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**COUNTERTERRORISM IN BELGIUM:  
KEY CHALLENGES AND  
POLICY OPTIONS**

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# INTRODUCTION: THE NEED FOR DEBATE

Thomas RENARD<sup>1</sup>

Some days can never be forgotten. Tuesday, 22 March, started just like any other day of any other week, as another grey morning followed another cold night in Belgium. But at exactly 7:58, that morning turned into a living nightmare. Two individuals detonated powerful bombs in the departure hallway of Brussels Airport. One hour later, at 9:11 a.m., a third explosion in the Brussels subway confirmed that Belgium was under attack. Thirty-two people died, and more than 300 were injured on that tragic day. For most Belgian citizens and residents, this was more than a tragedy; it was a traumatic event. Many could relate with the victims or with the location of the attacks. Most people still recall exactly where they were, and what they were doing at the moment they heard the news.

In many ways, the coordinated attacks of 22 March were Belgium's own 9/11. Without a doubt the bombings were the worst terrorist attacks committed on Belgian territory in modern history, and they will long be remembered for that.

As surprised as many were, there had been serious warning signals. Authorities had dismantled a jihadi cell in the eastern Belgian city of Verviers a year before the Brussels attacks, in January 2015 – purportedly preventing its plans from coming to fruition. However, when the suspects were tried in early 2016, the federal prosecutor described the Verviers cell's plans as a 'draft for the Brussels attacks'. Two years prior, in May 2014, four people were shot and killed in the Jewish Museum of Belgium in Brussels by a French citizen who had allegedly returned to Europe after fighting for Islamist rebels in Syria. This is believed to be the first attack committed by a so-called "returnee" in Europe, illustrating a new type of threat. Even though intelligence services had been anticipating such a scenario for over a year, authorities were unable to prevent the attack.

Many experts describe the present time as a period of unprecedented jihadi activity. While that is partly true, not least with regard to the scope of the threat, Belgium had in fact been confronted to terrorism long before the rise of the Islamic State. The so-called Communist Combatant Cells (CCC) committed several notable terrorist acts in the 1980s. In addition, Palestinian groups were targeting the Belgian Jewish community during the 1970s-80s. Many decades earlier, in the late 19<sup>th</sup> century, Brussels was shaken by anarchist terrorism on several occasions. Islamist terrorism itself is nothing new in Belgium. Several cells and networks

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<sup>1</sup> The editor is grateful to all the experts and officials who have accepted to meet and share their knowledge for this publication, under the condition of anonymity. I would also like to thank my colleague Rik Coolsaet for his guidance, and Teri Schulz for her precious editing work.

related to Iranian-linked networks, the Algerian Armed Islamist Group (GIA) and al-Qaeda have been dismantled since the mid-1980s.<sup>2</sup>

Given its long history of terrorism, Belgium has developed a number of tools and policies to deal with this phenomenon over time. Still, authorities were unable to prevent the recent attacks in Paris and Brussels and the radicalisation of a significant number of young individuals. Of course it is true that no country is immune to terrorism, and that there is no absolute security. It is equally true that terrorist attacks are, by definition, a failure of counterterrorism policy. In this case, it is a failure that will haunt most of us for a very long time.

Failures trigger criticism. In the aftermath of the attacks in Paris and Brussels, Belgium became the world's favourite scapegoat. 'Belgium-bashing' became a global trend as journalists from all over the world converged on Brussels, touring the now infamous Molenbeek area and camping outside the devastated Maelbeek subway station. Belgium had been renowned for its beer, its chocolate, and its waffles; now it was known for its terrorists as well – all 'successful' exports, apparently.

According to 'Belgium-bashers', the dysfunctional nature of the country's politics was to blame. Institutional complexity has resulted in a fragmented approach to counterterrorism, which supposedly has made it easier for radicalism and terrorism to take root. In this view, "failure" and "failed state" are synonymous. Critics also blamed certain social policies and complacency towards political Islam, which allowed the emergence of "Molenbeekistan". More critical voices blamed the weak, amateurish or even 'shitty' tradecraft of Belgian security services for the country's transformation into a "jihadi hotbed", and perhaps even the "rear base of global jihad", some said. Furthermore, these critics claim that Belgian authorities' leniency had turned the country into "Europe's favourite gunshop", allowing jihadists to freely prepare the logistics of their plots.

The lack of nuance in these criticisms is quite evident. Yes, Belgium is institutionally complex, but many other complex federal states are also confronted with terrorism. That complexity is a challenge in itself, but does not explain all the country's problems. Yes, some neighbourhoods such as Molenbeek have been marginalised socially and economically, but how is that different from many other neighbourhoods in Europe and beyond? Yes, security services have suffered from a chronic lack of investment over the years, but the same could be observed elsewhere in Europe, particularly in the aftermath of the 2008 financial crisis.<sup>3</sup>

Don't get me wrong. I am not denying that there are (many) problems in Belgium. Producing more foreign terrorist fighters per capita than any other European country

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<sup>2</sup> See for instance Coolsaet, R. *Belgium and counterterrorism policy in the Jihadi Era (1986-2007)*, Egmont Paper 15, Brussels: Egmont Institute, 2007; Renard, T. *Fear Not: a critical perspective on the terrorist threat in Europe*, Security Policy Brief 77, Brussels: Egmont Institute, September 2016.

<sup>3</sup> Renard, T. 'Why Belgium is not Europe's jihadi base', *Politico*, 31 March 2016.

and having connections to many foiled and successful plots across Europe, clearly there are holes in Belgium's counterterrorism strategy. The problem with Belgium-bashing is that its lack of nuance has made it easier for those responsible to brush off valid criticism, in spite of real underlying problems. At the same time, Belgium-bashing has monopolised most of the public space available for debate and criticism, making it more difficult to actually address these concerns. As a result, there is an urgent need to identify problems with Belgium's counterterrorism strategy, with a view to devising a more effective response.

### **About this report's aim and structure**

The starting point of this project was the ambition to assess Belgium's counterterrorism policy critically but in a nuanced way. More than six months after the Brussels bombings, and one year since the Paris attacks, it is possible to conduct such an assessment with the necessary distance, while remaining relevant to the ongoing policy debate. In line with the Egmont Institute's long established research agenda on (counter)terrorism,<sup>4</sup> a group of Belgian scholars was invited to contribute to this report.

It should be clarified here that it is beyond the scope of this project to provide a fully comprehensive picture of the state of counter-terrorism in Belgium. Instead, we have decided to focus on a limited number of issues, which we considered both under-developed at the policy level and under-studied at the academic level. There are other topics deserving of consideration, for which there was unfortunately not enough space in this report – such as socio-prevention, so-called 'deradicalisation' programmes, or the development of effective counter-narratives to jihadi propaganda. This leaves room for more research and projects in the future. Belgian counterterrorism can only be reinforced with open and continuous assessment, in which both academics and policy analysts have a role to play.

This report does not seek to replace or challenge important reflections already taking place elsewhere, notably in the parliamentary commission investigating the Brussels attacks, or in the oversight committees of the police and intelligence services. These committees will identify specific mishaps, mistakes and failures that have led to the attacks, draw important lessons and perhaps suggest reforms. Such work is essential, but should not prevent broader scrutiny of key counterterrorism challenges in Belgium. As such, this report and the work done elsewhere are complementary, all motivated by the same objective: making Belgium stronger and more resilient against terrorism.

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<sup>4</sup> See some of the Egmont Institute's publications on (counter)terrorism on our website: <http://egmontinstitute.be/core/terrorism/>.

This edited volume contains five articles. In the first one, Seron and André assess the 30 counter-terrorism measures announced by the Belgian federal government in the aftermath of the *Charlie Hebdo* and November attacks in Paris. After a brief discussion and categorisation of these measures, they formulate nuanced criticisms regarding their expected efficiency. They describe some of these measures as a form of “penal populism”, a degree of posturing in the government’s response to the attacks. A number of highly interesting points are raised with regard to the judicial and penological measures announced, as well as with regard to the debate on data collection.

Zooming in from the federal to the local level, Ponsaers and Devroe evaluate policing measures in place to prevent radicalisation and terrorism. Their analysis shows that Belgium’s response to local radicalisation has been far too reactive and focussed on law enforcement instead of developing a more preventive and integrated approach. They further emphasise that despite recent political initiatives, there is still a problem of coordination between various layers of governance – particularly in Brussels – which further limits the efficiency of counterterrorism and counter-radicalisation policies.

Lemeunier focusses on the countering of terrorism financing, a topic that has long been neglected in Belgium – and everywhere else. After illustrating the growing importance of this phenomenon and mapping the actors involved, she highlights some of the key challenges as well as key advantages of a more sophisticated strategy against terrorism financing. Indeed, according to her, more could be done to use financial tools with a view to gathering intelligence on terrorist individuals, to dismantle networks and even to foil plots.

The terror-crime nexus is another aspect that has been neglected for too long in Belgium. Duquet explores the deadly connection between terrorism and illicit firearms acquisition, starting from the fact that the Paris and Brussels attackers bought their assault rifles in Belgium via pre-existing criminal ties. After describing the illicit firearms market in Belgium, Duquet reviews some of the recent attempts to curb this problem at the national and European levels and argues that more needs to be done in this field.

In the final article of this report, Renard zooms out to the international level. Given that the terrorist threat is of a global scope, and that it has many transnational ramifications, no counterterrorism policy can be effective without a robust external dimension. Renard maps the various “external layers” of Belgium’s counterterrorism efforts at the bilateral, European and global levels. Emphasising the growing importance of these efforts, and acknowledging their limits, he highlights the different dynamics underpinning Belgium’s actions at each level.

## Key policy options to strengthen Belgium's counterterrorism approach

Overall this report shows that the counterterrorism picture is not as bleak as 'Belgium-bashers' suggest. While recognizing that a lot remains to be done, the various contributions of this report also highlight recent efforts as a sign of encouraging progress. As important as it is to look backward, and understand what could have been done better or differently, it is perhaps even more important to look forward and understand what should be done now. Based on the recommendations concluding every article of this report, and drawing from recurring themes across the report, I identify hereafter eight key policy options that could guide future developments in counterterrorism:<sup>5</sup>

1. **The efficiency of the Belgian counterterrorism policy must be regularly evaluated in a comprehensive manner.** A number of measures, instruments, laws and/or institutions have been approved over the past months. While this is good news overall, this evolution must be closely monitored to ensure that counterterrorism goes in the right direction, notably in terms of expected efficiency. It is not only the effectiveness of individual measures that must be assessed, but also the way each measure interacts and complements others. For instance, more resources for counterterrorism may be needed, but will prove ineffective or even counterproductive if they are reallocated from the fight against organised crime or money laundering, given the connections between these phenomena. A broader evaluation of overall counter-terrorism policy must also take place, in order to identify possible loopholes and inconsistencies.
2. **An effective counter-terrorism strategy must be comprehensive.** It should look well beyond the narrow traditional elements of counter-terrorism. To succeed, the scope of the strategy must include social and economic policies, as well as 'peripheral' security policies, such as crime and financial security, but also cybersecurity, among others. The point is certainly not to say that all these policies should be subsumed into counter-terrorism objectives – because that could also prove counterproductive – but simply to acknowledge that these other policies have significant implications (or “externalities”) for the fight against terrorism. The new security strategy (*see recommendation 6*) partly addresses this issue, but it is far too soon to assess its ability to trigger this more comprehensive approach.
3. **A shift in the counterterrorism approach is needed.** Belgium relies too heavily on a reactive and repressive response to terrorism, while underestimating the value of a preventive approach. In a number of areas there is room for developing more preventive and proactive measures, including (community) policing, local

<sup>5</sup> While these policy options are drawn as a conclusion from this report, they do not necessarily reflect the individual views of this report's various authors. The editor takes sole responsibility for them.

counter-radicalisation policies, counterterrorism financing or the fight against arms trafficking. A strategy that aims to tackle early on all the elements contributing to the emergence of radicalisation and terrorism will be more effective than a policy that strictly reacts to illicit activities. It may be more expensive to implement, but it is far cheaper than dealing with the social, economic and political consequences of a major terrorist attack.

4. As a corollary to the previous point, certain aspects relating to **the centrality of the judiciary approach must be reconsidered**. In Belgium, as opposed to several neighbouring countries, most terrorist files are transmitted very rapidly to the judicial authorities, which has practical consequences for the manner in which investigations are conducted as well as on the type of information collected, while it can also slow down investigations. It is argued in this report that intelligence services and local actors could play a greater role in the prevention of terrorism, ahead of the transmission of files to the judiciary authorities.
5. **Counterterrorism efforts must be articulated across several layers of governance, in order to develop their full potential**. In Belgium, this means that policies must be tailored at the local level, but also coordinated at the level of the federated entities (in charge of socio-economic and education policies, among others), and of course at the federal level (in charge of security and judiciary policies). The national fragmentation of competences makes it more complicated to develop a coherent and coordinated strategy against terrorism, as illustrated by several articles in this report. While progress has been recorded in this area, more remains to be done. The counterterrorism response cannot just stop at the border, however. Many aspects must be coordinated with neighbouring countries, as well as at the European and global levels. Many efforts have been made, notably to implement all EU and international regulations and recommendations. Perhaps Belgium could go a step further now and become more of a global leader in this area.
6. **The new Belgian security strategy must be fully implemented**. Belgium finalised its long-awaited *Framework Note on Integral Security (2016-19)* earlier this year, which is the guiding document for security policy at every level of the state, encouraging horizontal cooperation across different security areas, but also vertical coordination with all competent layers of the state. The fight against terrorism appears prominently in the Framework Note. Whereas the government's document partly addresses some of the recommendations of this report, it remains to be seen how much it can actually drive an integrated counterterrorism policy, and how the objectives and priorities established in the Framework Note will be implemented in practice. For instance, it is unclear how Belgium will coordinate its seven action plans against radicalisation (two federal action plans, a general one and one on radicalisation in prisons, but also five

action plans from the federated entities). This calls for a close monitoring and assessment over time.

7. **The gap between the growing pressures and expectations that rest on security services, and the limited means available to them must be addressed.** The workload of these services has increased as a result of the increasing number of terrorist-related activities in Belgium over the last two years, but also as a consequence of all the new tasks and missions resulting from national and international decisions. During their recent parliamentary hearing, the heads of both national intelligence agencies emphasised that Belgian services are under-resourced compared to neighbouring countries, whereas the threat is proportionally higher.<sup>6</sup> This gap between a growing workload and available resources is a challenge to address, particularly in times of budgetary austerity. Some additional resources and capacities were promised as part of the “30 measures” announced by the government, but it will take time to make these resources fully available and operational. Beyond budgetary constraints, the main challenge here is to respond quickly and flexibly to a threat that is continuously evolving and may have fundamentally changed by the time additional means are made available or new measures implemented. In other words, structural adjustments as demanded by intelligence chiefs may be needed, but will not be sufficient by themselves. Moreover, structural solutions must beware of developing tomorrow’s response to yesterday’s problem.
8. Last but not least, **counterterrorism efforts must be sustained over time.** As time passes and political pressure decreases, it will be a growing challenge to ensure that these efforts do not falter. Counterterrorism fatigue and security disinvestment have led to the current situation. Our past sins should not be repeated.

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<sup>6</sup> Al-Bouchouari, Y. ‘La Sécurité de l’Etat et le SGRS handicapés par le manque de moyens’, *L’Echo*, 6 October 2016.

## 30 MEASURES AGAINST TERRORISM: PENAL POPULISM BETWEEN EXPECTED EFFICIENCY AND POTENTIAL COLLATERAL DAMAGE

Vincent SERON and Sophie ANDRÉ<sup>1</sup>

The terrorist attacks in Paris in January and November 2015 and in Brussels in March 2016 prompted Belgian authorities to announce a series of 30 measures dedicated to increasing the efficiency of their fight against terrorism. More precisely, the Belgian government released two sets of measures. The first is a package of 12 counterterrorism measures, released in January 2015, a consequence of both the *Charlie Hebdo* and Vincennes *Hypercashier* terrorist attacks and the joint police operation, involving Belgian and French forces, mounted a few days later in Verviers, Belgium to dismantle a terrorist cell about to launch an attack. The second set of 18 measures was announced in the days following the Paris terrorist attacks November 13, 2015.

This article focuses on these 30 measures, which represent one of the most visible and immediate Belgian responses to current terrorist threats. It aims to describe the reaction of the Belgian authorities, to assess the nature of this reaction and to examine the underlying questions it raises in terms of expected and projected efficiency as well as the balance between security and privacy. This article will also discuss whether or not these measures can be seen as “typical” in the field of counter-terrorism and more generally in the field of criminal policy.

### Which measures?

In real terms, the total of 30 measures is not exactly precise given that there is some overlap between the two packages. It is also important to stress that the degree to which these measures have been realised is highly variable. Some of them have indeed already been adopted and implemented while others are only at the conceptual or draft stage. It is also highly probable that some of these measures will never be implemented, for various reasons ranging from technical problems to questions of applicability. These measures can be divided into four categories: modification of the legal framework, criminal policy, information gathering/sharing and structures/infrastructures.

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<sup>1</sup> The authors would like to thank Professor Michaël Dantinne (University of Liège) for his useful suggestions and comments.

**Box 1: Belgium's 30 measures against terrorism****18 measures announced in November 2015:**

1. €400 million for security and the fight against terrorism
2. Reinforcement of police controls at the borders
3. Deployment of 520 military to reinforce security
4. Particular research methods. New technologies for the intelligence services (voice recognition, expansion of wiretapping including arms trafficking) [revision of penal code needed]
5. 72 hours of administrative detention for acts of terrorism instead of 24 hours [revision of Constitution needed]
6. House searches 24 hours a day for terrorist offenses. End of the exception forbidding house searches between 21:00 (9pm) and 05:00 (5am)
7. Foreign fighters: deprivation of liberty and jailed upon return to Belgium
8. Electronic bracelet for people who are registered by the threat analysis services: an adversarial procedure will be introduced in order to impose electronic control bracelets.
9. Belgian PNR (Passenger Name Record)
10. Screening of all hate preachers in order to place them under house arrest, deprive them of their liberty or to expel them
11. Dismantling of unrecognized places of worship which propagate jihadism
12. End of anonymity for pre-paid cards
13. Plan Molenbeek: prevention and repression (renamed Plan Canal)
14. Reinforcement of the screening before access to sensitive jobs
15. Extension of the network of cameras recognizing license plates
16. Closing down websites preaching hate
17. Evaluation in order to adapt legislations linked to the state of emergency. Possibility for temporary and exceptional measures to ensure public safety
18. Participation in the international fight against IS. Frigate Leopold I: escorting mission of the French aircraft carrier "Charles de Gaulle". Air strikes in rotation with the Netherlands

**12 measures announced in January 2015:**

1. Insertion in the penal code of a new terrorist offense, relating to travel abroad for terrorist purposes
2. Extension of the list of offenses leading to the use of specific research methods
3. More options for withdrawal of Belgian citizenship
4. Temporary withdrawal of the identity card, refusal to issue and withdrawal of passports

5. Structural reform of the Intelligence and security structures. Establishment of a National Security Council
6. Activation of the legally established mechanism to identify persons involved in the financing of terrorism and whose assets will be frozen
7. Revision of the “Foreign Fighters” circular note of 25 September 2014
8. Optimization of the exchanges of information between the authorities and the administrative and judicial services
9. Revision of the 2005 plan against radicalization
10. Fight against radicalism in prisons
11. Calling in the Belgian army for specific monitoring missions
12. Strengthening of the capacity of the State Security Service and transfer of the VIP protection to the federal police

Source: [www.premier.be](http://www.premier.be)

Measures aiming at modifying *the legal framework* include changes to the Belgian Criminal Code and Belgian Criminal Procedure. It is worth noting that three new terrorism-related offences had already been added to the criminal code in 2013, concerning recruitment, provision and acquisition of terrorist training and public incitement to commit terrorist offences. Travelling abroad for terrorist motives was established as a specific criminal offence through the act of 2015/07/20, as is also the case in other European countries like Spain or Germany. This same law has also broadened the scope of special investigative methods – wiretapping, for example – to include all terrorism offences classified as criminal under Belgian law. It has also enlarged the range of cases in which Belgian nationality can be revoked for individuals having double nationality. This legal disposition found a kind of corollary in the act of 2015/08/10, which modified the consular code to allow the refusal, withdrawal or invalidation of passports of individuals perceived as a threat to public order or national security.

Apart from the legislation already in force, some of the measures related to the legal framework are still waiting to be concretised. Within this subgroup of “legal projects”, one can find a revision of the criminal code allowing intelligence services to use special new investigative methods such as voice recognition and broadening the scope of wiretapping to include suspected arms trafficking and other terrorism-related offences. The same bill – which is still before parliament – also includes powers to conduct house searches 24 hours a day in cases of suspected terrorism<sup>2</sup>. The Belgian government has also expressed its wish to expand the duration of administrative arrest in terrorism investigations, from 24 to 72 hours. However, this last

<sup>2</sup> These were forbidden between 9.00 PM and 5.00 AM except in cases of drug-trafficking related offences, “in the act” offences and those realized with the consent of the “searched” person.

change will require modification of the Belgian constitution. The government has also finally opened the door to an assessment of the options for creating longer-running states of emergency, which could be used in exceptional circumstances as have already been declared in France, for example.

Several measures can be classified in the “*criminal policy*” category, which is defined here as all repressive measures used in the fight against terrorism but which are not strictly juridical. Here again, few of these measures have at this stage been fully implemented. The first subgroup mainly targets the “returnees”, Belgian citizens who’ve gone abroad to fight with Islamic State (ISIS) and now want to come back and, more generally, those individuals who are registered by the security services. In the case of “returnees”, the Belgian government has declared it wants to systematically deprive them of their liberty upon their return to Belgium. For those who are more generally registered as “threats” to national security and who have not necessarily been implicated in “foreign terrorism fighting”, the rule would involve placing them under electronic surveillance.

The particular question of the relationship between prison and radicalisation is also on the radar in Belgium. Authorities have opened prison sections specifically dedicated to housing radicalised detainees to keep them from spreading their ideas to others. Prison personnel are now being trained to improve both their awareness of the risk of radicalisation during imprisonment and the efficiency of professional care for those convicted of terrorism.

Another subgroup of measures is directly linked to security. In this field, the centrepiece of the plan is the use of the military for security duties since January 2015. This was demonstrated in the “Brussels lockdown” November 21-25, 2015 and increased after the Brussels terrorist bombings in March 2016. This was accompanied by “Plan Canal”, conceived by the Belgian Ministry of Home Affairs, which focuses on eight municipalities in Brussels and surrounding areas, intending to monitor those localities perceived as vulnerable to radicalisation. It prioritises monitoring imams and mosques and trying to eradicate the illegal economy. “Plan Canal” will take place in tandem with a reviewed “National Action Plan against Radicalisation” launched in 2005, whose goal is to foster cooperation between the federal state and federal entities. Both of these plans are in line with the established policy of excluding hate preachers by means of incarceration, house arrest or expulsion from the territory. The plans also demonstrate authorities’ determination to detect and dismantle unrecognised and sometimes hidden places of worship that propagate radical and/or jihadist messages. The same approach will be applied to websites disseminating hate: The Belgian government has reaffirmed its determination to close them down. To complete this set of measures, attention will be given to the freezing of assets used for financing terrorism.

*Information gathering/sharing* is another crucial aspect of Belgian counter-terrorism strategy. This is why optimisation of the exchange of information between all the administrative and judicial services involved in the fight against terrorism is a central principle of the Belgian reaction to the 2015 terrorist attacks. To enhance this exchange of information, the duty of the Coordination Unit for Threat Assessment (CUTA)<sup>3</sup> to compile all data relative to radicalisation and terrorism emanating from various services was strongly reaffirmed. CUTA has also created a dynamic database, whose objective is to collect specific information about Foreign Terrorist Fighters, which became fully operational in September 2016. Notwithstanding progress made with regard to its establishment at the European level, a decision was made to create a Passenger Name Record (PNR) at the Belgian national level. This database is used to centralise data initially for passengers using flights, and at a later stage will include high-speed trains and boats, in order to identify potential “red flags”. Several screening initiatives have also been announced with a particular focus on checks at Belgian borders, monitoring of imams and mosques, and access to “sensitive” jobs.

Finally, the last category of measures includes the creation of *new structures/infrastructures*. The most noteworthy of these was the setting up of the National Security Council which is chaired by the prime minister and whose main duties include defining general intelligence and security policy, fostering coordination and determining the priorities of the intelligence and security services<sup>4</sup>. This council is also responsible for coordinating the fight against the financing of terrorism and the proliferation of weapons of mass destruction. A “Foreign Fighters” task force and a “Returnees Platform” have also been created, both of which demonstrate again the particular attention being paid to the jihadist phenomenon.

## The reaction dynamic and its underlying concepts

Beyond the nature and content of the 30 measures, the fact that stands out is how quickly the Belgian authorities responded to events by proposing the measures: there was only one day between Verviers and the first dozen measures and six days between the Paris attacks in November and the 18 remaining measures.

As stressed by authors like Attali, we live in contemporary societies that are characterised by competition between several timescales wherein the time of the media and the market dominates all the other times or rhythms, including that of law/police/justice or politics<sup>5</sup>. This media/market dictatorship has to be coupled with the rise of what is labelled “penal populism” in order to understand the rapidity of

<sup>3</sup> Also known by its French/Dutch acronym: OCAM/OCAD.

<sup>4</sup> Beyond the prime minister, this council is composed of the minister of justice, the minister of home affairs, the defence minister and all the vice prime ministers. Depending on the agenda, various other actors can be invited to participate, such as directors of intelligence, judicial or police services.

<sup>5</sup> Attali, J., “Les quatre échelles du temps”, Slate, 16th May 2011, [Online], <http://www.slate.fr/story/38187/dsk-attali-quatre-echelles-temps>, consulted on 01/06/2016.

governmental reactions after the terrorist attacks. The concept of “penal populism” is quite hard to define precisely<sup>6</sup> but is described by authors like Beck<sup>7</sup> as a major tendency in western postmodern societies, marked by a generalised need and call for security. The “risk society”, as labelled by Beck, is prone to creating moral panic, which can be defined as an apparent increase – from a quantitative and/or a qualitative point of view – in a particular form of crime<sup>8</sup>.

The mass media play a determining role in this process, putting crime in the top headlines so that this topic occupies a disproportionate place, especially when compared to other social problems that have nothing to do with crime but which are totally non-mediatised. This hyper-mediatisation process may cause a spike in attention that is interpreted by politicians as an urgent “call for reaction” emanating from a “frightened public opinion”. In this logic, the sense of urgency calls for decisions that have to be taken immediately and this implies bypassing the traditional preparatory work that normally – or ideally – precedes the design of any criminal policy and/or the drafting and implementation of any law.

This latter sequence highlights how penal populism works: rapid answers that aim to reassure an anxious public after a very mediatised and emotional criminal act. The nature of the answer given in the context of penal populism is usually repressive or “tough on crime” because this way of dealing with the “problem” is perceived both by those who decide and those who observe the reaction as the most appropriate one. But the process does not stop at this stage. As described by the concept “Memorial Crime control” by Sasson, the rhetoric to explain or present crime that is overwhelmingly used in the media and on the political scene portrays offences as resulting from a default in the control system<sup>9</sup>. Depicting the lack of controls as almost the sole explanation of crime gives rise to a natural call for the apparently obvious answer: controls need to be extended and reinforced! More generally, all of the foregoing tendencies – media/markets time dictatorship, timescales, risk society, moral panic, default in the control system and penal populism – are consistent with the concept of “new penology” that characterizes post-modern and liberal societies and whose main objective is to create apparent security by maintaining crime at acceptable levels<sup>10</sup>.

Terrorism and counterterrorism, at the Belgian level, fit perfectly within this picture. Because the attacks in Paris and Brussels were highly mediatised in Belgium, they may have been a source of great fear and anxiety not only for those that were

<sup>6</sup> See Roberts, J.V., Hough, M., *Understanding Criminal Attitudes to Criminal Justice*, Open University Press, Maidenhead, 2005, 201 p.; PRATT, J., *Penal Populism*, Routledge, New York, 2007, 211 p.

<sup>7</sup> Beck, U., *Risk Society: Towards a New Modernity*, London, Sage, 1992, 272 p.

<sup>8</sup> Cohen, S., *Folks Devils and Moral Panics*, 3rd ed., Routledge, New York, 2002, 327 p.

<sup>9</sup> Sasson, Th., *Crime Talk – How citizens construct a social problem*, Aldyne De Gruyter, New York, 1995, 192 p.

<sup>10</sup> Simon, M.M., Feeley, J., “The New Penology: Notes on the Emerging Strategy of Corrections and its Implications”, *Criminology*, 1992, Vol. 20, N°4, 449-474.

directly hit by the attacks but also for the population in general which can be considered as the indirect victim of terrorism<sup>11</sup>. This creates fertile ground for what Ahmed calls “the emotionalisation of the war on terror”, which is rooted in the perception of the existence of a global threat and which facilitates the legitimisation of the expansion of social control<sup>12</sup>. This also refers to what Roach called the “9/11 effect”, describing policies and practices designed to shore up the security of the state and to reassure apparently anxious citizens<sup>13</sup>. In a kind of implacable and systematic process, the question of where the control systems have failed was placed directly under the spotlight. This fact is now so well-known that it is anticipated by those who want to avoid potential criticism, as demonstrated by François Hollande’s discourse after the Paris November attacks, “planned in Syria, organized in Belgium and perpetrated in France”. This statement can be interpreted as an attempt to avoid criticism of any control failures in France<sup>14</sup>. The communication of measures by the Belgian government directly after the “events”, coupled with the fact that a significant part of these measures has not yet been realised months later, seems to attest to the predominance of the media/market timescale using the terminology of Attali, even if it has to be taken into account that some juridical measures require time to be implemented.

The true nature of these measures needs a deeper and more balanced analysis in order to determine whether or not they are symptomatic of the inter-related tendencies described above. The greater part of the 30 measures is undoubtedly coercive – directly or indirectly – and repressive. From this point of view, they are consistent with penal populism, risk society and/or new penology as they extend controls and create tougher criminal law. They indeed increase the scope of criminalised behaviors, they reinforce penalties, they plan to collect and exploit more data and they institute new structures dedicated to the fight against terrorism. But one must keep in mind that this view may be biased by the fact that the 30 measures studied here are those formulated by the Belgian federal state. In Belgium, a lot of prerogatives that can have an impact on some aspects of terrorism or radicalization, from a non-repressive viewpoint, are in the hands of federate entities and thus fall outside the focus of this article. Notwithstanding this, it appears that all the aforementioned concepts are applicable to the Belgian situation, which may then be considered – within the limits expressed – as being totally typical. This means that criticisms and questions that usually underlie these concepts fully apply to this situation, especially in terms of efficiency and collateral damage.

<sup>11</sup> Doran, B.J., Burgess, M.B., *Putting fear of the crime on the map*, Springer, New York, 2012, 25-45.

<sup>12</sup> Ahmed, Sh., “The ‘emotionalization of the “war on terror”’: Counter-terrorism, fear, risk, insecurity and helplessness”, *Criminology & Criminal Justice*, 2015, Vol. 15, N°5, 545-560.

<sup>13</sup> Roach, K., *The 9/11 Effect: Comparative Counter-Terrorism*, Cambridge University Press, Cambridge, 2011, 492 p.

<sup>14</sup> Dantinne, M., “Le sens de la mesure”, *Le 15<sup>ème</sup> jour du mois*, Liège, décembre 2015.

## Criticisms: The expected efficiency and potential collateral damage in question

Considering that the 30 measures against terrorism are not only strictly symbolic but are expected to bear results, their efficiency must be central to the discussion. If they are seen as ineffective, their existence must be called into question. The assessment of the efficiency of each of these measures and the collective approach they form together requires both time – to implement the measures and allow them to demonstrate their effects – and the creation of a true evaluation process with the identification of pertinent indicators, among others. At this stage, it may therefore still be too early, if not simply misleading, to draw any peremptory conclusions. This being said, it is nonetheless possible to conduct a preliminary analysis of the expected efficiency of these measures.

The measures mainly rely on a double paradigmatic approach, which is totally symptomatic of the new penology: a rational perspective, on the one hand, and a risk-management approach, on the other hand. The creation of new infringements and the tightening of related penalties are intended to act as a deterrent for those individuals who, for example, would reconsider engaging in jihadist activities in Syria due to the threat of legal sanctions. This is inspired by a rational perspective that postulates that the choices and behaviours of humans result from cost-benefit analysis. But what is usually neglected in the use of such an approach is that rationality is not monolithic, unlimited and objective, but rather plural, limited and profoundly subjective<sup>15</sup>. In other words, what is considered as a “benefit” or a “cost” differs from one individual to another. Being imprisoned or being dead certainly constitutes a very strong deterrent for the vast majority of individuals but for some particular psychological profiles, particularly those individuals driven by ideological or religious motives, these outcomes can be perceived as insignificant when compared to their overall objective. Further, they can even be viewed as a benefit, for example, in terms of what is expected in the after-life: suicide bombings form an almost absurd application of this view.

There is also the question of what each person can lose or gain, objectively or subjectively. If an individual feels that they “nothing to lose” or that all that they own has no value at all, then he or she cannot easily be deterred from committing an offence. When attention is focused on some typical profiles of foreign terrorist fighters and to the push/pull factors traditionally highlighted in the scientific literature dedicated to this topic, the potential deterrent effect of all the factors related to the criminalisation of terrorism seems hazardous to say the least. This potential and very limited deterrent effect also has to be linked with another traditional side-effect of criminalisation or reinforced criminalisation of a behaviour: “invisibilisation”. While authori-

<sup>15</sup> Clarke, R.V., Cornish, D.B., “Modelling Offenders’ Decisions: A Framework for Research and Policy”, *Crime and Justice*, 1985, Vol. 6, 147-185.

ties intend to deter individuals from being involved in terrorism-related activities through harsher penalties, they can paradoxically increase the concealment of these activities. This is especially true for families and friends who will undoubtedly think twice before reporting to the authorities the possible radicalisation or jihadist involvement of one of their beloveds. In this case, these measures will not only be inefficient in terms of deterrence, but they are also going to complicate the detection of the threat itself. They are thus likely to aggravate the problem they are supposed to solve.

Even if the potential deterrent effect of these measures appears to be limited, they are also integrated into a risk-management perspective that pays particular attention to the fact that terrorism is characterised by an almost unique feature, perhaps shared only by mass-shootings and war-related crime: the ratio of the act/author to the potential victimisation. In other words, a single criminal or isolated act can cause extremely severe damage to a significant number of citizens. This implies a need for risk detection at an early stage. When a risk of this kind exists, it requires the implementation of measures aimed at negating this risk, if possible, in the short, medium and long term. Next to its assumed deterrent effect, the policy of systematic imprisonment of returnees must be considered from this perspective; their incarceration is expected to reduce the short-term risk of terrorist attacks. The same reasoning can be applied to all the other measures that aim to broaden the scope of special investigative methods, to revoke the nationality of convicted jihadists, to expand the possibility of house searches or to increase the duration of administrative arrests. This large spectrum of applicability demonstrates that risk management is at the heart of Belgian governmental reaction, as it is also central in post-modern society in general, in moral panic, in penal populism and in new penology.

To be effective beyond its theoretical design, this approach requires an acute assessment of the level of dangerousness of those who are targeted by authorities. The difficulty of this assessment has been repeatedly demonstrated in criminological literature from the point of view of a wide scope of behaviours, but seems especially difficult with regard to radicalisation and terrorism. The identification of reliable “red flags” that can be used to detect radicalisation is now haunting the daily work of a broad range of professionals that may be in touch with susceptible individuals. Flawless indicators simply don’t exist. On one hand, those who become radicalised are fully aware of these “red flags” and thus they try to conceal all signs that could potentially betray their real intentions. On the other hand, it’s nearly impossible to determine the extent to which a given individual has been radicalised. Specific theoretical models depicting the radicalisation process generally agree that this process is composed of numerous stages that are absorbed at very different rhythms<sup>16</sup> by

<sup>16</sup> See Moghaddam, F.M. “The Staircase to Terrorism: A psychological exploration”, *American Psychologist*, 2005, Vol. 60, 161-169.; Borum, R., “Radicalization into Violent Extremism II: A Review of Conceptual Models and Empirical Research”, *Journal of Strategic Security*, 2011, Vol. 4, N°4, 37-62.

different individuals. At the risk of sounding cynical, the only “red flag” that enables authorities to accurately establish the extent to which an individual is radicalised (and the risk he/she poses) is, in the field of terrorism...the commission of an attack.

Increased attention must also be given to the bias surrounding all the retrospective analyses which are based on the knowledge of “the end of the story” – the terrorist attack – which will give belated significance to life episodes and information that could not possibly have been deduced when they when they happened or were discovered. These analyses are almost always unsatisfactory from a scientific point of view and sometimes lead to conclusions that are unfair to police, intelligence and judicial services which are then scrutinised in the search for deficiencies in the security system, as described above. These limits, both in terms of deterrence and of risk management, demand a fight against terrorism that not only integrates these components but goes beyond them to include all the work to be done upstream – education, economic policies, city/urban policies, etc. Even if the success of the efforts in these upstream fields remains uncertain and surely limited to the medium and long term, the fact remains that it will always be less hazardous to try to prevent the involvement of an individual in a radicalisation process than to deter him or her from committing a terrorist attack once radicalised. In other words, fighting against terrorism requires working simultaneously on the roots of radicalisation and in the field of counterterrorism. These fields must not systematically be opposed, as it is usually the case, in the political and scientific spheres.

Imprisonment is a good illustration of this problematic articulation between immediate and long-term outcomes, as it also highlights the undesired side effects of criminal policies that are principally built upon an assessment of “dangerousness”. The average post-prison recidivism rate – between 40% and 50% for “known recidivism” – is now widely acknowledged, regardless of the kind of crime committed. But the question of incarceration raises additional, more specific questions in the case of terrorism. The analysis of the 30 measures chosen by Belgian authorities identifies the choice of imprisonment as the first and main reaction to radicalisation and terrorism. It is worth noting that other countries have opted for the totally opposite solution, favouring alternative approaches that allow people to remain free, as illustrated by the “Aarhus model” in Denmark, notwithstanding questions raised about this approach<sup>17</sup>.

Leaving the question of efficiency aside, imprisoning people for terrorism-related offences creates the risk of increasing radicalisation through the reinforcement of a radical subculture within penitentiaries, not least when these kinds of inmates are grouped in dedicated sections as is the case in Belgium. The issue of reinsertion after imprisonment seems to be avoided or, at least, remains open: will the grievances and

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<sup>17</sup> Lindekilde, L, “Neoliberal Governing of ‘Radicals’: Danish Prevention Policies and Potential Iatrogenic Effects”, *International Journal of Conflict and Violence*, 2012, Vol. 6, N°1, 19-125.

sentiments of injustice be reduced or will they instead be strengthened by prison, once the end of the sentence has been reached? If we go back to the specific theoretical models that aim to describe the radicalisation process, they all stress grievances, feelings of injustice, and attribution of the blame to the “punishing state” as key drivers of radicalisation. These perceptions and emotions are also very common features among all detainees – regardless the type of crime they have committed – and they seem to be reinforced by the custody itself. If there is not any specific and efficient program that is particularly designed for this subgroup of detainees, the risk is thus real that the detention aggravates the risk of radicalisation – and of an eventual terrorist attack – whereas it is supposed to reduce or eradicate it.

Another major limit of risk-management based systems is that they unfailingly lead to restrictions of freedom and privacy. While aiming to prevent terrorist attacks through extensive checks and early detection of at-risk individuals, the public authorities take measures that extend the prerogatives of security services. This extension goes hand-in-hand with a restriction of juridical guarantees in some cases. Some experts think this tendency poses a more general and very paradoxical threat: in the name of the fight against terrorism, the promulgation of measures whose efficiency is clearly uncertain may destroy democracy, while intending to preserve it. This kind of vicious circle is interpreted by some specialists as a gain for terrorists<sup>18</sup>.

Moreover – and still in the name of the fight against terrorism – these measures multiply breaches in privacy through the collection of an ever-broadening dataset. The line of rhetoric “*Those who have nothing reprehensible to hide should not be afraid*”, used by the Belgian prime minister and others in the aftermath of the Brussels attacks, must not prevent us from examining the questions underlying this tendency. The efficiency of such data-gathering processes is, in fact, really questionable. Furthermore, it requires additional time and resources from the police and intelligence services, in order to process and exploit the collected data.

More fundamentally, in the field of terrorism and radicalisation, the assessment of dangerousness can be schematically described by dividing individuals into two groups: those who seem dangerous and those who do not seem dangerous. But this assessment also attempts to sort out those who belong to the first group on a continuum, ranging from “somewhat dangerous” to “very dangerous”. The goal of security services is to focus surveillance on those who appear as the more dangerous, considering that the means available to the services – human, financial, etc. – are not unlimited. Will these data-gathering processes allow detection of dangerous individuals or will they be used in order to refine the assessment of the dangerousness of those individuals who are already under scrutiny? It doesn’t seem realistic to state that they will – alone – be able to identify new or priority targets. The question is thus

<sup>18</sup> Delmas-Marty, M., & al., “Détruire la démocratie au motif de la défendre”, *Esprit*, 2010, Vol. 3, 145-162.

more about the added-value they will concretely bring to the daily work of the security services.

Finally, the question of the security of these new databases must not be neglected because any unauthorised access may cause severe damage, especially when one considers the sensitive character of the information they will contain<sup>19</sup>. One can also raise the question of whether or not the adaptation and/or displacement effect has been taken into account in this strategy. The creation of a Belgian PNR system is a good illustration of this dynamic: taking it as a given that it will facilitate the arrest of terrorists who are planning attacks is something of a fairy tale. Indeed it seems to fail to take into account the fact that terrorists as well as ordinary citizens are informed of the existence of this database and they will adapt their behaviour accordingly.

## And tomorrow?

Social sciences, unlike astrology, is not about predicting the future. It is nevertheless possible to raise already at this stage several questions about what is going to happen in Belgium.

While keeping in mind that other kinds of policies do exist in the field of counterterrorism, there are also various ways of implementing “risk-based” policies. Mythen and Walklate make the distinction between “what was” and “what if” risk policies<sup>20</sup>. Schematically the “what was” dynamic is characterised by a careful examination of what has happened – for example, after a terrorist attack – in order to take the most appropriate measures in the light of the past. “What if” policies refer to another dynamic, predicting all possible scenarios and taking measures to avoid the future occurrence of terrorist attacks. “What if” is the basis for pre-emptive risk logic that supplants prevention and whose objective is to pre-empt the unravelling of events in relation to the horizon of projected futures. Apart from breaches of privacy and freedom, “what if” policies justify “early action by the drive to protect the majority ‘just in case’: i.e. without knowing what the scale of the threat might be”<sup>21</sup>. But they also create or reinforce a polarised representation of the world between a majority that has the right to be protected and a minority that embodies a threat to its security. This undoubtedly engenders some very negative effects in the field of stigmatisation and secondary deviance<sup>22</sup> with the risk of fostering the precise behaviours these “what if” policies aim to avoid.

<sup>19</sup> Preuss-Laussinotte, S., “Base de données personnelles et politiques de sécurité: une protection illusoire?”, *Cultures & Conflits*, 2006, Vol. 64, 77-95.

<sup>20</sup> Mythen, G., Walklate, S., “Terrorism, Risk and International Security: The Perils of Asking ‘What if’”, *Security Dialogue*, 2008, Vol. 39, N° 2-3, 221-242.

<sup>21</sup> Mythen, G., Walklate, S., “Counterterrorism and the reconstruction of (in)security: divisions, dualisms, duplicities”, *British Journal of Criminology*, First published online, 11 March 2016, 18 p.

<sup>22</sup> Lemert, E., *Social Pathology: A Systematic Approach to the Theory of Sociopathic Behavior*, New York, McGraw-Hill, 1951, 468 p.

It is unclear whether the Belgian government has entered a “what if” or “what was” policy. Yet, it seems paradoxical that a national government announces measures in the immediate aftermath of dramatic events that occurred abroad – even in a neighbouring country – and that it does not react in the same way following the occurrence of similar events in its capital city. In order to determine whether or not Belgium has succumbed to the temptation of penal populism and whether the country has entered in a “what if” or a “what was” dynamic, it will be necessary to carefully follow the work to be accomplished by the parliamentary commission that was set up to investigate the Brussels terrorist attacks, the recommendations it will produce and the extent to which they are going to be followed by those who will have the political power to implement them. Undoubtedly a discriminating analysis focusing both on the process and on the result of the work led by this commission will complete the picture of the Belgian political reaction to terrorism.

# HOW INTEGRATED IS LOCAL PREVENTION OF RADICALISATION AND TERRORISM?

Paul PONSAERS and Elke DEVROE

The implication of Belgium-linked terrorists in the shootings and bombings on November 13, 2015 in Paris became more and more obvious during the police investigation that followed these events. Today we know that the bombings at Brussels Airport and the Maalbeek subway station on March 22, 2016 were committed by the same French-Belgian jihadi network.

The consequence has been that many international observers focused on the Belgian police system, wondering why the Belgian police forces had not been able to prevent the radicalisation of these persons. In this paper we examine this question, explaining what happened during the period that preceded these assaults and decoding what the events mean for the Belgian police system today. In other words, this paper doesn't go into the *reaction* to radicalisation and the subsequent violence itself, but into the *preventive* and *pro-active actions* that had been undertaken earlier to avoid the radicalisation of certain "at-risk" individuals and groups. The main argument we want to develop here is that a targeted prevention agenda was largely present in discourse, but to a great extent absent in practice. Further, we advocate that, if implemented, this kind of preventive approach would have been much more effective than the repressive criminal justice agenda now applied with respect to jihadi terrorism.

## The police reform of 1998

In 1998 the Belgian government reformed the Belgian police system.<sup>1</sup> Without going into too much detail, we observed the transformation of three different police forces into one police system. The national gendarmerie, the national judicial (criminal) police and the 589 municipal police forces were reorganised into "one integrated police service, structured on two levels". This meant that two different kinds of police forces were created (the federal and zonal police), which were integrated by means of functional instruments (such as, for example, a common planning cycle, a shared educational programme, the same databases, etc.). The federal component of the system was designated as being responsible for supralocal and complex forms of public disorder and crime, under the supervision of the minister of internal affairs

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<sup>1</sup> Ponsaers, P., De Kimpe, S. (2001). *Consensusmania – Over de achtergronden van de politiehervorming*, Leuven/Leusden: ACCO.

and of the minister of justice. The local component of the system was no longer implemented on the scale of municipalities, but on that of so-called “zones”, which brought the number back to 196 zonal forces.<sup>2</sup> On average, a zone covers three municipalities. Zones were assigned responsibility for local and less complex forms of public disorder and crime, with an important focus on prevention, under the supervision of mayors. The reform was fully implemented in 2001. No hierarchical link was introduced between the federal and zonal levels.<sup>3</sup>

**Table 1: Total capacity of local and federal police as of 31/12/2013**

Real capacity local police		Real capacity federal police	
Police officers	Civilians	Police officers	Civilians
28.692	6.068	9.103	3.253
34.730		12.356	
74%		26%	
47.086			

The reform coincided with an impressive international consensus concerning the inadequacy of traditional police models in academic literature as, for instance, a military-bureaucratic model or a crime-fighting model. Summarised, the following critiques can be considered as the most important:

1. A mere increase in the number of police officers is not an effective strategy to tackle crime or disorderly behaviour. The quantitative assumption cannot resolve the necessary qualitative change of “*how to do good policing*”.
2. The police cannot prevent crime, and more generally, cannot function without the help of the population, which means that the population is much more than “the eyes and ears” of the police. The population is to a large extent the most important *partner* of the police. Police forces need to be *externally oriented* and they have to *empower* the citizenry.
3. The classic tactics of traditional police models are too reactive, as they do not affect the circumstances that cause crime and disorder.
4. Police policy is frequently too broad and is applied to different problems in one and the same way (“one size fits all”). Observers advocated the need for “*tailor-made responses*”<sup>4</sup>.

<sup>2</sup> At the moment of the implementation on 1st of January 2001, 196 zones were formed. Since then some zones were subject of voluntary fusion. On the 1st of January 2016 there were still 189 zones. In the Brussels Capital Region (composed of 19 municipalities) 6 zones were formed. Several times there were proposals to bring them together to one zone. Most of the time this proposal, sustained by Flemish political parties, was countered by French speaking parties.

<sup>3</sup> Van Branteghem, J.-M., Van de Sompel, R., Ponsaers, P., Boekaert, T. (2007). “Pillars of community policing in Belgium”, in *Towards an excellent police function*, Bruggeman, W., Van Branteghem, J.-M., Van Nuffel, D. (eds.), Brussels: Politeia, 15-36.

<sup>4</sup> Verhage, A., Ponsaers, P. (2013). “Impacts of Community Oriented Policing”, In Bruinsma, G., Weisburd, D. (Eds.), *Encyclopedia of Criminology and Criminal Justice (ECCJ)*, New York: Springer, 2430-2435.

As a consequence, the drastic reform was accompanied by the formal introduction of “community-oriented policing” (COP) as the official philosophy of policing in Belgium. COP is a strategy of policing that focuses on the police building ties and working closely with members of communities. It seeks to create partnerships between law-enforcement agencies and other organisations such as government agencies, community members, non-profit service providers, private businesses and the media, which represent a powerful channel through which the police can communicate with the public. Community policing recognizes that police cannot solve every public-safety problem alone, so interactive partnerships are created in which the public assists the forces in developing problem-solving solutions. All political parties, majority and opposition, pleaded for this police model, as well as parliament and the government. Finally the adoption of COP was consolidated in a circular letter distributed by the minister of internal affairs in 2003.<sup>5</sup> COP was embraced to a large extent by the zonal police forces but was less visibly implemented within the federal police.

This police model coincided perfectly with the introduction at the municipal level of the so-called “Integrated Local Security Policy” (ILSP). The general idea of ILSP is that security matters need to be treated in a broad, integral way and are too complex to be tackled by one party. Multidisciplinary collaboration between different professionals is essential. ILSP strives for an integrated approach, addressing all aspects that can promote security, including root causes of public disorder and crime. It is up to the *local administrative authority* to coordinate this policy between municipal and civilian initiatives (e.g. municipal services, employment and health-care programmes, educators, street-corner workers, social housing, schools, etc.) and the local police. It is in the framework of ILSP that municipalities installed “Local Cells for Integral Security” (LCIS), based on a 2014 circular of the ministers of the interior and of justice, with special attention to the problem of counter-terrorism, without being mandatory.<sup>6</sup>

There was some tendency to implement this policy within the police forces, more precisely through the “CoPPRa” programme, which stands for “*community policing preventing radicalisation and terrorism*”. CoPPRa started in 2010 as a European Commission “European Action Plan” with a budget of four million euros. The CoPPRa project was the result of the cooperation between 11 EU member states and the Belgian integrated police led the project. In this framework, COP is used for the

<sup>5</sup> Duquesne, A., Verwilghen, M., Circular letter CP1 of the 25<sup>th</sup> of May 2003 concerning Community Policing, Definition of the Belgian interpretation of the integrated police service, structured at two levels, B.S. 09-07-2003; Attachment to the circular letter: Van de Sompel, R., Ponsaers, P., “*De pijlers van de gemeenschapsgerichte politiezorg in België*”, pp. 66.

<sup>6</sup> These cells are multidisciplinary platforms for consultation. They deal also with the information exchange in the framework of foreign terrorist fighters (FTFs) originating from Belgium (August 21, 2015), which replaces the circular of September 25, 2014. The aim of the circular is to protect public security from potential threats.

prevention of radicalisation, while it is built on the confidence of the citizenry in public services at local level. CoPPRa is a kind of manual for beat officers on tracing signals of radicalisation at an early stage. Belgium has 58 active trainers, which are trained according to the Train the Trainer (TTT) concept. They trained some 500 first-line officers and staff from specialised federal and local police units during interactive training. In July 2011, the CoPPRa project was prolonged for another two years with ISEC funding from the European Commission. In this project, 15 member states and CEPOL, the European Police College, participated.

So far, so good. After the police reform, the local police forces and their policymakers had the perception that the reorganisation was for the better and to a large extent successful.<sup>7</sup> How does it come then that the radicalisation process of several persons and groups in the Brussels region failed to be observed and prevented by the local forces?

### The unconditional belief in law enforcement

Belgium, and more precisely the Brussels region, knew a long evolution toward jihadi recruitment and radicalisation. It is striking that in these cases the response was only the enforcement of criminal law, by supporting the prosecution and sanctioning of offences against this law. As such, policing was limited to a reaction to offences already committed and was thus essentially responsive, not preventive at all.<sup>8</sup>

Already in 1992, the self-declared Syrian imam Ayachi Bassam arrived in Molenbeek and founded the *Belgian Islamist Centre* in 1997. The reaction of Belgian authorities was purely a judicial one, indicting seven of the leading figures for spreading jihadi propaganda and hate messages via the internet when the case came to court in 2012. By then, most of the leading figures had already disappeared to fight in Syria and the court could only condemn them in absentia.

In 2010, Fouad Belkacem founded *Sharia4Belgium*, which was dissolved in September 2012. Two years later, in September 2014, the judicial process against *Sharia4Belgium* started against 45 members, only seven of whom were present in court. All others were judged, again in absentia during February 2015. A large number of youngsters had already departed to fight in Syria.

There is also the network of Khalid Zerkani, who began recruiting young muslims to fight in Syria and Iraq in April 2012. In February 2014, police arrested Zerkani. Thirty-one other people were also indicted along with him but by the time the trial opened

<sup>7</sup> Bruggeman, W., Easton, M., Devroe, E., Ponsaers, P. (2010). "Conclusie: Kijken naar de toekomst van de politie", in *Evaluatie van 10 jaar politiehervorming*, Bruggeman, W., Devroe, E., Easton, M. (eds.), Panopticon Libri n°4, Antwerpen-Apeldoorn: Maklu, 281-285.

<sup>8</sup> Garland, D. (1997). 'Governmentality and the problem of crime. Foucault, criminology, sociology', *Theoretical criminology*, 1, (2), p. 173-214.

in spring 2015, most of them had disappeared, believed to be in Syria. Among them was Abdelhamid Abaaoud, who would become the local organiser of the Paris assaults in November 2015. In July 2015, Zerkani was sentenced to 12 years in prison, a term lengthened to 15 years in April 2016 after he appealed it.

In general, we can conclude that an important number of the jihadis recruited in Belgium were members of one of the three networks mentioned. Over this long period stretching from 1997 to 2015, it is clear the policy was focused on building criminal cases against these networks and bringing the members to court. It is striking that this strategy always involved a long period of incubation so that by the time the cases came before the court most of the suspects had left the country. In other words, the criminal procedure was not able to bring a great number of indicted persons to trial. According to Belgian Minister of Internal Affairs Jan Jambon in 2015, at least 837 individuals were on the watchlist of Belgian intelligence services; 273 of them were reported to be in Syria or Iraq, whereas another 134 were believed to have returned to Belgium.<sup>9</sup> These figures put Belgium at the top of the list of EU countries, in terms of the number of foreign fighters per capita.<sup>10</sup>

The alternatives to the law-enforcement strategy have not been sufficiently explored. When we researched the prevention of radicalisation in 2010, tasked by the former interior minister, we stressed already at that point the importance of a solid preventive approach. This preventive approach was advocated by numerous professional respondents, including teachers, educators, street-corner workers, youth workers and social workers. They underscored the fact that often they were not aware of the meaning of “radicalisation”, how to recognise it and how to deal with radicalising youngsters. At that time we advised policy-makers to offer these professionals training in preventive instruments, aiming at a deeper understanding of radicalisation, making these professionals more sensitive in their professional roles in the prevention of the radicalisation of individuals. We also advised to develop a federal centre of knowledge and advice on the issue of radicalisation, developing research and evidence-based preventive projects, such as de-radicalisation projects in prisons and programmes dealing with parental support, resilience and employment along with exit programmes.<sup>11</sup> The development of such a knowledge centre was never seriously considered.<sup>12</sup>

Since that time there has been no real change in this domain. Recently a collaborator of a Public Centre for Social Assistance (PCSA) of a Brussels municipality confessed that social workers had still not received any instruction with regard to radicalised

<sup>9</sup> Verenigde commissies voor de justitie en voor de Binnenlandse Zaken, de Algemene Zaken en het Openbaar Ambt van woensdag 2 december 2015.

<sup>10</sup> van Ginkel, B., Entenmann, E. (eds.) (2016). *The Foreign Fighters – Phenomenon in the European Union – Profiles, Threats & Policies*, ICCT Research Paper, The Hague: ICCT.

<sup>11</sup> Noppe, J., Ponsaers, P., Verhage, A., De Ruyver, B., Easton, M. (2010). *Preventie van radicalisering in België*, Governance of Security Research Report Series, Antwerpen-Apeldoorn: Maklu, pp. 185.

<sup>12</sup> Ponsaers, P. (2016). “Prévention? Trop peu, trop tard”, in *Le Vif*, Jg. 34, nr. 13, 1 april, 20-21.

individuals, in spite of the fact that this service was dealing with individuals known to the security services. More broadly, the staff of the PCSA didn't get any training concerning potentially radicalized individuals, while the PCSA was supposed to be involved in identifying signs of radicalisation in the framework of the LCIS's. Even when some staff members asked for training, this was refused because it was considered non-essential.<sup>13</sup> Although the situation inevitably differs from one PCSA to another, as some cases of good practice are also reported, Belgium seems to be stronger in policy formulation than in the implementation of the practices that would carry out the stated goals of that policy.

## The local police and the municipality treated as orphans

### *The lack of co-ordination of the municipal initiative*

The federal specialised anti-terror section in Brussels (the so-called "DR3") only invests 6,8% of its capacity (seven people) in preventive missions because of a lack of personnel.<sup>14</sup> It is clear that prevention is primary a local task. But, as a consequence of the lack of a coordinated prevention policy, today one municipality has a de-radicalisation policy but not a single foreign terrorist fighter, while another municipality has several fighters, but no policy. In Flanders the problem of radicalisation is concentrated in Antwerp and Vilvoorde, but about 40 other municipalities also have problems. Only 10 of these municipalities are realising a follow-up of "returnees". Seven of them started doing so only recently. In contrast, it is striking that there are also some municipalities which are not confronted with Syria fighters (anymore<sup>15</sup>) but nevertheless still have specific programmes and de-radicalisation officials. In fact, in several municipalities nobody knows exactly whether or not there are "returnees" on municipal territory.<sup>16</sup>

By means of an example, let's have a closer look at the municipality of Molenbeek. Molenbeek officially has 95.576 inhabitants and the average age is 34 years, all living on a surface of less than 6 km<sup>2</sup>. Certain neighbourhoods have a density of between 30,000-36,000 inhabitants per km<sup>2</sup>.<sup>17</sup> Between 1995 and 2016, the official population grew from 68,000 to 95,000 inhabitants, without taking into account the 5,000 to 9,000 non-documented residents. This explosive growth is the consequence of a high birth rate and low mortality rate (because of the high proportion of young

<sup>13</sup> Interview with an anonymous respondent (realised by Thomas Renard), Brussels, 25 May 2016.

<sup>14</sup> Doraene, J.-P. (2016). Terrorisme: le rapport qui décortique les vraies raisons de l'échec policier, in *Le Vif*, 17-05-2015.

<sup>15</sup> E.g. Mechelen, city that was confronted with Syria4Belgium in the past, but most of these radicals left the city. See: <https://euobserver.com/beyond-brussels/133185>

<sup>16</sup> Vergauwen, E., Dhondt, R., Elke gemeente haar eigen (non-)beleid tegen Syriëstrijders, *De Standaard*, 19.05.2016.

<sup>17</sup> Leman, J. (2016). "De sociale problematiek in Molenbeek en het gewelddadig jihadisme", *Cahiers Politie-studies*, n° 42 (in press).

migrants) and of an important influx of new migrants.<sup>18</sup> Furthermore, the municipality has a strikingly mobile population. When our research group did research in this area in 2012, we observed already that the turnover in the population was so significant that even beat officers were not able to monitor precisely who was living where. Domicile controls proved to be almost impossible and as a consequence were immediately outdated.<sup>19</sup>

According to the police chief of the police zone Brussels-West, in which the municipality of Molenbeek is included, the local police has to accommodate newcomers in houses officially declared “uninhabitable” because there is no alternative housing. Furthermore, he claims that there are not enough schools to keep up with the rapid population growth.<sup>20</sup> The drop-out rate of youngsters in schools is significant and the population is characterised by a low educational level. The unemployment rate is also tremendously high. Amongst youngsters this rate is one of the highest in Europe. Half of young inhabitants between 18 and 25 years stay unemployed, even if they have a diploma<sup>21</sup>.

The chief of police of Brussels-West stresses the fact that there are many associations working in Molenbeek, but he claims there is hardly any consultation between these organisations themselves or with the zonal police.<sup>22</sup> Some of the initiatives are supported by the Brussels region, others by the Flemish community or the federal government. All of them are doing similar things, but there is an obvious lack of coordination. To a large extent we can explain this situation as a consequence of the structural position of this municipality within the Brussels Capital Region.<sup>23</sup> In other words, the combined promise of COP and ILSP is surely not satisfied.<sup>24</sup>

This kind of urban environment is described in the classic study of Samson & Groves<sup>25</sup> as a place par excellence for the development of adolescent crime careers. This risk increases with the presence of recruiters, such as Khalid Zerkani, who lured in youngsters with a criminal background and pushed them further along this pathway. He looked for them not in mosques, but in drug-dealing pubs, with a apocalyptic story promising a new and better life in Syria. These young Muslims were attracted by the

<sup>18</sup> Corijn, E. (2010). Brussel, een kosmopolitische stad ... in wording. In van de Bossche, M., Lleshi, B. (eds.), *Identiteit en interculturaliteit: Identiteitsconstructie bij jongeren in Brussel*, Brussel: VUB Press.

<sup>19</sup> Liedenaum, C., Descheemaeker, L., Easton, M., Noppe, J., Ponsaers, P., Terpstra, J., Vande Walle, G., Verhage, A. (2013). *De Wijk achter de Botsing – Een Onderzoek naar Wijken in Nederland en België met ernstige Ordeverstoringen*, Reeks Politiestudies n°7, Antwerpen/Apeldoorn: Maklu.

<sup>20</sup> Schoofs, N., “Ik heb te weinig agenten die Arabisch spreken”, *De Tijd*, 26 maart 2016.

<sup>21</sup> Leman, J. (2010). ‘Laag-Molem, Kuregemse Kuren en Buitenlandse Buren,’ *Cahiers Politiestudies*, 2: 101-120.

<sup>22</sup> Schoofs, N., “Ik heb te weinig agenten die Arabisch spreken”, *De Tijd*, 26 maart 2016.

<sup>23</sup> Ponsaers, P. (ed.) (2016). ‘De communautarisering of de deconstructie van de soevereine staat’, *Panopticon*, 37 (4), 249-259.

<sup>24</sup> Ponsaers, P. (2016). Tussen woord en daad groeit een onoverbrugbare spagaat, in Bruggeman, W., Hardyns, W. (eds.), *Radicalisme en Terrorisme, Van Theorie naar Praktijk*, Reeks Veiligheidsstudies n°15, Antwerpen/Apeldoorn: Maklu, 135-144.

<sup>25</sup> Samson & Groves (1989). *Community Structure and Crime: Testing Social-Disorganization Theory*.

dangerous cocktail of risky delinquency and romanticised heroism.<sup>26</sup> It is in this context that the local police of Molenbeek have to function, not only to tackle the demon of terrorism, but to avoid that young inhabitants develop delinquent careers in the first place and become outlaws who have nothing more to lose.

### ***The official response: the federal “Canal Plan” and the regional security plan***

In January 2016 the Belgian federal government came with a swift answer to the events in Paris in November 2015, “the Federal Action Plan against Violent Extremism and Terrorism”. The government translated the problem of terrorism into a quantitative capacity problem. By 2019 the government wants to create 1.000 new police posts joining in the struggle against terrorism.<sup>27</sup> A specific part of this action plan is the so-called “Canal Plan” of Interior Minister Jan Jambon. This plan envisions 300 new vacancies in the canal zone in Brussels, including the Brussels municipalities of Molenbeek, Vilvoorde, Anderlecht, Koekelberg, Laken, Schaarbeek, Sint-Gillis and Sint-Joost-ten-Node.<sup>28</sup> It is remarkable that the federal minister formulated this plan, while the law on the integrated police stipulates that local plans are to be formulated by local decision-makers. But it is all the more remarkable that the plan supposes an alliance between mayors of specific municipalities and not between police zones. The Dutch-speaking, right-wing minister Jambon must trust now in the *goodwill* of many actors, including a number of French-speaking left-wing mayors, for realisation of the plan. Molenbeek and Vilvoorde are considered in the plan as the most urgent targets. These municipalities got additional capacity from February 1, 2016; 50 and 20 new inspectors respectively.

The chief of police of Brussels-West commented on the plan, stating that this canal plan does not change the structural shortage of 125 inspectors in his force, because the budget for the force did not evolve together with population growth. In fact, the Brussel-West force has the lowest budget of the Brussels Capital Region. The police zone Brussels-North has 25,000 fewer inhabitants but a structural capacity of 100 members more than Brussels-West.

In addition to the federal measures, the Brussels region took its own initiative, based on its new competences brought by the sixth Belgian state reform in July 2012. Among other goals, this new structure foresees financial contributions for regional efforts concerning security.<sup>29</sup> As a consequence of that, the minister-president of the

<sup>26</sup> Khosrokhavar, F. (2009). *Inside Jihadism. Understanding Jihadi Movements Worldwide*. Paradigm Publishers.

<sup>27</sup> Ponsaers, P., Devroe, E. (2016). “Molenbeek (maart 2016) na Parijs (november 2016). Het kanaalplan en de sluipende privatisering”, in Themanummer Criminele organisaties en Organisatiecriminaliteit, *Cahiers Politiestudies*, 39, 2, 213-236.

<sup>28</sup> Consult: <http://www.brusselnieuws.be/nl/nieuws/grote-lijnen-kanaalplan-jambon-bekend>.

<sup>29</sup> Meerschaut, K. & De Hert, P. (2008). Een integraal veiligheidsbeleid op gewestelijk niveau. Het Brusselse Gewest naderbij bekeken. *Rechtsleer & Doctrine*, 542-576.

Brussels region, Rudi Vervoort, responsible for security since July 1, 2014, presented a plan together with the mayors of Brussels-city, Schaerbeek, Anderlecht and Molenbeek simultaneously with Minister Jambon's development of his "canal plan". In this regional plan, "a global and integrated approach" is announced for the problem of radicalisation, concentrating on problems of education, youth care, employment, social housing and social cohesion.

It is striking that neither plan (the federal "canal plan" of the interior minister nor that of the Brussels region) refers to the other one. Instead of a real *integrated* local security policy, we observe a significant decoupling of the federal police strategy and the regional social policy.

### ***A new "Framework Document for an Integral Security Policy"?***

In the meantime, a "Framework Document for an Integral Security Policy" was recently rendered public, at the initiative of the ministers of internal affairs and justice, and in consultation with the regions and communities, but also with the judicial authorities and municipalities. This framework document clarifies the mutual arrangements of the different policy actors in the security field, but the working group did not reach a satisfying solution for all the problems raised.<sup>30</sup> While the actual government was installed in October 2014, the "Framework Document for an Integral Security Policy" was promised by the end of 2015. The document was only made public at the beginning of June 2016 and became more a technical exercise concerning procedures to follow and less the development of a shared integrated vision on security.

A serious pitfall is the solution for the so-called "*shared professional secrecy*", which is expected to bind all actors in the domain of social and health care on the one hand and the police on the other, especially concerning persons who become radicalised. The case of Bilal Hadfi is in this respect a clear illustration. After the assault on Charlie Hebdo in Paris in January 2015, he demonstrated his sympathy for this kind of action in school. His teachers tried to report this, but there was no regular means of communication to do so. Hadfi departed to Syria and was later one of the suicide bombers in Paris in November 2015. This lack of a shared professional secrecy is an example of precisely the kind of problem that lies in the no-man's land between regions/communities and the federal state. Today there is still no clear consensus on this crucial issue.

On top of that, several local police chiefs complain openly about the fact that their local force is frequently mobilised to sustain the federal police in the framework of counter-terrorism. These chiefs threaten to stop their support to the federal police.

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<sup>30</sup> Bruggeman, W. (2016). Nationaal veiligheidsbeleid: eindelijk opnieuw geïntegreerd?, *Panopticon*, 37 (2), 145-152.

They are convinced that this situation is the consequence of dramatic savings at the level of the federal police, hindering basic police preventive tasks in the municipalities.<sup>31</sup>

## Conclusion

In this article we demonstrated that for a long period a purely reactive law enforcement strategy was dominant in counterterrorism in Belgium and a preventive strategy (as a combination of COP and ILSP) was largely neglected. A much more active preventive role of the administrative local authority, more specifically of the mayors was absent except in rare occasions. In essence, the judiciary has monopolised the problem and the administrative and preventive approach was considered in fact as less urgent.

To a large extent this was a consequence of the fact that problems of terrorism were considered as the caseload of the federal police, with criminal investigation considered the core task of this component of the police system. This is the simple corollary of the policy concept politicians have of the real nature of police work, namely “tackling crime”, a concept that seems attractive in times of austerity. But we know that the influence on crime by the police is very limited. That is essentially because the causes of crime are beyond the sphere of influence of the police and these causes can only be countered by means of a mature and concrete concept of a Local Integral Security Policy. As Peter Manning explained already in 1977, the mandate of police is fragile and vulnerable and police personnel should be aware that they personify a promise they can never keep.<sup>32</sup>

Central recommendations that follow from this article are:

- Counterterrorism needs a more balanced effort between a law-enforcement strategy and a tailor-made preventive approach.
- Domicile controls are essential in a COP context.
- Furthermore, this implies the implementation of concrete collaborative multi-disciplinary practices between different professions.
- This implies also the resolution of the problem of “shared professional secrecy”, with respect for the standpoints of all the actors involved and not only that of the police.
- The steering of security and counterterrorism policy is problematic in the Brussels Capital Region, because of the different policy layers (19 municipalities, six police zones, the region and the federal government). A real fusion of the 19 municipal-

<sup>31</sup> Belga, “Lokale politie wil geen volk meer afstaan”, *Het Laatste Nieuws*, 28 april 2016.

<sup>32</sup> Ponsaers, P. (2016). Revisiting the classics: Police work – The social organisation of policing: Peter Manning, *Policing and Society*, 26 (3), 253-359.

ities into one, and consequently the fusion of the six police zones, would bring an important policy focus.

- This would require that the minister-president functions at the same time as the mayor of Brussels, as is the case in Berlin.<sup>33</sup> It is essential to unify decision-making power in one hand in Brussels.

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<sup>33</sup> Aden, H. & De Pauw, E. (2015) Policing Berlin. From separation by the iron curtain to the new German capital and a globalised city, *European Journal of Policing Studies*, Special Issue Policing European Metropolises, 2 (1), 13-30.

# COUNTERTERRORISM FINANCING IN BELGIUM: A NEW PERSPECTIVE

France LEMEUNIER<sup>1</sup>

The quest for money is vital to terrorists. The Belgian press has reported a number of terror cases with a significant financial dimension. Due to its unprecedented scale, the case of Khalid Zerkani is illustrative of the deadly consequences made possible by terror money. Often referred to the “biggest recruiter of candidates for Syrian jihad ever known in Belgium”<sup>2</sup>, Zerkani, implicated in several major contemporary terrorist investigations (the Paris and Brussels attacks, as well as the 2015 plot in Verviers), notably relied on young recruits he instructed to commit robberies and petty crimes, arguing that stealing from infidels was permitted by the Koran. Proceeds of crimes were then used to “motivate” potential jihad candidates and cover the travel expenses of those departing for Syria (or Somalia in the past) as well as to support fighters while in combat zones. For his generosity – and his long, thick beard – Zerkani was known as “Santa Claus” within the Belgian jihadist world.<sup>3</sup>

According to the 2015 Financial Action Task Force (FATF) mutual evaluation report on Belgium, “in terms of terrorist financing, the main risk concerns activities related to ‘jihadists’ traveling in the Near and Middle East”.<sup>4</sup> The Belgian Financial Intelligence Processing Unit (CTIF/CFI) confirms that the majority of the cases processed in 2015 were actually linked to the financing of foreign terrorist fighters and the individuals linked to the Paris attacks.<sup>5</sup> Figures provided in its latest report confirm activism with respect to terrorist-financing activities occurring in Belgium since 2013; 626 files have been transmitted to the judicial authorities for a total amount of EUR 16 million<sup>6</sup>. Between 2014 and 2015, following the January and November attacks in Paris, the number of these files reported to the judiciary authorities has doubled.<sup>7</sup>

<sup>1</sup> The author writes strictly in a personal capacity.

<sup>2</sup> “Belgique: 15 ans de prison pour Khalid Zerkani, figure des filières de recrutement pour la Syrie”, *Le Monde.fr avec AFP* 14 April 2016.

<sup>3</sup> “Khalid Zerkani, ‘Papa Noël’ et mentor du djihad en Syrie”, *La Libre.be*, 19 January 2016, Updated 20 January 2016.

<sup>4</sup> FATF (2015), Anti-money laundering and counterterrorist financing measures – Belgium, Fourth Round Mutual Evaluation Report, p. 7.

<sup>5</sup> CTIF/CFI, 22ème Rapport d’activités 2015, Annexe 1: Tendances de Blanchiment et de financement du terrorisme CTIF, p. 5.

<sup>6</sup> CTIF/CFI, 22ème Rapport d’activités, Annexe 2: Statistiques, p. 19. These figures reflect suspicious activities that occur in the financial sector only, based on reports transmitted to the Financial Intelligence Processing Unit from the private sector. The global “dark” or undisclosed figure of terror money is undoubtedly more consequent, but unknown by its underground nature.

<sup>7</sup> FATF (2015), Anti-money laundering and counterterrorist financing measures – Belgium, Fourth Round Mutual Evaluation Report, p. 5. These figures can barely explain by themselves if the increase of transmissions to the judicial authorities is the result of enhanced awareness and supervision by professional entities from the private sector or if it is a mere consequence of the terrorist attacks and the huge investigative work undertaken consequently.

Overall, according to the unit, the risk that the Belgian financial system could be used for structural funding of major terrorist groups like the Islamic State in Iraq and the Levant (ISIL) by means of major trafficking or counterfeiting of goods is not to be underestimated, although the main risk today remains related to the foreign terrorist fighters phenomenon.<sup>8</sup> It is feared that these current trends will grow commensurate with the expected prevalence of the “homegrown terrorist” phenomenon (individuals radicalised and operating within their country of residence under the ideology of major terrorist groups, like ISIL for instance).

From recent investigations, it has been shown that salaries, savings, profits from commercial enterprises, social welfare benefits, selling of personal assets or donations were among the techniques used to raise money in the Paris and the Brussels attacks. Among other fundraising methods being reported in Belgium, the CTIF/CFI also mentions credits or insurance fraud, although those were less prominent in 2015.<sup>9</sup> Abuse and misuse of non-profit organisations (NPO) is another long established source of generating funding for terrorist organisations, considered as a risk in Belgium as well.<sup>10</sup>

Like in many other European countries, the fight against the financing of terrorism has not always been a priority in Belgium, politically or operationally.<sup>11</sup> The disrupting potential of counterterrorist financing efforts has long been underestimated, based on the superficial premise that the planning of a terrorist attack is relatively inexpensive and therefore almost impossible to prevent through a finance-based approach. The use of micro-funding and underground financial techniques make terrorist operations even more difficult to detect, but things are changing, notably as a result of international pressure from the FATF mutual evaluation of Belgium. Political commitments to bring the national counterterrorist financing architecture in line with international standards<sup>12</sup> have constituted the first concrete step towards the recognition of stopping terrorist financing as a complementary tool to combat terrorism more generally. One of the most concrete examples that this perception is evolving within the operational services is the so-called Belfi project, launched in 2014 under judicial supervision to implement greater scrutiny of individuals and entities at risk of terrorism and terrorist financing by way of administrative or judicial controls and sanctions for non-compliance with, primarily, tax or labor

<sup>8</sup> *Idem*, p. 5.

<sup>9</sup> CTIF/CFI, 22ème Rapport d'activités 2015, Annexe 1: Tendances de Blanchiment et de financement du terrorisme, p. 23-24.

<sup>10</sup> FATF (2015), Anti-money laundering and counterterrorist financing measures – Belgium, Fourth Round Mutual Evaluation Report, p. 76.

<sup>11</sup> Lallemand, A. 'Jean-Claude Delepiere au Soir: "En matière de financement du terrorisme, la Belgique n'est nulle part"', *Le Soir*, 21 March 2012; interview with a retired officer of the National Terrorist Financing Investigation Unit (NTFIU) of the UK Metropolitan Police, September 2016.

<sup>12</sup> Government Coalition Agreement of the 9 October 2014: "*Des initiatives seront prises en vue d'une mise en œuvre encore plus efficace des recommandations du GAFI. La politique de poursuite et le gel en temps utile des fonds destinés au financement du terrorisme retiendront une attention particulière.*"

legislation.<sup>13</sup> By creating a hostile and disruptive environment, financial resources of these individuals and entities are being constrained, therefore limiting their operational capabilities. A specific point in this report will be dedicated to the results achieved within the Belfi project thus far and the current challenges faced at operational level by the authorities involved.

Although rather positively assessed by the FATF in terms of efficiency,<sup>14</sup> the Belgian apparatus to combat terrorist financing was (and still is, to some extent) essentially oriented towards the gathering of financial “footprints”, used to support evidence in terrorist investigations. For instance, the CTIF/CFI used to have limited means to share financial intelligence with non-judicial authorities, such as intelligence services or the Coordination Unit for Threat Analysis (OCAM/OCAD), with the result that this information remained mainly processed within the criminal justice system, rather than being fully exploited at a preventive level. After the wave of terrorist attacks in Paris and Brussels, a more proactive and preventive approach to counterterrorist financing began to receive growing operational and political interest as a tool to identify and prevent financial support for terrorism. This wake-up call accelerated the implementation of measures derived from the range of compulsory international standards, like the creation of a dedicated body responsible for defining the national counterterrorist policy, including its financing, namely the National Security Council. It also strengthened the emergence of a more comprehensive approach to counterterrorist financing. This is a work in progress. New and different measures today permit a broader sharing of information, for example by the CTIF/CFI, and other ways of improving the preventive potential of terrorist-financial intelligence are being explored.

A preliminary point of this report will recall the logic of the disruption of terrorist financing as a leveraging action to counterterrorism efforts more broadly. This paper intends to offer a look at the relevant Belgian policy architecture, reflecting recent changes in the global perception and approach to counterterrorist financing potential, and how international binding standards in this regard are actually being implemented at the national level. Current challenges and recommendations in the implementation of new responses to terrorist and terrorist-financing threats will be highlighted in conclusion.

## The disruption of terrorist financing

Counterterrorist financing refers to one of the various tools to combat terrorism by tackling terror-money flows. The objective is to make it harder for terrorists to

<sup>13</sup> La Chambre, Bulletin n°B058 – Question et réponse écrite n°: 0856 – Législature: 54, 19 Jan. 2016.

<sup>14</sup> FATF (2015), Anti-money laundering and counterterrorist financing measures – Belgium, Fourth Round Mutual Evaluation Report, p. 71.

operate by preventing them from raising, storing and moving funds, notably by using the financial system of a country. This approach is based on the assumption that money is the cornerstone of any terrorist organisational requirements, which constitutes the basis of the development of the international counterterrorist framework promoted by the Financial Action Task Force and the United Nations.

*“Interdicting these flows can degrade the capability of terrorist groups over time, limiting their ability to launch attacks, increasing their operational costs and injecting risk and uncertainty into their operations, which can have tactical benefits, such as: damaging morale, leadership and legitimacy within a network and forcing terrorist groups to shift activity into areas where they are more vulnerable, including areas that they would otherwise avoid.”<sup>15</sup>*

To varying degrees, terrorists need money to carry out attacks but they also need much broader resources to cover organisational costs like propaganda, recruitment, travels, trainings, salaries or social services. While this is more obvious for large paramilitary groups with territorial control, like ISIL, small cells of individuals like those involved in the recent wave of attacks against Europe also rely on fundraising to achieve their objectives.

Measures implemented at a national level to tackle terrorist funding must permeate the varying stages in which money is involved from the fundraising phase through all the conduits to the end uses. This can be done through preventive measures like those aiming at detecting terrorist and terrorist-financial activities occurring within the financial-service and private sectors where application of “know your customer” and “due diligence principles” (to assess and monitor customer risks of terrorist financing) plays a crucial role by identifying suspicious movements of funds through the financial system. Other preventive measures include the implementation of targeted financial sanctions (such as travel bans, terrorist asset freezes or arms embargos), measures to detect and prevent illicit cross-border transportation of cash and the protection of vulnerable sectors like non-profits to ensure that they are not used or misused by terrorist organisations. The “pursue approach” encompasses broad measures to allow criminal investigations and judicial proceedings against those financing terrorist activities. At any stage, such measures require the implementation of a risk-based approach and strong domestic and international mechanisms to coordinate and share information.

## **International framework to counter the financing of terrorism**

Belgium’s efforts to cut off terror financing do not take place in a vacuum. They reflect and are shaped by international institutions and policies. Combating money

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<sup>15</sup> FATF/OECD (2008), Terrorist Financing, p. 27 quoting HM Treasury (2007)

laundering and the funding of terrorism have long been on the international agenda: *“to protect the integrity and stability of the international financial system, cut off the resources available to terrorists, and make it more difficult for those engaged in crime to profit from their criminal activities.”*<sup>16</sup> However, the international community has been slow in recognising the potential threat of terrorist financing, giving priority to more traditional security policies and applying international standards as window-dressing measures. As a consequence, counterterrorist financing has long been considered as the poor child of the broader efforts against terrorism.

Things are slowly changing in light of the growing threat from ISIL and the foreign terrorist fighter phenomenon, although some jurisdictions are still lagging behind due to a lack of awareness, lack of resources or lack of political will.<sup>17</sup> Statistics and studies show that effective counterterrorist financing regimes are still inefficient in many countries. The FATF suggests that some progress has been made but more needs to be done to strengthen the existing regime<sup>18</sup> and adapt to the constantly evolving methods used by terrorists to raise, store, move and use their money.

The “rule setter” role played by the FATF in this regard has been crucial in developing a comprehensive set of compulsory measures, endorsed by more than 180 countries and jurisdictions, which are today recognised as the international standard for anti-money laundering, counter terrorist financing and proliferation of weapons of mass destruction (WMD).<sup>19</sup> Created in 1989 initially to combat money laundering, the FATF is an intergovernmental organisation whose goal is *“to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system”*. Counterterrorist financing and counter financing of proliferation of WMD have been included in its mandate in 2001 and 2011 respectively.

Together with the 1999 convention and dedicated UN Security Council resolutions<sup>20</sup>, the FATF recommendations (and interpretive notes) form the three main sources of international obligations in respect to counterterrorist financing. The FATF is currently undertaking numerous initiatives to better reflect the ever-growing terrorist threat and the many changes in its scope and nature (ensuring that FATF

<sup>16</sup> International Monetary Fund. IMF’s involvement in AML/CFT. <https://www.imf.org/external/np/leg/amlcft/eng/aml1.htm>

<sup>17</sup> FATF Report to the G20 leaders. Terrorist Financing, Actions being taken by the FATF. November 2015.

<sup>18</sup> *Idem*.

<sup>19</sup> FATF (2012), International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, updated June 2016, p. 7.

<sup>20</sup> UN Security Council Resolutions (UNSCR) n° 1267 (1999), 1373 (2001), 1988 (2011), 1989 (2011), 2178 (2014) and 2253 (2015) are those containing CFT binding requirements for the member states, ranging from preventive/restrictive measures such as travel bans, terrorist assets freezes or arms embargos to general requirements for mutual legal assistance and extradition as well as the criminalisation of terrorism financing acts.

standards provide up-to-date tools to identify and disrupt terrorist financing activities, improving the understanding of terrorist financing risks, etc.)<sup>21</sup>

**Box 1: FATF main recommendations on counterterrorist financing**

- Identify, assess and understand terrorist financing (TF) risks;
- Comprehensively criminalise TF as a distinct offence;
- Have targeted financial sanctions and terrorist asset freezing;
- Equip law enforcement agencies and financial intelligence units (FIUs) with all necessary powers and resources;
- Detect and prevent illicit cross-border transportation of cash;
- Ensure prompt and constructive international and domestic cooperation and
- Take preventive measures to protect sectors that could be misused (financial, non-financial, non-profit organisations).

Source: FATF (2015), Consolidated Strategy on Combating Terrorist Financing, pp. 1-2.

At the European level, the financing of terrorism has progressively gained attention over the last decade, reflecting the evolution of international standards and addressing specific terrorist financing threats within Europe. The European Commission's 2015 Action Plan against terrorist financing<sup>22</sup> presents the first comprehensive EU response to this evolving threat in line with international standards. The further adoption in 2015 of the Fourth Directive on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing<sup>23</sup> definitively consolidates the change in the European vision, moving from a purely criminal law/pursue response to a complementary risk-based approach.<sup>24</sup>

To prevent the use of the EU's financial system for the purposes of money laundering and terrorist financing, the Fourth Directive sets out a range of "European" standards, occasionally going beyond the international requirements.<sup>25</sup> Additionally, the directive establishes a supranational risk-assessment mechanism to identify terrorist financing threats on which to base further mitigating actions.

<sup>21</sup> FATF (2016), Consolidated FATF Strategy on Combating Terrorist Financing.

<sup>22</sup> Commission Action plan for Strengthening the Fight against Terrorist Financing, 2 February 2015.

<sup>23</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

<sup>24</sup> Directive (EU) 2015/849, Preamble.

<sup>25</sup> Those measures include a due-diligence approach based on risk assessment, the obligation to ensure that beneficial ownership information is made available by corporate entities, the strengthening of the independence of the financial intelligence units (FIU's) or other measures to limit cash payments, among other actions.

In the context of a high terrorist alert, additional initiatives have already been launched by the European Council and the Commission since the beginning of 2016 to strengthen the measures of the recently adopted directive and other instruments. The objective of these new tools is primarily to take better account of the terrorist financing threats posed by the growing use of cash, the illicit trade of cultural goods and the use of virtual currencies.<sup>26</sup> Another new priority area concerns access for the European financial intelligence units (FIUs) to information on the holders of bank and payment accounts, through centralized registers or electronic data-retrieval systems<sup>27</sup> and the adoption of a list of 11 non-EU countries with strategic deficiencies in their anti-money laundering and counterterrorist financing regimes, to be used as a “red flag” for the entities involved.<sup>28</sup> In addition, a new directive will (if adopted) update the member states’ existing criminal legislation, notably with respect to the travel, and training financing and overall threat of foreign terrorist fighters.<sup>29</sup>

As far as Belgium is concerned, work is in progress to implement the Fourth Directive into the Belgian legal framework, notably under the coordination of the ministry of finance. Belgian authorities take an active role in the non-regulatory work of multiple international, regional or *ad hoc fora* such as the Egmont Group or the Counter-ISIL Finance Group to improve terrorist-financing understanding and policies. As part of the expert group on money laundering and terrorist financing, the CTIF/CFI is, for example, taking part in the preparatory work of the supranational risk-assessment exercise.

The time has not come yet to assess the effectiveness of these numerous initiatives, as most of them still need time to be implemented at the national level. The awakening of the Commission in this area is welcome, although the debate and threat itself seem to evolve much faster than the policy and legislative cycles, creating a gap in the counterterrorism response. Furthermore, human rights issues and additional burdens and responsibilities for all public and private stakeholders resulting from these initiatives will undoubtedly raise capacity issues at the national level – a problem that is already tangible today.

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<sup>26</sup> See the 5 July 2016 Commission impact assessment on the proposal for a Directive of the European Parliament and the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directive 2009/101/EC. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016SC0223&from=EN>

<sup>27</sup> 5 July 2016, European Commission Fact Sheet – Questions and answers: Anti-Money Laundering Directive

<sup>28</sup> Obligated entities refer to financial and non-financial professions as designated in article 2.1. of the Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies.

<sup>29</sup> Proposal of a Directive of the European parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism.

## Counterterrorism financing architecture in Belgium

The Belgian counter-financing architecture is built on a set of legislation, regulations, measures, structures and coordination bodies implementing international and European standards. Since these standards are evolving in the context of the changing threat internationally, this architecture is still in flux. The actors involved in the Belgian counterterrorist financing architecture are basically the same as those dealing with counterterrorism issues more generally. In other words, there are no specialised operational agencies or units dealing with counterterrorist financing which can be seen as the result of a lack of prioritisation but also of capacity, which is itself the consequence of a chronic lack of investment by successive governments.<sup>30</sup> It also contrasts significantly with the situation in neighbouring countries, notably in France or the United Kingdom (but also in smaller countries), where dedicated counterterrorist financing units have been embedded in the counterterrorism investigative divisions of police and intelligence services.<sup>31</sup> These units complement the main terrorist investigations by conducting systematic or risk-based financial intelligence inquiries on identified targets. A notable exception in this regard comes from the federal judicial police of Brussels where a small counterterrorist financing operational unit (DR5-FINTER) has been established to support the anti-terrorist unit (DR3).

In line with FATF recommendations and as embraced by the Belgian National Security Plan 2016-2019,<sup>32</sup> counterterrorist financing is coordinated at the political level by the National Security Council,<sup>33</sup> which includes the ministers of justice, defense, interior, foreign affairs and the other deputy prime ministers, under the chairmanship of the prime minister. Representatives from the intelligence services, police and judiciary can be invited on an ad hoc basis. Two implementing committees (the Strategic Committee, at the level of heads of cabinet, and the Coordination Committee, at the level of heads of operational services) are in charge of the formulation of proposals regarding general intelligence and security policies.<sup>34</sup> Within the Coordination Committee, a counterterrorist financing platform gathering all relevant partners was established in 2015, following another recommendation of the FATF. Placed under the direction of the Financial Intelligence Processing Unit (CTIF/CFI), the platform is tasked with the terrorist-financing risk assessment, the definition of

<sup>30</sup> FATF (2015), Anti-money laundering and counterterrorist financing measures – Belgium, Fourth Round Mutual Evaluation Report, and p. 74. Reference is also made to the various auditions of the heads of the public prosecution services, the federal police and the intelligence services before the so-called “commission attentats” within the Parliament.

<sup>31</sup> Interview with a retired officer of the National Terrorist Financing Investigation Unit (NTFIU) of the UK Metropolitan Police, September 2016.

<sup>32</sup> Note Cadre de Sécurité Intégrale 2016-2020, p. 49

<sup>33</sup> Royal Decree of 28 January 2015 setting up the National Security Council, *M.B.*, 30 Jan. 2015. The NSC succeeded to the Ministerial Committee for Intelligence and Security.

<sup>34</sup> Royal Decrees of 2 June 2015 setting up the Strategic and coordination Committees for Intelligence and security, *M.B.*, 5 June 2015

a relevant comprehensive national strategy and the information sharing among different stakeholders. The very first exercise to assess the terrorist-financing threat at the national level took place in 2014, prior to the formal establishment of the platform. Albeit an important exercise, the result was a compilation of various inputs provided by the different services and was difficult to utilise. A new consolidated assessment of the terrorist-financing threat is due by the end of the year, under the direction of the national platform. This will lead to the prioritising and defining of a consolidated national counterterrorist financing policy.

***Box 2: New key counterterrorist financing measures/initiatives (already implemented or under preparation)***

- Implementation of the domestic terrorist asset freeze mechanism under UNSCR 1373 (2001)
- Set up of a political national coordination body in charge with the financing of terrorism (NSC) and the operational national CTF platform
- Ongoing terrorist-financing national threat assessment
- Criminalisation of funding travel for terrorist purposes
- Strengthening information sharing between dedicated services by way of legislation, regulations, memoranda of understanding or protocols
- Limitation of cash transactions and cross-border transportation of cash
- Interdiction of anonymous pre-paid cards
- Centralised access to the National Bank of Belgium to get information on the existence of bank accounts related to suspicious terrorist (financing) activities
- Belfi operation embedded within the “Canal Plan” of the government

The CTIF/CFI plays a central role in the fight against terrorist financing as a bridge between different actors involved in anti money-laundering and counterterrorist financing, including with the private sector. In addition to its coordination role in the Counter Terrorist Financing Platform, the CTIF/CFI is in charge of collecting and analysing suspicious financial transactions reports linked to terrorist financing, money laundering and proliferation financing. By law, financial institutions and other non-financial professions (like notaries or real estate agents) are obliged to report transactions they suspect of being related to criminal or terrorist activities, based on a number of indicators.<sup>35</sup> In case of a serious indication of money laundering or terrorist financing, the file is transmitted to judicial authorities. Until very recently, the CTIF/CFI was not allowed to share background financial information with the intelligence services and OCAM/OCAD, even when it could constitute useful contextual information. This restriction has been deemed ineffective and counter-productive.

<sup>35</sup> Law of 11 January 1993 on preventing the use of the financial system for money laundering and terrorist financial purposes, art. 2.

tive because only a small fraction of the CTIF/CFI reports transmitted to the federal prosecutor's office actually leads to prosecutions and convictions,<sup>36</sup> resulting in the under-utilisation of these reports and in the questioning of the efficiency of a purely repressive approach.

Ways to move out of the exclusive relationship with the judicial authorities have finally been identified and addressed. Whereas the mission of the CTIF/CFI remains mainly judicial (the transmission of money-laundering and terrorist-financing suspicions to judicial authorities), the unit has recently gained enhanced powers and competences to better support the preventive work of the intelligence services and of the national fusion center for terrorism and extremism (OCAM/OCAD). An initiative adopted in 2016 has modified the secrecy duty of the CTIF/CFI, allowing it<sup>37</sup> to share contextual and background information on terrorism and terrorism financing with the two intelligence services and OCAM/OCAD, even in the absence of any transmission to judicial authorities.

Furthermore, a new bill currently discussed in the federal parliament will (if approved), amend the Intelligence Services Act of 1998 and the existing definition of terrorism to encompass the "process of radicalisation"<sup>38</sup>. This extension of the definition of terrorism will consequently expand opportunities for the Financial Intelligence Processing Unit to transmit pieces of information to the intelligence services of its own volition, when that information is related to radicalisation and cannot therefore be transmitted to the federal prosecutor's office (only competent for terrorist offences).<sup>39</sup>

The key player on the law enforcement side is the federal prosecutor's office, supported in its task by the federal judicial police. Together they are in charge of the investigations and the prosecution of terrorist offences as well as proactive investigations in this regard. As part of the main terrorist investigation, a financial investigation is systematically conducted on the principal suspects. The crime of terrorist financing is, to date, covered by two different provisions in the Belgian criminal code (articles 140 and 141), depending on whether the conduct of providing/collecting resources or funds is the result of an individual acting within a terrorist group (more than two people) or not. Prosecutions for a sole terrorist financing offence are rare,

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<sup>36</sup> Often because the evidence threshold contained in these reports is not established to grant the use of special investigation techniques.

<sup>37</sup> Art. 227, Law of 5 February 2016 amending art. 35, § 2 of the law of 11 January 1993 on preventing the use of the financial system for money laundering and terrorist financial purposes, *M.B.* 19 Febr. 2016.

<sup>38</sup> Radicalisation is defined as "a process influencing a person or a group of people so that this person or this group is mentally prepared to commit terrorist acts", <http://www.lachambre.be/FLWB/PDF/54/2043/54K2043001.pdf>.

<sup>39</sup> The Anti-Money Laundering Act of 1993 setting up the mandate of the Financial Intelligence Processing Unit does not contain any definition of terrorism. To define the scope for the Financial Intelligence Unit to send information to the intelligence services on its own initiative, one has to look at the definition of terrorism in the 1998 Act governing the intelligence and security services. Radicalisation is not a criminal offence and is thus not a basis for criminal investigations by the judicial authorities.

however.<sup>40</sup> This is explained by the fact that the activities related to providing financial support to a terrorist cell usually take place in the broader context of supporting terrorist activities and are prosecuted under the main offence of participation in the activities of a terrorist group. A new provision to be introduced in the criminal code, currently being examined at parliamentary level, will extend (if approved) existing terrorist financing provisions to the financing of travel for the purposes of terrorism or terrorism training, in line with the new requirements of UNSCR 2178.<sup>41</sup>

By processing extremist/terrorist-related intelligence as well as judicial information, the Belgian coordination centre (OCAM/OCAD) contributes to smoother linkage between the law enforcement components, the two intelligence services and other national administrations or institutions, including those dealing with terrorist financing. The first mandate of OCAM/OCAD is to provide consolidated terrorist/extremist threat assessments and set the threat levels based on the information transmitted by its designated partners (the federal police, the ministry of foreign affairs, the ministry of transportation, the civilian- and the military-intelligence services, the immigration office and the customs and excise administration<sup>42</sup>). Terrorist-financing related information is processed by OCAM/OCAD with a view to contextualizing the background information on terrorist/extremist individuals or groups. In 2015, OCAM/OCAD was also given new tasks, including to identify individuals or entities with a view to freezing their assets under UNSCR 1373. The databases on radicalization, on foreign terrorist fighters, and on hate preachers managed by OCAM/OCAD play a critical role in these efforts by identifying at-risk profiles on which to base further operational actions.

Last but not least, the civilian- and military-intelligence services participate in the preventive approach of the counterterrorist and counterterrorist financing architecture.<sup>43</sup> The input of the intelligence services in terms of counterterrorist financing is mainly based on enhancing the comprehensive understanding of the terrorist networks, modus operandi and functioning, in a predictive manner.<sup>44</sup> Both services also provide technical assistance for terrorist investigations conducted under the direction of the federal prosecutor's office, which allows them to have useful access to the criminal proceedings in return.

Structural deficiencies in the sharing of information between the various intelligence and security services were pointed out in the aftermath of the Brussels attacks.<sup>45</sup> The criticism also implied a lack of synergy on counterterrorist financing. Over the past

<sup>40</sup> FATF (2015), Anti-money laundering and counterterrorist financing measures – Belgium, Fourth Round Mutual Evaluation Report, p. 73.

<sup>41</sup> S/R/2178(2014).

<sup>42</sup> Loi du 10 juillet 2006 relative à l'analyse de la menace, M.B., 20 July 2007.

<sup>43</sup> Loi du 30 Novembre 1998 organique des services de renseignement et de sécurité

<sup>44</sup> CTIF, "Le Livre Blanc de l'Argent Noir. 20 ans de lutte contre le blanchiment et le financement du terrorisme", 2013, p. 202.

<sup>45</sup> 'La Sûreté et le Service du renseignement militaire ne se parlent pas assez', *La Libre Belgique*, 19 May 2016.

two years, however, major efforts to strengthen interagency cooperation and the timely exchange of information have been enforced by several new protocols and memoranda of understanding established among the different partners taking part in national counterterrorist and counterterrorist financing efforts. It is hoped that these mechanisms will mitigate the lack of systematic financial investigation by the intelligence services and will open the possibility of establishing comprehensive priorities for the conduct of targeted investigations with the support of the financial unit, the federal police and OCAM/OCAD.

It should be mentioned that all those stakeholders maintain a high level of international cooperation with respect to their legal mandate, though it was not under the scope of this paper to get into a more detailed picture in this area.<sup>46</sup>

### ***Box 3: Public-private partnership on counterterrorist financing***

Private-public partnership is one of the key components of the FATF strategy to combat terrorist financing. The CTIF/CFI plays a very active role in this regard in guiding the designated entities of the private sector in implementing customer due-diligence measures, applying a risk-based approach and reporting suspicious transactions linked to money-laundering or terrorist-financing and sharing typologies among the different sectors notably through their regulatory and supervisory institutions. Like the financial unit, the civilian-intelligence service (state security) now has the possibility to request information from the National Bank of Belgium (NBB) on the existence of bank accounts of individuals or entities potentially involved in terrorist activities. This provides serious time savings. Previously, state security had to send the same request to all the banks, and then process a large volume of information. It is important to note that to further exploit the data contained in the bank accounts, the law on special intelligence methods does apply.

## **Different approaches to Belgian counterterrorist financing**

This section reviews three different approaches to combat terrorist financing, as developed in Belgium. In each case, recent developments and initiatives are highlighted, in order to indicate the broader trend in this policy area.

### ***The BELFI project***

A number of initiatives have shown success in the fight against terrorism and its financing, as illustrated by the proactive investigation run between 2005 and 2010 by

<sup>46</sup> See the article of Renard in this volume.

the federal prosecutor's office on a list of non-profit organisations (NPOs) which were suspected of terrorist financing.<sup>47</sup> This "Al Capone approach", mainly based on the enforcement of tax and social/labor legislation, succeeded in developing a policy that supervises the strict application of the legislation on associations and resulted in the closing of a number of businesses.<sup>48</sup> In September 2014, the initiative was repeated under the auspices of the BELFI Project, launched by the federal judicial police of Brussels (DR5-FINTER), under the coordination of the general prosecutor's office for Brussels and the labour court prosecution service for Brussels. Its goal is twofold: it first aims to identify cases of abuses of the social welfare system in connection with Belgian individuals traveling to Syria for terrorist purposes (as there are cases of individuals using social welfare money to finance their terror-related activities, or those of others); secondly it targets selected NPOs and businesses (including mosques, sport clubs or Koranic schools) which might be funding or supporting those individuals by providing financial, administrative or logistical help or contributing to their radicalisation process.<sup>49</sup> By indirect means, this initiative also contributes to getting a more precise view of the criminal activities taking place in a specific area, allowing a better understanding of the nexus between terrorism and organised crime.

With regard to the abuse of the social system, so far a total of 98 individual cases have been transmitted by the police to the social fraud administration for further prosecution. Beyond its deterrent effect, the objective of the project is to cut off those individuals from welfare/employment benefits – which amounts to more than 120.000 euros.<sup>50</sup> The Belfi project is now being incorporated into the so-called "Canal Plan" of the federal government, which foresees additional resources for security measures targeting Molenbeek and its surrounding areas. Additional capabilities have already been granted to the DR5 unit in this context.

The magnitude of the task is particularly important in the Molenbeek area, with 1571 entities there subject to scrutiny. It is hampered by difficulties in accessing the administrative details from the welfare administrations. There is undoubtedly an urgent need to raise awareness among those administrations with regard to terrorism and terrorism financing, not least in light of the absolute refusal of cooperation from some administrations, claiming they have an obligation to maintain professional secrecy.<sup>51</sup> A possible modification of the professional secrecy code for social workers within the welfare administrations is currently being examined, in consultation with the sector.

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<sup>47</sup> FATF (2015), Anti-money laundering and counterterrorist financing measures – Belgium, Fourth Round Mutual Evaluation Report, p. 77

<sup>48</sup> *Idem*.

<sup>49</sup> Audience solennelle de rentrée de la Cour du travail de Bruxelles, Discours prononcé le 2 septembre 2016 par le Procureur général Johan Delmulle.

<sup>50</sup> *Idem*.

<sup>51</sup> La Chambre, Bulletin n°B058 – Question et réponse écrite n°: 0856 – Législature: 54, 19 Jan. 2016.

Although it is difficult to link the use of these social benefits directly with funding specific terrorist acts, some individuals are suspected to have provided indirect support to terrorist activities necessary to maintain a cell or an individual operation. As such, it is crucial for the national authorities to avoid involuntarily financing terrorist activities and to launch procedures for the recovery of the unduly received funds by way of judicial and administrative measures. More broadly, the credibility of the global welfare system and the principle of solidarity among citizens are at stake.

The second strand of the project aims at enforcing labour and tax regulations through tight scrutiny of targeted entities. So far, those controls have led to the opening of a criminal case for terrorist financing, various seizures, and administrative orders to leave the territory and even the closing of premises for infringements to urban or public hygiene regulations.

### ***The domestic terrorist asset freezing mechanism***

One of the flagship measures of the government to improve counterterrorism architecture in general in 2015 was the decision to implement the so-called domestic “terrorist asset freezing mechanism” under the UN Security Council Resolution 1373 (2001) (calling on national authorities to freeze without delay the assets of individuals suspected of terrorism who are not otherwise subject to an asset freeze at the UN and EU level.)<sup>52</sup> Twelve suspected terrorists’ accounts have to date been subject to administrative freeze in Belgium<sup>53</sup> with the application of new rulings taken in 2015 and 2016 in this perspective.<sup>54</sup> These mainly concern individuals connected to the Brussels and Paris attacks (like Mohamed Abrini or the Bazarouj family suspected to have hidden Salah Abdeslam) or “foreign terrorist fighters” or people in their close circles. The profiles’ identification is made by OCAM/OCAD and the final decision is taken by the National Security Council then executed under the form of a Royal decree. Although the basic mechanism was set up already in 2006, it had never been implemented until now due to political reluctance concerning the issue of human rights (the mechanism is not judicial), and doubts about the added value of such approach.

<sup>52</sup> United Nation Security Council Resolution 1373 (2001). This mechanism is distinct from the targeted financial sanctions imposed by the UNSCR on Al-Qaeda (S/RES/1267(1999) and the Taliban S/R/1989(2011), S/RES/1888(2011) and successor resolutions.

<sup>53</sup> Belga, 29 juillet 2016

<sup>54</sup> Circulaire Justice et finance du 7 septembre 2015; Loi du 18 décembre 2015 (modifiant la loi du 11 mai 1995); Arrêté Royal du 30 mai 2016 établissant la liste des personnes et entités visées aux articles 3 et 5 de l’Arrêté Royal du 28 décembre 2006 relatif aux mesures restrictives spécifiques à l’encontre de certaines personnes et entités dans le cadre de la lutte contre le financement du terrorisme (MB du 1/06/2016 – 33913)

As such, the freezing decision cannot be considered to be an end in itself. As part of a preventive approach (although known as part of the “targeted financial sanctions”), the freezing of terrorist assets must be seen for what it is: a symbolic and political signal for those tempted to engage in terrorist activities and a complementary tool to disrupt terrorist activities by cutting off their resources without delay (which may be considered as the main potential added value of the measure). Criminal proceedings and eventual seizure of the assets upon a final conviction should always remain the final objective.

### ***The use of financial intelligence***

Financial intelligence investigation is a tool permeating counterterrorism efforts at every level, rather than an isolated, stand-alone technique. As well described in a 2008 FATF report, “*Financial information is mainly used as part of the evidential case to hold criminals and terrorists to account. It also has a key intelligence role – for example by allowing (...) to look backward (...) how a terrorist conspiracy was developed and the timelines involved); look sideways (by identifying or confirming associations (...); and look forward (by identifying the warning signs of terrorist activity in preparation)*”.<sup>55</sup> For various reasons, financial intelligence has long been underutilised by Belgian authorities in their preventive approach to terrorism. Following the attacks in Paris, Brussels and Nice, a nascent interest emerged about the potential of financial intelligence to identify and disrupt terrorist activities. Authorities realised that financial intelligence, even in cases of micro-financing, can be instrumental and complement other forms of intelligence in efforts to foil a plot, dismantle a cell, or arrest individuals – if that intelligence is exchanged in a timely manner. Illustrating this, it has been established that the French operation targeting Abdelhamid Abaaoud in Saint-Denis, was partly facilitated by the gathering of financial intelligence at international level.<sup>56</sup>

By investigating the financial ecosystem of a target and entourage, precious information on habits, lifestyle, behaviour, revenues, connections, travels and physical presence in a specific location at a specific moment can be easily accessed by law enforcement authorities, respecting the human rights framework. Countries like Belgium with broad financial inclusion present many opportunities to access that financial information but also that contained in commercial records (like identification data, telephone numbers, addresses) as key elements to better inform operational outputs. Recognising this potential, in a 2006 speech at Chatham House, then-UK Chancellor Gordon Brown observed that “*(w)hat the use of fingerprints was to the nineteenth century, and DNA analysis was to the twentieth century, so financial infor-*

<sup>55</sup> FATF, Terrorist Financing, 29 February 2008, p. 31-32

<sup>56</sup> Cellule de Traitement des Informations Financières, 22<sup>ème</sup> rapport d’activités 2015, Annexe 1, p. 27.

*mation and forensic accounting has come to be one of today's most powerful investigative and intelligence tools available in the fight against crime and terrorism.”<sup>57</sup>*

## Conclusion

Belgium has long neglected counterterrorism financing, as have most other European countries. This lack of political and operational priority resulted in the absence of coordinated threat assessments, of a comprehensive strategy to address the threats, and of specialised units or agencies to implement such a strategy. The Paris and Brussels attacks have, however, constituted a true wake-up call for Belgian authorities, convincing them of the need to combat terrorism by all possible means, including financial ones. Substantial progress has now been achieved, meeting a number of international requirements, as well as the expectations of international partners. Among these achievements, I have discussed the set-up of political and operational platforms in charge of counterterrorism financing, both linked more broadly to counterterrorism, the preparation of a consolidated threat assessment, adjustments to the criminal code or other legislations and specific policy measures and more cooperation between different counterterrorism agencies and administrations.

Although it is unrealistic to think that terrorism could be eradicated simply by cutting off resources to the terrorists, counterterrorist financing should be regarded as a powerful tool, complementing global efforts to combat terrorism. As such, it should be considered as a new priority for the Belgian authorities with full respect for human rights standards. Of course, in times of budgetary constraints and counterterrorism overload, making room for more resources and capacities for counterterrorism financing is challenging. But recent experience in Belgium shows that more can be done with existing means, through a more strategic approach and better coordination between services.

In line with this conclusion, a number of specific recommendations can be made. These policy options are a logical continuation of current trends, with a view to ensuring a sustained approach to counterterrorism financing over time, which is a challenge in itself. Recommendations are to:

- Ensure the effective functioning of the national counterterrorist financing platform;
- Identify the main terrorist-financing risks by way of a national consolidated threat assessment that is regularly updated;
- Set up a coordinated counterterrorist risk-based approach at the political level, establishing priorities for action and allocating resources accordingly;

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<sup>57</sup> Keatinge T., “Tackling Terrorist Financing Starts at Home”, Center for Financial Crime and Security Studies, RUSI, 2016.

- Conduct (as systematically possible) financial-intelligence investigations on targeted individuals or entities which have already been identified as being of interest (foreign terrorist fighters, homegrown terrorists or hate preachers, for example);
- Implement swiftly all international and EU regulations related to counterterrorism financing, such as the Fourth Directive of the European Commission, and continue the dialogue with the private sector in this regard.

## FIREARMS ACQUISITION AND THE TERRORISM-CRIMINALITY NEXUS

Nils DUQUET

The November 2015 attacks in Paris were just the latest in a series of terrorist attacks using firearms in Europe, as they become the weapon of choice in the hands of terrorists in Europe. In recent years police forces across Europe have seized significant quantities of firearms and ammunition from different types of terrorist groups.<sup>1</sup> An analysis of the modus operandi used in recent terror attacks strongly supports the idea that terrorists in Europe are increasingly using firearms as instruments of violence.

Since 2011 at least seven deadly terrorist attacks were carried out with firearms in western Europe: the Frankfurt airport shootings (March 2011), the Utøya massacre (July 2011), the Toulouse and Montauban shootings (March 2012), the attack on the Jewish Museum in Brussels (May 2014), the Paris attacks (January 2015), the Copenhagen shootings (February 2015) and the most recent Paris attacks (November 2015). In addition to these successful attacks, several other terror attacks with firearms were prevented. A well-known example is the foiled attack on the Thalys train from Amsterdam to Paris (July 2015). An analysis of the guns used in these terrorist shootings indicates that different types have been used. Often, but not always, these terrorists obtained their firearms from the illicit gun market and in several cases a weapons link with Belgium has been made.<sup>2</sup>

A specific aspect of counter-terrorism efforts is therefore trying to prevent terrorists from being able to acquire the weapons needed for their planned attacks. In many cases terrorists rely upon their criminal connections to acquire sophisticated weaponry. Terrorist and criminal networks both operate in the underworld of society and some observers believe there is a growing nexus between them. There is ample global evidence that terrorist and criminal networks cooperate at times in the acquisition of weapons, for example, but some terrorist groups also rely on criminal activities to fund their terrorist activities. The lines between these networks become even more blurred when terrorist networks are involved in prolonged criminal activities. This terrorism-criminality nexus has mainly been observed in regions of instability, but over the last decade there is growing evidence that the European Union (EU) is

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<sup>1</sup> Europol, *European Union Terrorism Situation and Trend Report 2015*, The Hague: Europol, July 2015.

<sup>2</sup> Nils Duquet, *Armed to kill: An exploratory analysis of the guns used in recent public mass shootings in Europe*, Brussels: Flemish Peace Institute, 27 June 2016.

also affected by the nexus between terrorism and crime.<sup>3</sup> An often ignored aspect of this nexus is the potential for terrorists to use “criminal skills”: individuals with a criminal past can provide terrorist groups with valuable skills, which in turn can increase the capacity of these groups to carry out more lethal attacks.<sup>4</sup> The acquisition of weapons is one of these skills. The illicit gun market is therefore one of the key areas where criminal and terrorist networks merge.

This paper aims to provide insight on the nexus between terrorism and criminality in general, and in particular on the illicit gun market in Belgium and the ways in which terrorists can access this market. This will be followed by an analysis of policy that has been developed to combat the illicit gun market and recommendations for urgent action to curb this dangerous and deadly trade.

## Characteristics of the illicit gun market in Belgium

The illicit gun market in Europe is driven by criminals involved in different types of activities such as drug trafficking and armed robberies. In Belgium, as in most other EU Member States, police believe assault rifles make up only a small share of the illegally-held firearms. Most guns used by criminals are handguns, which are easy to use and conceal. For some criminal activities, for example robberies of grocery or retail stores, criminals also regularly use blank firers and deactivated firearms since they usually have no intention of shooting the gun, but only threatening with it.

Traditionally, the use of assault rifles by criminals is rather limited to more serious criminal activities such as bank robberies. Although good statistics are lacking, Belgian police forces have observed an increased availability and use of military-grade firearms among criminals in Belgium in recent years.<sup>5</sup> This observation is not limited to Belgium alone, however; a growing availability of these weapons amongst criminals has been observed across Europe.<sup>6</sup>

The Western Balkans are generally considered the prime source of trafficked military-grade assault rifles in the EU. These guns are smuggled into the EU, mainly in small quantities and often concealed in legitimate loads or transported in private cars or buses. This type of trafficking is often described as “ant trade” where numerous shipments of small quantities over time result in the accumulation of fairly

<sup>3</sup> West Sands Advisory LLP, *Europe’s Crime-Terror Nexus: Links between terrorist and organized crime groups in the European Union*, Brussels: European Parliament, Directorate-General for Internal Policies, Policy Department Citizens’ Rights and Constitutional Affairs, October 2012.

<sup>4</sup> Rajan Basra, Peter R. Neumann & Claudia Brunner, *Criminal Pasts, Terrorist Futures: European Jihadists and the new Crime-Terror Nexus*, London: ICSR, 2016.

<sup>5</sup> Police source quoted in: *De Standaard*, Gangsters beschieten politie met zware wapens [Gangsters shoot at police with heavy weapons], 4 August 2010.

<sup>6</sup> Europol, *Integrated EU approach against the illegal trafficking in heavy firearms*, OC-Scan policy brief for threat notice: 004-2010, 2010.

large numbers of illicitly-held firearms. Besides cross-border smuggling, assault rifles have also ended up in the hands of criminals and terrorists through other means such as theft and the reactivation of legally-acquired deactivated firearms.<sup>7</sup>

The increased availability of military-grade assault rifles observed in the criminal underworld entails significant security risks. For terrorists, these types of firearms are very attractive tools of violence since they can cause great physical damage in a very short time frame. In addition to being very instrumental, assault rifles such as the AK47 are also very attractive for terror groups because of their iconic value.<sup>8</sup> If it is getting easier for criminals to acquire military-grade assault rifles, it is therefore also getting easier for terrorists with criminal networks to do so. For the acquisition of the firearms, many terrorists use their connections in local criminal networks. Illicit gun markets in Europe are typically very closed markets and access is generally limited to those with good connections to criminal networks. Interestingly, many of the perpetrators of recent terrorist attacks in Europe were connected to the criminal underworld. It is known that several of the attackers had a criminal history and some of them spent time in prison. Two of three perpetrators of the January 2015 attacks in Paris (Chérif Kouachi and Amedy Coulibaly) for example, spent several years in prison and are believed to have become radicalised there. They were thus well connected to the criminal networks who were then able to provide them with the firearms necessary to execute their terrorist activities.

The March 2016 Brussels attacks also clearly highlight the deadly combination of criminal and terrorist networks. Some of the perpetrators of these attacks were part of the first generation of local criminals who were able to acquire military-grade assault rifles in Belgium and also used them to shoot at the police. In January 2010 Ibrahim El Bakraoui, one of the suicide attackers at Brussels Airport, fired an assault rifle at police officers in the streets of Brussels after a failed attempt to rob a money exchange office.<sup>9</sup> This specific shooting, in which one police officer was injured, boosted Belgian policy-makers' awareness of the availability of heavy firearms among criminals. This in turn also boosted EU policy-makers awareness of the same problem across Europe. Subsequently the EU, under the Belgian presidency, adopted an action plan in December 2010 to combat the trafficking of these weapons.<sup>10</sup> Ibrahim El Bakraoui was sentenced to 10 years in prison for this failed robbery and shooting incident. In 2011 his brother Khalid was sentenced to five years in prison for a series of carjackings. It is believed that both brothers were radicalised in prison; the

<sup>7</sup> Nils Duquet & Maarten Van Alstein, *Guns for sale: The Belgian illicit gun market in a European perspective*, Brussels: Flemish Peace Institute, March 2016.

<sup>8</sup> Europol, *Changes in modus operandi of Islamic State terrorist attacks*, The Hague, Europol, January 2016.

<sup>9</sup> *De Morgen*, Drie verdachten aangehouden na gewelddadige achtervolging [Three suspects arrested after violent pursuit], 1 February 2010; The Guardian, *Who are the Brussels attacks suspects?*, 23 March 2016.

<sup>10</sup> Council of the European Union, *European Action Plan to combat illegal trafficking in so called "heavy" firearms that could be used or are used in criminal activities*, 3051st Justice and Home Affairs Council meeting, Brussels, 2-3 December 2010.

Belgian police suspect that the brothers provided weapons for the terrorist attacks of November 2015 in Paris. An article in Dabiq, the official English-language online propaganda magazine of the so-called Islamic State, in fact states that the El Bakraoui brothers were responsible for the acquisition of firearms and explosives for the November attacks.<sup>11</sup>

## Belgium as the “hotspot” for firearms acquisition by terrorists?

In the immediate aftermath of Paris terror attacks in November 2015, Belgium was named several times as the place where the terrorists acquired at least some of the guns they used in the incidents. The recent anti-terrorist raids carried out by Belgian police forces that resulted in heavy gunfire between officers and terrorists armed with assault rifles in Verviers (January 2015) and Forest (March 2016) reinforced the notion that it is easy for criminals and terrorists to acquire military-grade assault rifles in Belgium. Belgium has therefore often been labelled by the international media as “Europe’s favourite gun shop” for criminals and terrorists. This label is not, however, based on comprehensive evidence since it is currently impossible to compare the scope and nature of the Belgian illicit gun market with that in other European countries. This mainly due to a lack of basic data and the limited number of in-depth studies available on the topic.

But lack of proof doesn’t mean Belgium does not have a problem with illicit firearms. Between 2009 and 2015, Belgian police have recorded 1,303 cases of the illicit trade of firearms and almost 39,000 cases of illegal firearms possession.<sup>12</sup> There’s little data on the number and types of seized firearms, their provenance and the context in which they were used.<sup>13</sup> Therefore, it’s impossible at this time to make a valid estimate of the number of guns illegally circulating in Belgium. The same problem also applies to most other EU Member States, however; a recent report for the European Commission concluded no accurate quantification of illicitly-held firearms in the EU is possible on the basis of the existing available data.<sup>14</sup>

What we do know is that Belgium is a country with some specific historical traits that might explain why it appeals to those people seeking to acquire guns illegally. Belgium has for many centuries been and still is a major producer and exporter of firearms. Despite the relatively small size of the Belgian defence industry, Belgium is one of the most important European exporters of military-grade firearms (especially

<sup>11</sup> Nils Duquet, *Armed to kill: An exploratory analysis of the guns used in recent public mass shootings in Europe*, Brussels: Flemish Peace Institute, 27 June 2016.

<sup>12</sup> Federale Politie, *Politiële criminaliteitsstatistieken – België – 2000-2015*, 2016.

<sup>13</sup> Nils Duquet & Maarten Van Alstein, *Guns for sale: The Belgian illicit gun market in a European perspective*, Brussels: Flemish Peace Institute, March 2016.

<sup>14</sup> Centre for Strategy & Evaluation Services, *Study to Support an Impact Assessment on Options for Combating Illicit Firearms Trafficking in the European Union*, Brussels: Directorate-General Home Affairs, July 2014.

to the Middle East).<sup>15</sup> This historical tradition of gunmaking has given Belgium a worldwide reputation as a firearms country. It has also resulted in local knowledge and expertise in gunmaking, repair and handling that is being passed on from generation to generation. Moreover, until 2006 Belgium had quite liberal domestic gun legislation and it was rather easy to legally buy many types of firearms in Belgium compared with its neighbouring countries. This resulted in significant numbers of foreign nationals travelling to Belgium to buy guns, including people with criminal intentions. After a violent shooting incident in the streets of Antwerp in 2006, Belgian gun legislation was modified and has become now more restrictive and solid. For the legal possession and acquisition of most types of firearms, authorisation is now needed. But despite this new gun legislation, the country has retained its reputation as a ‘hotspot for guns’.

### Combating the illicit gun market

Shootings incidents in the public domain often instigate discussions about firearms legislation and policy.<sup>16</sup> For the last 10 years, deadly shooting incidents have also driven Belgian domestic firearms policy. A couple of weeks after a public shooting incident in Antwerp in 2006, the Federal Parliament voted in favour of new, significantly more restrictive, firearms legislation.<sup>17</sup> A deadly shooting incident at the Christmas market in Liège in December 2011 boosted Belgian policy attention for the combat against illicit firearms. In March 2012 the Belgian Federal Government issued an Action Plan against illicit arms trafficking, which announced, among other things, the restriction of firearms that could be acquired without a licence and a strengthening of the police service’s operational capabilities, for example by allowing telephone tapping in cases of illicit gun trafficking. In addition, firearms trafficking became a “priority criminal phenomenon” in the National Security Plan 2012-2015 and in October 2012 a confidential circular from the Board of Prosecutors General with regard to the judicial handling of arms trafficking was adopted.

After the adoption of the Action Plan to combat the illicit trafficking of ‘heavy firearms’ in 2010, several additional steps were taken at the European level to combat illicit firearms trafficking. In October 2013 the European Commission announced a series of legislative and operational measures to support the fight against illegal firearms; their adoption was significantly accelerated by the November attacks in Paris, which also compelled the European Commission to propose several

<sup>15</sup> Seventeenth annual report according to Article 8(2) of Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, *Official Journal of the European Union*, C 163, 4 May 2016.

<sup>16</sup> Sarah Parker, “Balancing Act: Regulation of Civilian Firearm Possession”, in: *Small Arms Survey 2011. States of Security*, Cambridge: Cambridge University Press, 2011.

<sup>17</sup> *Wet houdende regeling van economische en individuele activiteiten met wapens*, 8 June 2006.

amendments to the 1991 Firearms Directive.<sup>18</sup> In recent months the European Council and the European Parliament have submitted their own amendments to the proposal of the European Commission. The proposed amendments to the Firearms Directive include, among other things, stricter rules for the acquisition of certain semi-automatic firearms. In December 2015 the European Commission also introduced common guidelines on deactivation standards and procedures<sup>19</sup> and adopted an Action Plan against firearms trafficking,<sup>20</sup> which envisages, among other things, better intelligence on firearms trafficking, increased cross-border cooperation, reinforced controls at the external borders of the EU, an enhanced exchange of ballistic information and enhanced cooperation with source countries, for example in southeast Europe.

Recent terrorist attacks clearly indicate that criminals and terrorists are well aware of the weakest links in the chain. The policy response should therefore be national and transnational at the same time. Particular attention should be paid to the situation in the Western Balkans, but also to other countries on the border of the European Union where there may be an uncontrolled proliferation of firearms. Europol, for example, has warned that the volatile situations in Libya and Ukraine may in the future lead to the increased availability of military-grade firearms and explosives to terrorists in the EU.<sup>21</sup> Governments should therefore urgently take all necessary steps to combat the illicit gun market and the observed dynamic of easier access to military-grade assault rifles for criminals and terrorists.

In order to successfully combat the illicit gun market and terrorist access to this market, a three-fold approach is needed both at the Belgian and the European level.<sup>22</sup> First of all, a clear and harmonised legislative framework is needed in the EU to safeguard the legal possession and trade in firearms from the illicit gun market. Criminals and terrorist have used loopholes in the current EU and national legal frameworks to acquire some of the guns used in recent terror attacks.<sup>23</sup> These loopholes need to be closed. The new rules on common deactivation standards

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<sup>18</sup> European Commission, *Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition of weapons*, COM(2015) 750 final – 2015/0269, 18 November 2015.

<sup>19</sup> Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable, *Official Journal of the European Union*, L333/62, 19 December 2015.

<sup>20</sup> *Communication from the Commission to the Parliament and the Council. Implementing the European Agenda on Security: EU Action Plan against illicit trafficking in and use of firearms and explosives*, 2 December 2015.

<sup>21</sup> Europol, *European Union Terrorism Situation and Trend Report 2015*, The Hague: Europol.

<sup>22</sup> Nils Duquet & Maarten Van Alstein, *Guns for sale: The Belgian illicit gun market in a European perspective*, Brussels: Flemish Peace Institute, March 2016.

<sup>23</sup> Nils Duquet, *Armed to kill: An exploratory analysis of the guns used in recent public mass shootings in Europe*, Brussels: Flemish Peace Institute, 27 June 2016.

across the EU and most of the measures recently proposed by the European Commission therefore would clearly bring added value.<sup>24</sup>

Secondly, gaining better insight into illicit gun markets across the EU is urgently needed. As acknowledged in the recently adopted EU Action Plan against illicit firearms trafficking, it is essential to build a better intelligence picture of this threat in order to enhance and accelerate an effective law-enforcement response. To achieve this we need better and more data collection, management and analysis. The findings of a recent study clearly show the potential benefits of better collection, analysis and cross-border sharing of data on gun crime and ballistic intelligence, while at the same time highlighting the current lack thereof in many European countries.<sup>25</sup>

Thirdly, besides clear and harmonised gun legislation without loopholes and the strengthening of analytical capacities needed to gain better insight into the illicit gun market, the law-enforcement agencies combatting this phenomenon on a daily basis need to be strengthened. One way to accomplish this would be to encourage cooperation *within* and *between* EU Member States as much as possible. Collaboration with neighbouring countries that are considered potential source countries for illicit firearms in the EU should also be reinforced.

Recent terror attacks have illustrated that terrorist networks are able to acquire very lethal firearms through their connections with criminal networks. A comprehensive approach that closes the legal loopholes, strengthens analytical capacities and reinforces the operational capacities and cooperation between law-enforcement and judicial agencies is urgently needed, in Belgium and in the rest of Europe. Of course it is impossible to close all firearms acquisition possibilities for persons with malign intentions, but by putting continuous pressure on the illicit gun market it would become more difficult for them to do so. This would mean terrorists would need more preparation and take more risks to acquire their weapons of choice, which in turn would provide counter-terrorism forces with extra time and additional opportunities to intervene before it is too late.

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<sup>24</sup> For example: including blank firing weapons in the scope of the Directive, requiring information exchange between EU Member States on granted and refused transfers of firearms, limiting the possibilities of selling firearms and ammunition online, including collectors and brokers in the scope of the Directive and introducing common rules on marking of firearms.

<sup>25</sup> Erica Bowen & Helen Poole, *Examination of firearms and forensics in Europe and across territories*, Coventry: University of Coventry, May 2016.

# BILATERAL, EUROPEAN AND GLOBAL: THE 3 EXTERNAL LAYERS OF BELGIUM'S COUNTER-TERRORISM POLICY

Thomas RENARD

The March 22nd terrorist attacks in Brussels were to a large extent a homegrown phenomenon. They were orchestrated and perpetrated in Belgium, by Belgian citizens (Mohamed Abrini, Najim Laachraoui and the brothers Khalid and Ibrahim el-Bakraoui). A majority of the network's other members related to these attacks and those in Paris on November 13th were also Belgian nationals or French citizens residing in Belgium. Furthermore, even though Belgium may not have been the originally intended or priority target of the plotters, the Islamic State (ISIL) claimed and justified the attacks against a country that it described as a 'crusader' and an enemy<sup>1</sup>.

It does not, however, take much effort to appreciate the many international ramifications of this case and, more broadly, of the current terrorist threat. To begin with, the main terrorist organisation threatening Europe, ISIL, is based in Syria and Iraq. There is increasing evidence to claim that the Paris and Brussels attacks were planned at least partly in Syria, although the network probably maintained a large degree of operational autonomy.<sup>2</sup> This implies communications, but also travel between Belgium and that region, where recruits became familiarised with assault weapons and explosives.

Investigations have also shown extensive international connections between individuals, particularly between those in France and Belgium, as well as movements across Europe either for logistical, recruitment or reconnaissance purposes. The 'Belgian-based' network behind the Brussels/Paris attacks included several nationalities, notably French citizens (such as the Abdeslam brothers), but also a Swede of Syrian origin (Osama Krayem, who allegedly decided not to blow himself up in the Brussels metro) or an Algerian who had lived in Sweden (Mohamed Belkaid, who was presented by ISIL as one of the key religious and operational figures of the network<sup>3</sup>).

The current terrorist threat is globalised and, as a result, the response to terrorism can hardly be constrained within strict geographical or legal boundaries. As various studies have shown, (jihadi) terrorism has once again acquired a global dimension,

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<sup>1</sup> 'Attentats de Bruxelles: l'organisation terroriste Etat islamique revendique les attaques', *RTL Info*, 22 March 2016.

<sup>2</sup> Renard, T. 'After Paris and Brussels: reassessing ISIS's strategy in Europe', *The Strategist*, 8 April 2016.

<sup>3</sup> *Dabiq*, Issue 14, April 2016, p. 7.

particularly since the rise of al-Qaeda.<sup>4</sup> ISIL closely follows the path of al-Qaeda in this regard, plotting attacks in Europe and elsewhere while encouraging other groups from Africa to Asia to join its ranks. This ‘new’ terrorism does not only call into serious question our notions of territoriality and sovereignty, but also blurs the very distinction between ‘internal’ and ‘external’ security.<sup>5</sup>

In response to this globalised threat, and along with domestic counter-terrorism arrangements, an international approach is therefore necessary. Belgium should not – and in fact cannot – address the current threat on its own. This paper aims precisely to look at the international dimension of Belgium’s counter-terrorism efforts, to explore how much Belgian authorities contribute to the global efforts against terrorism – and against ISIL more specifically – and, conversely, how much Belgium benefits from its cooperation with third countries and international bodies.

Many criticisms have been voiced against Belgium in the aftermath of the attacks in Paris and Brussels. Some French intelligence officials have said that Belgian services ‘are not at the level’, whereas a French minister and a Member of Parliament accused Belgium of willful naiveté in the face of the threat, resulting in a lack of trust between security services and therefore, in under-cooperation.<sup>6</sup> Similarly, some anonymous US officials complained of the lack of cooperation from Belgian authorities in the aftermath of the Paris attacks. One of them even called Belgian intelligence services ‘shitty tradecraft’.<sup>7</sup>

Such harsh criticisms may express frustration, but they are overall exaggerated as they fail to reflect the large scope of cooperation between Belgium and its partners. This paper offers a mapping and an assessment of these cooperation efforts at the bilateral, plurilateral, European and multilateral levels. It underlines the key rationale for cooperation and offers some suggestions for further improving it. This paper is based on a series of interviews with key stakeholders, including Belgian intelligence officers, federal police investigators, a federal magistrate, military officers and officials from the ministries of justice, interior and foreign affairs as well as senior EU counter-terrorism officials. All interviewees are cited anonymously.

<sup>4</sup> See for instance Greenberg K (ed). *Al-Qaeda now. Understanding today’s terrorists*, New York: Cambridge University Press, 2005; Stern, J. *Terror in the name of God. Why religious militant kill*, New York: HarperCollins, 2003; Neumann, P.R., *Old and new terrorism. Late modernity, globalization and the transformation of political violence*, Oxford: Polity Press, 2009.

<sup>5</sup> Kastoryano, R. ‘Terrorisme global et territoire’, *Critique*, 2011/5 (768), 2011, pp. 370-80.

<sup>6</sup> Meskens, J. ‘Alain Marsaud au Soir: “La naïveté des Belges nous a coûté 130 morts!”’, *Le Soir*, 21 March 2016; Walton, E. ‘Attentats de Paris: controverses autour de la coopération internationale entre les services de renseignement’, *France TV Info* (online), 18 November 2015.

<sup>7</sup> Hosenball, M. ‘U.S. frustration simmers over Belgium’s struggle with militant threat’, *Reuters*, 24 March 2016; Weiss, M, N. Youssef, N. De Visser, ‘U.S. Officials Bash ‘Shitty’ Belgian Security Forces’, *The Daily Beast*, 22 March 2016.

## Bilateral cooperation: partners of choice and necessity

Belgium has prioritised cooperation with a relatively small number of countries, which constitutes the first external layer of its counter-terrorism policy. Cooperation with the neighbouring countries appears obvious since jihadi networks span borders.<sup>8</sup> This is particularly true with France, but also with the Netherlands, the United Kingdom (UK) and Germany. Cooperation is also well established with a number of key partners, such as with Morocco, since many Belgian would-be jihadis are of Moroccan origin (second- or third-generation) or with Turkey, since most foreign terrorist fighters transit through Turkey en route to Syria. The United States is another key partner, particularly important for a small country like Belgium with limited intelligence and technical capacities. The volume and quality of cooperation may vary, but each of these partnerships is quite developed institutionally and operationally.

France is undoubtedly Belgium's main counter-terrorism partner and, in return, Belgium's cooperation is highly valued by French authorities, in spite of some criticism.<sup>9</sup> Cooperation is broad and deep, perhaps one of the deepest relationships of this kind in Europe,<sup>10</sup> dating back at least to the mid-1980s.<sup>11</sup> The 'excellence' of this cooperation was emphasized at the highest political level, on the occasion of a special bilateral summit hosted by Belgium in February 2016.<sup>12</sup> While this meeting between prime ministers (together with their ministers of interior and justice) was partly a public diplomacy effort to show solidarity, it did nonetheless lead to a number of practical commitments and operational actions. The ministers announced the deepening of exchanges between police and intelligence services, the more frequent use of joint investigation teams (JIT) and the deployment of a French liaison magistrate to be posted in the French embassy in Brussels, with a view to facilitating judicial cooperation between the two countries. They also committed to feeding 'systematically' the various databases of the European Police Agency (Europol) and to cooperate further on counter-radicalisation strategies, among other things. In a

<sup>8</sup> The jihadi networks stretch easily across the Franco-Belgian border, notably in the absence of linguistic barriers, meaning in practice that Belgian and French jihadis train together in Syria and form joint commandos. From French citizen Mehdi Nemmouche, who conducted a deadly 2014 attack against the Jewish museum in Brussels, to the terror cell dismantled in the Belgian town of Verviers in January 2015, which may have been planning attacks on French territory, to the Paris attacks that were orchestrated from Brussels, the terror connections between the two countries are deep and numerous. For more on the nature of this Franco-Belgian network, see Coolsaet, R. *Facing the fourth foreign fighters wave. What drives Europeans to Syria and to Islamic State? Insights from the Belgian case*, Egmont Paper 81, Brussels: Egmont Institute, March 2016, pp. 43-4.

<sup>9</sup> Interview with an intelligence analyst, OCAM, Brussels, 4 December 2015; interview with an intelligence official, State Security (VSSE), Brussels, 19 April 2016.

<sup>10</sup> Interview OCAM, *op cit*.

<sup>11</sup> Coolsaet, R. *Belgium and counterterrorism policy in the Jihadi era*, Egmont Paper 15, Brussels: Egmont Institute, September 2007.

<sup>12</sup> 'Consolider le partenariat franco-belge en matière antiterroriste', *Joint statement of France and Belgium*, Brussels, 1 February 2016.

separate meeting, the ministers of youth and education from both sides committed to developing joint programmes to prevent youth radicalisation.<sup>13</sup>

At the operational level, the good cooperation between France and Belgium is visible in the regular contacts between the French prosecutor François Molins and his counterpart Frédéric Van Leeuw ('several times a day', according to a source).<sup>14</sup> Magistrates exchange a lot of information, either 'spontaneously' or via the use of Mutual Legal Assistance (MLA) requests ('commissions rogatoires', in French).<sup>15</sup> Judicial cooperation should be facilitated by the new liaison magistrate. The exchange of suspects between the two countries has also been quite smooth: Mehdi Nemmouche (Jewish museum attack, 2014) arrested in France, was extradited to Belgium whereas Salah Abdeslam (Paris attacks, 2015), arrested in Belgium, was extradited to France for trial.

A number of JITs have been established between France and Belgium in counter-terrorism matters.<sup>16</sup> In this framework, police officers from one service benefit from easier and swifter access to the intelligence and evidence gathered by their counterpart, or jointly, leading to tangible results such as coordinated operations. Over the past three years, around 30 JITs have been created with France, a number of which relate to counter-terrorism.<sup>17</sup> There have been, for instance, JITs established with regard to the 2014 Jewish museum attack, to the 2015 foiled Thalys plot and to the November 2015 Paris assaults. A trilateral JIT was also established with France and the Netherlands to dismantle a cell active across the three countries and centred on a French citizen named Reda Kriket.<sup>18</sup> France is one of the few European countries to have a liaison police officer in Brussels (complementing cooperation within Europol). France has also offered technical support to Belgium, for instance, during the operations in Verviers when the French intervention unit of the gendarmerie (GIGN) assisted Belgian forces with 'technical resources that Belgium does not possess' and officers to operate that materiel.<sup>19</sup>

Cooperation between intelligence services is also good compared with other partnerships, with information flowing in both directions. Nevertheless, it is far less

<sup>13</sup> 'La France et les trois communautés de Belgique unies contre la radicalisation des jeunes', WBI International, 30 May 2016.

<sup>14</sup> 'Attentats terroristes: comment la France et la Belgique coopèrent', *Agence France Presse (AFP)*, 17 April 2016.

<sup>15</sup> Joint interview with a Federal magistrate and two police inspectors, Brussels, 27 May 2016.

<sup>16</sup> A JIT is a form of contract established between magistrates of distinct countries, foreseen by the European Framework Decision of 2002, and the Belgian law of 9 December 2004 with regard to international judiciary cooperation. Belgium has established 120 JITs since the arrangement's first use in 2006, a small fraction of which are related to terrorism cases. This puts Belgium as the 4th main user of the JIT mechanism in Europe.

<sup>17</sup> Interview with a Belgian official, Ministry of Interior (Mol), Brussels, 24 May 2016.

<sup>18</sup> Joint interview with a Federal magistrate and two police inspectors, *op cit*.

<sup>19</sup> Bindler, M-E and I. Ory, 'Opération de Verviers: la Belgique remercie le GIGN', *Europe1*, 15 January 2015.

institutionalised than police and judicial cooperation and, overall, underpinned by a comparatively smaller degree of trust.<sup>20</sup>

Morocco and Turkey are two other important partners of Belgium in the fight against terrorism, although cooperation appears more complicated than with France. Police and judicial cooperation with Rabat is assessed relatively positively, as Moroccan authorities are said to pass on useful information to the investigations (such as signalling movements of individuals or flagging key people to watch or phone numbers to monitor).<sup>21</sup> Morocco is the only country in the world where Belgium has both a liaison police officer (since 1999) and a liaison magistrate in its embassy in Rabat. An important convention was concluded with Morocco in 2014 (and adopted in April 2016), which refines the framework for law enforcement and judicial cooperation between the two countries with regard to terrorism.<sup>22</sup> The forms of cooperation covered by the convention include the exchange of information and the exchange of good practices, as well as mutual logistical, technical and scientific assistance. Cooperation with the Moroccan intelligence services exists as well, although trust is much lower than with the French services.<sup>23</sup>

Turkey is another important partner, notably with regard to the exchange of information related to Belgian citizens aiming to reach Syria or returning to Europe via Turkey. Since 2012, Turkey has already arrested and returned to Belgium more than 60 foreign terrorist fighters or jihadi aspirants.<sup>24</sup> Soon after the November attacks in Paris, Ahmed Damani, a Belgian citizen, was arrested in Turkey. He is suspected to have played a role in the attacks.<sup>25</sup> Whereas Belgium has had a liaison police officer in Ankara since 1996,<sup>26</sup> Turkey appointed one in Brussels only in March 2016, with a view to facilitating cooperation. Judicial cooperation relies on the various legal instruments of the Council of Europe, which have been complemented by an additional bilateral memorandum of understanding.<sup>27</sup>

This bilateral cooperation is perceived as being quite ‘cyclical’, however, hindered by political tensions.<sup>28</sup> For instance, when Turkish President Recep Tayyip Erdogan publicly announced after the Brussels attacks that Ibrahim el-Bakraoui (one of the suicide bombers) had been arrested in Turkey and deported to the Netherlands in 2015 with a warning that he was trying to enter Syria, it was largely perceived in

<sup>20</sup> Interview VSSE, *op cit.*

<sup>21</sup> Joint interview with a Federal magistrate and two police inspectors, *op cit.*

<sup>22</sup> ‘Projet de loi portant assentiment à la Convention de coopération entre le gouvernement du Royaume de Belgique et le gouvernement du Royaume du Maroc en matière de lutte contre la criminalité organisée et le terrorisme, faite à Bruxelles le 18 février 2014’, *Chambre des Représentants de Belgique*, Doc 54 1646/004, 21 April 2016.

<sup>23</sup> Interview OCAM, *op cit.*; interview with a retired intelligence official, VSSE, Brussels, 16 December 2015.

<sup>24</sup> ‘La Turquie a intercepté 60 candidats belges au djihad’, *Belga*, 9 March 2016.

<sup>25</sup> ‘Attentats à Paris: Dahmani, le suspect belge arrêté en Turquie, avait aussi un passeport syrien falsifié’, *La Libre Belgique*, 24 December 2015.

<sup>26</sup> Interview with a Belgian official, Ministry of Foreign Affairs (MFA), Brussels, 14 April 2016.

<sup>27</sup> Interview Mol, *op cit.*

<sup>28</sup> Interview MFA, *op cit.*

Belgium as a hostile political gesture.<sup>29</sup> With a view to fostering better trust and cooperation, it was decided in early March 2016 to organise ‘regular’ meetings between relevant ministers and administrations from both sides.<sup>30</sup>

Cooperation with the UK and the US is also deemed important by Belgian authorities, although it remains less developed than with France. Five suspects were arrested in April 2016 in Birmingham, England, in connection with the Paris and Brussels attacks, as a result of a joint investigation by British, French and Belgian services.<sup>31</sup> On that occasion, the Belgian federal prosecutor underscored the ‘very good cooperation with British authorities’<sup>32</sup>.

With the US, counter-terrorism cooperation has been developed for years, but it has further intensified recently. A joint investigation team including the FBI was set up after the Brussels attacks. Remarkably, this was the first JIT focused on counter-terrorism between a European country and the US.<sup>33</sup> Bilateral cooperation is also facilitated by a 2011 bilateral agreement on serious crime and terrorism, as well as by the presence of liaison officers in Brussels and Washington. The volume of exchanges between intelligence agencies has increased significantly since November 2015, as the new context lifted some of the traditional reluctance to share information.<sup>34</sup>

Cooperation with the US, and to a lesser extent with the UK, is justified by the large amount of intelligence gathered by these countries, directly or via their cooperation with services worldwide, which makes the US a de facto intelligence hub, even for European countries. But cooperation is also motivated by the unrivalled forensic expertise and technical capacities of these countries. For instance, it is the cooperation with the FBI that allowed the retrieval of sensitive data from the cell phone of Mohamed Abrini, the alleged ‘*man with the hat*’ in the Brussels airport attack. ‘It is very concrete help,’ said Belgian Prosecutor Van Leeuw. ‘I had always received the same message about some encrypted messages: “this is not possible”,’ he explained. ‘But all of a sudden, it was possible to read them. I won’t go into further detail, but I think it’s clear enough.’<sup>35</sup>

In addition to bilateral cooperation, some cases of minilateral formats could also be singled out. There are, for instance, quadrilateral encounters between prosecutors of Belgium, France, Spain and Morocco several times per year.<sup>36</sup> These meetings are

<sup>29</sup> ‘Selon Erdogan, Ibrahim El Bakraoui a été extradé vers la Belgique qui l’a relâché: le parquet dément’, *RTL Info*, 23 March 2016.

<sup>30</sup> Interview with a Belgian official, MFA, Brussels, 9 June 2016.

<sup>31</sup> Dodd, V., J. Grierson and N. Parveen, ‘Five arrested in UK after inquiry linked to attacks on Brussels and Paris’, *The Guardian*, 15 April 2016.

<sup>32</sup> *Press release by the Federal Prosecutor’s Office*, Brussels, 15 April 2016.

<sup>33</sup> ‘Attentats: Le FBI en renfort’, *Le Soir*, 14-15-16 May 2016.

<sup>34</sup> Interview VSSE, *op cit.*, 19 April 2016.

<sup>35</sup> Torfs, M. ‘Belgium and FBI set up “joint investigation team”: A big help’, *Flanders News*, 13 May 2016.

<sup>36</sup> Interview with a Belgian official, Ministry of Justice (MoJ), Brussels, 26 April 2016.

designed for very operational purposes. A consultation mechanism was also set up in the aftermath of the June 2015 attacks in Tunisia involving G7 members, Spain, Belgium and Tunisia (called G7+3). Belgium has contributed to counter-terrorism capacity-building efforts in this context, including in very operational terms such as military training.<sup>37</sup>

Overall, counter-terrorism cooperation is quite developed and institutionalised with a number of countries, mainly the neighbours (France, UK, Germany and the Netherlands), the southern partners (Morocco and Turkey) and the transatlantic partner (US), with France by far the main partner. Belgian judiciary and intelligence services receive a significant amount of information from all services of these countries.<sup>38</sup> According to a Belgian official, contacts with these countries are ‘quite intense’ and mature, spanning every level from ministerial to operational.<sup>39</sup> Cooperation predated the recent attacks, but has undoubtedly intensified since early 2015.

As a matter of principle, a bilateral partnership implies that both sides are willing to engage and benefit from cooperation. And, to be sure, Belgium is a committed partner. Trust, however, is a major variable facilitating or hindering cooperation. If partners have sometimes expressed a lack of trust in Belgian authorities, the reverse is equally true. Yet, in spite of volatile degrees of trust, sometimes due to difficult political contexts, Belgium’s counter-terrorism partnerships have persevered and even deepened in the face of necessity.

Ultimately, it is quite evident that Belgium is more on the “demand” rather than the “supply” side of these partnerships with powerful counter-terrorism partners, due to its limited capacities, to the fact that its services are overwhelmed with the current threat and to the absence of a ‘niche of expertise’ which would appeal to foreign services.<sup>40</sup> International cooperation fills important gaps in Belgium’s technical capacities. Everyone needs to work together against terrorism, but Belgium needs this cooperation perhaps more than others. Having said this, Belgium’s domestic counter-terrorism efforts do provide a major contribution to the global fight against terrorism and the strengthening of domestic capabilities is the shared priority of Belgian and foreign authorities.

## European cooperation: Belgium as a leading force

A number of European countries are affected by jihadi terrorism, with ISIL having declared war on the entire West. In this context, the development of a European response to terrorism is a priority for Belgium, especially in the European Union (EU)

<sup>37</sup> Interview MFA, *op cit.*, 14 April 2016; See also Clevers, A. ‘L’armée belge va former des soldats en Tunisie’, *La Libre Belgique*, 10 December 2015.

<sup>38</sup> Interview with an intelligence analyst, OCAM, Brussels, 29 April 2016.

<sup>39</sup> Interview Mol, *op cit.*

<sup>40</sup> Interview VSSE, *op cit.*, 19 April 2016.

framework. In his speech at the annual *Diplomatic Contact Days* in 2015, Foreign Minister Didier Reynders emphasised the importance of EU-wide cooperation in this area, while underscoring the need to improve existing EU instruments and to adopt new ones.<sup>41</sup>

Belgium was among the first countries in Europe – if not the first – to draw attention to the issue of foreign terrorist fighters. In June 2013, Joëlle Milquet, then Belgian Minister of the Interior, initiated an informal series of ministerial meetings with the EU countries most affected by this challenge (Austria, Belgium, Denmark, France, Germany, Ireland, Luxemburg, the Netherlands, Spain, Sweden, and the UK), along with the European Commission and the EU Counter-Terrorism Coordinator (CTC), under Belgian leadership. The group, known as the G11, usually meets ahead of the Justice and Home Affairs Council, a meeting of the 28 EU ministers of justice and home affairs. Its purpose is ‘to exchange information on the threat, compare notes on policy measures and discuss areas where intensified cooperation is needed’.<sup>42</sup> As a smaller and informal group, the G11 is a forum to ‘crystallise the political will’ among key countries.<sup>43</sup> Most decisions related to counter-terrorism over the past few years were first adopted within the G11. For instance, the group facilitated the decision to improve the exchange of information across Europe, particularly through EU databases such as the Schengen Information System (SIS II), it advocated in favour of strengthening Europol and Eurojust, it sought to speed up the adoption of the Passenger Name Record (PNR) and debated measures related to counter-radicalisation on the internet.

In addition to its leadership role in the G11, Belgium is at the forefront of information sharing within the specialised agencies Europol and Eurojust. Belgium is described as ‘top of the class’ by senior officials within these agencies.<sup>44</sup> It is the main contributor to Eurojust data, whereas it is the third largest contributor (behind France and the Netherlands) to Europol’s Focal Point Travellers system, where it had entered information about 611 foreign fighters by the end of April.<sup>45</sup> Unfortunately, not all member states are equally committed, as 90% of the information in the database comes from five member states, including Belgium. Things are evolving positively, however, and most governments have stepped up their cooperation since early 2015, although more needs to be done.<sup>46</sup> For instance, with regard to the European Information System (EIS), a criminal database, only 18 foreign fighters had been introduced in the system by just two member states in December 2014, whereas by

<sup>41</sup> ‘Reynders sur la lutte contre le terrorisme: “Nous pouvons faire mieux”’, *Belga*, 2 February 2015.

<sup>42</sup> ‘Background note’, Justice and Home Affairs Council, Council of the EU, Brussels, 8 October 2014.

<sup>43</sup> Interview with a Senior EU official, Council of the EU, Brussels, 4 May 2016.

<sup>44</sup> Interview with a Senior EU official, Eurojust, Brussels, 11 May 2016.

<sup>45</sup> Interview Mol, *op cit.*

<sup>46</sup> Interview Council of the EU, *op cit.*; ‘State of play on implementation of the statement of the members of the European Council of 12 February 2015, the JHA Council Conclusions of 20 November 2015, and the Conclusions of the European Council of 18 December 2015’, *Note from the EU Counter-Terrorism Coordinator*, 6450/16, Brussels, 1 March 2016.

January 2016, close to 1500 foreign fighters from more than 14 member states were included in the database, which is an improvement but clearly does not represent the full scale of the threat.<sup>47</sup> For apparent technical reasons, which are allegedly being worked out, Belgium's contribution to the EIS is suboptimal. Overall, however, Belgium contributes proactively and extensively to all EU databases. In contrast, a number of other member states are still neither sharing information nor using it, whereas a number of free-riders use the information shared by others.<sup>48</sup>

With regard to the PNR, the system of data collection on air travellers adopted by the EU in April 2016 after years of negotiations between the European Parliament and the EU member states, Belgium is not only doing its utmost to implement the new directive as soon as possible (despite having two years to do so), but it is also the only member state to have opted for the maximum implementation of the PNR. Belgium aims to cover intra-EU travels, as well as extending the measure's scope beyond air travel to international maritime, bus and high-speed train travel.<sup>49</sup>

If the exchange of police and judicial information is deepening at the EU level, that is less the case among intelligence services. Intelligence cooperation is not an EU competence, and there is no equivalent to Europol or Eurojust to centralise intelligence from all member states.<sup>50</sup> Most observers agree that more cooperation is needed, but no format has yet gathered consensus. After the November attacks in Paris, Belgian Prime Minister Charles Michel called for the creation of a 'European CIA' in order to improve cooperation among intelligence services – the reiteration of a proposal already made in 2004 together with Austria, in the aftermath of the Madrid bombings.<sup>51</sup> Such a proposal appears controversial and unrealistic – not to mention that the framing seems inappropriate, since the CIA is in charge of foreign intelligence, whereas Michel seemed to refer to the need for an EU-wide 'domestic' intelligence agency. In a more pragmatic manner, the current interior minister, Jan Jambon, decided to create a working group within the G11, with a view to exploring how European intelligence cooperation can be improved.<sup>52</sup>

An interesting initiative in this domain has emerged outside the EU framework, however, in the Counter Terrorism Group (CTG). The CTG, established in 2001, is an offshoot of the Club of Bern, an informal club gathering the heads of intelligence services from EU member states plus Norway and Switzerland. Although outside the EU structures, it reports occasionally to EU institutions, notably the Council of the EU.

<sup>47</sup> 'State of play on implementation of the statement of the members of the European Council of 12 February 2015, the JHA Council Conclusions of 20 November 2015, and the Conclusions of the European Council of 18 December 2015', *Note from the EU Counter-Terrorism Coordinator*, 6450/16, Brussels, 1 March 2016.

<sup>48</sup> Interview Council of the EU, *op cit*.

<sup>49</sup> Interview Mol, *op cit*.

<sup>50</sup> There is a small structure, called IntCen, which operates mostly on open sources (as well as on reports from national services), but whose role is essentially limited to providing analysis and assessments to the EU institutions.

<sup>51</sup> "'CIA européenne": l'appel de Charles Michel reçoit un accueil glacial', *RTBF*, 30 November 2015.

<sup>52</sup> Van Horenbeek, J. 'Jambon probeert Europese inlichtingendeal te forceren', *De Morgen*, 22 April 2016.

Under the Dutch Chairmanship, intelligence chiefs agreed to step up cooperation within the CTG, with a view to exchange information more rapidly and automatically (liberated from a number of clauses that limit the sharing of intelligence), in a more standardised manner (since all intelligence services use different spellings, but also evaluation criteria) and resulting in possible operational decisions.<sup>53</sup> Paradoxically, while Charles Michel called for a European CIA, Belgium offered rather lukewarm support for the Dutch proposal, taking some time before endorsing the initiative.<sup>54</sup>

Operational police cooperation has developed importantly in the context of Europol. After the November attacks in Paris, a special task force was established at Europol (*Task Force Fraternité*) mobilising a number of resources. Belgium contributed to the Task Force, through its liaison staff at Europol, while the EU agency sent officers to its operational centre in Brussels. The Task Force has led to a number of intelligence leads, according to Europol.<sup>55</sup> The mandate of the task force was logically extended to cover the Brussels attacks, in view of the strong connections between the two events and of the good results yielded. Following the Brussels attacks, a Joint Liaison Team (JLT) was set up at Europol, in complement to the Task Force, with additional specialised staff from member states whose mission was to identify new leads. Although Belgium has reinforced its staff in Europol, it had not yet been able to second an officer to the JLT by early October 2016, more than six months later, due to internal procedures.<sup>56</sup> The nomination was allegedly imminent, however. Furthermore, a week after the Brussels attacks, the Belgian Federal Police organised an operational meeting in partnership with Europol, gathering more than 50 counter-terrorism experts from 30 countries to explore the international dimensions of the investigation.<sup>57</sup> Overall, the role of Europol in supporting the current investigations is deemed very useful by Belgian and EU officials.<sup>58</sup>

In the fields of radicalisation and counter-narratives, Belgium has benefitted from EU support. The Syria Strategic Communications Advisory Team (SSCAT) was established in January 2015, at the request of Belgium. The SSCAT aims to develop a network of expertise and good practices with regard to counter-narratives, offering tailored advice to EU member states. The team of around ten experts is funded by the European Commission, hosted by the Belgian Ministry of Interior and supported by the British Home Office (since half of the team comes from the UK). Although the scope of the project goes beyond Belgium, Belgian authorities have contributed but

<sup>53</sup> Interview with an intelligence official (VSSE), Brussels, 19 April 2016; 'State of play on implementation of the statement of the members of the European Council of 12 February 2015, the JHA Council Conclusions of 20 November 2015, and the Conclusions of the European Council of 18 December 2015', *Note from the EU Counter-Terrorism Coordinator*, 6450/16, Brussels, 1 March 2016.

<sup>54</sup> Interview VSSE, *op cit.*, 19 April 2016.

<sup>55</sup> 'The ECTC Task Force Fraternité', European Counter Terrorism Centre, Infographic, January 2016.

<sup>56</sup> Interview Mol, *op cit.*

<sup>57</sup> 'Belgian Federal Police and Europol host joint international operational briefing after terrorist attacks in Belgium', Press Release, Europol, The Hague, 1 April 2016.

<sup>58</sup> Interview Council of the EU, *op cit.*; Interview Mol, *op cit.*

also largely benefitted from SSCAT expertise, through positive spillover within the interior ministry.<sup>59</sup> The first phase of the project ended in July 2016, but a prolongation was foreseen.

Another major EU initiative in the area of prevention is the Radicalisation Awareness Network (RAN), established several years ago, and transformed into a Centre of Excellence in October 2015. The RAN brings together a large number of European experts and first-line practitioners on the prevention of radicalisation, in order to exchange good practices. There are nine working groups, one of which is led by Belgium (on schools). Thanks to RAN, Belgium has increased its network and expertise on counter-radicalization by exchanging with international colleagues, but also by strengthening networks and initiatives at local and regional levels in Belgium.<sup>60</sup> In the field of radicalization, the EU has also funded a project focused on youth resilience to radicalisation and violent extremism, implemented by the Belgian Ministry of Interior (2013-17).<sup>61</sup>

Overall, although the EU undeniably plays a relatively small role in the fight against terrorism,<sup>62</sup> EU member states have become more willing to cooperate and to share information in light of the growing threat. A number of measures and initiatives have been adopted, which improve Europe's overall response to terrorism, but more still needs to be done. Belgium has been a driving force in this regard, as the EU constitutes the second external layer of Belgium's counter-terrorism policy. In contrast to what may be observed at the bilateral level, where Belgium is on the demand side of cooperation, Belgium is clearly on the supply side at the EU level. It supplies data, but also political leadership, which is perhaps not surprising given Belgium's long history of promoting EU cooperation and integration. It also supplies key personnel, as the EU counter-terrorism coordinator and the president of Eurojust's counter-terrorism group are both Belgian nationals. In return, Belgium has benefited greatly from initiatives such as SSCAT and RAN, and from the support of Europol and Eurojust.

## Global cooperation: a comprehensive contribution

At the global level, Belgium supports a comprehensive approach, covering all aspects of counter-terrorism, from prevention to repression and shutting down terror financing, through the combined use of soft and hard measures.

Over decades, and particularly over the past 15 years, the number of international organisations, measures and decisions related to the fight against terrorism has multiplied exponentially. The United Nations (UN) has been very active in this field,

<sup>59</sup> Interview Council of the EU, *op cit.*; Interview Mol, *op cit.*

<sup>60</sup> Interview Mol, *op cit.*

<sup>61</sup> <http://www.bounce-resilience-tools.eu/>.

<sup>62</sup> See for instance Renard, T. *EU counterterrorism policies and institutions after the Lisbon Treaty*, Policy Brief, Center on Global Counterterrorism Cooperation, September 2012.

notably through the adoption of a large number of resolutions and even of a Global Counter-Terrorism Strategy in 2006. Belgium strongly supports the implementation of UN resolutions and other legal instruments, which it has signed and ratified. It is also a member of a like-minded group in New York concerning the UN counter-terrorism sanctions regime.<sup>63</sup> In the context of the UN, Belgium is also actively promoting more space for the prevention of violent extremism, notably by supporting the action plan of the UN Secretary General on this topic and by organising events on the sidelines of the annual UN General Assembly meeting.

There is a large number of multilateral bodies whose work is relevant to the fight against terrorism. One of these organisations is the Council of Europe (CoE), which focuses notably on the respect of the rule of law and human rights in the fight against terrorism. That balanced focus, between human rights and pure counter-terrorism, has been defined as a key priority for Belgium's global approach. Under the Belgian chairmanship of the Committee of Ministers (2014-15), the CoE adopted an additional protocol related to the convention on the prevention of terrorism (although Belgium must still ratify the convention), and an action plan on violent extremism and radicalisation.<sup>64</sup>

The Financial Action Task Force (FATF) is another important multilateral forum, dealing with money laundering and the fight against terrorism financing, of which Belgium is a member. In its 2015 evaluation report, the FATF considered that the action of Belgian authorities 'is commensurate with the actual phenomena and threats'<sup>65</sup> while pointing out several issues requiring adjustment. It further estimated that the level of cooperation of Belgian authorities was 'globally satisfying' whereas in return Belgium was 'globally satisfied' with the international help it receives.<sup>66</sup> The leading role of Belgium in setting up the Egmont Group in 1995, a major forum for international financial intelligence units dealing with money laundering and terrorist financing, should also be mentioned. Furthermore, Foreign Minister Didier Reynders has made the fight against terrorism financing one of his priorities, regularly raising the issue with his peers and insisting on full implementation of UNSC resolutions 2170 and 2178, which call on members to combat the flow of foreign fighters.<sup>67</sup>

On the more forceful side of the counter-terrorism spectrum, the US-led coalition against ISIL has become one of the main international forums to deal with the threat of ISIL and foreign terrorist fighters since September 2014. The coalition started as a military platform coordinating operations in Iraq at the invitation of the Iraqi govern-

<sup>63</sup> Interview MFA, *op cit.*, 14 April 2016.

<sup>64</sup> Interview MoJ, *op cit.*

<sup>65</sup> 'Anti-money laundering and counter-terrorist financing measures – Belgium', Mutual Evaluation Report, FATF, April 2015, p. 75.

<sup>66</sup> 'Anti-money laundering and counter-terrorist financing measures – Belgium', Mutual Evaluation Report, FATF, April 2015, p. 147.

<sup>67</sup> Interview MFA, *op cit.*, 14 April 2016. For more on countering the financing of terrorism, see the article by Lemeunier in this volume.

ment. Belgium has contributed to the military operations of the coalition from the beginning, sending six F16s and around 120 military support staff to the region, which were later organised in a 6-month rotation mechanism with Dutch forces. Originally limited to missions in Iraq, the Belgian government has decided to extend the mandate of Belgian F16s to Syria, starting in July 2016. Although that decision was presented as the logical prolongation of the Dutch mission, which had already been extended to Syria, it appears that the decision was far from automatic. It was in fact taken well after the Brussels attacks.<sup>68</sup> In the context of the coalition, Belgium is also offering military training to local Iraqi forces and to the Peshmerga, and it deployed a frigate to escort the French aircraft carrier Charles de Gaulle in the aftermath of the Paris attacks (from 18 November 2015 to 4 January 2016). Staff officers are also supporting coalition command and control at various levels (in the US, Kuwait, Qatar and Iraq).<sup>69</sup>

Whereas the coalition constitutes firstly and mainly a military effort, it has broadened its scope to develop a more comprehensive approach. Belgium is an active member of the working group on 'foreign terrorist fighters', which aims to exchange best practices among coalition members, and hosted a two-day meeting of the working group at the Egmont Palace in early May 2016. Working groups on 'counter-financing' and 'counter messaging' have also been established in which Belgium participates. In addition to the anti-ISIL coalition, another relevant US-led multilateral forum is the Global Counterterrorism Forum (GCTF), established in 2011. Although not a member, Belgium has participated in a number of its meetings.

In addition to its contributions to the coalition, Belgium is engaged in a number of international missions that have important counter-terrorism dimensions. For instance, Belgium contributes to the EU training mission in Mali, of which it took command in July 2016. It has a military presence in Afghanistan and it has a police presence in the EU capacity-building mission EUCAP Sahel in Niger and Mali, as well as in the UNOSOM Somalia. It has also seconded counter-terrorism experts to the EU delegations in Libya (based in Tunis) and Jordan.

Finally, at the diplomatic level, Belgium supports moderate forces in Syria as well as the political transition process led by SGUN Special Envoy De Mistura. It also supports local humanitarian access and aid. It has committed around €90 million in support to humanitarian projects, mainly in Syria and to a lesser extent in Iraq (2014-16).<sup>70</sup>

Overall, Belgium is committed to multilateralism and to a comprehensive approach, including in the fight against terrorism. That is the third external layer of its counter-terrorism policy. It participates actively in multilateral discussions and supports the

<sup>68</sup> Interview MFA, *op cit.*, 14 April 2016.

<sup>69</sup> Interview MFA, *op cit.*, 14 April 2016; Interview with a military official, Brussels, 20 May 2016; see also 'Irak: la Belgique envoie un soutien humanitaire aux peshmergas', *La Libre Belgique*, 4 February 2016.

<sup>70</sup> Interview MFA, *op cit.*, 14 April 2016.

implementation of all multilateral decisions. With regard to the anti-ISIL coalition, Belgium is a willing and proactive member. Its military contribution may appear modest in absolute numbers, but it is far from insignificant relative to Belgium's limited and overstretched capabilities. Above all, Belgium's contribution is well above that of most other European countries since only four other EU countries (Denmark, France, the Netherlands, and the UK) participate in the airstrikes in Syria and Iraq.

### **Strengthening the three external layers**

Belgium is an active player in the global fight against terrorism. It has developed counter-terrorism partnerships with a number of key countries. These partnerships are quite institutionalised and developed operationally, leading to tangible results. Although there is a degree of choice in partnering with some countries more intensively than others, it is also evident that many of these partnerships are driven by necessity. Cooperation with France is inevitable due to the intricate nature of jihadi networks; cooperation with Turkey is imposed by the geography of the threat; whereas cooperation with the US is dictated by technical needs. For a small country like Belgium, these partnerships are particularly important to cope with this unprecedented threat.

At the European level, Belgium has taken the initiative by raising the issue of foreign terrorist fighters early, and then by establishing an informal consultation group with the most affected EU member states. In line with its pro-European policy, Belgium has shown a commitment to implementing EU measures and to providing information to the various EU databases, particularly since early 2015, even as a number of member states continue free-riding. This clearly makes Belgium one of the pivotal players in the EU's response to terrorism. Finally, at the global level, Belgium contributes dependably if modestly to the various multilateral diplomatic and military initiatives that have been developed to combat terrorism.

Belgium is highly engaged in global counter-terrorism efforts, perhaps more than many would imagine. But improvements are always possible. In the remaining part of this paper, I suggest a few basic ideas for policy adjustments, in a list that does not aim for exhaustiveness.

First, Belgium should strengthen its own domestic counter-terrorism instruments and policies. Indeed, foreign policy starts at home, and so does counter-terrorism. Better-financed and more effective security and intelligence services will not only improve Belgium's domestic policies, but they will also benefit from higher credibility and trust from their foreign counterparts, resulting in deeper cooperation.

Second, liaison officers (police and magistrates) play a key role in facilitating bilateral cooperation. They establish contact with foreign services; they collect, treat and

analyse the mass of information received from partner services. As such, they constitute a forward base for Belgium's counter-terrorism policy. However, the recent incident with Turkey, mentioned above in this paper, has highlighted the fact that these officers are overwhelmed with information related to the current terrorist threat – not to mention that their mission extends well beyond terrorism. In this context, it would be advisable to reinforce the team of liaison officers with staff in priority countries, that is mainly Turkey, Morocco and the US. The deployment of specialised agents in counter-terrorism could be envisaged as thematic-based support staff. With regard to European countries, liaison agents operate from within Europol. However, it could also be envisaged to have a temporary officer in Paris, given the wide scope of cooperation.

Third, in the field of intelligence cooperation, Belgium should be more pragmatic. On the one hand, Belgium should fully adhere to the Dutch initiative within the CTG, which seems by far the most ambitious and realistic multilateral project on the table. On the other hand, the idea of a European CIA seems over-ambitious and perhaps even counter-productive in times of Euro-scepticism.<sup>71</sup> This being said, some creative alternatives exist for Belgium to deepen cooperation among intelligence services beyond the bilateral level. For instance, Belgium could take the lead in launching a more integrated platform for intelligence cooperation, among the limited number of EU member states that would be willing to join. Article 73 of the Treaty on the Functioning of the EU (TFEU) foresees the possibility for a number of countries to cooperate more closely on issues of national security.

Finally, a number of measures and instruments exists at the EU level aimed at strengthening the European response to terrorism. It has been said that many of these measures are not fully implemented and that many EU instruments (such as Europol databases) are not being utilised by member states. A priority for Belgium should therefore be to implement all relevant EU measures and to properly use all EU instruments, but also to convince other member states to do so immediately. An important discussion also needs to take place at the European level in order to increase the interconnections between the various databases, but also to ensure a greater operability and accessibility of these databases, to border guards, for example. Belgium should encourage this process.

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<sup>71</sup> As observed by Rik Coolsaet, Belgium tends to lock itself into EU-wide integration schemes, following the path of a supranational federalisation process, which encounters increasing resistance. This mental map often prevents Belgium from offering more creative and pragmatic solutions. See Coolsaet, R. 'The Quest for Vital Interests and Objectives in the Foreign Policy of Belgium', *Studia Diplomatica*, vol LXVIII, 2015.

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