

SECURITY INSIGHTS



Revisiting Convergence: Adapting Europe's Security Strategy to Emerging Challenges

By Jürgen Storbeck and Sebastian von Münchow

Introduction

Europe is now facing security challenges that only a few security practitioners, researchers, academics, and politicians would have predicted a decade and a half ago when terrorist attacks convulsed the U.S. and Europe. Many of the European Union's security policy concerns relate to instability found in countries in the region's immediate vicinity. Civil wars have erupted in Syria, Iraq, and Libya, causing immense suffering for the general populace in these states. Asymmetrical conflicts as well as corrupt executive and judicial branches in these countries have led to fragile or failed states. The subsequent lack of functioning governmental structures has facilitated the convergence of organized crime and terror in the Middle East as well as in other countries of the African continent. There, terrorist groups have increasingly adjusted their operations and now use methods long associated with organized crime. That is the case of Al-Shaabab in Somalia, Boko Haram in Nigeria, and the Islamic State (IS) in Syria and Iraq. The latter, with a reported budget of two billion U.S. dollars—including a \$250 million surplus—and a comprehensive bureaucracy that allows for a wide range of revenue streams, stands out as a model of diversified and self-financing business, built on a number of coopted revenue streams, including some that are drawn from illegal or criminal sources. Money, however, is also the Achilles' heel of terrorist organizations, therefore countering the financing of terrorism should be at the core of any strategy in the fight against terrorism.

This paper sets out to explore to what extent and under what premises new forms of terrorism may converge with organized criminal structures and activities. Sources and dynamics of terrorism funding, where the phenomenon of convergence stands out, are specifically examined. The discussion highlights the necessity of establishing an

overarching European framework to counter terrorism. This framework should identify a set of priorities Europe has to address in order to combat transnational organized crime and international terrorism. Particular attention should be dedicated to developing specific measures to counter terrorist use of criminal activity as a source of revenue.

The Concept of Convergence

The term convergence indicates the gradual encroachment and even overlapping of practices and actions of organized crime and terrorist organizations, which are two distinct phenomena with different roots and different aims and motives. The purpose of organized crime is to make money. It usually does not have an ideological motive and does not want to make its existence public. In contrast, terrorist groups act ideologically, follow a purported philosophy and actively seek publicity for their terrorist actions. They aim to destroy existing public structures in order to establish a system aligned with their own philosophy. Even if the concept of convergence does not refer to the merging of terrorism and organized crime into a new phenomenon, the methods, activities and needs of the two align to a certain extent.

Terrorist organizations need to finance themselves in the same way that organized crime does. Even if terror acts per se are relatively low-cost, maintaining their structure is not. An enabling environment—including the building of camps, the training and indoctrination of young fighters, the procurement and maintenance of military equipment, and the recruiting of foreign fighters—needs to be supported and maintained. The Islamic State serves as an outstanding example, but it is not the only one. Hamas in Gaza, Hezbollah in Lebanon, and the FARC in Colombia perfectly fit into the category of para-state

terrorist organizations, which turned to criminal activity as a source of revenue, adapting their inner mechanics to match those of organized crime.

Successful terrorist and organized criminal groups engage as rational actors in a cost-benefit analysis and then opt for the most profitable and accessible opportunities. Illicit trade in both legal and illegal commodities has emerged as one of the preferred means of financing, with shadow facilitators playing a key role in organizing the illicit transport of goods to be traded on a large scale. The choice of commodities to trade may vary over time, depending on the revenue margins. As recently pointed out by United Nations Security Council Resolution 2199 (2015), electrical appliances, brand-name products, precious metals, textiles, and cigarettes are sold on regional and international black markets, directly financing terrorist activities.

Cigarettes and more generally tobacco products are examples of consumer goods that are ideal for illicit trading activities. Not only are cigarettes abundant, but the variation in taxes and duties in neighboring countries both within and outside the EU makes it possible to achieve profit margins as high as 3000 percent. It is estimated that EU member states lost roughly 11.5 billion euros in tax revenue in 2014 as a result of Illicit Trade in Tobacco Products (ITTP). Some of those funds directly flow into the hand of criminals and potential terrorists. (With increasing amounts of illicit trafficking coming from Algeria, the European market directly serves traditional smuggling routes, often under the control of terrorists. Indeed, in Algeria, where Mokhtar Belmokhtar, the military commander of Al-Qaida splitter group al Mourabitune in the Maghreb, is even known as “Mr. Marlboro” due to his heavy involvement in ITTP. Profits from illegal cigarette sales financed a series of attacks, including the well-known Amenas gas plant attack in 2013 in which about eight hundred people were taken hostage and forty were killed.

Mokhtar Belmokhtar and al Mourabitune are not the only ones to use illicit trade as a significant source of financing for their activities. One of the key players in the 2004 Madrid bombing, Jamal Ahmidan, financed his operation by trafficking marijuana and other drugs, while several of the Paris attackers had previous petty criminal records related to drug sales. Two in particular, Ibrahim and Salah Abdesalam, had their café shut down for dealing drugs. One of the Kouachi brothers, who were responsible for the Charlie Hebdo attacks, had traded in counterfeit tennis shoes and cigarettes. ITTP is a relevant driver of terrorism and cannot be disregarded as part of a wider context in which illicit trade in consumer goods has become one of the most lucrative ways for terrorist groups to obtain funding. As new terrorist groups continuously and rapidly adapt

their financing to external factors, convergence is likely to further develop and shape a completely new threat to international peace and security. Even if on the one hand, organized crime is still considered to be a matter of internal security, and as such, is treated by EU member states individually, terrorism, on the other hand, is clearly a matter of external as well as internal security. Unfortunately, organized crime and terrorism operate in the gaps between different pillars of intergovernmental and federal structures. Taking this fact into consideration, it is imperative that a comprehensive European approach, taking into account the new complexity of terrorist organizations, be developed. The urgency of such an approach is clear; there is no denying the fact that terrorist activities in general, and financing activities in particular, no longer take place solely in the Middle East, but are also, as we have recently seen in Paris, a growing problem for Europe and the rest of the western world.

Capacities and Shortcomings of the European Union

For a long time, the EU has concentrated and unfortunately limited its political and law enforcement efforts to the pursuit of money laundering, acting within the framework established by the Financial Action Task Force (FATF). However, as international terrorist groups gradually move from a hand-to-mouth existence, reliant on external funding, to a more sustainable self-financing model, international strategies used to counter terrorism—in particular the European toolbox—seem outdated. For two reasons, the EU has become a toothless tiger in the fight against emerging threats; first, by focusing entirely on the financial system, while failing to acknowledge the difference between money laundering and terrorism financing within this framework and second by neglecting to examine the role played by organized crime as a constant source of proceeds and services that may be used by terrorists. While the boundaries that separate criminal activities and terrorist activities are blurring, organized crime in Europe, which ranges from trafficking in firearms, illicit drugs, and cigarettes, to extortion and racketeering, generates around 110 billion Euros each year.

The concept of convergence in the prevention and the prosecution of terrorist financing raises serious questions regarding capacities on the EU level and about the cooperation among the law enforcement authorities of the twenty-eight member states. EU efforts to fight illicit trade are embedded in international and intergovernmental measures. There are a number of Security Council Resolutions that target the financing of terror, such as 1373 (2001), 2178 (2014), 2199/2015 and the more recent 2253(2015). On the intergovernmental level, OECD member states founded the Financial Action Task Force (FATF), which has as its mandate the

responsibility to develop proposals for the international fight against crime and terror. The FATF widened its focus on terrorism and terrorist financing after 9/11 and currently cooperates with thirty-four states.

At the EU level, the EU Council asked in 2005 to criminalize terrorist activities. Unfortunately, they focused exclusively on the respective UN Conventions, without considering the problem of terrorism financing. Still, the EU has implemented the FATF recommendations within the framework of its anti-money laundering directives, which constitute to date the EU's most effective tools in combatting financial crimes. However, because these recommendations come into effect only after money is returned to the financial system, not at the point when it is raised through illegal activities, the framework is not able to differentiate between money laundering and terrorism financing.

Another important European tool is the European Security Strategy (ESS), which was introduced for the first time in 2003. This strategy has been repeatedly adapted to new threat scenarios and is presently in revision. The ESS was drafted in light of the challenges in the early years of the past decade, but also took terrorism into account. In its current version, the strategy appropriately targets the three identified security threats of terrorism, organized crime, and cybercrime. It links the three phenomena, acting as a catalyzer. It accepts that these are transnational threats and envisages a coordinated response at the EU level. Regrettably, the ESS lacks concrete options to counter money-laundering activities, which hampers its ability to effectively eliminate these networked international threats.

There are nine different European agencies responsible for internal and external security as well as the fight against terrorism. The most important among those agencies are Europol, Frontex, and Eurojust. They act as service providers for the individual member states, offering professional support, expertise, and assistance with joint cross-border activities. The EU has a multitude of other instruments to facilitate the exchange of information throughout the member states, including the Schengen Information System (SIS); the Interpol Databank for Lost and Stolen Travel Documents (SLTD); the Anti-Fraud Information Service (AFIS); as well as the European Crime Register Information Service (ECRIS). These agencies work well as independent units, but are not sufficiently interconnected. There is no joint body at the EU level to hold the strings together.

The Financial Intelligence Units (FIU) are one vivid example of the EU's shortcomings. In order to cooperate effectively, they need to be properly connected; instead, they operate only on the national level. Moreover, FIUs all over Europe lack sufficient training and staff, suffering from ambiguous assignments as well as

from incompatible structures. They do not establish connections between cases linked to organized crime and cases linked to terrorist financing, while that is precisely what would be necessary to combat terrorism.

This leads to the question of whether law enforcement authorities have suitable instruments, which, in light of the differences between classic money laundering and terrorism financing, can be used to effectively combat terrorist organizations and to address the fact that terrorist organizations are generating funds through illicit cross-border trafficking. Given that law enforcement authorities in the member states can only act at the national level, it is necessary for European institutions to demonstrate the political will for genuine cooperation. At present, they are not consistently pursuing opportunities to cooperate. The objective of all EU and member state institutions must be to eliminate terrorist organizations, effectively preventing their funding. Crime prevention must be linked to terrorism prevention in order to address all phases of the process in a consistent fashion.

What Needs to be Done?

Notwithstanding the important steps taken at both the international and the European level, the EU needs to not only identify shortcomings, specifically the phenomenon of convergence, but also to focus on mutual risk assessment.

The EU's Security Strategy must integrate proper measures dedicated to preventing terrorist organizations from obtaining funding, including all of the aforementioned aspects not adequately taken into account so far. To that end, it is essential that the EU and its member states implement a coordinated approach to evaluating the effectiveness and deficits of existing legislation, methods, and measures to prevent both the financing of terrorism and the convergence of terrorism and organized crime.

The United States could serve as a model for such an approach. The U.S. government has introduced coordinated measures to combat organized crime and terrorist groups in a larger, integrated context. These measures include extraterritorial jurisdiction, providing for effective cooperation between all institutions involved in cases of minor crimes and tax offenses. For the EU, it would make sense to adapt this U.S. approach, as well. The funding mechanisms of terrorist organizations are flexible and continuously adapting to a changing environment.

The EU member state governments, the Council, and the Commission must introduce a new legal toolbox to address the convergence of criminal activities of terrorist and extremist organizations that are located near but still outside of the borders of the EU. Secondly, more emphasis needs to be put on effective implementation.

emphasis needs to be put on effective implementation. It is essential to give adequate consideration to the fact that terrorism financing does not commence when assets are introduced into a financial market. Measures to prevent terrorism financing must be brought into force at an earlier stage. Specifically, there is a need to acknowledge the fact that both the act of generating assets via illicit activities and the transfer of such assets via the international financial system are essential elements of terrorism financing. These elements cannot be addressed as separate phenomenon.

What is Likely to be Achieved?

The recent events in Paris have highlighted the need for a coordinated approach to fight the roots of terrorism. Past experience has shown, however, that when internal and security responsibilities are further integrated at (or even fully transferred to) the EU level, then national governments' willingness to collaborate decreases significantly. Therefore, revision to the EU Security Strategy is likely to be the most powerful tool to achieve this goal in the coming years.

The plans to establish a European Counterterrorism Center under the aegis of Europol is as feasible as it is likely. This center would coordinate the competences already in place at EU agencies like Frontex. A template for such an organization is the German counterterrorism center established to link the efforts of federal and national state agencies. On the EU level, the resolution of the EU-Commission of April 2015 (COM 2015/185) concerning the European Counterterrorism Center would only be successful if all the resources and competences at hand are bundled together and elevated to the EU level. For the time being, it is at least questionable whether the aspects of terror financing and convergence are being sufficiently considered in these plans.

The EU must come to terms with the fact that it faces tremendous security threats. In order to establish an effective system for monitoring the illegal flow of funds, European and national stakeholders must agree on a common strategy and formulate concrete standards to be applied equally in all member states. In this regard, the following recommendations should be considered:

1. Revise the ESS, prioritizing the fight against organized crime as well as the fight against terrorist activities in Europe.
2. Identify investigations of terrorist/extremist organizations and their involvement in criminal activity as a top priority.

3. Strengthen legislation so as to permit EU prosecutions of extraterritorial activity as it affects the EU.
4. Develop a network of non-EU partners that can join in regional investigations and Joint Investigation Teams (JITs).
5. Strengthen JITs and create standing centers of prosecution for key areas of criminal activity.
6. Elevate the priority of JIT-supported cases in Europol and Eurojust.
7. Identify criminal activity facilitating terrorist networks (including revenue streams) and prioritize prosecutions of these criminal networks as a way to break and dissuade linkages with terrorists.

Revision of the EU Security Strategy provides an opportunity to lift EU security policy to a new level. This would represent a major, complex undertaking in light of the EU's low willingness to reform, however Europe's current challenges and threat perceptions deserve a serious response.

About the Authors

Jürgen Storbeck was the Founding Director and first Director of Europol. He is now a lecturer and strategic advisor to national and international Institutions.



Dr. Sebastian von Münchow is a Professor of Security Studies at the College of the George C. Marshall European Center for Security Studies.



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