strategic level.

A slightly better picture appears from the experience of the EU's Situation Centre (SitCen) located in the Council's General Secretariat and reporting to the High Representative for the CFSP/Secretary-General of the Council of the European Union. It provides the High Representative and the European Council with strategic analyses of the terrorist menace. It relies on and combines the intelligence assessments provided by the Member States, the EU's own information channels and open sources. In consequence, SitCen produces original intelligence that either no national agency is willing/able to produce or where a single country's report would not be acceptable from the political point of view.

The internal structure of SitCen is also particular in that the Civilian Intelligence Cell and the Counter Terrorism Cell cluster seconded national experts from foreign and domestic intelligence services. It is worth noting that the initiative followed the Madrid bombings and the adoption of the "Solidarity Clause" by the European Council. However, not all Member States were able to delegate their national experts. Therefore it appears to be a sort of an insiders' club composed of those Member States who have necessary intelligence and analysis capacities and who had already established good working relationships outside the EU's framework (Müller-Wille 2008: 62).

It is thus unsurprising that the bulk of counter-terrorism cooperation at the operational level takes place outside of the formal EU framework on a bi- and multi-lateral basis. As an example, there are the cooperation agreements between France and Spain, signed in 2004, which created a combined counter-terrorism unit, or the agreement between the UK and Ireland in 2005, which expanded their long-standing cooperation. Some groups of Member States have decided to deepen their collaboration on sharing personal data and operational counter-terrorism intelligence as in the case with the signatories of the Treaty of Prüm or the members of the G6 (France, Germany, Italy, Poland, Spain and the UK).¹⁵

The early detection, prevention and investigation of terrorism depend on a combination of signals and pieces of evidence from many different sources. As stated in the Independent Scrutiny on the EU's Efforts in the Fight Against Terrorist Financing: "it is the art of sourcing and combining data and finding meaningful relationships and clues leading to individuals or groups that adds value to CFT (and CT) measures" (Howell 2007: 39).

In short, smart cooperation at the EU institutional level could add value and contribute more effectively to counter terrorism and terrorist financing which seems to be politically

unfeasible for the time-being. However, the adoption of the Treaty of Lisbon may substantially improve the cooperation in the field of CFT because the new Treaty abolishes the EU pillar structure and creates a single legal framework.

Politics – The European contribution to the "war on terror"

As discussed above, one reason why it is so difficult for the EU to cooperate on CFT is because security policy belongs to hard politics. At the heart of the matter are therefore issues of state sovereignty. The term "war on terror", first coined by President George W. Bush shortly after the 9/11 attacks, illustrates well that the discourse around the politics of CFT has quickly concentrated on survival.¹⁶ The European contribution to the "war on terror" or the "fight against terrorism", to use the arguably more neutral terms employed by the EU, cannot be underestimated and is critical for the following three reasons (Wright 2006). First, Europe was and is a target for considerable terrorist activity. Second, from the geopolitical point of view, Europe is well placed to support third countries in their efforts for CFT. In this regards, it should be mentioned that the EU and the Council of Europe have financially and technically supported blacklisted countries, such as Ukraine (blacklisted by the FATF in Autumn 2001), to build up their capacity and institutional infrastructure (e.g. FIU) for AML and CFT. Third, the European contribution is important because, unlike the US, Europe has longstanding experience with fighting terrorism, specifically the UK with paramilitary organisations in Northern Ireland, Germany with the left-wing Red Army Faction, Italy with the Red Brigades and Spain with the terrorists of ETA. The valuable experience gained in fighting terrorism remains highly relevant to counter "new terrorism".¹⁷

All the preceding points show that Europe – despite the current challenges at the co-operational level – could make an even more valuable contribution and why the war on terror serves Europe's own security interest. Yet, the European contribution also has revealed "a division of labour in the international system that has been apparent, if not universally endorsed for some time with the United States providing military power and the Europeans providing "civilian" power" (Wright 2006: 282).

Europe is widely portrayed as a civilian power that favours law enforcement and policing while the US is a military power that uses pre-emptive military means to fight against terrorism. Associated with this perception is an image of Europe as being the "weak link in the international campaign" (Wright 2006: 281). However, the juxtaposition of Europe providing "civilian power" and the US of providing military power overlooks the fact that the EU in some respects has gone beyond the international policy guidance to combat terrorist financing. In fact, as the cases of Kadi and al Barakaat show, the EU has not been merely a reluctant follower of US-driven (Taylor 2007: 12-18), UN and FATF guidance.

It is important to engage the public in a dialogue on liberty/security in order to reach a compromise on what is acceptable to manage the unease.

The US strategy for the war on terror is, indeed, above all a doctrine of pre-emption (cf White House 2002: 6). The problems generated by the related precautionary security practices are evident (for an interrogation of the arguments related to the risk and precautionary procedures see Heng 2006; Heng and McDonagh 2008; Williams 2008). The doctrine has raised a strong discussion on the questions of accountability and legitimacy as it empowers non-elected officials and private agents such as private banks and airlines, to implement surveillance measures. It has had a considerable bearing on the EU Member States' approach to terrorism as well. As the cases of Kadi and al Barakaat demonstrate, the decision and policy-making on the basis of imagined catastrophes bear the high potential risk of wrongful arrests and assets freezing (de Goede 2008: 179). As soon as a security dimension is attached to the debate, it quickly becomes a "life or death" discourse that gives leverage to perceived terrorist threats and increased surveillance at the costs of strong restrictions on individual privacy and accepting wrongful decision-making. In addition, the logic of precautionary security principles justifies disastrous incidences like the London Metropolitan Police shooting of Jean-Charles de Menezes in 2005. It is also this "state of permanent fear" that legitimises the erosion of civil liberties (Buzan 2006; Vlcek 2007). However, fears and threats are not

determined in relation to measurable risks but to perceived risks; they are patently subjective and relative. To design effective CFT policies without impinging too much on civil liberties, policy- and decision-makers should therefore take into account the concerns expressed by the citizens. It is thus important to engage the public more successfully in a dialogue on liberty/security to reach a compromise on what is acceptable to reduce terrorist threats.

To conclude, given the inherent complex structure and different phenomena of terrorism, it is no surprise that financial surveillance has delivered mixed results to counter terrorist financing. Much of the difficulties are related to the fact that funding for terrorist acts may be generated from legal sources and second, as the Madrid and London bombings demonstrated, that it does not require large sums in order to cause deadly disruptions. In addition, terrorists are quick in adjusting to the new environment of financial surveillance and adopting counter-measures. The real challenge for the international community is therefore to put terrorism into perspective and judge appropriately on the risks of threats without impinging too much on civil liberties. A step into this direction is to create a public dialogue to reach a compromise on what is acceptable to manage the unease.

NOTES

* Miriam Allam, former Researcher, European Centre for Public Financial Management, EIPA Warsaw.

** Damian Gadzinowski, European Commission, DG JLS, former Research Assistant, European Centre for Public Financial Management, EIPA Warsaw.

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¹ "Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing." OJ L 309, 25 November 2005, p. 15-36.

² For example, the Northern Irish IRA and UVF or the Colombian FARC and the Peruvian Sendero Luminoso financed their activities partly through drug trafficking, kidnapping for ransom and bank robbery.

³ Art. 1, "Council Framework Decision" of 13 June 2002 on combating terrorism, OJ L 164, 22 June 2002, p. 3.

⁴ On the basis of this definition, for instance, a Greenpeace protest in Denmark in 2003, was charged under EU anti-terror laws (Statewatch Observatory 2005).

⁵ The Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism, OJ L 344, and Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, OJ L 344, 28 December 2001.

⁶ "EU Counter-Terrorism Clauses: Assessment." 14458/2/04.

⁷ Case C-415/05P, "Al Barakaat International Foundation / Council and Commission", Yassin Abdullah Kadi and Al Barakaat International Foundation, ECR 2008 p. I-06351.

⁸ Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Luxembourg, Portugal, Spain, Sweden, the UK.

⁹ "Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing." OJ L 309, 25 November 2005, p. 15-36.

¹⁰ However, the Third Directive did not address the Special Recommendation 6 concerning alternative remittance systems (informal value transfer services) and Special Recommendation 7 concerning wire transfers. Recommendation No. 6 has been covered by the Payment Services Directive 2007/64/EC (PSD) and the issue of wire transfer was addressed by the Regulation on Information on the Payer Accompanying Transfers of Funds 2006/1781/EC.

¹¹ "Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community." OJ L 309, 25 November 2005, p. 9-12.

¹² "Report on the Implementation of the European Security Strategy: Providing Security in a Changing World." In S407/08. Brussels, 11 December 2008, p. 4.

¹³ "A Secure Europe in a Better World: European Security Strategy." Council of the European Union, 15849/03 Brussels, 5 December 2003.

¹⁴ Opinion of the European Economic and Social Committee on the Prevention of terrorism and violent radicalisation, OJ C 211, 19 August 2008, para. 3.13.

¹⁵ It should be noted that there has been a more positive development of incorporating the multilateral agreements into the EU's legal framework as the case of the Treaty of Prüm shows.

¹⁶ In January 2009 UK Foreign Secretary David Miliband officially declared that the "war on terror" was wrong and both a "misleading and mistaken" doctrine that rally extremists against the West (Miliband 2009).

¹⁷ New terrorism is often equated "to highly decentralised entities motivated by religious fundamentalism" (Wright 2006: 282).

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