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**EUROPEAN UNION'S ATTITUDE ON TERRORISM,
INTERGOVERNMENTAL OR SUPRANATIONAL**

Yüksek Lisans Tezi

OĞUZ SERİN

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ABSTRACT

Through an examination of the perspectives on terror of the EU itself and some of its member states individually this work poses the question of whether the EU in its battle with terrorism is operating on an intergovernmental or supranational level.

The *Al Qaeda* terrorist organisation has indelibly marked the opening years of the 21st century by adding a new international dimension to terror. Given the international nature of this new terror it is clear that states operating alone can no longer face the challenge. Instead the struggle calls for a level of cooperation and coordination unhindered by national borders or interests.

In becoming the power it is today the EU created the three-pillar system on which to base its institutions: economy, justice and home affairs, and security and foreign policy. It is the latter two which constitute the base from which the struggle against terror is to be coordinated and implemented, and yet, it is these two which have yet to move from the intergovernmental approach based on interstate negotiation and unanimous decision making, to the supranational approach of centralised majority decision making.

ÖZET

Avrupa Birliđinin ve üye devletlerin bazılarının ayrı ayrı terör üzerindeki bakış açılarının bir incelemesi olan bu çalışma, Avrupa Birliđi'nin terörizme karşı mücadelesini hükümetler arası seviyede mi yoksa supranasyonel seviyede mi sürdürmesi sorusuna açıklık getirmektedir.

El Kaide terör örgütü teröre uluslar arası yeni bir boyut ekleyerek, 21. yy.ın başlangıç yıllarına silinmez bir şekilde damga vurmuştur. Bu yeni terörün uluslar arası yapı kazanmasıyla, devletlerin artık daha fazla tek başına bu mücadeleye karşı koyamayacakları açıklık kazanmıştır. Bunun yerine bu mücadele için, ulusal sınırların veya çıkarların engellemediđi bir işbirliđi ve düzenleme gerekmektedir.

Avrupa Birliđi daha güçlü olabilmek için ekonomi, adalet ve içi işleri ve güvenlik ve dış politikadan oluşan üç ana sistem oluşturmuştur. Teröre karşı mücadeleyi düzenleyecek ve yürütecek olan ana yapıyı meydana getiren bu sistemlerden son iki sistemdir ve hali hazırda bu iki sistem devletlerarasında olan müzakere ve uyumlu karar alma görüşüne dayanan hükümetler arası yaklaşımdan supranasyonel, merkezi karar alma çoğunluđu yaklaşımına doğru geçiş yapmaktadır.

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ABBREVIATIONS

ATCSA:	Anti-Terrorism Crime and Security Act
ATU:	Anti-Terrorism Unit
CFSP:	Common Foreign and Security Policy
CIA:	Central Intelligence Agency
EC:	European Community
ECJ:	European Court of Justice
ECSC:	European Coal and Steel Community
EDC:	European Defence Community
EEC:	European Economic Community
EP:	European Parliament
EPC:	European Political Community
ESDP:	European Security and Defence Policy
ETA:	Euskadi Ta Askatasuna – Basque Fatherland and Freedom
EU:	European Union
EUROTOM:	European Atomic Energy Community
FARC:	Revolutionary Armed Forces of Colombia
FATAH:	the Movement for the National Liberation of Palestine
HR:	High Representative
IRA:	Irish Republican Army
JHA:	Justice and Home Affairs

NATO:	North Atlantic Treaty Organisation
PKK:	Kurdish Workers Party
QMV:	Qualified Majority Voting
SEA:	Single European Act
SIS:	Schengen Information System
UK:	United Kingdom
UN:	United Nations
URL:	Uniform Resource Locator
US:	United States of America
VIS:	Visa Information System
WEU:	Western European Union

I. INTRODUCTION

The European Union (EU) is the only world example of a community of states which have strong intergovernmental ties with each other. Relations between the nations have been shaped by the international bargaining process within the community. This began with the creation of the European Coal and Steel Community (ECSC) following WWII at a time when European states' concerns grew regarding economic and security matters. This attempt was developed in the following years and debates on a supranational structure began in the last decade of the 20th century. The ECSC developed itself during its policy making process and shaped the future of the Union. The collapse of the Eastern Bloc brought Europe face to face with new problems, one of which was the rise in terror attacks. With the acceleration of globalisation in the last decade of the 20th century, a global Europe found itself at the centre of international terrorism. The terrorism threat to the EU members was not state-based, but illegal and asymmetric enemy terrorism, which became capable of threatening any or all EU members. Faced with this situation, the intergovernmental process had to come into operation, and at times even appeared to resemble a supranational approach.

It is certainly true that within the Union there are differing views and interests in areas such as economy, foreign relations and home affairs and, accordingly, the members have developed strong political mechanisms to cope with these.

The main objective of this thesis is an analysis of the law making procedures and relations of both the EU itself and its individual member states and also to pose the question of whether they have a supranational or intergovernmental structure in their approach to terrorism. Thus, within the context of this study, I will explain the concept of terrorism and examine the European Union's political structure with respect to the struggle against terrorism.

This study not only deals with an explanation of terrorism and its components in Europe, but also attempts to research the impacts of major terrorist attacks on the political system of the EU. The European Union realised that terrorism was no longer a peripheral issue after the attacks of September 11 in the United States of America (US), prior to which EU members had never reached a consensus on issues such as security and home affairs. Following the attacks, the EU members' intergovernmental mechanism worked hard in support of the US, and this desire to support Western influence in the world prompted them to attempt the creation of common legislation in the struggle against terrorism. This legislation centred mainly on defining terrorism and terrorist organisations, and its main aim was a demonstration of solidarity with the US rather than the protection of Europe against fundamentalist terrorism. Within these parameters, this study is made up of four chapters, including introduction and conclusion.

Chapter II tries to clarify the concept of terrorism within the different views on terrorism. It looks at definitions and the historical evolution of terrorism through the last three hundred years. This is followed by an examination of the problem of creating a definition of terrorism from the viewpoints of the states and the various actors involved. Finally, counter terrorism measures and international conventions are discussed.

Chapter III constitutes the main body of the thesis and begins with an examination of the intergovernmental and supranational structures of European Union. Following this, the chapter continues with the examination of the political structure of the European Union and its historical evolution. The historical evolution of integration explains how the European Union was born and in which circumstances these two approaches have been applied. This is followed by a section in this chapter which elaborates on the evolution of the legislative and administration structure of the European Union. Here will be discussed the nature of the political structure of the European Union in the context of whether the requirements of supranationalism are applied to its operations.

Chapter IV is the second main body of this thesis. At the beginning of the chapter the political structure of the Union is discussed in relation to its security system and shared security mechanisms are explained. The European Union's and the each

member's attitude on terrorism is clearly explaining with the case events. The September 11 attacks proved to be a turning point in the Unions' decision making procedures on terrorism. These, and especially changes in its law making procedures, are defined clearly in this chapter. In supporting the US in the struggle against terrorism, EU members have been themselves forced to arrive at a common definition of terrorism and, while transatlantic relations have become closer, new problems and challenges have also arisen between the two sides. This chapter outlines some of the challenges, criticisms and points of view of each side in the fight against terrorism.

Chapter VI also deals with the terrorist attacks in Madrid, which constitute the largest terrorist attack in Europe to date. It also mentions the effects of terrorist attacks on the European Union and its members, and the intergovernmental solutions which have been put forward in the struggle against terrorism. Finally, it attempts to clarify the paradoxes of the European Union with regard to the concept of terrorism, which have been shaped mainly by the national interests of the member states. The European Union is faced with many new problems, especially with enlargement and its resultant difficulties for the creation of strong intergovernmental partnerships in decision making. By examining some cases of recent years this chapter also clearly outlines the weaknesses of EU politics as made visible in some dangerous national political decisions made regarding the cases examined.

II. TERRORISM

2.1. Definition and Evolution of Terrorism

Terrorism is not a new phenomenon and in fact has deep roots in history. “The terms ‘terrorism’ and ‘terrorist’ appear in the 1798 supplement of the Dictionnaire of Académie Française as *système régime de la terreur*”¹. Terrorism was also referred to at the time of French Revolution, in the period between March 1793 and July 1794. “According to a French Dictionary published in 1796, ‘terrorist’ became a term of abuse with criminal implications”². This first definition was created just after the French Revolution when some methods of the rebels were viewed as terrorist action.

Terrorism is not an easy subject to explain, and thus there have been problems with its definition throughout history. In much of the literature on the subject it is viewed as a kind of crime against central authority and/or civilians. We shall see in this chapter that commentary on the subject alters depending on the conditions of the time and/or the style of terrorist activity. Terrorism is asymmetric and shocking in character and irregular in structure, and it is this character and structure which render impossible the prediction of any attack.

¹ Laqueur, Walter (1980). *Terrorism*. p. 16. London: Sphere Books Ltd.

² *Ibid* p. 17.

2.1.1. History of Terrorism

Terrorism today may endanger civilian life more than strong regular armies. It is directly related to ‘intimidation’ of the central authority by political violence. It was a basic tool in struggles towards full independence in the 19th century, during which time as an approach it appeared to resemble a violent public rebellion. Many minorities in imperial Europe adopted this kind of violence against central authorities to gain their independence and/or liberty. “The Russian revolutionaries fought an autocratic government in 1878-1881...radical nationalist groups such as the Irish, Macedonians, Serbs and Armenians used terrorist methods in their struggle”.³

At the beginning of the 19th century, terrorist activities were individual in character and lacked any systematic organisation. “Systematic terrorism began in the second half of the nineteenth century and there were several distinct categories of it from the very beginning.”⁴

Armenian terrorism marks an important beginning of systematic terrorism. It began in the 1890s against Turkish authority but was short lived. It appeared again in 1918 in the form of the assassinations of some individual Turkish leaders. Armenian terrorist action emerged again in 1975 with the murder of Turkish ambassadors in Vienna and Paris, followed by the murder of the first secretary of the Turkish Embassy in Beirut. This shows that terrorism may have a permanent structure and may easily reshape itself given a lack or weakness in authority and/or the help of supportive states.

There is a common view in the 20th century that those terrorists who managed to win their struggle and establish independence for their minority went on to become national heroes. Joseph Stalin, president of the Soviet Union from 1922 until his death 1953, was accused of being a terrorist by the ex-government of Russia, and was a bank robber for the Bolsheviks in the two decades before the revolution. “And according to

³ *Ibid* p.22.

⁴ *Ibid* p.23.

some accounts, there were many professional criminals within the Communist Party”.⁵ Another example is Yasser Arafat, the co-founder of the Movement for the National Liberation of Palestine (FATAH) in 1950, who went on to become a hero and then President of Palestine. Developments such as these encouraged terrorist organisations and their supporters in their use of terrorism as a weapon.

The aim of terrorist actions during the middle years of the 20th century was quite different from the 19th century. Terrorist movements in the 1800s had sought independence from colonial powers. However, this changed after the last colonial power, France, was defeated first in Vietnam and then in Algeria in the 1950-60s. The end of anti-colonial wars in these years led to changes in the aim and character of terrorism. With the deepening rivalry between the Eastern and Western blocs, the Third World, composed of poor undeveloped countries, developed self identities. Young university intellectuals in these third world countries developed national and/or socialist ideologies in opposition to western influence and national dictators. “The inspiration came from Latin America, for Fidel Castro’s triumph in Cuba had impressed everyone; he had shown how a small band of guerrillas could overthrow the regular army of a dictator”.⁶

It is clear that terrorism is a kind of violence but the definition of terrorism has changed over the years. Definitions at the beginning of 20th century were quite different from those of the 1970s and today. Hardman’s definition in 1936 was as follows: “Terrorism is a method of combat in the struggle between social groups and forces rather than individuals, and it may take place in any social order”.⁷ This definition emphasised the 1930s approach to terrorism, namely as a tool employed by social groups to prove their superiority against central authority.

⁵ Nyquist, J. R. (1999). Organized crime and Russian politics, Worldnetdaily Exclusive Commentary, Retrieved: 15 October 2004. [WWW document].

URL: http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=19754

⁶ Dobson C. and Payne R. (1982). *The Terrorists*, p.19 New York, 1982.

⁷ Hardman, (1936). Definitions. In: Thracrah R. J. (Ed.) *Dictionary of Terrorism*. p.68. New York: Routledge.

However, Mallin's definition in 1971 takes a different point of view. This definition pointed to systematic guerilla warfare against national central authority, and it is clear that Mallin was examining the cases of the 1960s.

"The basis of terror tactics is the threat; and terrorism is a form of guerrilla warfare. The basic tactic for guerrilla warfare is to hit and run and hide, hit, run, hide. Guerrillas conceal themselves in mountains or rural areas; and terror tactics are employed in urban areas as well."⁸

2.1.2. Terrorism in the 21st Century

The last important period is the 21st century. Halliday's definition of terrorism in 2001 reflects today's view. "Terror is the use of violence against civilians, by opposition forces either within a domestic context or internationally".⁹ As we have seen, *Al Qaeda* attacks civilians and their message is clear: 'we can hit anyone anywhere'.

Some important factors have changed the structure and methods of terrorism in recent years, the first being developments in military and computer technology. These have brought pressure to bear on terrorist organisations and guerrilla warfare and mean that this traditional kind of struggle has become unsuccessful for terrorist organisations. Developed and developing countries are in a position whereby they may use satellite technology and thus easily ban these groups. This has led to changes in the tactics, tools and targets of terrorists. Today's powerful terrorist organisations mainly operate as a cell system, which is more secure than the guerrilla structure.

Another important factor in the changes is the sensitivity of public opinion in western democracies. Freedom of the press in the West has become a propaganda tool for these organised terrorist groups. Terrorist acts become headline news stories and thus the terrorist organisations can easily achieve their target in society: the greater the numbers affected, the closer the organisation is to achieving its goal. "The most significant characteristic of terror is that it chooses the target randomly, and this random

⁸ *Ibid.* p. 69.

⁹ *Ibid.* p. 70.

determination of victim causes the fear they try to achieve on the individuals in greater impacts.”¹⁰ With the new structure of terrorism, terrorist organisations are becoming more professional and becoming a ‘pressure sector’ on both political and governmental authorities.

Terrorist incidents increased both in violence and intensity in the period following the 1970s and it was in those years that today’s terrorism tactics were created. Terrorists began using large-scale bombings against targets. At the end of the 20th century, terrorist organisations usually selected symbolic targets of governmental and public interest. They realised that their success went hand in hand with the numbers of deaths and injures. They continued to perform their acts to minimise their losses in the struggle, and the public continued to put pressure on governments to solve this problem. This kind of terrorist approach continued for about 30 years and one of the most dangerous global terrorist organisations, *Al Qaeda*, achieved its ultimate target on 11 March 2004, three days prior to the Spanish National Election. *Al Qaeda* gave the reason for the attack as Spanish participation in the US-led invasion of Iraq. The then Prime Minister, Aznar, who had supported the US in the Iraq invasion, lost in the election, despite his party being ahead in the electoral campaign just days prior to the bombings. This case was noted by the authorities as the first important political success of a terrorist organisation at the beginning of 21st century.

2.2. Problems in Defining Terrorism

Despite problems in defining terrorism, one issue is clear: most terrorist activities have political and/or ideological aims. Terrorism appears to be judged in political rather than criminal terms in the world community. The lack of a common definition of terrorism retards the development of international cooperation in the struggle against it. “Political difficulties cannot usefully be denied or evaded by the elementary expedient of treating all candidate terrorist activity simply as the commission of criminal acts”.¹¹

¹⁰ Laqueur, *op. cit.*, p. 17.

¹¹ Colin S. Gray (1993). *Combating Terrorism. Parameters*. Autumn 1993, p. 19. Retrieved: 10 July 2004.

The unwillingness of political interests makes the definition of terrorism even more difficult.

“Terrorism is not, as is frequently believed, a subspecies of guerrilla warfare and its political function today is also altogether different; the difference between guerrilla and terrorism is not one of semantics but of quality.”¹²

Today, terrorism is defined in different ways all over the world. Europeans see terrorism as a problem to be resolved politically, while Americans think it may be resolved by military means.

Professor Zhao has argued for a universal definition of terrorism which would emphasise more the political aims and targets of terrorism and less the subjects of terrorism and their methods. He has called for a resolution to the problem of a common definition of terrorism, and the so-called ‘double standard’ in determining what constitutes international terrorism.¹³

In addition to the lack of consensus on definition, regional definitions of terrorism were commonly used in the 20th century. “The way states, organisations or integrated structures such as the EU define terrorism and the concept related to it displays how they perceive the threat and what measures they would take to eliminate it”.¹⁴ The points of view in defining terrorism became a fatal issue for the victims of terrorists.

Professor Liu Hua of the Shanghai Academy of Social Sciences has pointed out that “the current international and regional conventions against terrorism include over one hundred different legal definitions of terrorism and the lack of a comprehensive

World Wide Web: URL. <http://carlisle-www.army.mil/usawc/parameters/1993/gray.htm>

¹² Laqueur, *op. cit.*, p. 15.

¹³ Shanghai Academy of Social Sciences, International Conference on International Terrorism and Counter-Terrorism Cooperation, No. 2002-1114-SAS, Retrieved: 15 September 2004. [WWW document]. URL.

<http://www.icasinc.org/lectures/sass/sass.html>

¹⁴ Laqueur, *op. cit.*, p. 16.

definition of the problem clearly impedes further development of international anti-terrorism cooperation".¹⁵

The perspectives on terrorism of the West and the Third World are quite different, so the definition and the precautions against terrorism become problematic issues.

“Academically, terrorism is categorized according to the parties involved, as follows: terrorism directed by a state against another state; terrorism directed by the state against its citizens; terrorism directed by an individual against another; and terrorism directed by an individual against the state.”¹⁶

Today’s Western perspective on terrorism was shaped by the Cold War era. Terrorism is seen as a threat to world security and as something created by sub-state actors using violence for political ends, reinforced with financial, political and logistic support. These supports were used mainly in the Cold War era, both by the West and the Eastern Bloc, with each side accusing the other of helping terrorist organisations. Western countries accused the Soviet Union and its allies Iran, Libya, Syria, Iraq, Sudan, North Korea and Cuba¹⁷ in the Cold War era of being sponsors of terrorism.

The Third World has a different view of the term terrorism and the reasons for its occurrence. They claim that “the real terrorism threatening world security is both Western terrorism in the name of the status quo”¹⁸ and “the Western supported state-terrorism in the Third World.”¹⁹

¹⁵ Shanghai Academy of Social Sciences, *op. cit.*

¹⁶ Thracrah R. J. (2004). *Dictionary of Terrorism*. p. 68. New York: Routledge.

¹⁷ For representative examples of Western perspectives in two different eras, see Laquer *op. cit.*, and Simon and Benjamin. *op. cit.*, pp. 61-65. In Yazğan, Şükrü (2002). *Terrorism and the International System*. Marmara Üniversitesi, Sosyal Bilimler Enstitüsü, Yayınlanmamış Yüksek Lisans Tezi.

¹⁸ According to Third World perspectives, the real terrorism is the *maximal* violence of status quo powers (that is characterized by colonial subjugation, exploitation and humiliation), which created the *feeble* counter violence of the colonial areas. The Western perspective on terrorism is qualified as obfuscations of ideological thinking. For a consideration of Third World perspective, see Opuku Agyeman. "Terrorism: A Non-Western View", *Monthly Review* Vol. 39 May 1987, pp. -13-54.

It is claimed that the West by manipulation of political language has concealed its reliance on terrorism.

At the same time, there are also some problems within the Western perspective with regard to the issues of definition and precaution in their internal affairs. European states aim at protecting the individual and individual rights and freedoms' within their definition of terror. "The Union views terrorism as mainly a police problem, not a military problem as Americans do, and the response to increased terrorism in the Union is to increase European cooperation."²⁰ Accordingly, in order to solve the problem of a definition of terrorism in a common legitimate way, the definition and the precautions need to be reshaped within a true community of political values.

2.3. Counter Terrorism and International Conventions

International regulations generally define terrorism with the concepts of different kinds of violence. While many definitions have been made regarding terror, in the international arena no common concept has been determined for 'terrorists' and terrorist

Richard Falk states:

High-tech weaponry and tactics are not classified by the media as being terrorist, even when used against refugee camps or when women and children are the victims. Typical First World tactics are to send planes or rely on naval artillery or missiles to inflict pain and devastation in an extension of one-sided wars of the colonial and pre-colonial eras. In the postcolonial era the use of planes and ships to terrorize Third world adversaries is standard practice and underscores a kind of one sidedness.

in "A Program from the Left: Thinking, About Terrorism". The Nation, Vol. 242, June 26.1986, p. 877.

In:

Yazgan, Şükrü (2002). "Terrorism and International System". Marmara Üniversitesi, Sosyal Bilimler Enstitüsü, Yayınlanmamış Yüksek Lisans Tezi.

¹⁹ For state-terrorism supported by US, see Noam Chomsky. "Uluslararası Terörizm: Görüngü ve Gerçek" in Temel Demirer (Ed.), *Terör.Ne? Terorist Kim?*, Ankara:Ütopya Yayınevi, 1999, pp. 11-46. In: Yazgan, Şükrü (2002). "Terrorism and International System". Marmara Üniversitesi, Sosyal Bilimler Enstitüsü, Yayınlanmamış Yüksek Lisans Tezi.

²⁰ LaPorte, Erin (2003) *The marriage of Venus and Mars: Europe and America - a new relationship against terrorism*, Retrieved: 14 May 2004. [WWW document]. URL.

<http://transatlantic.security.pronato.com/EU.terrorism2.htm>

organisations during the 20th century. The problem centres on the concept of terrorist, because it is a subject of law and may change from one country to another, as mentioned in the previous chapter. In the light of the definition problem, counter terrorism needs a multinational institution and worldwide conventions.

The fight against terrorism became a deadly issue following the events of September 11 2001. However, the concept of a fight against terrorism is not new for states and international organisations.

“International regulations are the documents which accept the ‘terrorist act’ as a given without referring, a priori, to any definition of the concepts ‘terrorist, terrorism and terrorist organization’ and which call upon the states to collaborate in fighting this act. In essence, Article 51 of Chapter VII of the UN Charter condemns armed aggression but this does not cover terror explicitly. The first such document is the 1937 Geneva Convention on the Suppression and Prevention of Terrorism. According to this Convention, terror encompasses ‘All criminal acts directed against a state and intended or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public’.”²¹

There have been many conventions on counter-terrorism adopted by United Nations (UN). However, the process of measures against terrorism began with the protection of ‘internationally protected persons’ in 1973 on the basis of a UN convention.

1. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.

This is the first multilateral agreement against systematic terror organisations in the 1970s. As mentioned in the first chapter, terrorist activities of the time targeted diplomats and protected bureaucrats. One important example of this was Armenian terrorism in the Europe directed at Turkish diplomats. The main aim of this convention is to deal with these ‘kinds of crimes’, whose aim is to harm or demolish these protected

²¹ Merari, Ariel (1993). ‘Terrorism as a Strategy of Insurgency, Terrorism and Political Violence 5/4. In: Dedeoğlu, Beril (2003). Bermuda Triangle: Comparing Official Definitions of Terrorist Activity. *Terrorism and Political Violence*, (Vol. 15, No. 3) p.83.

persons (in article 1, the protected persons were defined). This convention considers crimes against diplomatic agents and other internationally protected persons a multinational agenda and allows measures to be taken by the signatories (this convention came into force on 20 February 1977).

Article 2.

“1. The intentional commission of:

- (a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;
- (b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;
- (c) a threat to commit any such attack;
- (d) an attempt to commit any such attack; and
- (e) an act constituting participation as an accomplice in any such attack; shall be made by each State Party a crime under its internal law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Paragraphs 1 and 2 of this article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.”²²

As we see here, in article 2 the possible acts were designated. However, there is something missing: neither the word terrorism nor a definition of this word appears in the convention. The importance of this convention is that it was a first attempt, which still shapes today’s definition of terrorism, to protect the small part of society. Another important step was taken in the article 3, in which each state was allowed to take measures and establish its jurisdiction over the crimes set forth in article 2.

²² United Nations Treaty Collection Conventions on Terrorism, Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973, See whole of the convention in, United Nations, *Treaty Series*, vol. 1035, I-15410, p.169.

2. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.

The second international convention against terrorism was prepared in 1979, and the term 'international terrorism' was first used in this convention by the Charter of the UN. It was aimed at maintenance of international peace and security with coordinated friendly relations among the members. The crisis in the Middle East between Israel and Arab communities and the effect of the Cold War on this region created new kinds of terrorist activities, with the taking of hostages and plane hijacking being two new methods of Middle East based terrorist organisations in 1970s. Meanwhile, the UN realised the necessity for international cooperation between states in the prevention, prosecution and punishment of these acts.

Article 1.

“1. Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "hostage") in order to compel a third party, namely, a State, an international intergovernmental organisation, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages ("hostagetaking") within the meaning of this Convention.

2. Any person who:

- (a) Attempts to commit an act of hostage-taking, or
- (b) Participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking likewise commits an offence for the purposes of this Convention.”²³

The UN adopted this convention in line with developments in the 1970s, and in article 12 referred to the fact that the Geneva Convention of 1949 did not apply to an act of hostage-taking. The International Convention against the Taking of Hostages came into force on 3 June 1983.

3. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

²³ United Nations Treaty Series Report No.21931. Retrieved: 11 July 2004. World Wide Web: URL. <http://untreaty.un.org/English/Terrorism/Conv5.pdf>

This convention also mentioned the new era of terrorism immediately following the collapse of the Eastern Bloc. The development of technology in explosives and the surplus of weapons in Eastern Europe strengthened terrorist organisations, meaning that terrorism became a fundamental problem of Western countries rather than non-democratic, less developed countries. As the numbers of civilian casualties increased in terrorist attacks of the 1990s the 1997 convention mainly addressed the issue of civil protection. The terms ‘terrorist’ and ‘terrorism’ were mainly used in this charter and terrorist offences detailed in this convention.

4. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.

Based on the realisation that ‘the number and seriousness of acts of international terrorism depend on the financing that terrorists may obtain’ the United Nations prepared this convention to prevent the financing of terrorism, at the same time also speaking of the insufficiency of existing multilateral agreements in preventing the financing of terrorist activity. This Convention was proposed as a complement to existing counterterrorism conventions. However, it was mentioned in the preamble that the existing counterterrorism conventions did not expressly address the comprehensive financing of terrorism. This is the first international convention aiming at preventing the financing of terrorism in multinational order. With this convention, The UN wished to enhance cooperation among member states in devising and adopting effective legal measures for the prevention of financing of terrorism.

Article 1 of the convention broadly explained the meaning of ‘funds, a state or governmental facility, and proceeds’.²⁴ With the clarification of the terms in article 1,

²⁴ “The Convention explained the terms in the following manner to shape their official meaning: 1. Funds means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit. 2. A State or governmental facility means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State

the act of terrorist financing was clearly explained in Article 2. Article 2, in reference to article 1, defines clearly who commits the offences as set out in the definition of ‘fund’.

Article 2

“1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

2. (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;

(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.

3. For an act to constitute an offence set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph 1, subparagraphs (a) or (b).

4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

5. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;

or any other public authority or entity or by employees or officials of an intergovernmental organisation in connection with their official duties. 3. Proceeds means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2”. See; Krieken P. J. V. (2002). *Terrorism and the International Legal Order*, The Hague: Cambridge University Press, p. 281.

(c) Contributes to the commission of one or more offences as set forth in paragraphs 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

- (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or
- (ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.”²⁵

Also in article 7, the Convention clearly explained the measures to be taken in preventing the perpetrators from evading criminal procedures with the new legislation. The Convention obliges the contracting parties to establish a jurisdiction for perpetrators of the offences set forth in article 2.

Article 7

“1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

- (a) The offence is committed in the territory of that State;
- (b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed;
- (c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

- (a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State;
- (b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State;
- (c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act;
- (d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State;

²⁵ United Nations Treaty Series, *International Convention for the Suppression of the Financing of Terrorism*

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law".²⁶

The other articles of the convention also refer to punishment of perpetrators. The UN made proactive efforts toward the eradication of terrorism, an important and complex problem for the international community. This convention was ratified by countries such as the United Kingdom (UK), Sri Lanka, Botswana and Uzbekistan and 67 others, including the G8, signed it in 2001.²⁷ Other UN members, however, did not feel the need to sign the convention in that year.

²⁶ Japanese Ministry of Foreign Affairs' Official web site. *Signing of the "International Convention for the Suppression of the Financing of Terrorism"*. World Wide Web: URL.

<http://www.mofa.go.jp/announce/announce/2001/10/1031.html>

²⁷ *Ibid.*

III. INTERGOVERNMENTAL AND SUPRANATIONAL APPROACHES IN THE EUROPEAN UNION

I shall discuss two theories which explain the European integration process, one of which relates the evolution of European integration as intergovernmental, and the other as supranational. Debates centred on these reshaped integration debates in the 1970s. An understanding of these two theories within the context of the historical development of Europe will help to answer questions about the common structure of today's EU policy.

3.1. The Intergovernmental Approach

The European Community was created as a result of the destructive effect of WWII on Europe. In their approach to international relations, interdependence rather than independence became the main policy of the individual states. The concept of sovereignty began to be discussed and the traditional concept of allegiance based on a *sui generis* contract was broken. Europe's journey towards interdependence began with the ECSC, and moved forward with the unpredicted economic developments and oil price shocks of the 1970s. The well-founded structure of the EC increased the interstate bargaining power and numbers of multinational corporations. It was during these years also that the 'nation state' structure began to become outdated with the erosion of the 'Westphalian',²⁸ notion of sovereignty.²⁹ Developments in the history of Europe, from

²⁸ "The Westphalian nation state order makes a distinction between domestic political spheres characterised by institutional density, hierarchical relationships, shared interests, and strong collective identities, and an international political sphere characterised by a lack of strong institutions, few rules, conflicting interests, and conflicting identities." In: March James G. and Olsen Johan P. (1998). The

the ECSC and the EC brought this interdependence along the road to intergovernmentalism.

Moravcsik, the developer of the liberal intergovernmentalist approach to European integration, created a new dimension to debates on the nation-states of EU and their future. Although it seems paradoxical, he claimed that “the processes of intergovernmental bargaining at the European level also strengthen states *vis-à-vis* their home politics”.³⁰ Furthermore, despite the widespread belief that European nation-states are becoming weaker, they are, in fact, becoming more powerful through the liberal intergovernmental bargaining processes of the EC. What Moravcsik focused on is the survival of nation-states through the bargaining process. According to Moravcsik, the EC created a successful intergovernmental regime which had the ability to manage economic interdependence through skilfully negotiated policy co-ordination.³¹ “Negotiated issues are the process of collective choices with conflicting interests and reconciliation. Intergovernmentalist theory seeks to analyse the EC as result of strategies pursued by rational governments acting on the basis of their preferences and power”.³²

The EC developed a series of successful bargains from the time of the signing of the treaty of Rome until the treaty of Maastricht, all of which put on the agenda the pursuit of the intergovernmental approach within the member states.

Institutional Dynamics of International Political Orders. *Arena Working Papers* (98/5). Retrieved: 19 March 2005. World Wide Web: URL. http://www.arena.uio.no/publications/wp98_5.htm

²⁹ See, Plattner, Marc F. (2003). Sovereignty and Democracy. *Policy Review Online*. Retrieved: 22 March 2005. World Wide Web: URL. <http://www.policyreview.org/dec03/plattner.html>

³⁰ Rosamond, Ben (1999). *Theories of European integration*. p: 138. London: Macmillan Press Ltd.

³¹ “Refinements and extensions of existing theories of foreign economic policy, intergovernmental negotiation, and international regimes provide a plausible and general explanation of its evolution. Such theories rest on the assumption that state behaviour reflects the rational actions of governments constrained at home by domestic societal pressures and abroad by their strategic environment. An understanding of the preferences and power of its Member States is a logical starting point for analysis. Although the EC is unique institution, it does not require a *sui generis* theory”. See, Moravcsik, A. (1993). Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach, *Journal of Common Market Studies*, (vol. 31, No. 4), December 1993, p. 474.

³² *Ibid.*

However, with the Treaty on European Union in 1992 (commonly known as the Maastricht Treaty) the European Community developed and changed her construction. The member states were introduced to the three pillar system which consisted of the following: European Economic Community, Common Foreign and Security Policy (CFSP), and Justice and Home Affairs (JHA).

By delivering into the hands of EU symbols of sovereignty such as national currency, national economy, national frontiers and others on the way to integration, the nation-states of Europe underwent a significant loss of sovereignty. Those afraid of European integration also fear the possibility of creating a common European identity superior to their own national identities. Therefore, they claim that as citizens will not need their states, they will lose their national identities and thus there will be no need for nation-states any more.

Briefly, intergovernmentalism grants individual states the opportunity to act if national and multinational interests are equally balanced. If state A does not want to act in accordance with state B's wishes, then none of the states in the community will act as B wishes. Thus, each member has the right to act in its own interests. Administration is under the control of individual member states. Intergovernmentalists wish the Commission and Parliament to have a less dominant role, with Britain and France especially desirous of control in joint projects through their national governments. They also wish to keep the Commission as an executive body only, whose legitimacy is to be kept in the hands of national elected representatives. "The Parliament would become a legislative body passing measures, scrutinising their execution and perhaps in a second, regionally-based chamber enforcing subsidiary, along with national parliaments."³³ In addition, it seems that intergovernmentalism claims that the elected representatives must be the last authority on democratic values rather than the legitimacy of unelected Commission bureaucrats. They further support the strengthening of parliament and improvements being made in its legitimacy. However EU enlargement policy could negatively affect intergovernmentalism, which operates with a unanimity voting system.

³³ Ash, Thomas (2002). *The EU's Future: The Federalism/Intergovernmentalism Debate*.

Retrieved: 14 May 2005. [WWW document]. URL. <http://www.bigissueground.com/politics/ash-eufuture.shtml>

EU institutions have a ‘two-level game’ structure. With this structure national governments’ resistance is being broken on the wheel of international relations and comparative politics. “National governments employ EU institutions as part of a ‘two level’ strategy with the aim of permitting them to overcome domestic opposition more successfully”.³⁴ We must refer here to Robert Putnam’s influential idea of two level games. According to Putnam’s definition, “The structure fulfils this function in two ways: by according governmental policy initiatives greater domestic political legitimacy and by granting them greater domestic agenda-setting power”.³⁵ The main idea of two level games is an attempt to create a connection with domestic politics and international relations. The nation-states as the means of European integration will not dissolve, because in this intergovernmental bargaining they are responding to the interests of their public via the actions of domestic pressure groups. In this mechanism, firstly the domestic groups make their voices heard by their government at the national level, and secondly the governments go into negotiation, bargaining at the intergovernmental level. At the intergovernmental level the nation-states will be strong and ready to bargain within the union. Therefore according to Rosamond, “this provides one possible answer to the ongoing puzzle of why states should agree to processes that would ultimately make them less autonomous”.³⁶

“As compared to other domestic groups, chief executives and cabinet ministers often enjoy privileged access to political and technical information concerning international negotiations. Where supranational actors can mobilize influential domestic societal actors by selectively providing information to them, their power may be enhanced.”³⁷

³⁴ Putnam R. D. (1998) ‘Diplomacy and Domestic Politics’. *International Organisation*, (Vol.42), pp. 427-61. In: Moravcsik Andrew (1995). *Liberal Intergovernmentalism and Integration: A Rejoinder*, Blackwell Publishers Ltd., p. 621.

³⁵ *Ibid.*

³⁶ Lieshout, R. S. (1998). De Gaulle, Moravcsik, and The Choice for Europe: Soft Sources, Weak Evidence. *Journal of Cold War Studies* – Vol. 6, (4, Fall 2004) p. 98.

³⁷ Moravcsik, Andrew (1994). Why European Community Strengthens the State: International Cooperation and Domestic Politics. *Center for European Studies Working Paper Series (No. 52)*. Cambridge: MA Harvard University.

According to the organisational structure of the European Union, both intergovernmental and supranational systems have been using within the community. In fact these two theories are not two opposite sides but they are a system value which protects more the national benefits, or the European (European Union) benefits of the members. The structure of intergovernmentalism is shaped on a method of decision-making that uses unanimity voting on decisions. In this structure the power is possessed by the member-states and “independent appointees of the governments or elected representatives have solely advisory or implementation functions”³⁸, a structure also employed by many international organisations today.

From the opponents of EU integration or nationalist movements, we know that the components of European integration are at the same time the losses of nation-states in terms of their sovereignty and autonomy. Intergovernmentalism has mainly been favoured by France, Britain and Denmark, whose national interests have been shaped differently from the other members, although, as we can see in figure 4, public opinion in Britain and Denmark is less supportive than the Union average on the issue of single common foreign policy of the union. With the lack of desire among some members for a common foreign and security policy, the EU is mainly using the intergovernmental approach on foreign and security policy.

3.2. The Supranational Approach

An alternative method of decision-making in international organisations is supranationalism. Supranationalism, as a model, is primarily suited to the EU, and indeed such a system is not in operation anywhere else in the world today. According to Møller, the EU is too far removed from the ‘Westphalian model’, but is also too far from a ‘pluralistic secure community’ to be examined.³⁹

³⁸ European Union (28 March 2004). *Dictionary Laborlaw talk*. [WWW document]. URL. http://encyclopedia.laborlawtalk.com/European_Union

³⁹ Møller, Bjørn (2000). *Security Cooperation in Southern Africa: Lessons From the European Experience (NATO, EU, OSCE)*, Copenhagen Peace Research Institute. Retrieved: 22 April 2004, from CIAO on World Wide Web: URL. www.ciaonet.org/wps/mob10/

As explained above, during the evolution of the European Union, supranationalism is a process which has developed within the years of interconnection. Unlike intergovernmentalism, supranationalism has some basic requirements. The first requirement is the need for representative administration. Supranationalism requires that political power be held by elected representatives. It also demands that even if the national governments have less power both at the legitimacy and execution stages, European interests will remain protected. It is clear that its' first requirement, an Assembly (or today's Parliament), is one of the most effective institutions holding political control. The power of the Assembly over the High Authority, gives political and administrative rather than symbolic power to the Assembly. The second requirement of supranationalism is a majority voting system. This accelerates the passing of laws and other common benefits. The legislative procedure of supranationalism allows integration to proceed at a faster speed than would otherwise be possible, as one of its requirements is that decisions must be made by through majority voting (Qualified majority voting (QMV) is the system generally in use, but simple majority voting may also be used). The third requirement of supranationalism is the pooling of sovereignty. EU institutions delegate and pool sovereignty from national governments: "Sovereignty is pooled when governments decide future matters by voting procedures other than unanimity"⁴⁰ With the pooling of sovereignty, single member states may not veto decisions made concerning legal proposals. "Sovereignty is delegated when supranational actors are permitted to take certain autonomous decisions, without an intervening vote or unilateral veto".⁴¹ With sovereignty being delegated the credibility of the agreements increases. Accordingly, it prevents potential deadlock in the decision making mechanism. The EU uses the functions of international institutions.

All these requirements constituted the main structure of supranationalism. The ECSC was the first serious effort by Europeans to reach a supranational structure and unify Europe. The success of this community encouraged members to move on, leading to many more new developments over the next forty years.

⁴⁰ Moravcsik, Andrew (1998). *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, Ithaca, NY: Cornell University Press. p. 67.

⁴¹ *Ibid.*

National governments mainly avoid delegating their political power to the EU, but, in some cases, “National governments sometimes support the delegate or pool sovereignty in order to enhance the credibility of governmental commitments vis-à-vis domestic and international pressures under conditions of uncertainty.”⁴² Accordingly, national governments do not completely lose power with respect to legitimacy. Thus national governments wish to hold the power with a high decision making authority.

European Council is the fundamental decision making authority which ratify or rejects the proposals. The head of states are the members of the Council and all members have the single vote right. As a structure the Council has to accommodate two EU theories, intergovernmentalism and supranationalism. In order to talk about supranationalism we require a decision enforcement system. EU decisions are taking over from national governments. National Governments, even if they do not like or approve of the EU decisions, have to obey them. This enforcement system also controls the delegation process and pooling of sovereignty

The supranational instrument of delegating and pooling sovereignty could be seen in some areas. Today the European Community’s common market is a good example of the pooling and delegating of sovereignty. The obligations of the Community legislation have a conjunctive property so that no one state may break the common rules of Community legislation. There must also be an enforcement mechanism and a justice authority to control the execution of the treaty rules. This mechanism is the core of supranational structures such as the European Commission and the European Court of Justice (ECJ). The European Commission has an executive role within the EU and one of its main obligations is to propose and implement legislation. It also protects the treaties which provide the legal basis for the EU. The number of Commissioners is equal to the number of members (currently 25) and their independent approach allows them to act in the interests of EU citizens, the Union and its future. The two institutions (European Commission and ECJ) have a direct influence on the execution of EU treaties. The Commission has the right to impose infringement proceedings through the ECJ against member states. The ECJ is

⁴² Moravcsik, A. (1995). *Liberal Intergovernmentalism and Integration: A Rejoinder*. Blackwell Publishers Ltd., p. 621.

the supreme court of the EU, and adjudicates on matters of interpretation of European law. At the same time member states may apply to the ECJ when they feel the European Commission has exceeded its authority. The main duty of the Commission and the Court is ensuring individual members' enforcement of and compliance with EC law. Thus, these two institutions play a role of significant importance in the execution of a supranational structure.

If we examine the structure of EU institutions in the light of supranational theory, we see that the institutions strengthen the power of governments in two ways. First, they increase the efficiency of interstate bargaining through the existence of a common negotiating forum, decision-making procedures, and monitoring of compliance by reducing the cost of identifying, making and keeping agreements. Secondly, EU institutions strengthen the autonomy of national political leaders' vis-à-vis particularistic social groups within their internal polity.⁴³ With the strengthening of national political leaders, the EU structures a 'two level game': to strengthen the legitimacy of common policies and to obstruct nationalists' responses in opposition to the supranational construction. However, member states may sometimes consider their national interests and this could create risks politically for all EU institutions. EU institutions increase the effectiveness of bargaining by developing and strengthening relations with transaction-cost reducing rules.

The supranational debate is shaped mainly by shared conceptions of national identity. The European identity challenge seems the real reason for the supranational debate in the European polity. The development of supranationalism depends on the rise of well-ensconced national identities within the individual member states. At the same time, the creation of a common foreign and security policy is a process being undertaken in an effort to defend EU common values and create a European identity both in legitimacy and execution. However, the lack of formal agreements and treaties in foreign and security policy and home affairs is obstructive to the building of a supranational structure in these areas of concern to the European Union.

⁴³ Moravcsik, Andrew (1992). Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach.. *Journal of Common Market Studies*, p. 507.

The Convention on the Future of Europe was ratified in March 2002 and was the final act in this process towards a federal system. The needs of the system were discussed and in May 2004 agreement was reached on a Constitutional Treaty. This has already been voted on through referenda and/or parliamentary voting in all member states. The negative results of the French and Dutch referenda are directly related to the intergovernmentalists' and supranationalists' debate.

Authorities opposed to supranationalism argue that it poses a threat to national sovereignty and democracy. They also claim that only national governments should have the right to possess democratic legitimacy. The European Union has been using both of these two approaches and in some areas as a structure supranationalism has been using. The balance between the two approaches has been directly affected with the evolution of European unification. The enlargement and the other external developments in the Europe have strengthened the supranationalist approach.

3.3. Historical Evolution of European Integration

The European Union is a perfect example of institutional cooperation in the world of political systems. It was a world project that unites most of the continent today. "The word 'project' is an accurate description, as its first architects intended that, what the Treaty of Rome called 'an ever closer union', would develop from the foundations they laid down".⁴⁴ Throughout its history, there have been many attempts made to unify Europe under a sole administration. The Mediterranean-centred Roman Empire and then the Frankish Empire of Charlemagne and the Holy Roman Empire are past examples of the united administration of Europe. The first proposal for peaceful methods of unifying Europe was created just after the fall of Constantinople to the Turks in 1453. The powers of continental Europe under the leadership of George of Podebrady, a Hussite

⁴⁴ Ash, Thomas (2002). *op. cit.*

king of Bohemia, proposed the creation of a union of Christian nations to struggle against the Turks in 1464.⁴⁵

Attempts to create a united Europe developed over hundreds of years. Napoleon Bonaparte's Continental system (the primitive supranational economic system) in opposition to British goods in 19th century is another important development in the history of Europe. The Congress of Vienna and the formation of the German Confederation changed European politics in a similar manner to the Holy Roman Empire. WWI and the peace following its end created the 'idea of a politically unified Europe'. The rise of fascism and WWII carried Europe to a new unification method under German administration, which would have a single currency, a central bank in Berlin, a regional principle, a labour policy and economic and trading agreements.⁴⁶

With the defeat of Nazism in Europe and the end of WWII, Europe needed to be reconstructed. One year after the peace, Winston Churchill gave a speech calling for a 'United States of Europe'.⁴⁷ He was not the first person to speak of a United Europe, but he was 'the right person at the right time'. In 1949 the Council of Europe was created to deal with the issue of human rights.

In 18 April 1951, the European Coal and Steel Community (ECSC), was established with the signing of Paris Treaty by six founding members, namely Belgium, the Netherlands, Luxembourg, West Germany, France and Italy to share coal and steel revenues, to reconstruct their countries and also to prevent a possible European war in the future.

The idea of the ECSC was developed by a French civil servant, Jean Monnet, and proclaimed by the French foreign minister Robert Schuman. The 'European project' started with the Schumann Declaration on 9 May 1950, which led to the creation of the European Coal and Steel Community;

⁴⁵ History of European Union (18 July 2004). *Encyclopedia Laborlawtalk*. World Wide Web. (WWW document). URL. http://encyclopedia.laborlawtalk.com/History_of_the_European_Union

⁴⁶ *Ibid.*

⁴⁷ Landwehr, Dominik (22 June 2004). Speech by Sir Winston Churchill, Zurich, 19 September 1946. (WWW document). URL. <http://www.peshawar.ch/varia/winston.htm>

“World peace cannot be safeguarded without the making of creative efforts proportionate to the dangers which threaten it. (...) Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity. The coming together of the nations of Europe requires the elimination of the age-old opposition of France and Germany. (...) The pooling of coal and steel production should immediately provide for the setting up of common foundations for economic development as a first step in the federation of Europe (...). The solidarity in production thus established will make it plain that any war between France and Germany becomes not merely unthinkable, but materially impossible.”⁴⁸

The most important aspect of this treaty is its supranational character. However, the member countries were only prepared to share their loans in limited areas. The Community was created with five organs;

- (i) an executive, called the High Authority
- (ii) a Consultative Committee attached to the High Authority,
- (iii) a Special Council of Ministers,
- (iv) an Assembly, and
- (v) a Court of Justice

The High Authority was the single executive branch of the Community, and its objectives were as follows: the launch and management of a common market in coal and steel, development and control of investments and scientific research, action to curb unemployment, discrimination and restrictive practices, and finally, the imposition of common taxes upon the production of coal and steel; All this without reference to the governments of the Member States, subject only to the responsibility of the Court and the Assembly.⁴⁹

The Consultative Committee was another institution whose function was to assist the High Authority. It was comprised of representatives of employers, trade unions and

⁴⁸ Møller, Bjørn (2000). *op. cit.* http://europa.eu.int/abc/symbols/9-may/decl_en.htm

⁴⁹ Lasok, D. & Bridge J. W. (1991). *Law and Institutions of the European Communities*. p. 13. London: Butterworths,

consumers appointed by the Special Council of Ministers on the advice of the trade unions, producers and consumer organisations.

The Special Council of Ministers had the duty of representing the authority of the member states within the Community. Its function was to create accommodation for national economies in the coal and steel areas on the recommendation of the High Authority.⁵⁰

The Assembly was the administrative body, and consisted of 68 members.⁵¹ The representatives of the Assembly were elected by the national Parliaments rather than directly. However, there was no rule that they could only be elected by the national parliaments. Parliament had the power to dismiss the High Authority with a two-thirds majority vote.

The remaining institution of the ECSC was the Court of Justice. It was the supreme court of the community and consisted of seven members. It functioned as a watch-dog function over the application of the Treaty, examined the decisions of the High Authority in the light of the Treaty provisions and came to decisions upon the rules of the Treaty.⁵² This entire structure in Europe marked the first step on the road to a supranational structure.

After the successful creation of the ECSC, other cooperation efforts emerged such as the European Defence Community (EDC) and the European Political Community (EPC) in 1952. The European Defence Community was created in response to the US desire for the rearmament of West Germany against the Soviet threat. However the existence of both the EDC and the EPC (which was the combination of the existing European Coal and Steel Community and the proposed European Defence Community) was vetoed by France in their national parliament in 1954.

⁵⁰ *Ibid.*

⁵¹ France, Germany and Italy have 18 each representative and 24 have from Benalux countries.

⁵² Lasok, D. & Bridge J. W. (1991). *op. cit.* p. 15

However, Europeans' desire for union did not falter following this setback with the EDC and EPC. Their target of economic interdependence on the issue of customs was achieved with the signing of the Treaty of Rome on 25 March 1957. Following this, the European Economic Community (EEC) and the European Atomic Energy Community (Euratom) were established by the six founding members and came into being on 1 January 1958. The EEC was based on 'four freedoms': freedom of movement of goods, services, capital and people with the participation of individual states. The administrative structure of EEC and Euratom were modelled on that of the ECSC and each Community created the same political structure. The High Authority continued to protect the supranational structure of the EEC and Euratom with the Rome Treaty. The EEC then consisted of sovereign states governed by the law of international institutions in a supranational structure.

The organisational structures of the EEC and Euratom were merged with the signing of the Merger Treaty in Brussels on 8 April 1965 and which came into force on 1 July 1967. The Merger Treaty brought together the organisational structures of the three European Communities (European Coal and Steel Community, European Economic Community and Euratom) in existence at that time so on the European Community (EC) was formed. The aim of this treaty was to establish the European Commission and the Council of European Communities as governing bodies for all three institutions and it also had them share a single budget.⁵³ Besides the establishment of Commission, a single Court of Justice and a single Parliamentary Assembly were reformed to serve all three communities. The Council and the Parliament replaced the separate Councils of the three Communities with the Merger Treaty. This treaty is therefore commonly known as the forefather of today's modern European Union.

⁵³ The Merger Treaty (11 May 2004). *Biography* [WWW document]. URL. <http://merger-treaty.biography.ms/>

3.4. Evolution of the Legislative and Administrative Structure of the EU

As we saw in the entire process of historical development of the EU, the European Union has changed its structure within the past forty years. Developments within the administrative and legislative bodies of EU have been speeded up with enlargements, which called for strong political cooperation. The process of unifying Europe began with the launch of European Political Cooperation, presented at the summit meeting in The Hague in December 1969. European political cooperation was undertaken informally in 1970 in response to the Davignon report, and was formalised by the Single European Act in 1987. The aim of European Political Cooperation is the negotiation and information exchange among member states on foreign policy matters.

“EPC was an entirely intergovernmental process, outside the treaties, agreed among governments and managed by diplomats. Foreign ministers’ meetings were prepared by the Political Committee, consisting of political directions from foreign ministers, under which developed a network of working groups”.⁵⁴

The Single European Act marks the completion of European Political Cooperation within the Union, its aim being the removal of remaining barriers among members, increased harmonization, and thus an increase in the competitiveness of its members. The SEA has two fundamental objectives: full realization of the single market and reform of existing political institutions to improve efficiency, democratic legitimacy and formally integrate the realm of foreign policy into the treaties.⁵⁵ With the signing of the Single European Act (SEA) in 1986, the supranationalist approach was finally, if only partially, adopted. It reduced further the differences between the instruments of European Political Cooperation and EC. It reformed the operational procedures of the institutions with QMV. Through this mechanism, administration was accelerated in related fields and this voting began to be used in new areas.

⁵⁴ Wallece, H. and Wallece W. (2000). Common Foreign and Security Policy. *Policy Making in the European Union*, p.464. New York: Oxford University Press Inc.

⁵⁵ Pinder, John (2001). A Short Guide to the European Union. In: Kreppel, Amie (2003). Necessary but not sufficient: understanding the impact of treaty reform on the internal development of the European Parliament. *Journal of European Public Policy* 10, (:6 December), p. 884.

The SEA gave greater authority to the European Parliament in the decision-making process with the QMV system. The European Parliament became strengthened through this process. The EP's function has changed from being a chamber of debate to a legislative body.

The Single Market was decided in 1992 with the SEA. Developments in economic unification as a result of the SEA created a greater desire for political cooperation, and the need for this was underlined with the start of the Gulf war. "The Gulf crises have demonstrated once again the irresponsibility of creating an enormous economic power without accompanying it with foreign and security policies, and that a political union therefore is even more necessary".⁵⁶

In addition to the SEA there are also three important European Union Treaty revisions; Maastricht, Amsterdam and Nice. The Maastricht Treaty can be described as the fulfilment of the SEA. The main object of the 1992 Maastricht Treaty (which came into force in 1 November 1993, under the Delors Commission) was to achieve powerful economic union through the establishment of financial union and to unite the continent of Europe. The European Community then became officially known as the European Union. The European Union prepared and introduced the three-pillar structure, composed of the Community pillar, the CFSP pillar, and the Justice and Home Affairs (JHA) pillar. This pillar structure resulted in significant steps being taken towards the European integration process. However, intergovernmentalists, who had allowed economic integration within the Union, continued to block supranationalists in the areas of foreign and security policy and justice and home affairs.

With the Treaty of European Union, monetary union was established. One of the most important consequences of this treaty was the achievement of a common currency, the establishment of a European Central Bank, and revisions in the system of national central banks. Also Institutions became independent with separation of powers in Maastricht. The European Commission and the European Court of Justice both became

⁵⁶ Eekelen, W.(2001). The Bridge-building functions of WEU, *The European Community at the crossroads*, p. 270. Dordrecht: Martinus Nijhoff Publishers.

independent from the European Community governments and gained strong power within the system. The European Parliament (EP) is another institution which was affected by the reform movement within the Union. Under new decision procedures, the EP was granted undisputed power of veto.⁵⁷ Another institution, the EU Ombudsman, was also created under the jurisdiction of the EP. Thus, the Maastricht Treaty played a vital role in democratization of the Union and was the most extensive treaty reform since the Rome Treaty.

With the transition to the supranational model in the economic stage, differences in attitudes among EU member states began to appear. Ratification of the treaty (the European Union Treaty) was fraught with difficulties in public opinion in various states. In their referendum, the French only narrowly supported the Treaty with only 51.05% in favour, and Denmark rejected the original treaty. The United Kingdoms' position was quite interesting in that ratification of the treaty was done by parliament rather than referendum and the treaty was admitted by the UK. However, the prime minister of the time, John Major, could not supply a majority in the exchange-rate mechanism, so today the UK remains outside the single currency policy because of reluctant UK public opinion.

Despite difficulties, the Maastricht Treaty came into force on 1 November 1993 with the three pillar structure which was then developed to isolate traditional Community responsibilities in the economic area (the Community Pillar) from the new competencies in the areas of foreign policy and military matters (the CFSP pillar) and criminal matters (the JHA pillar).

⁵⁷ “The new procedure added an additional level of complexity to the already complex cooperation procedure by calling for a conciliation committee to be convened if the Council of Ministers could not adopt all of the EP’s second reading amendments. This new conciliation committee, comprised of an equal number of MEP’s and representatives from the Council of Ministers, had the task of developing a compromise joint text. If this could not be achieved the Council had the right to revert to its previous position, but the EP could also veto any proposal during a third reading within the Parliament, thus effectively elevating the EP to co-legislator”, in; Kreppel, Amie (2003). Necessary but not sufficient: understanding the impact of treaty reform on the internal development of the European Parliament. *Journal of European Public Policy* 10, (:6 December), p. 909.

The Amsterdam Treaty is another important step on way towards the institutionalization of the EU. This was signed on October 2, 1997 and came into force in 1999. It made substantial changes to the European Union Treaty. It placed greater emphasis on citizenship and the rights of individuals, created more democracy by strengthening European Parliament, brought in new employment regulations, created a Community area of freedom, security and justice, the beginnings of a common foreign and security policy and the reform of the institutions in readiness for the coming enlargement.

Vital reforms were introduced to the Pillar system with the Amsterdam Treaty. Amsterdam “significantly improved the structures guaranteeing freedom of movement within the EU by increasing common policies on immigration, asylum and other Pillar III subjects and placing them within Pillar I.”⁵⁸ Accordingly, the EP gained greater power, especially concerning Pillar I issues and gained veto power.

The Amsterdam Treaty reduced the cooperation procedure and in many policy areas introduced QMV in the Council (where at least 10 members must vote in favour). The supranationalists were pleased with the reforms in the voting system and the Council was able to accelerate its decision making process.

The Nice Treaty, which was implemented in February 2003, was the last of the treaty reforms, and with it came more reforms in the voting system. It introduced QMV instead of unanimity voting in the election of President of the Commission. The presidential candidate must then be approved by the EP. The elected Commission President then selects the Commissioners, again with the approval of the EP. Thus, the EP has increased its role and the supranational structure is reinforced. Another reform centred on revision of the QMV voting in preparation to the enlargement. With enlargement, the total votes reached 345, and to reach a qualified majority, 255 votes are now required. More power to the EP of course means more power to supranationalism.

However, it is clear that the Council still has a great affect on the decision making procedure of the Union, and controls pillars II and III. So, does the Council operate on a

⁵⁸ Kreppel, Amie (2003). *op. cit.*, p. 890.

supranational or intergovernmental basis? The Council operates as the primary decision making body of the European Union but has no formal rules. As well as the emergence of Coreper, a powerful and independent permanent secretariat, the normative commitment to consensus decision making, the growth of and weight of A-points⁵⁹ in the legislative process are some of the examples of the informal structure of the Council.⁶⁰ The Council system is based on unwritten rules for collective decision making, so it has no evident supranational or intergovernmental structure. With the Treaty reform since 90s, both structures are to be seen operating in the inner dynamics of the Council. Thus, we may say that the Council does not accord with the classic intergovernmental structure. The European Council seems the perfect example of a hybrid system which includes both approaches. Despite the increased power of the EP, with the Council not having QMV in the CFSP and JHA pillars, we cannot talk more about the supranational structure within the EU. It is clear that QMV is best guarantee to reach a consensus within the Council.

However, security is the issue which most concerns the CFSP and JHA pillars, and on this issue there is a different approach within the EU. The EU's response to terror and terrorism is a prime example of informal EU policy-making concepts. In the next chapter, I shall examine cases, events and developments in the concept of security within Europe.

⁵⁹ The Councils' work divided into two parts: A and B. "Correspondingly, there emerged two categories of Council business: A-points, or 'Agreed Points' which are approved by the Council *en bloc* and without discussion at the beginning of each meeting, and B-points which are those remaining issues where agreement does not yet exist and discussion by the ministers is requested. In; Lewis, Jeffery (2003). Informal integration and the supranational construction of the Council. *Journal of European Public Policy*10, (6: December), p. 1009.

⁶⁰ *Ibid.*

IV. EUROPEAN UNION AND TERRORISM

Rapid developments in the world political system have strengthened terrorism, now the most dangerous global threat to humankind all over the world. The mass media now serves to carry ideological views from one part of the world to another with breathtaking speed. As mentioned in the first chapter, the world and its values have changed especially rapidly in the last fifteen years. There were two world orders: the Eastern Communist and the Western Capitalists. This Cold War era ended in victory for democracy in a peaceful final in 1991. The world, and especially Europe, has been shaped by liberal economy and the socialist approach since the end of WW II.

The end of the Cold War and the creation of a new world order allowed, and even encouraged, independence movements and international terrorism around the globe. As countries became politically and economically integrated, weak political ideas began to find a way to achieve their aims through the power of terrorism. The threat of international terrorism is not new; it has been a developing product of the new world order with globalization following the Cold War. It has only changed its status and become more of a threat to civilians than the authority. The nature of terrorism had changed radically and thus it has come to dominate the security agenda.

Throughout these developments Europe has, to a large extent, managed to protect its population, economy and political structure from the negative effects and consequences of terrorism. Many European countries/capitals even established relations with some of the terrorist groups to utilise them as leverage in their foreign policy processes. The events of September 11 also challenged EU policies, which until that time were not ready to give a clear message of 'no to terrorism'. Immediately following the September 11 attacks EU leaders came together and condemned terrorism, but this unity proved to be of a fragile nature. Why? I shall try to answer this question through an analysis of integration theory.

4.1. The European Security Concept

European Defence policy history runs parallel to European Economic integration. The situation in Europe just after the WWII, made West European countries very aware of the lack of capability of national security against Soviet aggression. So, on March 17, 1948, Belgium, the Netherlands, Luxembourg (the Benelux countries), France, and the United Kingdom signed the Treaty of Brussels (Brussels Pact)⁶¹, which was the first multinational defense agreement among West European countries. It had an intergovernmental structure and its main objectives were respect for the Charter of the United Nations. In reality, it was the precursor of both the North Atlantic Treaty Organisation (NATO) and then the WEU.

One year later, on 4 April 1949, the North Atlantic Treaty was signed by the same countries in Washington, D.C. The European desire for military and financial aid had been met with the ratification of NATO. However, the future of Germany was the main challenge to the military future of Europe and US authorities wanted to see the Germany in the North Atlantic Organisation. France opposition to this came up with an alternative. French Premier René Pleven proposed to create a European Defence Community (EDC) as an independent European Security Organisation. Thus, France would both impede US hegemony on the continent, and control the Germany as a limited military actor. This action by France is an example of a limited intergovernmental interference mechanism on security issues.

“The EDC would be based on a Special European Force with its own European minister of defence and with an independent command staff under the authority of existing NATO command structures. Germany would contribute man power but would not have its own General Staff, defence minister or armaments industry.”⁶²

⁶¹ See, NATO Online Library, The Brussels Treaty. [WWW document].

URL. <http://www.nato.int/docu/basicxt/b480317a.htm>

⁶² Kay, Sean (1998). *NATO and the Future of European Security*. p. 47. Maryland: Rowman & Littlefield Publishers.

The EDC treaty was finally signed on 27 May 1952 by France, Germany, Italy, and the Benelux countries. However it was never ratified because of failure to gain majority support in the French Parliament. Fear of Germany's re-militarization and other national interests affected Gaullist policy and on August 30 1954 the EDC was rejected.

The failure of the EDC prompted the US and Britain to suggest a new European security mechanism. In September 1954, Britain offered to create the 'Western European Union' by revitalizing the Brussels Pact and incorporating West Germany and Italy. This meant that West Germany could become the member of NATO. Thus, Europe's first mutual intergovernmental self defence treaty (WEU) was signed at the end of 1954 on the basis of Brussels Pact. Thus, the Brussels Pact may be seen as the parent agreement both for NATO as a multinational security concept and the WEU as a regional intergovernmental security concept. In 1954 also the organization's mandate de-conflicted with the addition of Article IV on NATO. This article forced the Western European Union to work in close cooperation with NATO and the Council to rely on the appropriate authorities within NATO for information and advice on military matters. With this intergovernmental agreement, and in light of the Soviet threat, all WEU members supported NATO's hegemony over the security mission of Europe.

However Gaullists nationalist security policy brought about France's withdrawal in 1966 from the integrated military structure of NATO, giving as its reason US domination of NATO. The real reason may well have been France's arrival on the world stage as a nuclear power in the same year. Disagreement among members also occurred over France's dissatisfaction with security issues. The Western European Union was reactivated in 1984 to develop a "common European security and defense identity (ESDI) through cooperation among its members in the security field and strengthening the European pillar of the North Atlantic Alliance."⁶³ In reality, a fully independent security policy for Europe was created with the Maastricht Treaty in 1992.

The Maastricht Treaty on European Union "was the first to contain provisions anchoring the Union's responsibility for all questions relating to its security, including

⁶³ See, NATO Handbook, The Wider Institutional Framework for Security: The Western European Union (WEU). [WWW document].URL. <http://www.nato.int/docu/handbook/2001/hb1504.htm>

the eventual framing of a common defence policy, to a Common Foreign and Security Policy (Article J.4).”⁶⁴ The Treaty foresees that the EU, having no military capabilities of its own to supply its security, will request the WEU ⁶⁵ to care and plan military measures on its behalf. Actually the WEU is a security institution and lacks a military infrastructure. “As with NATO, peacetime forces which might be made available to the WEU – including Eurocorps – remain national. However unlike NATO, the WEU has no peacetime supreme commander, no peacetime headquarters and no standing command and control structure”⁶⁶. Thus, the WEU, because of lack of infrastructure, has no capability in the event of crises threatening its members and the rest of Europe, and so needed to support the soft security policy in the region.

In addition to the WEU, the CFSP was established to maintain the basic needs of the European Union, which were the members’ common interests in security and foreign policies. “The CFSP was shaped by three dominant factors; first, the ending of the Cold War; second, the parallel reassessment of European security structures; and, third, a realization that despite the relative success of European Political Cooperation.”⁶⁷ The European Union wanted to create strong political cooperation in the ‘New Europe’ with the CFSP.

“The objectives of the CFSP are;

- a) to safeguard the common values, fundamental interests and independence of the Union.
 - b) to strengthen the security of the Union and of the Member States;
 - c) to preserve peace and strengthen international security in accordance with the principles of the UN Charter as well as the principles of the Helsinki Act and the objectives of the Paris Charter;
- and

⁶⁴ European Union Official Web Site. *External Relations*. World Wide Web: URL.

http://europa.eu.int/comm/external_relations/esdp/chrono.htm

⁶⁵ The West European Union was created for the security matters of the European Community, after the failure of the EDC. The members of this organisation are the states who were members of both NATO and EU.

⁶⁶ Kay, Sean (1998). *op. cit.*, p. 130.

⁶⁷ Blair, Alasdair (2003). Getting to Grips with European Union Foreign Policy. *Diplomacy & Statecraft*, Vol. 14, No: 3 (September 2003), p. 183.

d) to develop and consolidate democracy and the rule of law and respect for human rights and fundamental freedoms.”⁶⁸

The CFSP, prepared over a period of 7 years, prompted NATO to review its position in Europe. It was clear that the Soviet Union represented no threat with the end of the Cold War and, in 5 February 1992, Canada announced that it would be withdrawing its standing forces from Europe because of high costs. In 1994, the US House of Representatives approved a proposal calling for Europe to reimburse 75 percent of the total costs of stationing US troops in Europe. This was rejected by the Senate.⁶⁹ Divisions between the US and Europe on security concepts, exposed the need to create new independent security policies on European defence. However, an independent ESDI should have been unnecessary to NATO in Europe. Also it would be expensive and potentially harmful to European integration if EU members became worried about supranational intrusions into their national security.⁷⁰ When the subject is security the members and the candidate members of the EU are still uncomfortable with a supranational approach.

Moreover, the clear incompetence of European security policy in Bosnia proved that Europe does not have the capability to supply security for the continent. At the 1996 NATO Summit in Berlin it was agreed that the ESDI would be executed by the WEU but structured within NATO and use NATO headquarters and assets, preventing duplication.⁷¹ With this development, the security of Europe was once again put into the hands of NATO. It would appear that no EU member are willing to support the high costs of military needs.

Despite the failure of an independent ESDI, the EU was determined to strengthen the CFSP. The Amsterdam Treaty in particular has had a greater impact on the CFSP pillar. This treaty enhanced the requirements of Common Foreign and Security Policy under Title V, especially as set out in Article 17 of the Treaty of European Union. Many important changes were brought about in CFSP with the Amsterdam Treaty.

⁶⁸ Lasok, D. (1994). *Law & Institutions of the European Union*. p. 32. London: Butterworths.

⁶⁹ Kay, Sean (1998). *op. cit.*, p. 124.

⁷⁰ *Ibid*, p. 125.

⁷¹ NATO Online Library, *op. cit.*

The Amsterdam Treaty spells out five fundamental objectives of CFSP:

- * to safeguard the common values, fundamental interests, independence and integrity of the Union * in conformity with the principle of the United Nations Charter ;
- * to strengthen the security of the Union in all ways;
- * to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principle of the Helsinki Final Act and the objectives of the Paris Charter , including those on external borders
- * to promote international co-operation;
- * to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

The treaty also identifies several ways in which these objectives are to be pursued:

- * defining the principles and general guidelines for the common foreign and security policy, which is done by the European Council ;
- * deciding on common strategies. These instruments were introduced by the Amsterdam Treaty and set out overall policy guidelines for activities with individual countries. Each strategy specifies its objectives, its duration and the resources that will have to be provided by the EU and the Member States. So far there are Common strategies on Russia, Ukraine, Mediterranean and the Middle East Peace Process. They too are decided by the European Council.
- * adopting joint actions and common positions. These commit the Member States to adopting a certain position and a certain course of action. They are decided by the General Affairs Council.”⁷²

The Amsterdam Treaty also introduced the new office of a High Representative (HR) ⁷³ for CFSP. Mr Javier Solana, who was appointed as first HR of the CFSP at the Cologne European Council in June 1999 and took office on 18 October 1999, declared that;

“the EU must have the capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness to do so, in order to respond to international crises without prejudice to actions by NATO”. ⁷⁴

⁷² European Union Official Web Site. *Common Foreign & Security Policy (CFSP)*. World Wide Web: [WWW document]. URL. http://europa.eu.int/comm/external_relations/cfsp/intro/

⁷³ The HR "shall assist the Council in matters coming within the scope of the CFSP, in particular through contributing to the formulation, preparation and implementation of policy decisions, and, when appropriate and acting on behalf of the Council at the request of the Presidency, through conducting political dialogue with third countries". *In: ibid.*

⁷⁴ Taylor, Paul (1998). *EU eyes power projection goal*. *From the internet and World Wide Web:*

Another political consequence of Amsterdam Treaty was the creation of the European Defence and Security (ESDP). It has been established to improve EU police and military capabilities, as the major element of the CFSP pillar of the European Union.⁷⁵ It is a part of political integration which increased the framework of the European Union. The ESDP was created with the Amsterdam Treaty to fulfil the need for a common security and defence policy to deal with humanitarian issues and rescue, peacekeeping, peacemaking and combat forces crisis management, called the Petersberg tasks. At the same time incorporation of the WEU into the EU structure, was for the purposes of developing a joint military task force able to act under the ‘Petersberg tasks’⁷⁶. The foundations of these tasks were undertaken as part of the main EU budget, so the EP has had an important role in the budgetary process. This reform has given the EP position of considerable importance in the field of CFSP, although the Council Presidency, in which decisions are made unanimously, remains the sole authority in the legislative and political decision-making process. Thus, the EP has an advisory position only in the CFSP pillar, and its capacity and authority have not increased as happened in Pillar I.

The WEU Council Petersberg Tasks were codified on June 1992 with formal signing of the Petersberg Declaration, but were incorporated with the Amsterdam Treaty in 1999. The Petersberg Tasks were not only the military tasks of a humanitarian, peacekeeping and peacemaking nature, but also tasks involved in crises management. The ESDP was established immediately following the Petersberg Declaration in the Amsterdam Treaty and formally adopted at the Cologne European Council on 3-4 June 1999. The Helsinki Council adopted a decision on 10 December 1999 that ESDP help with the implementation of the Petersberg Tasks through the creation of the Helsinki

[WWW document]. URL. <http://www.agitprop.org.au/stopnato/19991007eu.htm>

⁷⁵ The ESDP was adopted by the Ministers for Spatial Planning at the Potsdam Council on 10 and 11 May 1999. European Security and Defence Policy are created to strengthen the European Union’s second pillar, the Common Foreign and Security Policy. Institutions within the ESDP are as follows: the European Defence Agency, the European Rapid Reaction Force, the European Gendarmerie Force, the European Union battle groups, and the European Union Institute for Security Studies.

⁷⁶ Kreppel, Amie (2003). *op. cit.*, p. 890.

Goals.⁷⁷ The Helsinki Council also created the Political and Security Committee and some other political, civilian and military structures as crises management bodies and to run the ESDP on a day-to-day basis.⁷⁸ The Council looks to establish a softer security agenda for ESDP by encouraging a civilian crises management structure.

The next meeting, the Feira European Council on 19- 20 June 2000, had four stated ESDP goals, including policing, rule of law, civil administration and civil protection. These four civilian crises management goals became the main security policy of ESDP. The ESDP's soft security policy was also supported by the European Commission through its external relations directorate (DG RELEX).⁷⁹ Thus we can see that both the individual members' interests and the Union's interests led them to support a soft security policy. At the Feira European Council the EU declared that it did not want only to gain peace but also to prevent conflicts and preserve peace.

At the next Council meeting in Gothenburg on 21-22 June 2001, the EU decided to add conflict prevention to the duties of the EDSP by the Programme for the Prevention of Violent Conflicts.

It is clear that both Helsinki and Feira have created and shaped the main structure of the ESDP. Then, at the Seville Summit on 21-22 June 2002, just a few months following the 11 September attacks, it was decided that terrorism should be added to the security agenda of the ESDP. Accordingly, the European Security Strategy was adopted on 13 December 2003 with the main issues of effective multilateralism, good neighbourhood policy and the fight against terrorism coming under ESDP responsibility.

⁷⁷ Helsinki Goals aimed to provide 50,000-60,000 military persons capable of the full range of Petersberg tasks to deploy within 60 days and sustain for at least 1 year. More information, See: Helsinki European Council, 10 and 11 December 1999, from the World Wide Web: URL. http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/ACFA4C.htm

⁷⁸ Keane, Rory (2005). European Security and Defence Policy: From Cologne to Sarajevo. *Global Society*, Vol 19, No. 1, (January). p. 91.

⁷⁹ "The role of the European Commission is key to civilian crises management. While many of the external relations activities conducted by the Commission respond to civilian crises management, there is nevertheless only a skeleton coherency between the Commission and DGE IX, which is responsible for ESDP civilian crises management operations within the Council" In: *Ibid*.

These developments also meant ‘terrorism’ became the responsibility of CFSP rather than the JHA pillar.

4.2. Before September 11, EU and EU Members’ Perspectives on Terrorism

4.2.1. EU Perspective on Terrorism

Europeans desire to agree on a united Europe, begun with the establishment of the European Coal and Steel Community has progressed, via the Rome Treaty and the EEC, to the present European Union. The security of this united Europe remains one of its primary concerns. In order to protect itself from Soviet aggression following WWII, it focused was on what has been called ‘soft security’, a security based on a removal of motives for aggression, mostly by non-military means.

First, it is important to understand the Europeans’ approach to security and the place of terrorism in this. As mentioned in the previous chapter, the informal EU policy making mechanism creates a dilemma for the intergovernmental bodies of EU. The Europeans’ desire to create a supranational approach on security matters started with the creation of ESDP, and their desire to prevent terrorism began in the 1970s with the rise of leftist and nationalist attacks in Europe against governmental and public interests. Most of these attacks were domestically sourced and used traditional tactics. In 1971, the first meeting was held of what was called the Berne Club, to coordinate technical police cooperation against terrorism between the signatories, who were the United States, France, Germany, Belgium, Denmark, Italy, UK, and Switzerland. Several other coordinating groups such as the Vienna Club and the Quantico Group joined in 1979.⁸⁰

⁸⁰ Vienna Club composed of France, Austria, Germany, Italy, Switzerland and the Quantico Group composed of United States, France, Germany, Austria, Canada, United Kingdom, Sweden. See, Moore, Heather (1999). *International Crime and Integration. Rhodos College*, Retrieved: 23 April 2004, on the World Wide Web: URL. <http://www.is.rhodes.edu/modus/96/Moore.html>

The Berne Club had its own communication system and organized meetings, technical conferences and investigation operations which helped it work to prevent terrorism.

One year after the Berne Club was founded, the 'Pompidou Group', (founded by French Prime Minister George Pompidou in 1972) was set up to deal with drug-related issues and draw up counter-terrorism actions in the framework of Europe. This organisation was created by France, Germany, Belgium, Italy and the United Kingdom, who were later joined by twenty-four other European countries during the 1980's.

However, the European Convention on the Suppression of Terrorism was the first convention to deal directly with terrorist activities. It was opened for signature by the member States of the Council of Europe in Strasbourg on 27 January 1977 and came into force in 4 August 1978. This convention lists as follows the terrorist offences parties shall not consider as political offences or offences inspired by political motives:

“Parties undertake not to consider as political offences, or as offences connected with political offences, or as offences inspired by political motives, namely acts of particular gravity, hijacking of aircraft, kidnapping and taking of hostages, the use of bombs, grenades, rockets, letter or parcel bombs, if their use endangers persons”.⁸¹

The Schengen Agreement, which came into existence on 14 June 1985, was another intergovernmental agreement. The main goal of this agreement was to escalate the removal of internal barriers. One of its other aims is to prevent terrorism and weapon and drugs trafficking. As a result it was decided to obtain co-operation between the police organisations of the concerned countries and constitute a network system. It was defined in Title 3, Part 1, Article 40, 41. Full implementation of the Schengen Treaty on 1 July 1995 meant crime prevention measures being created to deal with the removal of borders. It also concerns itself with security matters in order to prevent security problems. A Schengen Information System was set up which, along with Interpol, is a resource for police, custom office and immigration officials, with information on suspect persons, undesirable people, stolen vehicles and forged money. Accession Protocols and Agreements were signed with Italy (27 November 1990), Spain and Portugal (25 June

⁸¹ European Convention on the Suppression of Terrorism Strasbourg, (1977). *European Treaty Series - No. 90*. Council of Europe.

1991), Greece (6 November 1992), Austria (28 April 1995) and Denmark, Finland and Sweden (19 December 1996) with related Final Acts and declarations. However, the United Kingdom and Ireland have stayed out of the agreement entirely.

“It then became clear that the far from open system of consultation groups needed to be incorporated into a comprehensive structure: not only to make sure that the measures adopted by the Member States in relation to justice and home affairs were more effective but also to coordinate the work of all these bodies and avoid duplication.”⁸²

The supranational approach of EU in many areas was developed with the Maastricht Treaty I was mentioned in the previous chapter. The Maastricht Treaty was the first step towards a common EU definition of terror-terrorist on the agenda of the third pillar (Cooperation on Justice and Home affairs) of the EU. Cooperation in the fields of justice and home affairs stressed the cooperation necessary in preventing terrorism in Article K.1.9.;

“police co-operation for the purposes of preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime, including if necessary certain aspects of customs co-operation, in connection with the organisation of a Union-wide system for exchanging information within a European Police Office (Europol).”⁸³

The Europol Convention, which was signed on 26 July 1995 and came into force in 1998, established the structure to fulfil the Europol mandate in Article K.1.9. of the Maastricht Treaty. The Treaty of Amsterdam reshaped and organised cooperation on justice and home affairs. The issue of prevention of terrorism is also included in the Amsterdam Treaty, which created and enlarged the duties and the capabilities of Europol. The “European Parliament endorsed Europol’s function in 1996 and 1998 and accordingly, the Council of Europe passed a resolution for the extension of the Europol

⁸² European Union Official Web Site, *The Amsterdam Treaty: a Comprehensive Guide*. World Wide Web: URL. <http://europa.eu.int/scadplus/leg/en/lvb/a11000.htm>

⁸³ The Treaty of the European Union --- The Maastricht Treaty (13 April 2004). *World Wide School*. [WWW document]. URL. <http://www.worldwideschool.org/library/books/hst/european/TheTreatyoftheEuropeanUnion---TheMaastrichtTreaty/chap12.html>

Convention through amendments”.⁸⁴ The Justice and Home Affairs Council gave the task of dealing with terrorism to Europol in 1998.

Developments in the prevention of terrorism with these agreements emphasised the importance of collaboration but no definition was elaborated on the issue. The prevention of terrorism was transferred to Europol with the European Council’s resolution in 1999.⁸⁵ The Council’s Recommendation 1426 of the Council ‘European Democracies facing up to terrorism’ was a renovation and gathering together of previous resolutions, namely the 1957 European Convention on Extradition, the 1977 European Convention on the Suppression of terrorism and resolution 1132 in 1997.

On 15 and 16 October 1999, in Tampere, the European Council concluded that a permanent judicial co-operation unit called Eurojust should be established. With their decision of 14 December 2000 the Council of the European Union formally established the provisional judicial co-operation unit, with the following objectives:

“To improve co-operation between the competent national authorities in the investigation and prosecution of serious crime, particularly when it is organized, involving two or more Member States;

In the same framework, to stimulate and improve the co-ordination of investigations and prosecutions in the Member States, taking into account any request emanating from a competent national authority and any information provided by any body competent by virtue of provisions adopted within the framework of the Treaties (OLAF, Europol, the European judicial network and liaison magistrates); and

Provide expertise to the Member States and to the Council, where necessary, with a view to the negotiation and the adoption by the Council of the instrument establishing Eurojust.”⁸⁶

The WEU, which became an integral part of the EU after the Amsterdam Treaty with the ‘Petersberg tasks’ (which were declared by the WEU in 1992), undertook the mission of common security among international actors. Despite the Europeans’ ‘soft security’ EU/WEU approach, and on the other hand, the ‘hard security’ approach of

⁸⁴ Dedeoğlu, Beril (2003). *op. cit.* p. 95.

⁸⁵ *Council Directive*, OJ. (C 26), 30 Jan. 1999. In: Dedeoğlu, Beril (2003). *op. cit.* p. 96.

⁸⁶ Annual Report 2001(2) J.O: No L 324, p.2. In: Eurojust Official Web Site. *Annual Report 2001*. World Wide Web: URL. <http://www.eurojust.eu.int/2001.htm>

North Atlantic Treaty Organisation (NATO), both⁸⁷ developed their relations in the security area at the Washington Summit Communiqué (24th April 1999) on *An Alliance for the 21st Century*.

The aim of this relationship is to create a stronger European role with loyalty to the Atlantic Alliance, which will be the creation of the collective defence of members. In this formation the main issues centre on:

“We acknowledge the resolve of the European Union to have the capacity for autonomous action so that it can take decisions and approve military action where the Alliance as a whole is not engaged;

As this process goes forward, NATO and the EU should ensure the development of effective mutual consultation, co-operation and transparency, building on the mechanisms existing between NATO and the WEU;

We applaud the determination of both EU members and other European Allies to take the necessary steps to strengthen their defence capabilities, especially for new missions, avoiding unnecessary duplication;

We are determined that the decisions taken in Berlin in 1996, including the concept of using separable but not separate NATO assets and capabilities for WEU-led operations, should be further developed.”⁸⁸

Using WEU capabilities in common operations was the main issue of this conference. All these concerns are to create a common policy on collective defence and bring the WEU to the front line as a global actor in regional security. This approach places a high degree of importance on the will of each national government comprising the Council. As issues regarding terrorism are not easily negotiated, it is quite difficult to reach workable EU decisions in this way. Each country’s understanding of security and terrorism leaves its mark on EU policy on terrorism.

⁸⁷ NATO’s hard security means it is a military organisation which supports the use of military force against enemy threats rather than a political approach.

⁸⁸ Moller, Bjørn (2000). *op. cit.*, p.2.

4.2.2 EU Members' Perspectives on Terrorism

As we saw in the last chapter, the administrative structure of the EU has been connected with both the intergovernmental and supranational theories. However, the national legislations on terrorism of EU members are quite different from the European Union's common decision mechanism in line with the intergovernmental approach. It is interesting that only seven of the members (France, Germany, Britain, Italy, Portugal, Spain and Greece) had national legislation concerning 'terrorism' before the September 11 attacks. These of course are the countries which have experienced terrorism in their national history. Britain's legislation especially seems the most detailed and strict enough to deal with terrorism. The informal structures of the CFSP and JHA pillars have a great affect on this approach.

Britain prepared legislation to prevent terrorism in 2000. The terrorism act 2000 was passed by Parliament on 20 July 2000 and came into force on 19 February 2001. It was defined as "An Act to make provision for terrorism; and to make temporary provision for Northern Ireland about the prosecution and punishment of certain offences, the preservation of peace and the maintenance of order".⁸⁹ It was a redefinition of the 1989 Prevention of Terrorism and the Northern Ireland (Emergency Provisions) Act 1996. UK's terrorism bill defines Terrorism, in the first section of the Act, as follows:

Section 1.

"(1) In this act "terrorism" means the use or threat of action where-

- (a) the action falls within subsection (2),
- (b) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and
- (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.

(2) action falls within this subsection if it-

⁸⁹ Terrorism Act 2000 (29 June 2005). Wikipedia, the free encyclopedia. [WWW document]. URL. http://en.wikipedia.org/wiki/Terrorism_Act_2000

- (a) involves serious violence against a person,
 - (b) involves serious damage to property,
 - (c) endangers a person's life, other than that of the person committing the action,
 - (d) creates a serious risk to the health or safety of public or a section of the public, or
 - (e) is designed seriously to interfere with or seriously to disrupt an electronic system.
- (3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1) (b) is satisfied".⁹⁰

The Law comments on 'terror' as an act or acts which threaten government or society, attempt to cause harm to the whole of society or individuals for political, ideological or religious purposes. The act of terrorism is defined, but there are no definitions of the terrorist and terrorism, thus leaving a loophole in the legislation. However, the new approach of the UK government to the concept of terrorism (the 2001 Anti-Terrorism Crime and Security Bill) has a more transparent structure, making it possible to declare the names of the organisations and persons.⁹¹

According to this legislation 'the act of terror' was extended to include acts which threaten the government or public, attempt to cause harm to individuals or their properties for political, religious or ideological benefit. The British legislation mainly defines the act of 'terror' rather than 'terrorist or terrorism' in this legislation. However, following the 11 September 2001 attacks in New York, the Anti-Terrorism Crime and Security Act 2001 (ATCSA) introduced the names of persons and organisations. In parliament, 25 international organisations and 14 organisations in Northern Ireland are proscribed under previous emergency legislation. (See the international terrorist organisations list in figure 1.) As a result, 25 organisations have been declared enemies by the British government. However, this list was not taken into consideration by the other members of EU or the EU itself. The UK is one of the most sensitive countries on

⁹⁰ *Ibid.*

⁹¹ More information, Her Majesty's Stationery Office (HMSO). Anti-Terrorism, Crime and Security Bill, as introduced in the House of Commons on 12th November 2001. In: Anti-terrorism, Crime and Security Act (2001). *Office of Public Sector of Information* Retrieved: 14 June 2005. World Wide Web: URL. <http://www.hmso.gov.uk/acts/acts2001/20010024.htm>

issues of counter terrorism and cooperation in the fight against terrorism, and has accepted all 12 UN antiterrorism conventions and protocols.

France's position on the issue of terrorism is slightly different from that of the British. According to the French government; 'terrorism is a threat only to public order'. This understanding was amended with legislation in 1986, and further amended on 28 December 2001 with the declaration of terrorist organisations and terrorist persons. Most currently active terrorist organisations were included in the list. It is interesting that France is not as sensitive on the issue of terror as Britain: yet it was the first country to sign the International Convention for the Suppression of Terrorist Financing, and is party to 11 of the 12 international conventions and protocols related to terrorism.

Another EU member, Belgium, appears less sensitive again on this same issue, and has been accused of taking no notice of terrorist organisations which may have set up in the country. For example, Spain and the membership candidate country, Turkey, declared their dissatisfaction with Belgium's approach to terrorism, and the Belgian government denied the Spanish request for the extradition of terrorists to Spain: This, despite Belgium being party to the 1977 European Convention on the Suppression of Terrorism.⁹² Another incident involving Belgium is the tolerance shown to terrorist organisations in the case of the Turk, Fehriye Erdal. She has been on the Turkish government's wanted list since 1996 because of her alleged role in the murder of a prominent Turkish industrialist and his two associates in Istanbul. As with the Spanish request for the extradition of members of ETA, the Belgian authorities denied Turkey's request for Erdal's extradition. However, immediately following the events of September 11, the Belgian government arrested several individuals suspected of the attempted bombing of American Airlines Flight 63 in December 2001. In terms of 'terrorist', Belgium does not have any certain policy on counter terrorism, and seems to act according to the victim country's status quo.

⁹² The Interior Ministers of Belgium and Spain met in Brussels in June 2001 to discuss Belgium's refusal to extradite Basque Fatherland and Liberty (ETA) members suspected of terrorist acts. Patterns of Global Terrorism - 2000 Europe Overview, Released by the Office of the Coordinator for Counterterrorism, 30 April 2001. In: US Department of State Official Web Site (12 May 2004). *Europe Overview; Patterns of Global Terrorism 2000*. World Wide Web: URL. <http://www.state.gov/s/ct/rls/pgtrpt/2000/2434.htm>

Nevertheless, in the national sense, prior to September 11 Belgium had established an Anti-Terrorism Unit (ATU) within the police to centralise domestic investigations of terrorism-related activity. The ATU has no formal jurisdictional structure and works closely with local police in cases of terrorism. In May 2002, the Belgian Government established the Office of the Federal Prosecutor to centralise the point of contact for counterterrorism cooperation with other countries. Parliament prepared legislation to increase investigative powers and to enhance the Government's ability to combat terrorism. Yet despite its desire to be seen to be attempting to combat terrorism, Belgium has only been a party to six of the twelve international conventions and protocols relating to terrorism.

A brief look at some other EU members and their being party to these conventions and protocols makes it clear that there is not a common policy as regards counterterrorism. Of the other EU members, Germany, Greece and Italy are party to 10 of the 12 international conventions and protocols relating to terrorism. The Netherlands, Spain and Turkey are party to all 12. Therefore, it would seem that European states were closer to a post-nationalist rather than an intergovernmental or supranational approach on the issue of terrorist offences until the start of the 21st century.

There are two main reasons for the differences in approaches to the terror issue, the first of which is that each individual member's approach to terrorism has a different political value. For those countries which are not a party to these conventions, terrorism is not an issue of great political importance. For others, however, such as the Netherlands, Spain and Turkey, terrorism is high on the political agenda. The second reason is directly related to public opinion in the member states. European citizens are less sensitive to CFSP issues, in comparison to, for example, economic issues. Accordingly, it is national politics and national public opinions which dominate on the issues of terrorism and CFSP. This, of course, to a great degree, prevents the constitution of a supranational approach on these issues.

4.2.3. Europe and Terrorist Organisations

Developments within Europe have been influenced either directly or indirectly by the rise of global terrorism, but European's approaches to terrorism vary in their political identities. Democratic values, free press and the differing political interests of each member state have all allowed the rise of terrorism in Europe. Europe has also been a fertile ground for terrorism for many years for various 'criminal political groups'⁹³. Developments in transportation and computer technology have presented small terrorist groups with the opportunity to reach target populations and influence hostile governments.

The traditional structures of these terrorist organisations were formed within Europe itself. At the beginning of 1970s, most of the terrorist organisations in Europe such as Carlos in Italy, Euskadi Ta Askatasuna (ETA) in Spain and Irish Republican Army (IRA) in Britain were not using guerrilla warfare techniques. They were in the cities and towns and their aim was to threaten small groups and affect large numbers by violence and creating fear. Europe would become accustomed to this kind of terrorism rather than the guerrilla terrorist structure, which causes greater losses in terms of victims.

Europe's terrorism problem has been mainly home-grown rather than international. "Europe has had its own tragic experience with terrorism, but the particulars of that experience could lead some Europeans to adopt different approaches to the problem."⁹⁴ Accordingly, European countries seemed to view terrorism as a national problem and did not feel the need to share this problem by going the supranational path within the European Union. Furthermore, it was quite difficult to come to agreement on multinational solutions to terrorism. It is clear that Europe's overview of terrorist organisations differs from those of the US, Russia, Turkey and the rest of the world. Despite strong cooperation in the Western alliance on combating terrorism, there were

⁹³ Thereby use the term 'political criminal groups' due to the difficulty of making a consistent definition of terrorism.

⁹⁴ Blinken, Anthony (2001). Promise and Pitfalls for the U.S.-European Alliance. *European Affairs, Fall 2001*. Retrieved: 20 January 2004, Columbia International Affairs Online, World Wide Web: URL. http://www.ciaonet.org/olj/ea/2001_fall/2001_fall_18.html

some disagreements regarding the concept of 'terrorist'. The American authorities have some doubts concerning the EU's attitude to terrorism, doubts which clearly materialised with the September 11 attacks.

It is clear that some comments may be made concerning EU member states and their relationships with terror organisations. Some European countries have specific relations with some terrorist organisations. In their national interests these countries openly or secretly support terrorist organisations in target countries.⁹⁵ This support commonly centres on problematic regions (the Mediterranean, the Caucasus, the Balkans, etc.). Most criticism is directed at those developed countries in Europe which support and have a great impact on terrorist organisations, especially in Middle East. It is clear that "Both domestic and international terrorist groups have been known to operate in Europe".⁹⁶ The basic reason for these criticisms usually arises out of Europeans' different political interests, and specific ties on a national level with the aims of these terrorist organisations.

With the struggle for hegemony between the US and European powers centred on the Middle East, terrorist organisations have spread from that geography to the rest of the world. The main factor in that struggle is the Palestinian question. European countries are rather frequently criticised for their soft policy on this issue.

"It is true that European governments, while supporting the state of Israel in principle, tended to view the Palestinians far more sympathetically. Moreover, Yasser Arafat was a member of the Socialist International, giving him an independent channel to fellow socialist in Europe, while Europe's generation of 68's carried with it romantic views of the Palestinians as fellow revolutionaries, which enabled it to overlook misdeeds committed in the name of a just cause. It it was more than just sympathy for the Palestinians. Part of Europe's pro-Arab stance reflected pragmatic self-interest in an economic realpolitik sense. And some Europeans from the far right

⁹⁵ Terrorism (16 January 2004). *Attitude of the European Countries Towards Terrorism External Terrorism*. [WWW document]. URL. <http://www.terror.gen.tr/english/eu/attitude2.html>

⁹⁶ Moore, H. *op. cit.*

⁹⁷ Jenkins B. M. (2003). Terrorism-US and European Perspectives. In: Lindstrom, Gustav (Ed.). *Shift or Rift*, p. 222. Paris: European Union Institute for Security Studies.

and far left of the political spectrum found common ground in antipathy towards Israel, with a whisper of old-fashioned anti-Semitism”.⁹⁷

European sympathy towards the Palestinians has been shaped by more than one factor. The Muslim world and Russia control most energy sources and routes in the world. The ‘soft’ and ‘friendly’ policy of Europeans towards the minority of Muslims in Israel has strengthened the Europeans’ influence on these energy routes. Another factor may be that Europeans do not wish to find themselves at the frontline of Middle East-based global terrorism. Many of the larger players on the EU stage such as France and Germany have significant Muslim populations and for these it seems that Middle East-based terror organisations could pose a grave problem. However, smaller, more northern EU members do not feel the same threat to their borders and, in their policy analyses, the terror issue is not at the top of their political agenda. The last reason has been shaped by the problem of sovereignty in the Middle East. Continental European powers have no desire for US hegemony in the Middle East: They do, after all, consider it their ‘back garden’. It is difficult too to obtain consensus on the basis of all Europeans having the same strategy for Middle East developments. For example, the UK’s position, which obviously supports Anglo-Saxon rather than European interests, is a potential source of disputes within the Union.

Another example is France and Germany, the former having stronger ties with the Palestinians while the latter is more relevant to Israel’s concerns. This divergence between two such important EU members has resulted in the lack of a general policy on security matters. The position of ‘Hamas’ was also cause for deadlock within the EU. France was reluctant to define the organisation as a terrorist organisation where as Germany defines it wholly as such. All this lack of common interests in foreign and security policies weakens the supranational approach of the EU on the issue of terrorism. All individual members’ approach on terrorism could change depending on attacks by these terrorist organisations or political developments in the target country. Thus, we may say that until the dawn of the 21st century all individual EU members favoured the intergovernmental approach on the issue of terrorism.

An important case study in the approach of European countries to regional terrorism is the Kurdistan Workers Party (PKK) and the Abdullah Ocalan issue. For many years Ocalan led the PKK terrorist organisation in Syria with the tacit permission of the Syrian government. However, Turkish pressure, both political and military, led to a change in Syria's approach and Ocalan was deported in October 1998. Following deportation Ocalan entered Greece. "With the aid of ultra-nationalist members of the Greek parliament, Ocalan was brought through VIP channels to Greece."⁹⁸ The Greek government accepted the terrorist leader and helped him on his journey to Russia. Turkish diplomats publicly and privately warned the Russians about accepting Ocalan, and as a result of this pressure Ocalan was refused political asylum there. Then he fled to Italy. "The Italian Internal Affairs Ministry took the demand of political asylum under scrutiny. Italian Prime Minister D'Alema implied that they could provide Ocalan with political asylum if he gave up on terror."⁹⁹ On 27 November 1998: D'Alema met with German Chancellor Schroder and asked him to provide political asylum for Ocalan, but this request was denied. "We do not want him to be extradited because Germany is where most of the Turkish and Kurdish people in Europe live" said Schroder.¹⁰⁰ Pressure exerted by Turkey was ultimately successful and Italy finally expelled Ocalan without trial.

It was Turkish officials who engaged in the diplomatic attack to have Ocalan arrested, but it seemed Turkey was alone in the field of counterterrorism. Its desire to combat terrorism did not find an echo in its European counterparts. Turkish Special Forces prepared a plan to arrest Ocalan outside Turkey's borders, as a result of which Ocalan was finally caught in Nairobi on 16 February 1999. Mr. Ecevit (then Prime Minister of Turkey) announced that Ocalan had been brought to Turkey.

The US government, which assisted Turkey in the area of counterterrorism, was also critical of the European approach to terrorism with respect to Ocalan. The US State

⁹⁸ Black, Joshua (12 March 2004). Greek Diplomacy and the Hunt for Abdullah Ocalan, A Case Study Prepared for WWS 547 - The Conduct of International Diplomacy, *The Woodrow Wilson Scholl at Princeton University*. World Wide Web: URL. <http://www.wws.princeton.edu/~cases/papers/jjblack/>

⁹⁹ Milliyet, 129 day pursuit ends in Turkey, *Milliyet Web Site*. Retrieved: 04 October 2004. [WWW document]. URL. <http://www.milliyet.com.tr/e/1999/02/16/politics/siy02.html>

¹⁰⁰ *Ibid.*

Department had been quite definite in classifying the PKK as a terrorist organisation and Ocalan himself as a terrorist. However, when Ocalan settled in Europe, neither the Italian nor the German governments tried to prosecute or extradite him to Turkey. The US Secretary of State at the time, Madeleine Albright, was clear in revealing her disappointment over the Ocalan issue. In addressing European leaders, especially those of Italy and Greece, in the US Congress she stated: “I was very disappointed...Instead of determination this opportunity was greeted with hand wringing and vacillation.”¹⁰¹

In light of the Ocalan case, Turkish authorities were critical of European countries on several levels: their support of terrorist organisations; their use of terrorist organisations as weapon consumers and/or test subjects for new weaponry; their lack of common arms brokering controls, which remain a loophole in the EU Code and result in the majority of EU states having no legislation that would prevent EU arms brokers from selling weapons to terrorists.¹⁰² It was also claimed that the weapons in the hands of the PKK militants were of mostly European origin, and that European countries permit the PKK to open offices in their capital cities, assist them in holding meetings and allow the PKK’s media tool, MED-TV, (which also broadcasts under other, newer names) to broadcast from within Europe with the knowledge of European countries.¹⁰³

The Ocalan case clearly demonstrated that Turkey, the only candidate for EU membership to also be a member of ‘customs of union’, was under threat from terrorist organisations and that these same terrorist organisations were able to obtain help from other EU members. This is a contradiction in the EU’s struggle against terrorism in the 1980s and 1990s. Many conventions and agreements were signed to prevent terrorism within the EU but each member’s approach to terrorism prevention is different.

Another case study which sheds light on the criticisms directed at Europeans regarding their insensitivity to terrorism is the case of Revolutionary Armed Forces of

¹⁰¹ Hoffman, Bruce (1999). *Is Europe Soft on Terrorism?*, Foreign Policy Summer 1999.

¹⁰² Bauer, Sibylle (2002). Arms Export post 9/11- and the flood Gates open?. *European Security Review*, (Number: 11, March), p. 7.

¹⁰³ More information on European support to the terrorist organisations, In: *Terrorism, op. cit.*

Colombia (FARC)¹⁰⁴. The EU did not include FARC on its terrorist organisation list for many years. On the same day the EU issued its official list of terrorist organisations, the Colombian terrorist group attacked a crowded church and killed 119 civilians, including 45 children: just one more in a long series of FARC terrorist attacks. The Colombian President Andres Pastrana condemned the EU's decision to exclude the guerrillas from its list and also sent the message that, "that Europe tolerates these terrible and cowardly attacks"¹⁰⁵. The Colombian government had begun intense diplomatic relations aimed at pressurising the EU to include FARC as a terrorist organisation prior to the Church attack, but the EU had remained insensitive to the matter. However, immediately following the attack, the EU security chief, Javier Solana, quickly issued a statement condemning FARC's latest terrorist action.¹⁰⁶

Another case, which occurred in 2000, was Belgium's denial of Turkey's request for the extradition of suspected Turkish terrorist Fehriye Erdal, responsible for the killing of a Turkish industrialist and two staff. She was a certainly a member of the Turkish Revolutionary People's Liberation Party/Front (DHKP/C) terrorist group. Belgium also declined to prosecute her under the 1977 European Convention on the Suppression of Terrorism, noting that it covers only terrorist acts using bombs or automatic weapons.¹⁰⁷

¹⁰⁴ "The FARC-EP has proclaimed itself as a politico-military Marxist-Leninist organization of Bolivarian inspiration. It claims that it represents the rural poor against Colombia's wealthy classes and opposes United States influence in Colombia (particularly, but not limited to, Plan Colombia), the privatization of natural resources, multinational corporations, and rightwing paramilitary violence. The FARC-EP has stated that these objectives currently motivate them to seize power in Colombia through an armed revolution. It funds itself by various activities including kidnappings, extortion, diverting funds from legal enterprises, and direct and indirect participation in the cocaine trade. According to polls and studies, a majority of Colombians would consider FARC to be terrorist in the sense that it employs terrorism in addition to being an armed insurgency, and it is often implied that its original cause and ideology may have degenerated due to its use of such methods." More information at; Revolutionary Armed Forces of Colombia (20 October 2004) Wikipedia, the free encyclopedia. [WWW document]. URL. http://en.wikipedia.org/wiki/Revolutionary_Armed_Forces_of_Colombia

¹⁰⁵ Joanne, Mariner (13 May 2002). *THE EU, THE FARC, THE PKK, AND THE PFLP: Distinguishing Politics from Terror*, Retrieved: 15 September 2004. [WWW document]. URL. <http://writ.news.findlaw.com/mariner/20020513.html>

¹⁰⁶ *Ibid.*

¹⁰⁷ US Department of State Official Web Site, *op. cit.*

The Greek terrorist organisation November 17, an anti-western group, enjoyed popular sympathy from many Greeks, including politicians and police. The victims and targets of November 17 are mainly British, Americans, Turks and pro-West Greeks. “This popular sympathy among Greeks is believed to be one of the factors that contributed to November 17's elusiveness and allowed the group to continue its terror spree for over two decades.”¹⁰⁸ In fact, prior to the events of September 11 in the US, no suspected or known member of this terrorist organisation was arrested by the Greek government.

As we can see in the cases mentioned here, differences existed not only between Europeans and other states (US, Russia, Turkey or Middle East countries) but also among European states themselves. “At the 1980 Council of Europe meeting in Strasbourg, representatives of Spain, Germany and Italy complained that France was uncooperative in pursuing terrorists who sought sanctuary on France soil”.¹⁰⁹

It is clear that some European countries such as Spain and the UK are more sensitive regarding the terror issue, and neither the US nor Turkey has directed criticism at either country. However countries such as France, Belgium and Greece are criticized by others. American opinion that Europe is ‘soft on terrorism’ is supported by Russia, Turkey, Israel and other third world countries. The European idea is that the fight against terrorism requires diplomatic action rather than military intervention. There are various examples of countries who share this view. Some states do not have the same sensitivity or sympathy towards all political crime groups, so ‘one man’s terrorist could be another man’s freedom fighter,’ nor do they recognise that there is an inverse relation between a government’s sympathy for a group’s larger goals and its willingness to view the group’s members as terrorists. No one wants to be identified as a terrorist, nor does any one state want its allies to be seen as terrorists’¹¹⁰. However the lack of a definition

¹⁰⁸ Kassimiersis, George (2001). *Europe's Last Red Terrorists: The Revolutionary Organisation 17 November*. Hurst and Company. In: LaPorte, Erin, *op. cit.*

¹⁰⁹ Jenkins B. M. *op. cit.* pp. 223-224.

¹¹⁰ Joanne, Mariner, *op. cit.*, pp.4-6.

of terrorism is a drawback in concluding international agreements on terrorism.¹¹¹ While this vagueness on the definition of terrorism lasts, a common solution to it cannot be formulated. Thus, the members' post-national approach to terrorism also means they are acting against the UN charters mentioned in the second chapter.

4.3. September 11 and International Terrorism

International terrorism is simply a kind of terrorism in which the whole of the organisation itself or the consequences of its acts cross national borders. It is clear that September 11 2001 proved to be a watershed in how the world deals with terrorism. It changed the political and emotional landscape of the United States and European attitudes towards security issues.

The United States was attacked not by a state but a terrorist organisation, using not traditional weapons but new methods and techniques developed by them to strike more than one target. Commercial aircraft were used as massive destruction tools against strategic and symbolic US targets. This unpredicted terrorist action by *Al Qaeda* was proof of what may happen due to the lack of a common definition of terrorism, and the huge growth of terrorist organisations across the globe: *Al Qaeda* itself has the ability to provide the means for operations all over the world. September 11 exposed fundamental weakness in modern Western states on their security approach to terrorism. It brought the entire world to the realisation that the 21st century would not resemble the Cold War era, and US citizens experienced the reality of a terror they had until that time experienced only vicariously through Hollywood products. They were also forced into an awareness of the existence of a world full of problems outside US borders: and this all at a time when it is said that only 20 % of American citizens have passports, the majority of which are used for business travel only. Prior to September 11,

¹¹¹ Carberry, A., (1999). Terrorism: A Global Phenomenon Mandating a Unified International Response, *Indiana Journal of Global Legal Studies* (Vol. 6, No.2) 710-713. Retrieved: 29 March 2005. World Wide Web: URL. http://www.mindef.gov.sg/safti/pointer/back/journals/2002/Vol28_4/5.htm

developments in the social, economic and cultural structure of the world had not greatly impacted on the lives of a majority of American citizens.

The day after the 9/11 attacks there was condemnation from the United Nations Security Council, who reiterated the inherent rights of collective self-defence. On the other hand, on 21 September, with reference the collective self-defence clause in the Rio Treaty, the Organisation of American States invoked the Inter-American Treaty of Reciprocal Assistance.¹¹² On 28 September 2001 the UN Security Council adopted Resolution 1373 (2001), which laid down wide-ranging strategies to combat terrorism and in particular for the fight against the financing of terrorism.¹¹³ On 5 October NATO invoked Article 5 of the founding treaty which states that an armed attack on one or more of the allies in Europe or North America shall be considered an attack against them all. Many countries from all over the world offered help to the US in its struggle against terrorism, from which emerged the military operation to Afghanistan, accused of supporting Al Qaeda.

4.4. The EU Perspective on Terrorism since September 11

The real shock for the US was being struck so viciously on its own soil and its immediate response was the use of military force. Europeans, however, are more

¹¹² Rio Treaty was signed Sept. 2, 1947, and originally ratified by all 21 American republics. Under the treaty, “an armed attack or threat of aggression against a signatory nation, whether by a member nation or by some other power, will be considered an attack against all. The treaty provides that no member can use force without the unanimous consent of the other signatories, but that other measures against aggressors may be approved by a two-thirds majority. It differs from previous inter-American treaties in that it is a regional treaty within a larger international organization; it recognizes the higher authority of the Security Council of the United Nations. More information at; Rio Treaty (12 July 2004). The Columbia Encyclopedia, Columbia University Press. [WWW document]. URL. <http://www.bartleby.com/65/ri/RioTreat.html>

¹¹³ European Union Official Web Site, Council Decision 2003/48/JHA. World Wide Web: URL. http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32003D0048&model=guichett

sensitive concerning developments in world issues. They realise the growing threat of global terrorism and urgently search for new measures to strengthen efforts at counter terrorism.

The September 11 attack was not only an attack on the interests of US but also an act against the liberal world economic system. Despite the differing points of view among European governments on foreign affairs, all Europe supported the US in the Afghan war in order to preserve their basic values such as democracy, human rights and the liberal economy. September 11 propelled into action the EU's third pillar, Common Foreign and Security Policy. In the immediate wake of September 11, many multilateral and bilateral agreements were signed with several countries and governmental organisations all over the world, and the EU began work on a new anti-terrorism initiative.

4.4.1. European Measures against Terrorism in the Union after September 11

In a joint a session of Congress on 20 September 2001 President Bush stated: 'Either you are with us or you are with the terrorists'. The European Council arranged an extraordinary meeting on 21 September and came up with a comprehensive action plan to support the US against terrorist attacks. International terrorism is a clear and present danger not only to the US but also to European security. The fight against terrorism requires trans-national ties, especially within the western world. As French President Jacques Chirac commented, following a meeting with President George W. Bush in Washington, "Europeans have no immunity in the matter: This time it was New York; next time it could be Paris, Berlin or London".¹¹⁴

Europeans came to realise that, without common values, it is difficult to secure or protect their homeland from the threats of international terrorism.¹¹⁵ The Spanish Prime

¹¹⁴ Blinken, *op. cit.*, p. 6.

¹¹⁵ This means that the whole of Europe and all humankind need to share the same interest in terror-related issues in order to combat them.

Minister, Jose Maria Aznar, stated, “I make no distinction between terrorists, none at all, whether they are here in the Basque country or in New York. Nothing can justify a terrorist act”.¹¹⁶

The Europeans also came to understand the need for a common supranational policy within the Union in the struggle against terrorism. “The European Council has decided that the fight against terrorism will, more than ever, be a priority objective of the European Union”¹¹⁷. The plan was established under four headings: Solidarity and cooperation with the United States, European policy in combating terrorism, The Union’s involvement in the world, and world economic prospects. This then was the first intergovernmental decision making procedure in the EU approach on the issue of terrorism and the decision was taken unanimously by the Council. This common agreement on terrorism is conjunctive in structure and prepared by the Commission. The EU became more active in the fight against terrorism, and with the ‘Council Framework Decision to Combat Terrorism’, presented to the Council by the European Commission on 19 September 2001, decided that terrorism could not be a concept limited only to Europol activities. Article 3 (terrorist offences headline) provides for the definition of terrorist crimes, terrorist individuals and organisations. According to the proposal, terror-related offences were clearly stated and a definition of terrorist organisation was determined. The following offences were included as acts of terror, the aim of which is to destroy the political, economic or social structure of a country.

“1. Each Member State shall take the necessary measures to ensure that the following offences, defined according to its national law, which are intentionally committed by an individual or a group against one or more countries, their institutions or people with the aim of intimidating them and seriously altering or destroying the political, economic, or social structures of a country, will be punishable as terrorist offences:

- (a) Murder;
- (b) Bodily injuries;

¹¹⁶ Levitt, Matthew (2002). Europe and Middle East Terrorism. *Washington Institute for Near East Policy*.

Retrieved: 11 February 2004, Columbia International Affairs Online, World Wide Web: URL.

http://www.ciaonet.org/pbei/winep/policy_2002/2002_627.html

¹¹⁷ Conclusion and Plan of the action of the extraordinary European Council Meeting on 21 September 2001.

- (c) Kidnapping or hostage taking; (d) Extortion;
- (e) Theft or robbery;
- (f) Unlawful seizure of or damage to state or government facilities, means of public transport, infrastructure facilities, places of public use, and property;
- (g) Fabrication, possession, acquisition, transport or supply of weapons or explosives;
- (h) Releasing contaminating substances, or causing fires, explosions or floods, endangering people, property, animals or the environment;
- (i) Interfering with or disrupting the supply of water, power, or other fundamental resource;
- (j) Attacks through interference with an information system; (k) Threatening to commit any of the offences listed above;
- (l) Directing a terrorist group;
- (m) Promoting of, supporting of or participating in a terrorist group'.

2. For the purpose of this Framework Decision, terrorist group shall mean a structured organization established over a period of time, of more than two persons, acting in concert to commit terrorist offences referred to in paragraph (1)(a) to (1)(k)."¹¹⁸

The most important headline of the plan that fits into the intergovernmental approach is surely the 'The European Policy to Combat Terrorism'. This is the first concrete step on the road to a co operational approach on the terror issue. This plan includes a series of measures to: enhance police and judicial cooperation, develop international legal instruments (such as Europol), establish a list of terrorist organisations,¹¹⁹ cut off terrorist financing worldwide, strengthen air security, and develop relations with third countries in light of their position on terrorism. Thus, the Atlantic alliance remains an important asset for European security. This proposal was accepted by the European Council and became law on 21 September 2001, and the European Council has taken the following important measures since September 11.

¹¹⁸ European Union Official Web Site, *Proposal for a Council Framework Decision on combating terrorism*. World Wide Web: URL.

http://europa.eu.int/comm/justice_home/unit/terrorism/terrorism_sg_en.pdf

¹¹⁹ Continuity Irish Republican Army (CIRA), ETA, First of October Antifascist Resistance Groups, Jihad Islamic Palestinien, Hamas-Izz al-Din al-Qassem, Loyalist Volunteer Force (LVF), Orange Volunteers (OV), Real IRA, Red Hand Defenders (RHD), Revolutionary Nuclei, Revolutionary Organisation 17 November, Revolutionary Popular Struggle and Ulster Defense Association are on the EU's first official list of terrorist organisations. More information at; Dedeoğlu, *op. cit.*, p.98.

4.4.1.1. Enhancing Police and Judicial Cooperation

On 13 September, the Commission prepared a proposal for a European arrest warrant and a common definition of terrorism (the latter for the first time in the EU's history). Both proposals were adopted with some other measures on intelligence sharing and police investigation.

At the Tampere European Council in October 1999, mutual recognition in criminal matters was created, opening the way for legal jurisdiction to be valid from one EU country to another. However, the Council replaced this system with the current system with the Council Framework Decision for a European Arrest Warrant at the Laeken European Council in December 2001. This warrant supplants the former system of extradition between judicial authorities of the member states, and means wanted terrorists may be arrested in any EU member country for crimes committed in any other.

The European Council called upon the Justice and Home Affairs Council to prepare a common list of terrorist organisations, which had not been done prior to September 11. This was surely an important step both for European security and the EU's standing in the international community.

Joint Investigation Teams were set up to improve cooperation and exchange of information between all intelligence services. The member states would share with Europol all useful data regarding terrorism. It was decided also to set up a specialist anti-terrorist team within Europol to cooperate with its US counterparts. The European Council adopted a resolution to establish Eurojust at a meeting of the JHA Commission at its 28 February meeting. Eurojust's structure resembles Europol and this new body is based in The Hague. The establishment of Eurojust created a bridge between the police and judicial authorities.

“Eurojust will enhance co-operation and co-ordination between national investigating and prosecuting authorities allowing all law enforcement agencies to act more effectively, both individually and collectively, when dealing with international crime and more importantly to bring criminals to justice more quickly.”¹²⁰

¹²⁰ Eurojust's Official Web Site. World Wide Web: URL. <http://www.eurojust.eu.int/#>

4.4.1.2. Global Fight against Terrorism

The European Council proclaimed its solidarity with the US in building a ‘global coalition’ in the days following September 11. The measures undertaken by the European Council to prevent the terrorism do not operate only in the Union but all over the world.

“The EU confirmed its staunchest support for the military operations, which began on the 7 October 2001 in Afghanistan in line with UN Security Council Resolution 1368 and the right to self-defense as enshrined in the UN Charter. The European Union has consistently underlined the central role of the United Nations in building an effective global framework against terrorism”.¹²¹

On 8 October 2001 the Council of the European Union reiterated the European Union and its Member States’ desire to play a fundamental role in the global coalition against terrorism under the aegis of the United Nations. According to the ratification of relevant UN conventions, “the EU has committed itself to implementing in full Security Council Resolution 1373 on the fight against terrorism, and the Commission is contributing actively to this effort in areas where it is competent”.¹²²

The European Union started bilateral relations with third countries following September 11. Another European Union effort at enhancing cooperation was undertaken at the beginning of 2002 with the *Euro-Mediterranean Foundation*. The *Euro-Mediterranean Foundation* was set up as part of the Barcelona Process to enhance intercultural dialogue. A meeting was arranged in Istanbul in February 2002 with new EU Member States, candidate countries and the Organisation of Islamic Conference, the aim of which was the prevention of possible terror related occurrences in the participating countries. This was in recognition of the fact by EU member states that they were also vulnerable to terror externally as well as domestically.

¹²¹ European Commission Official Web Site, September 11 attacks: The European Union's broad response. World Wide Web: URL. http://europa.eu.int/comm/external_relations/110901/index.htm

¹²² *Ibid.*

4.4.1.3. Economic and Financial Restrictions on Terrorism

A vital element of any policy on prevention of terror must be the elimination of the financial resources of terror organisations, and it was this issue on which the European Council focused at their meeting in Ghent on 19 October 2001. The United Nations Convention for the Suppression of the Financing of Terrorism proved a good path for realisation of the Council's aims.

On 19 October 2001 the European Council stated that;

“it is determined to combat terrorism in every form throughout the world and that it will continue its efforts to strengthen the coalition of the international community to combat terrorism in every shape and form, for example by increased cooperation between the operational services responsible for combating terrorism: Europol, Eurojust, the intelligence services, police forces and judicial authorities.”¹²³

The Union has reshaped its structure in preparedness for the fight against international terrorism. Intelligence and police office coordination was provided in tracing money transfers. Another development was the Commissions' proposal to upgrade the EU's money laundering Directive in November 2001 which is now implemented by national legislation in each EU Member State.¹²⁴

Member states actively engaged in the 'Financial Action Task Force' adopted a series of recommendations to combat the financing of terror. The regulation of freezing of terrorist financing/funds was not adopted in 27 December 2001; however this new common position was adopted since EU could not define the act of terrorism. The related article of the consequences is,

“The article 1;

¹²³ European Union Official Web Site, *Council decisions*, from European Union. World Wide Web: URL. [http://europa.eu.int/smartapi/cgi/sga_doc?](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32003D0048&model=guichett)

[smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32003D0048&model=guichett](http://europa.eu.int/smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32003D0048&model=guichett)

¹²⁴ European Union Official Web Site, *EU action in response to 11th September 2001:one year after*. World Wide Web: URL. <http://europa.eu.int/comm/110901/>

The willful provision or collection, by any means, directly or indirectly, of funds by citizens or within the territory of each of the Member States of the European Union with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts shall be criminalized.

The Article 2;

Funds and other financial assets or economic resources of:

- persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts;
- entities owned or controlled, directly or indirectly, by such persons; and
- persons and entities acting on behalf of or under the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities, shall be frozen.

The Article 3;

Funds, financial assets or economic resources or financial or other related services shall not be made available, directly or indirectly, for the benefit of:

- persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts;
- entities owned or controlled, directly or indirectly, by such persons; and
- persons and entities acting on behalf of or under the direction of such persons.

The Article 8;

Persons who participate in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts shall be brought to justice; such terrorist acts shall be established as serious criminal offences in laws and regulations of Member States and the punishment shall duly reflect the seriousness of such terrorist acts.

Article 9;

Member States shall afford one another, as well as third States, the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts in accordance with international and domestic law, including assistance in obtaining evidence in the possession of a Member State or a third State which is necessary for the proceedings".¹²⁵

These specific measures are a significant development for Europe, and both define the act of terrorism and create a specific list of terrorist individuals and organisations

¹²⁵ *Council Common Position of 27 December 2001 on combating terrorism*, (2001/930/CFSP), Official Journal of European Communities Volume 44, (L344/90-91-92) 28 December 2001.

who are common enemies of the EU. Thus, with this resolution, the EU Council began its struggle with domestic terrorism, as most of the terrorist organisations on the list were domestic. This list was amended on 2 May 2002 with another resolution, which added the names of ten more organisations to the list.¹²⁶

Beside the Councils' agreements, individual efforts have also been underway within the EU: Germany has drawn up plans for a national anti-terror database. Italy announced closer monitoring of its northern border, and it detained 174 people suspected of being involved in Islamic militant groups. Italy's interior minister also asked parliament to expand police powers, including the right to question terrorism suspects without a lawyer. In Brussels, meanwhile, British Home Secretary Charles Clarke called for better information sharing among law enforcement services and for redoubled efforts to staunch the flow of terrorist funds.¹²⁷

4.4.2. Transatlantic Cooperation Following September 11

4.4.2.1. Shared US and EU Strategies

Europeans and Americans grew closer in their dealings with the concepts of security and the struggle against terrorism following September 11, and there can be little doubt that in the area of counter terrorism, they share common goals. "Despite differences within the Atlantic community on the war in Iraq and other issues, the United States and its European partners agree on the grave threat that international

¹²⁶ Aum Shinrikyo, Babbar Khalsa (does not figure on the US list), Al-Gama'a al-Islamiyya, International Sikh Youth Federation (ISFY), PKK, Lashkar e Tayyaba (does not figure on the US list), The National Liberation Army of Iran, DHKP/C, Shining Path and the United Self-Defense Forces. More information at; Dedeoğlu, *op. cit.*, p. 99.

¹²⁷ Rice-Oxley, Mark (2005). *How far will Europe go to stop terror?* Christian Science Monitor, 15 July 2005, Vol. 97, Issue 162 p. 1.

terrorism poses to the global community.”¹²⁸ We can see this alliance in operation in Afghanistan and in the cooperation measures in response to terrorism mentioned above.

Some agreements were reached to improve intelligence sharing and law enforcement cooperation between US and European counterparts. Since September 11 police and judicial cooperation between the United States and the European Union has also been considerably strengthened. The main actor in intelligence sharing is Europol. As part of a US-Europol agreement of December 6, 2001, Europol set up a liaison office¹²⁹ in Washington in August 2002. It is currently expanding its role in the operational field by facilitating the exchange of information in support of international investigations. An intra-European task force of police chiefs has been established to improve coordination. The parties to the Atlantic coalition realise that mutual assistance and cooperation benefits both sides. Proposals passed by the European Union involve high levels of cooperation between the US and EU. Europe, for the first time, created a list of terrorist organisations and a common definition of terrorist offences. EU member states arranged a series of operations on terrorist organisations and froze the assets of those believed to be linked to the September 11 attacks. A United Nations decision is no longer required before terrorists’ assets may be frozen throughout the EU.¹³⁰

¹²⁸ McNamara, T. E. (2003). The Rift in Transatlantic Relations. *European Affairs*, (Spring 2003). Retrieved: 11 February 2004, Columbia International Affairs Online, World Wide Web:

URL. http://www.ciaonet.org/olj/ea/2003_spring/2003_spring_48.html

¹²⁹ Stergioulis, Evangelos (2004). Europol Prepares for Tough Challenges as EU Enlarges. *European Affairs*, (Winter 2004). Retrieved: 25 September 2004, Columbia International Affairs Online, World Wide Web: URL. http://www.ciaonet.org/olj/ea/2004_winter/2004_winter_02.html

¹³⁰ “Acting against terrorists’ financial channels, the EU Council of Ministers upgraded its money-laundering directive on November 19, 2001. From September 11 to June 3, 2002, EU countries froze assets of a 120 million, according to the European Commission. But hard numbers are elusive. The British newspaper, The Daily Telegraph, reported in June that the total of suspected terrorist assets frozen worldwide has been shrinking, as large sums have “had to be returned for lack of evidence of terrorist links. Others have said that Al Qaeda evaded the financial dragnet by transferring assets to easily concealed and transported assets like gold and diamonds.” In: Knowlton, B. C. (2002). Despite Differences, Transatlantic Cooperation Against Terror Will Continue. *European Affairs*, (Summer 2002). Retrieved: 20 January 2004, Columbia International Affairs Online, World Wide Web: URL. http://www.ciaonet.org/olj/ea/2002_summer/2002_summer_94.html

4.4.2.2. Challenges Facing Transatlantic Cooperation

As mentioned in the previous chapter, there remain important differences between the transatlantic partners in relation to counter terrorism, and despite close cooperation through common security approaches, the partnership also faces challenges. As we know, European countries were subject to criticism regarding their approach to terrorism prior to September 11, and, while following September 11 the US and EU established a common definition of terrorist offences, they did not adopt a common definition of ‘terrorist’. The concept of ‘terrorist’ is a complex problem. After all, one state’s terrorist may be another’s freedom fighter, and the political interests and regional security affairs of each shapes its approach to the ‘terrorist’. Hence, incompatibilities exist between the transatlantic partners on the issue of cooperation against terrorism. “Nearly all the 19 terrorists involved in the attacks had lived in, passed through, received training in, or hatched their fateful plans in Europe.”¹³¹ Both American and Europeans occasionally criticise each other on their approach to terrorism. “Al Qaeda, the Ba’athists, and the Shi’is have been encouraged by America’s passive response to their violent activities in recent decades – a response largely limited to investigation and litigation.”¹³² American authorities criticise the Europeans’ view of democracy, human rights, and other weaknesses in the Union which facilitate terrorists’ movements within the region. Terrorist organisations originating in the Middle East were easily able to act and develop their organisations in the countries of Western Europe, which of course are all EU member states. Their lack of a common EU foreign policy opened the door to terrorists and allowed them to use EU countries as logistic centres for their terrorist activities worldwide.

Despite cooperation against terrorism on the intergovernmental level, some terrorist groups continue to be able to organise their actions within Europe. According to Blinken, despite European Union measures to create a supranational approach in the EU to counter terrorism, *Al-Qaeda* has the ability to operate in most of the European

¹³¹ *Ibid.*

¹³² Woolsey R. J. (2002). Special Policy Forum Report: Europe & America / Europe v. America: Alliance Politics in the Middle East. *Washington Institute for Near East Policy*. Retrieved: 11February 2004, Columbia International Affairs Online. World Wide Web: URL. http://www.ciaonet.org/pbei/winep/policy_2002/2002_629.html

countries.¹³³ European countries need to be more attentive to counter terrorism, and need to create common measures to protect their civilians and interests in a balance between the Muslim and Western Worlds.

The Secretary General of NATO, a former Dutch foreign minister, warned the European Union on 12 November 2004 that “in Europe, we still have complicated discussions... of how far governments could go in the relationship with their citizens in the fight against terrorism.”¹³⁴ Despite common rules within the EU, there are varying points of views with regard to putting the laws into practice. “A ‘perception gap’ has opened up since the September 11 attacks. I think Europe should catch up here, not the United States,”¹³⁵ he added.

Some observers accuse Europeans of being “soft on terrorism”.¹³⁶ As discussed in previous chapters, Europe was also considered to be pursuing the ‘soft security’ strategy, a strategy that was also seen in its approach to terrorism. The differences in the American and European points of views may be clarified under the following headings:

A) The List of Terrorist Organisations and Financial Blocking List

The problem begins with the European Union’s terrorist list, firstly published in the conclusion of the ‘Council Framework Decision on combating Terrorism’. Although the EU placed several individual Hezbollah terrorists on its list, it did not declare the organisation itself terrorist. Hamas’ position is also somewhat of an anomaly as far as financing is concerned. If an organisation is on the list of terrorist organisations, then it

¹³³ “In recent years, al-Qaeda cells have been discovered and dismantled in nearly a dozen European countries” “Individuals responsible for and connected to the September 11 attack on America lived, worked and were educated in Germany. Al-Qaeda continues to operate in Europe” In: Blinken, *op. cit.*, p.3.

¹³⁴ *Europe 'lags behind' US on terror.* (12 November 2004). *BBC*. Retrieved: 15 November 2004, [WWW document]. URL. http://news.bbc.co.uk/1/hi/world/south_asia/4005345.stm

¹³⁵ *Ibid.*

¹³⁶ Europeans do harbor the notion that they do not want to “antagonize populations that produce terrorist groups and make it harder to address the root causes of terrorism”. In: LaFranchi, Howard. 2004. US vs. Europe: two views of terror. Boston, MA: *The Christian Science Monitor*. Retrieved: 18 March 2004. [WWW document]. URL. <http://www.lexis-nexis.com>.

should follow that the same organisation be on the financial blocking list. Hamas, however, has been separated into two spheres; the political and the military, with the military wing being included on the terrorist organisation list and the political wing excluded. EU reasoning on this issue is based on the belief that as funds directed to the political wing are used for social services for Palestinians, the political wing could play a vital role in the Middle East peace process. However, in September 2003, “several weeks after a Hamas suicide bombing in Jerusalem killed 23 people, the EU acknowledged the connection between Hamas’ military and political wings and listed Hamas as a terrorist organisation”.¹³⁷

US criticism also focuses on European insensitivity to the ‘out of area’ concept. Critics insist that as the EU list consists mainly of domestic terror organisations, it follows that Europeans pay insufficient attention to those organisations which number non-Europeans among their victims. “The expanded financial-blocking list also seems to suggest that the EU applies different standards to groups that target Europeans (e.g., *al-Qaeda*) compared to groups that target innocent civilians in the Middle East (e.g., *Hezbollah*)”.¹³⁸

B) The Terrorist State Concern

The US is also concerned about the terrorist state issue. “Some Europeans may seize the moment to bring countries like Iran and Syria more fully into the community of nations and enlist them in the war against terrorism”.¹³⁹ The continuation of diplomatic relations between EU countries and the US’ ‘black list terrorist-countries’ in particular creates lack of tranquillity between the two sides of Atlantic.

The FBI has commented on state sponsors of terrorism/sponsor countries that view terrorism as a tool of foreign policy. Also, the Department of State has listed seven countries as state sponsors of terrorism: Iran, Iraq, Sudan, Libya, Syria, Cuba, and North

¹³⁷ Anti Defamation League. (June 2004) *Terrorism: The European Union Response*, Retrieved: 06 November 2004. [WWW document]. URL. http://www.adl.org/Terror/tu/tu_0406_eu.asp

¹³⁸ Levitt, *op. cit.* p. 6.

¹³⁹ Blinken, *op. cit.* p.5.

Korea.¹⁴⁰ The US has declared Iraq, Iran and North Korea to be an ‘axis of evil’ and have little or no patience with an allied country having relations with them. The absence of coordination between the EU and US could cause a crisis between them and harm alliance solidarity.

C) Point of View: Is Terrorism a Military or a Law Enforcement Issue?

It is clear the American attitude to the concept of security differs from the European. “Americans have a clear sense of national identity and are willing to use force to defend it. This explains why America and Europe often find themselves on different tracks in the face of conflict”.¹⁴¹ Europeans are reluctant to view terrorism as a military issue rather than a law enforcement issue. European countries do not share the US idea that military action is the most effective tool in fighting terrorism. A European official in Washington was recently quoted as saying: “We have always had a different definition of terrorism, in that we never call it a ‘war’ on terrorism. We call it the fight or battle against terrorism, and we do think the distinction makes a difference”.¹⁴²

D) Point of View on the Concept of Legitimacy

It is clear that the struggle against an international non-state armed force is a difficult and complex struggle to win within the framework of justice. Thus, the European Union requires a multilateral framework if there is to be governmental action against international terrorism. Several European decision-makers wish for legitimacy on the issue of undertaking military intervention in any independent country whose relations with terrorist organisations is suspect. European decision makers feel that this legitimacy could be supplied by the United Nations and multilateral agreements with regional and multinational authorities other than the US.

In an interview President Chirac said, “There’s no doubt that there has been an increase in terrorism and one of the origins of that has been the situation in Iraq. I’m not

¹⁴⁰ Freeh, J. (10 May 2001). *Threat of Terrorism to the United States*. Federal Bureau of Investigation. World. Wide Web: URL. <http://www.fbi.gov/congress/congress01/freeh051001.htm>

¹⁴¹ Woolsey, *op. cit.* p.8.

¹⁴² Anti Defamation League, *op. cit.* p.3.

at all sure one can say that the world is safer”.¹⁴³ The Continental Europeans’ view and opinions have become more openly and loudly aired following the increase in terror since the US intervention in Iraq. Accordingly, the reluctant European approach on intervention in Iraq meant that some European NATO members opposed US moves and demands. This has clearly created division among EU members. “Belgium, France and Germany blocked an initial US proposal to bolster Turkish defences with NATO assets, causing Turkey to call for consultations under article 4 of the Washington treaty.”¹⁴⁴ Division within Europe on the Iraq issue brought the European Union to a crisis point within the CFSP.

These differences in points of view between the EU and US not only affect the EU – US relations but also create deadlock among EU members. For example, the UK as a close ally of the US, did not feel able to risk QMV and supranational choice in the CFSP and JHA fields, because it is clear that the main EU actors, Germany and France, have different interests in the regional and world politics. Developments between the US and its allies France and Germany in the event of Iraq occupation were proof of future deadlocks in the CFSP. The Iraq issue is a high rather a low politics issue among EU members. It proved the difficulty to be faced in creating a common foreign and security policy. However these deadlocks within the EU did not affect the shared anti-terror coalition.

¹⁴³ BBC. Full transcript of Gavin Esler's interview with French President Jacques Chirac, as broadcast on; 17 November 2004, on BBC Two, Retrieved: 18 November 2004. [WWW document].

URL. <http://news.bbc.co.uk/1/hi/programmes/newsnight/4020663.stm>

¹⁴⁴ “In order to resolve the crisis the matter was transferred to the Defence Planning Committee (DPC), which was asked to support the US plan, whilst emphasizing its defensive nature. Crucially, France is not represented at the DPC, having withdrawn from NATO integrated military structures in 1988. On Wednesday 19th February the DPC finally approved the deployment of NATO assets in Turkey.” In: *The EU Reunited? Implications of the Iraq Crisis for CFSP* (2003). *European Security Review*, 16 (February): Brussels.

4.5. March 11 Madrid Bombings and the EU Stance on Terrorism

The *Al Qaeda* Madrid rail bombings on 11 March 2004 shocked all of Europe. Powerful blasts in three train stations in Madrid killed close to two hundred people just three days prior to the Spanish national elections. In the wake of September 11 2001, Europeans realised that the threat of terror could damage Western influence and was capable of hitting Europe at will. The Madrid attacks were proof that while the EU and each of its member states takes precautions against terrorism, the lack of effective coordination and the different interests of each member had brought Europe to the front line in the war against international terrorism. After the attacks in Madrid, the European Council realised that full implementation of measures to combat terrorism must take prior place on the agenda. As a result, the Council's approach to terrorism began to change rapidly as terrorism began to be seen as a criminal rather than political act.

Heads of state and governments of the twenty-five EU members began to take measures in the immediate wake of the bombings. Romano Prodi, president of the European Commission at the time declared that "this is not a political act; it is criminal act against defenceless people...a perverse act of terrorists".¹⁴⁵ Ireland held the EU presidency at the time and the Irish Prime Minister, Bertie Ahern, said "the timing of the bombings was clearly designed to wreak the greatest level of havoc...and cannot be justified by any political cause".¹⁴⁶ On 11 March, European Commission prepared a paper entitled 'declaration on combating terrorism'¹⁴⁷. The paper also referred to a

¹⁴⁵ Europe decries bombings (2004). *Turkish Daily News* (2004). (12 March 2004): p.14.

¹⁴⁶ *Ibid.*

¹⁴⁷ Declaration on combating terrorism was published by the European commission in 25 March 2004, two weeks after the Madrid bombings. Its aim is combat all forms of terrorism. Solidarity among the members and cooperation against terrorism is the main objectives of that declaration. The headlines of the declaration are; Solidarity clause, security strategy, assistance to victims, building on existing cooperation, strengthening border controls and document security, EU guidelines for a common approach to combating terrorism, strategic objectives for a revised EU plan of Action to combat terrorism, sharing of intelligence, preventing the financing of terrorism, measures to protect transport and population, international cooperation, cooperation with US and partners, establishment of the position of a Counter -

‘declaration on solidarity on terrorism’ with regard to article 42 of the Constitution for Europe. After Madrid, EU leaders resolved to further improve coordination among member states, as well as to enact laws on EU-wide arrest warrants and create a database of terrorist suspects.

One of the main measures to be taken was the establishment of new functions of the Schengen Information System (SIS), as set out the Council Regulation and Decision, which came into force in June 2004. Also, The Commission and the Council were urged to move forward with the Visa Information System (VIS) in line with the conclusions adopted in February 2004.¹⁴⁸ The EU also wished to close any existing loopholes in the SIS by enforcing the new proposals. The European Council agreed to ratify and fully implement the 1999 UN Convention for the Suppression of the Financing of Terrorism. Accordingly, the provisions of UNSCR 1373 will be fully implemented by all members of the Union. A legal administrative structure to fight against the financing of terrorism was formed on the basis of an international institute, and the EU decided to develop cooperation with other military international institutions such as NATO as stated in objective 5¹⁴⁹ of the ‘declaration on combating terrorism’.

“Even though the Madrid attack brought about new spirit of solidarity in the Union, questions remain on the different cultural and legal differences that are making cross border cooperation difficult”.¹⁵⁰ The Commission does not want to propose new legal instruments or new institutions. These would need to be discussed and approved on the ground. The Commission was aware that legislative procedures would need a long time both in the national decision mechanisms and in the Council. Belgium and

Terrorism Coordinator, the way forward. This paper continues with the revised plan of action and solidarity against terrorism.

¹⁴⁸ Council of Europe Official Web Site, *Declaration on Combating Terrorism*, World Wide Web: URL. http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/79637.pdf

¹⁴⁹ Annex 1, Objective 5: ... Identify areas for closer cooperation in consequence management with other international organisations within their respective competences, including NATO. In: Council of Europe Official Web Site, *Declaration on Combating Terrorism*, *op.cit.*

¹⁵⁰ Simpson, Victor L. (2004). *Top terrorist investigator departing with mixed feelings, say Europeans want to cooperate but face obstacles*. Associated Press. Retrieved: 1 April 2004. [WWW document]: URL. <http://transatlantic.security.pronato.com/EU.terrorism2.htm>

Austria's proposal for the establishment of a 'European Intelligence Agency' - similar to the American Central Intelligence Agency (CIA) - was refused by the ministers. Instead, the French interior minister, Nicolas Sarkozy, "suggested the secret services of France, Britain, Germany, Italy and Spain could take a leading role in fashioning a unified European response to terrorism"¹⁵¹. This suggestion has yet to be taken into consideration. Thus we can say that the response of EU to the attacks concerned itself mainly with developing existing counter terrorism mechanisms. Moreover, national secret services were still reluctant to share information with the entire European Union, resulting in lack of success in cooperating on intelligence-gathering. "For example, Germany was angry at Spain's initial refusal to say what sorts of explosives were used in the Madrid blasts."¹⁵² The lack of coordination among the secret services weakens the EU's struggle against terrorism and prevents the creation of a supranational structure on issues related to terror. "The Commission states that the implementation of the measures to combat terrorism is often slow, poor and inadequate and says this is 'unacceptable'."¹⁵³

As mentioned in the previous chapters, Europeans have been and are still accused of being 'soft on terrorism'. While the European Union fails to establish new legal instruments or new institutions, EU citizens will continue to suffer the real pain of terror. "The Madrid attacks were an important moment for the European Union, analysts say, because it was an opportunity for Europe to coalesce, and further establish a common identity, in this case in a forge of outrage and grief".¹⁵⁴

Following the September 11 attacks, the EU appears to have concerned itself mainly with definitions of terrorism and the creation of lists of terrorists and their organisations, with no serious efforts being made in the area of terrorism prevention. This has changed since the Madrid bombings with the whole institution of the EU

¹⁵¹ Associated Press (19 March 2004). *By Constant Brand EU nations agree to name 'anti-terrorism czar' but veer away from an EU CIA* (2004). [WWW document]. URL.

<http://www.signonsandiego.com/news/nation/terror/20040319-1110-eu-terrorism.html>

¹⁵² *Ibid*

¹⁵³ Euractiv (11 November 2004). EU counter-terrorism policy. [WWW document]. URL.

<http://www.euractiv.com/Article?tcmuri=tcm:29-117489-16&type=LinksDossier>

¹⁵⁴ Herald Tribune (2004). *Madrid attacks present a test of solidarity for EU* (13-14 March): p.4.

putting serious effort into the prevention, rather than definitions and explanations, of terror. Unfortunately, these efforts have remained at the intergovernmental level, based on negotiation and cooperation among individual EU members.

4.6. Problems in the EU on Counter Terrorism

4.6.1. The Schengen Agreement

The Schengen Agreement is viewed as one of the weaknesses in the EU struggle with terrorism. The Schengen Agreement was signed in 1990 by France, Germany and the Benelux countries and opened the frontiers to all the persons, goods, capital and services within the signatory member states. As mentioned in the previous chapters, security precautions were initiated along with the Schengen agreement, but at the same time it also created a freer movement area for within the Union.

With the Schengen Agreement the plan for an 'ever closer Union' and the free movement of people, money and materials across national borders is well under way. However, the free movement of persons and capital also allows for the free movement of criminals and the fruits of crime.¹⁵⁵ This free movement of persons and goods emerges from the EU desire for the supranational model, but they have failed to create a supranational structure in security and internal affairs. This then is a failing in the EU policy system. EU passport holders may easily travel within its borders and easily obtain visas for countries outside the EU. Thus a terrorist holding an EU passport may benefit from the same ease of travel in committing his/her terrorist act.

EU member countries are accused of being soft on terrorism. The existing intergovernmental approach is criticized for opening the door to terrorist organisations, international drug traffickers and other smugglers and enabling them to become more

¹⁵⁵ Combs, Cindy C. (2003). *Terrorism in the Twenty-First Century* [WWW document]. URL. <http://transatlantic.security.pronato.com/EU.terrorism2.htm>

strongly rooted and more freely active within the EU. “After all, travel to the United States on European Union passports is easy and probably will remain so until we get attacked by holders of EU passports”.¹⁵⁶

Reaction against Schengen came not only from the US but also from inside the EU. “We have to realize more and more that Schengen is a gift to terrorists,”¹⁵⁷ says Rolf Tophoven, the director of the Institute for Terrorism Research and Security Policy in Essen, Germany. Another criticism of Schengen came from the Dana Allin, an expert in European security at the International Institute for Strategic Studies in London. Mr. Allin says he doesn't think Europe will sacrifice Schengen, but adds: “There is a mismatch between having effectively no borders and having police and intelligence services that still think in terms of national borders. That's an obvious problem.”¹⁵⁸

4.6.2. Illegal Immigration

The illegal immigration of political refugees is another problem for Europe. It will probably be both directly and indirectly related to the rise of terrorist activities in Europe in the near future: indirectly in that the immigration wave and refugees mainly coming from the former Soviet Republics, Eastern Europe, the Middle East, and North Africa may cause problems within the Union. Current EU unemployment rates stain at 12-18%. “A primary objective of most European nations is to prevent domestic pressure from building too high over perceived threats from unwanted immigrants and refugees”.¹⁵⁹ As a response to this problem of unwanted migrants, Europeans want to reduce illegal immigration as much as possible. The rise of unemployment in the member countries strengthens the political position of right wing parties and racist ideas, which could lead to ethnic conflict within the EU. In the event of symmetric ethnic conflicts beginning, minorities (which are mostly made up of migrants in the EU) could become a human resource for terrorist organisations. With the removal of national

¹⁵⁶ Gerecht, *op. cit.*, pp.6-7.

¹⁵⁷ Rice-Oxley, Mark (2005).*op. cit.* p. 2.

¹⁵⁸ *Ibid.*

¹⁵⁹ Moore, *op. cit.* p.2.

borders, minorities under threat may be able to obtain help from other EU members, a situation which would ultimately affect all other members.

Directly, the immigration and refugee problem may affect terrorism in Europe as follows: ethnic criminal organisations and terrorist organisations may often follow the immigration process to act in the target country. Most target countries are selected on the basis of their minority rates and weakness or strength of their police organisations. Large numbers of illegal immigrants make control difficult for the intelligence services, and this compounded by the lack of coordination among the intelligence services makes the EU a target for terrorist organisations.

If we consider today's most dangerous terrorist organisation, namely *Al Qaeda*, and their so-called warriors of Islam, then the huge Muslim population within the Union, coupled with large numbers of political refugees and careless immigration procedures, could mean that the EU countries find themselves propelled to the front line in the war against global terrorism. Still, however, each member has different immigration procedures and a different approach to the refugee problem. It is known, for example, that many PKK terrorists wanted by Interpol have been admitted to some EU member states and become refugees in these countries.

Another problematic issue centres on the recently completed enlargement process. The ten new members - most of whom are former Eastern Bloc countries - are economically worse off than the western states, with unemployment rates of between 15-20%. These conditions force people to search out possible job opportunities in the western countries of the EU. However, it is well known that following the collapse of the Eastern Bloc, the illegal movement of people became an important issue for EU countries, and that illegal crime organisations have become more firmly rooted and stronger with enlargement. These ex-Eastern Bloc countries are being used as a bridge between the west and east by these organisations, which are also thought to be involved in the trading of biological and chemical raw materials. They have a classic mafia structure: at the top of the pyramid is the leader, with an important place and connections in society, and at the bottom are the illiterate and those of poor family

background.¹⁶⁰ An examination of the history of mafia reveals that it came into existence in Sicily following the collapse of the European feudal system. An increase in illegal migration and a loosening in the power of national authorities could cause a similar system to emerge within EU member states. Although these crime organisations have no political or ideological aims at present, were they to adopt such aims in the future then through the political choices of member states, as operational in the intergovernmental model, they could change their structure to become terrorist organisations, or they could sell weapons to terrorist organisations in Europe.

4.6.3. The Muslim Population within the EU

It is clear that we cannot presume to view all Muslim minorities in Europe as potential terrorists as a result of *Al Qaeda*'s fundamentalist terrorist attacks. In fights with each other it is very important to prevent speculative actions which could affect wider society, and local authorities must be held responsible for this issue. A clear and constant distinction must be made between criminal and terrorist matters in order for the struggle against terrorism to be successful. Moreover, the sources of terror in society must be rooted out.

Events in The Netherlands in November 2004 may be looked at as a case study. The Dutch government considered the death of film maker Theo van Gogh a terrorist action rather than a murder. Van Gogh had made a controversial film on the treatment of women in Islam and when the suspected killer, a Muslim of Dutch-Moroccan nationality, was arrested shortly after the killing, social tension increased. This approach of the Dutch government served as encouragement to racist groups and attacks on the country's Muslim minorities began. "There have been more than 20 incidents of fires or vandalism at Muslim buildings since the murder of the controversial filmmaker Theo van Gogh".¹⁶¹ Two Islamic elementary schools were targeted on 8 November and one

¹⁶⁰ Grabianowski, E. (12 October 2004). *Mafia Activities*. [WWW document]. URL.

<http://people.howstuffworks.com/mafia5.htm>

¹⁶¹ BBC News (13 November 2004). *Mosque set on fire in Netherlands*. [WWW document]. URL.

<http://news.bbc.co.uk/1/hi/world/europe/4008781.stm>

mosque was badly damaged both inside and out in 13 November. The fire was caused by a ‘large bomb or explosive’; a police spokesman told the BBC News website.¹⁶² However, these bombings against Muslim society were not seen as a ‘terrorist act’ by the executive authorities of Netherlands. The fight against terrorism seemed to become the ‘fight against Muslims’. “Dutch youths brawled with Turks and Moroccans in the first direct ethnic confrontation since Van Gogh's murder”.¹⁶³

Meanwhile, the Dutch parliament has begun questioning the proposals, and appears more interested in controlling Muslims rather than preventing the attacks. “MPs have asked the government to draft new legislation forcing Dutch mosques to employ only imams who have studied Islamic religion in the Netherlands”¹⁶⁴ and “Legislators are also considering laws that would enable the closure of mosques that spread non-Dutch values”.¹⁶⁵ These proposals have attracted wide support in The Netherlands, yet in the Declaration on Combating Terrorism, written by the European Commission and signed on 25 March 2004, Annex 1 of objective 5, states the following: “Ensure that support and assistance is provided to the victims of terrorist crimes, and protect minority communities who may be at risk of a backlash in the event of a major attack”.¹⁶⁶ The attacks on Muslims after the Van Gogh murder could be seen as terrorist acts yet the Netherlands government neither saw them as such nor punished the guilty ones as criminals. Had an event such as this occurred in another EU country the conclusion may very well have been different? “European intelligence and security services are stuck with the fact that roughly fourteen to seventeen million Muslims now live within the European Union”¹⁶⁷. The cases outlined in this thesis are proof that EU member

¹⁶² *Ibid.*

¹⁶³ It is claimed that after the murder, Turks and Moroccans became target of racists in the Netherlands. See, Yahoo News, (13 November 2004). [WWW document]. URL.

<http://feeds.bignewsnetwork.com/redir.php?jid=c75c0e886a544e58 &cat= ec440608e205>

¹⁶⁴ BBC News (13 November 2004)., *op. cit.*

¹⁶⁵ Yahoo News, *op. cit.*

¹⁶⁶ Declaration on Combating Terrorism, Annex 1, Objective 5: ... Identify areas for closer cooperation in consequence management with other international organisations within their respective competences, including. European Union Official Web Site, *Declaration on Combating Terrorism*. World Wide Web: URL. http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/79637.pdf

¹⁶⁷ Gerecht, R. M. *op. cit.*, pp.6-7.

countries may apply different laws and actions to Muslim minorities. They prove that a paradox and a coordination gap exist within the Union. Despite all the attempts to create a supranational structure within the EU on terror related issues, European Union members continue to travel along the negotiative path of the intergovernmental system. The lack of experience of these authorities in the area of counter terrorism encourages both racism and terrorism. Muslims' respect for the western democratic and human rights system is decreasing. After all, it seems that in the recent events in The Netherlands we saw that basic human rights would appear to contain within them common insult rights. One possible result of these developments is that the Muslim community, feeling under threat after these bombings, may start to feel the need to become militarised. Ethnic and religious conflicts could open the door to terrorism, first within the region, and then all over Europe.

Alternatively, Europe's Muslim minority could prove to be of invaluable assistance to Europe as it tries to reposition itself. The existence of a large European Muslim population could be used to send more positive messages to the Islamic world at large. A Europe seen to be engaged in efforts to solve its problems with the Muslim world would at least have guaranteed support from its own 15 million European Muslims.

4.6.4. Public Opinion

It is clear that public opinion has a great influence on the domestic policies of European countries, and so on the decision making authority of member states. The Council Ministers of the members act mainly under pressure from their voters and different pressure groups. This pressure has a great influence on the decisions of the head of the state and thus on the decisions in the Council. In the immediate aftermath of September 11, sensitivity among the European public on terror-related offences left a deep impression on their domestic leaders. Indeed, the decision makers of the most EU countries and EU decision making institutions changed or passed their counter terrorism laws in the immediate wake of the September 11 attacks. These attacks not only brought the greatest fears of European countries to the surface but also had a great impact on civilians. This influenced national governments to fight against terrorism, especially

international terrorism. The results of the European Commission's bi-annual *Eurobarometer Report* in the period between October and November 2002¹⁶⁸ revealed that international terrorism was feared by 82 percent of EU citizens (average of 15 member states) followed by a fear of mass destruction weapons at 72 percent (figure 7). However, public opinion on the issue of the terrorist threat varied from one country to another. For example, according to a 2003 Gallup Europe survey¹⁶⁹, 90% of respondents in Finland, Denmark and Austria considered as low the threat of terrorist attack in their country. By contrast, 83% percent in Britain and % 70 percent in Spain considered as high the same threat. (figure 8). "... threat perceptions are higher in EU member states such as Spain, France, Italy and The UK, which have a direct connection to domestic terrorism"¹⁷⁰.

There is no common feeling throughout Europe, so it is not surprising that each EU member has a different approach to the terror issue. For example, most UK citizens feel they under the threat of terrorism because of their strong alliance with the US. They are also aware that the UK has a dominant role in world politics. Smaller EU members do not feel greatly threatened by terrorism since they have do not have an important role in world politics and so do not have enemies. Hence they do not wish to have greater amounts of taxpayers' money spent on national defence. This domestic public opinion also affects the governments' policy approaches in deciding if an issue is to be high or low on their political agenda. Usually public opinion is reflected in government policy approaches. This is one of the main reasons why a supranational approach cannot be established within the EU in the struggle against terrorism.

In contrast to 2002 Eurobarometer research, the 2004 October and November report, published in December 2004, revealed a decline in European citizens' concern about the terror issue, despite the 11 March 2004 Madrid bombings. In this report economic concerns proved to be primary, followed by unemployment, the current

¹⁶⁸ Eurobarometer Report (2003). Eurobarometer 58 (Autumn 2002). World Wide Web: URL. http://europa.eu.int/comm/public_opinion/archives/eb/eb58/eb58_en.pdf

¹⁶⁹ Gallup, International Crisis Survey, EOS Gallup Europe, January 2003. In: Lindstrom, Gustav (2003). *Terrorism: European myths and realities*. Lindstrom, Gustav (Ed.), Shift or Rift, Transatlantic Book 2003 (231-251). Paris: Institute for Security Studies.

¹⁷⁰ Lindstrom, *op. cit.* p. 235.

economic situation, crime, and rising prices/inflation. Terrorism emerged as fifth on the list of concerns. (figure 5). Two years lapsed between these reports and we can see a marked decrease in the impact and importance of terrorism. Indeed, the fears of EU citizens mostly centre on the loss of civil liberties involved in counter terrorism legislation. It would seem that the citizens of the EU support the fight against terrorism with the proviso that it not interfere with their civil liberties.

Nevertheless, 84% of EU citizens believe the EU rather than their national government should make decisions involving the fight against international terrorism (figure 6). This is the area where EU citizens are most likely to favour EU decision making. They are most likely to favour national decision making in the areas of policing, justice, urban crime prevention and juvenile crime prevention. Hence, we can see that while European public opinion regards today's terrorism as an international phenomenon which must be dealt with through EU decision making mechanisms, the differing approaches and attitudes to terrorism within the EU, mean that the fight against terrorism must for the moment remain at the level of intergovernmental bargaining.

V. CONCLUSION

In this study, the European Union and concepts of terrorism were analysed within the framework of the political structure of the EU. Initially, the roots of terrorism in history and are how they were related to the notion of sovereignty were examined. The term terrorism was first used during the French Revolution in relation to rebels and rebellions and its definition has changed throughout the years. In the 19th century, terrorist activities were often carried out in the name of gaining independence from an imperial power. Terrorism grew and spread during the 20th century as weaknesses in interstate cooperation in the struggle against it led to a strengthening in its means and power. The end of the cold war era in the latter years of the 20th century and emerging globalisation furthered the spread of international terrorist organisations.

Throughout the 20th century, attempts to further cooperation among the international community in the struggle against terrorism were made through counter terrorism conventions adopted by the UN. However, these efforts proved unsuccessful during the Cold War era as the different political interests of the political blocs led to different attitudes and approaches to terrorism by each side. Within the then EC there were also clashes in attitudes towards terrorism among its individual members.

The EC established itself as a strong regional political and economic power especially in the wake of the collapse of the Eastern Bloc. Yet European unification can hardly be considered a new idea. The dream of a unified Europe first appeared in the middle of 1900s, and this emerged from a heritage of hundreds of years. The first serious step on the path towards the unification of Europe was taken just after Winston Churchill's speech at Zurich University in September 1946. The structure of the European Union we know today was formed with the establishment of the European Coal and Steel Community (ECSC) by six founding members: Belgium, The

Netherlands, Luxembourg (collectively known as the Benelux countries), West Germany, France and Italy.

The primary purpose of the ECSC was to share the steel and coal revenues of the members in the reconstruction of their industries and to prevent another European war. Thus, security was also an important issue for the members in preventing war, and was the one of the main elements in the formation of the European Community. Until the Maastricht Treaty we can clearly see that the entire character of the EU was both intergovernmental and supranational in nature. With the completion of an economic community structure and the creation of the Single European Act, the European Union appeared ready to adopt the supranational approach exactly.

With the signing of the Treaty of European Union (the Maastricht Treaty) the European Union took a further step on the way to the supranational model. It has begun many activities such as settling on a common single market, customs union, a single currency (not yet adopted by all members), common agricultural and fisheries policies. There are also other various common laws and common policies in different areas.

Following the end of the Cold War era, terrorist acts began to increase in number. The lack of authority in the ex-Eastern Bloc countries and insufficient weapon control mechanisms were certainly a factor in this. Europe, as a continent affected by this lack of authority in the Eastern Bloc, began to create its three-pillar system in response to this.

There are many issues influencing the EU's decision making policy on its approach to terrorism. Thus, we needed to examine the structure of European Union in order to understand if it is supranational or intergovernmental in nature. The individual cases outlined in the thesis clearly show the internal conflicts among EU members on the concept of terrorism, and prove the truth of the words 'one state's terrorist is another state's freedom fighter'. The lack of common policies in the areas of foreign and security policy and justice and home affairs have prevented EU members from adopting a common approach to counter terrorism. Indeed, neither the EU member states nor the organisation itself were able to come to agreement on a common definition of 'terrorism' and 'terrorist' until after the September 11 attacks.

On September 11 2001 the United States was hit by a non-state terrorist actor and thousands of people were killed. This date clearly marked a turning point in concepts related to terror. The US response to this terrorist act demanded that the entire world share the suffering of the US with the result that some countries began to review their national laws on counter terrorism. Besides the efforts made by its individual member states, the EU itself began to develop strategies and passed counter terrorism laws by unanimous voting in the European Council. The European Union and United States strengthened their transatlantic cooperation on counter terrorism following the attacks, while EU member countries made changes in their national laws on counter terrorism and adopted some of the United Nations conventions on counter terrorism.

In response to criticisms from the US of being 'soft' on terrorism and lacking terrorism prevention measures, EU member states began to adopt a series of counter terrorism measures from 2001 onwards. These included many unanimously taken decisions such as the adoption of a common definition of terror and the publication of a list of terrorist organisations. The US, however, regarded these measures as inadequate. For example, the EU terror organisation list did not include all the organisations accepted as such by the US. The only EU member to share the US list was the UK, and this led to internal EU conflict on the issue of classification of organisations as terrorist.

The continuing weaknesses in the coordination of counter terrorism measures among EU member states were further exposed by the March 11 terrorist attacks in Madrid. Spain's being subjected to an *Al Qaeda* attack immediately prior to a national general election as a result of its political and military support for the US in the invasion of Iraq prompted EU member states to greater efforts in the creation of more effective and constructive measures in terrorism prevention. Indeed, it was only at the March 21st meeting of the European Council following the Madrid bombings that serious measures were undertaken in terror prevention. Until that time the only definite action which had been taken, apart from the creation of definitions and lists, was the freezing of bank accounts known to be sources of funding for terrorist organisations.

Thus, we can see that it was only following payment of a high price in human life that the EU began to concentrate seriously on terrorism prevention and began to look for

ways to develop a supranational approach in its decision making process in the struggle against terror. Yet, the fact that there still exists no common policy on the terror issue at a time when Europeans are being presented with a European Constitution for their approval must leave us doubtful as to the future and success of such a Constitution.

The Maastricht Treaty was a milestone in the development of the EU in that it marked the first adoption, following hard negotiations, of a supranational structure by the member states. However, this structure is operational in one of the three pillars of the EU only, namely the Economic, and is built on a foundation of a forty-year-old intergovernmental structure. In the economic sphere agreement by all member states to abide by the rules and regulations set out by Brussels meant that the road to economic supranationalism lay open.

However, in the years since the signing of the Maastricht Treaty in 1993, attempts to build a supranational structure in the other two pillars i.e. Justice and Home Affairs, and Common Foreign and Security Policy have failed.

Thus on the issue of terror the approach remains intergovernmental and therefore based on negotiation and bargaining among members. There are a number of reasons for this: national interest, public opinion perceptions of the threat from terror, and demography are some of these. As we saw in many examples, all EU members are not sensitive to the same degree on the issue of terrorism. The debate surrounding 'terrorists' continues and is directly related to the interests of each member state. Each state remains on the horns of a dilemma: caught between how far it should or can go to protect itself and how far it should or can go in order to protect the unity of the EU.

It is clear that EU members are willing to establish a supranational structure in all the pillars of EU, and yet until now have failed to do so in any area other than the economic. A supranational structure does not exist for the pillars of Justice and Home Affairs and Common Foreign and Security Policy, and it would seem that in trying to move towards federalism with a European Constitution while these weaknesses exist the EU is leaving itself open to great structural problems.

TABLES

Table 1. List of Terrorist of Organisations of UK

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| <ul style="list-style-type: none"> • 17 November Revolutionary Organisation (N17): N17 is a terrorist organisation that aims to highlight and protest at what it deems to be imperialist and corrupt actions, using violence. Formed in 1974 to oppose the Greek military Junta, its stance was initially anti-Junta and anti-US, which it blamed for supporting the Junta. • Abu Nidal Organisation (ANO): The principal aim of ANO is the destruction of the state of Israel. It is also hostile to "reactionary" Arab regimes and states supporting Israel. • Abu Sayyaf Group (ASG): The precise aims of the ASG are unclear, but its objectives appear to include the establishment of an autonomous Islamic state in the Southern Philippine island of Mindanao. • Al-Gama'at al-Islamiya (GI): The main aim of GI is through all means, including the use of violence, to overthrow the Egyptian Government and replace it with an Islamic state. Some members also want the removal of Western influence from the Arab world. • Al Qaida: Inspired and led by Osama Bin Laden, its aims are the expulsion of Western forces from Saudi Arabia, the destruction of Israel and the end of Western influence in the Muslim world. • Armed Islamic Group (Groupe Islamique Armée) (GIA): The aim of the GIA is to create an Islamic state in Algeria using all necessary means, including violence. • Asbat Al-Ansar ('League of Parisans' or 'Band of Helpers'): Sometimes going by the aliases of 'The Abu Muhjin' group/faction or the 'Jama'at Nour', this group aims to enforce its extremist interpretation of Islamic law within Lebanon, and increasingly further afield. • Babbar Khalsa (BK): BK is a Sikh movement that aims to establish an independent Khalistan within the Punjab region of India. • Basque Homeland and Liberty (Euskadi ta Askatasuna) (ETA): ETA seeks the creation of an independent state comprising the Basque regions of both Spain and France. • Egyptian Islamic Jihad (EIJ): The main aim of the EIJ is to overthrow the Egyptian Government and replace it with an Islamic state. However, since September 1998, the leadership of the group has also allied itself to the 'global Jihad' ideology expounded by Osama Bin Laden and has threatened Western interests. |
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- **Hamas Izz al-Din al-Qassem Brigades:** Hamas aims to end Israeli occupation in Palestine and establish an Islamic state.
- **Harakat Mujahideen (HM):** HM, previously known as Harakat Ul Ansar (HuA), seeks independence for Indian-administered Kashmir. The HM leadership was also a signatory to Osama Bin Laden's 1998 fatwa, which called for worldwide attacks against US and Western interests.
- **Hizballah External Security Organisation:** Hizballah is committed to armed resistance to the state of Israel itself and aims to liberate all Palestinian territories and Jerusalem from Israeli occupation. It maintains a terrorist wing, the External Security Organisation (ESO), to help it achieve this.
- **International Sikh Youth Federation (ISYF):** ISYF is an organisation committed to the creation of an independent state of Khalistan for Sikhs within India.
- **Islamic Army of Aden (IAA):** The IAA's aims are the overthrow of the current Yemeni government and the establishment of an Islamic State following Sharia Law.
- **Islamic Movement of Uzbekistan (IMU):** The primary aim of IMU is to establish an Islamic state in the model of the Taleban in Uzbekistan. However, the IMU is reported to also seek to establish a broader state over the entire Turkestan area.
- **Jaish e Mohammed (JeM):** JeM seeks the 'liberation' of Kashmir from Indian control as well as the 'destruction' of America and India. JeM has a stated objective of unifying the various Kashmiri militant groups.
- **Jeemah Islamiyah (JI):** JI's aim is the creation of a unified Islamic state in Singapore, Malaysia, Indonesia and the Southern Philippines.
- **Kurdistan Workers' Party (Partiya Karkeren Kurdistan) (PKK):** The PKK is primarily a separatist movement that has sought an independent Kurdish state in southeast Turkey.
- **Lashkar e Tayyaba (LT):** LT seeks independence for Kashmir and the creation of an Islamic state using violent means.
- **Liberation Tigers of Tamil Eelam (LTTE):** The LTTE is a terrorist group fighting for a separate Tamil state in the North and East of Sri Lanka.
- **Mujaheddin e Khalq (MeK):** The MeK is an Iranian dissident organisation based in Iraq. It claims to be seeking the establishment of a democratic, socialist, Islamic republic in Iran.
- **Palestinian Islamic Jihad - Shaqaqi (PIJ):** PIJ is a Shi'a group which aims to end the Israeli occupation of Palestine and create an Islamic state similar to that in Iran. It opposes the existence of the state of Israel, the Middle East Peace Process and the Palestinian Authority.
- **Revolutionary Peoples' Liberation Party - Front (Devrimci Halk Kurtulus Partisi - Cephesi) (DHKP-C):** DHKP-C aims to establish a Marxist Leninist regime in Turkey by means of armed revolutionary struggle.

- **Salafist Group for Call and Combat (Groupe Salafiste pour la Predication et le Combat) (GSPC):** Its aim is to create an Islamic state in Algeria using all necessary means, including violence.

Source: URL. <http://www.homeoffice.gov.uk/terrorism/threat/groups/index.html>

Retrieved: 17 August 2005

Table 2.1. Official Journal of European Communities, p.1

28.12.2001	EN	Official Journal of the European Communities	L 344/93
<p>COUNCIL COMMON POSITION of 27 December 2001 on the application of specific measures to combat terrorism (2001/931/CFSP)</p>			
<p>THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty on European Union, and in particular Articles 15 and 34 thereof,</p> <p>Whereas:</p>			
<p>(1) At its extraordinary meeting on 21 September 2001, the European Council declared that terrorism is a real challenge to the world and to Europe and that the fight against terrorism will be a priority objective of the European Union.</p> <p>(2) On 28 September 2001, the United Nations Security Council adopted Resolution 1373(2001) laying out wide-ranging strategies to combat terrorism and in particular the fight against the financing of terrorism.</p> <p>(3) On 8 October 2001, the Council reiterated the Union's determination to attack the sources which fund terrorism, in close cooperation with the United States.</p> <p>(4) On 26 February 2001, pursuant to UNSC Resolution 1333(2000), the Council adopted Common Position 2001/154/CFSP⁽¹⁾ which provides <i>inter alia</i> for the freezing of funds of Usama bin Laden and individuals and entities associated with him. Consequently, those persons, groups and entities are not covered by this Common Position.</p> <p>(5) The European Union should take additional measures in order to implement UNSC Resolution 1373(2001).</p> <p>(6) Member States have transmitted to the European Union the information necessary to implement some of those additional measures.</p> <p>(7) Action by the Community is necessary in order to implement some of those additional measures; action by the Member States is also necessary, in particular as far as the application of forms of police and judicial cooperation in criminal matters is concerned,</p>		<p>2. For the purposes of this Common Position, 'persons, groups and entities involved in terrorist acts' shall mean:</p> <p>— persons who commit, or attempt to commit, terrorist acts or who participate in, or facilitate, the commission of terrorist acts,</p> <p>— groups and entities owned or controlled directly or indirectly by such persons; and persons, groups and entities acting on behalf of, or under the direction of, such persons, groups and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons, groups and entities.</p> <p>3. For the purposes of this Common Position, 'terrorist act' shall mean one of the following intentional acts, which, given its nature or its context, may seriously damage a country or an international organisation, as defined as an offence under national law, where committed with the aim of:</p> <p>(i) seriously intimidating a population, or</p> <p>(ii) unduly compelling a Government or an international organisation to perform or abstain from performing any act, or</p> <p>(iii) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation:</p> <p>(a) attacks upon a person's life which may cause death;</p> <p>(b) attacks upon the physical integrity of a person;</p> <p>(c) kidnapping or hostage taking;</p> <p>(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;</p> <p>(e) seizure of aircraft, ships or other means of public or goods transport;</p> <p>(f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;</p> <p>(g) release of dangerous substances, or causing fires, explosions or floods the effect of which is to endanger human life;</p>	
<p>HAS ADOPTED THIS COMMON POSITION:</p> <p style="text-align: center;"><i>Article 1</i></p> <p>1. This Common Position applies in accordance with the provisions of the following Articles to persons, groups and entities involved in terrorist acts and listed in the Annex.</p>			
<p>⁽¹⁾ OJ L 57, 27.2.2001, p. 1.</p>			

Table 2.2. Official Journal of European Communities, p.2

L 344/94	EN	Official Journal of the European Communities	28.12.2001
<p>(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;</p> <p>(i) threatening to commit any of the acts listed under (a) to (h);</p> <p>(j) directing a terrorist group;</p> <p>(k) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the group.</p>	<p><i>Article 2</i></p> <p>The European Community, acting within the limits of the powers conferred on it by the Treaty establishing the European Community, shall order the freezing of the funds and other financial assets or economic resources of persons, groups and entities listed in the Annex.</p>		
<p>For the purposes of this paragraph, 'terrorist group' shall mean a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist acts. 'Structured group' means a group that is not randomly formed for the immediate commission of a terrorist act and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.</p>	<p><i>Article 3</i></p> <p>The European Community, acting within the limits of the powers conferred on it by the Treaty establishing the European Community, shall ensure that funds, financial assets or economic resources or financial or other related services will not be made available, directly or indirectly, for the benefit of persons, groups and entities listed in the Annex.</p>		
<p>4. The list in the Annex shall be drawn up on the basis of precise information or material in the relevant file which indicates that a decision has been taken by a competent authority in respect of the persons, groups and entities concerned, irrespective of whether it concerns the instigation of investigations or prosecution for a terrorist act, an attempt to perpetrate, participate in or facilitate such an act based on serious and credible evidence or clues, or condemnation for such deeds. Persons, groups and entities identified by the Security Council of the United Nations as being related to terrorism and against whom it has ordered sanctions may be included in the list.</p>	<p><i>Article 4</i></p> <p>Member States shall, through police and judicial cooperation in criminal matters within the framework of Title VI of the Treaty on European Union, afford each other the widest possible assistance in preventing and combating terrorist acts. To that end they shall, with respect to enquiries and proceedings conducted by their authorities in respect of any of the persons, groups and entities listed in the Annex, fully exploit, upon request, their existing powers in accordance with acts of the European Union and other international agreements, arrangements and conventions which are binding upon Member States.</p>		
<p>For the purposes of this paragraph 'competent authority' shall mean a judicial authority, or, where judicial authorities have no competence in the area covered by this paragraph, an equivalent competent authority in that area.</p>	<p><i>Article 5</i></p> <p>This Common Position shall take effect on the date of its adoption.</p>		
<p>5. The Council shall work to ensure that names of natural or legal persons, groups or entities listed in the Annex have sufficient particulars appended to permit effective identification of specific human beings, legal persons, entities or bodies, thus facilitating the exculpation of those bearing the same or similar names.</p>	<p><i>Article 6</i></p> <p>This Common Position shall be kept under constant review.</p>		
<p>6. The names of persons and entities on the list in the Annex shall be reviewed at regular intervals and at least once every six months to ensure that there are grounds for keeping them on the list.</p>	<p><i>Article 7</i></p> <p>This Common Position shall be published in the Official Journal.</p>		
<p>Done at Brussels, 27 December 2001.</p>	<p><i>For the Council</i> <i>The President</i> L. MICHEL</p>		

Table 2.3. Official Journal of European Communities, p.3

28.12.2001	EN	Official Journal of the European Communities	L 344/95
ANNEX			
First list of persons, groups and entities referred to in Article 1 (1)			
I. PERSONS			
<p>*— ABAUNZA MARTINEZ, Javier (E.T.A. Activist) born 1.1.1965 in Guernica (Biscay), identity card No 78.865.882,</p> <p>*— ALBERDI URANGA, Itziar (E.T.A. Activist) born 7.10.1963 in Durango (Biscay), identity card No 78.865.693,</p> <p>*— ALBISU IRIARTE, Miguel (E.T.A. Activist; Member of Gestoras Pro-amnistía) born 7.6.1961 in San Sebastián (Guipúzcoa), identity card No 15.954.596,</p> <p>*— ALCALDE LINARES, Angel (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna) born 2.5.1943 in Portugalete (Vizcaya), identity card 14.390.353,</p> <p>— AL-MUGHASSIL, Ahmad Ibrahim (a.k.a. ABU OMRAN; a.k.a. AL-MUGHASSIL, Ahmed Ibrahim) born 26.6.1967 in Qatif-Bab al Shamal, Saudi Arabia; citizen Saudi Arabia,</p> <p>— AL-NASSER, Abdelkarim Hussein Mohamed, born in Al Ihsa, Saudi Arabia; citizen Saudi Arabia,</p> <p>— AL YACOUB, Ibrahim Salih Mohammed, born 16.10.1996 in Tarut, Saudi Arabia; citizen Saudi Arabia,</p> <p>*— ARZALLUS TAPIA, Eusebio (E.T.A. Activist) born 8.11.1957 in Regil (Guipúzcoa), identity card No 15.927.207,</p> <p>— ATWA, Ali (a.k.a. BOUSLIM, Ammar Mansour; a.k.a. SALIM, Hassan Rostom), Lebanon, born 1960 in Lebanon; citizen Lebanon,</p> <p>*— EL CORO AYASTUY, Paulo (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.10.1973 in Vergara (Guipúzcoa), identity card No 15.394.062,</p> <p>— EL-HOORIE, Ali Saed Bin Ali (a.k.a. AL-HOURI, Ali Saed Bin Ali; a.k.a. EL-HOURI, Ali Saed Bin Ali) born 10.7.1965 alt. 11.7.1965 in El Dibabiya, Saudi Arabia; citizen Saudi Arabia,</p> <p>*— FIGAL ARRANZ, Antonio Agustín (E.T.A. Activist; Member of Kas/Ekin) born 2.12.1972 in Baracaldo (Biscay), identity card No 20.172.692,</p> <p>*— GOGESCOECHEA ARRONATEGUI, Eneko (E.T.A. Activist), born 29.4.1967 in Guernica (Biscay), identity card No 44.556.097,</p> <p>*— GOIRICELAYA GONZALEZ, Cristina (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna), born 23.12.1967 in Vergara (Guipúzcoa), identity card No 16.282.556,</p> <p>*— IPARRAGUIRRE GUENECHEA, M^a Soledad (E.T.A. Activist) born 25.4.1961 in Escoriaza (Navarre), identity card No 16.255.819,</p> <p>— IZZ-AL-DIN, Hasan (a.k.a. GARBAYA, AHMED; a.k.a. SA-ID; a.k.a. SALWWAN, Samir), Lebanon, born 1963 in Lebanon, citizen Lebanon,</p> <p>— MOHAMMED, Khalid Shaikh (a.k.a. ALI, Salem; a.k.a. BIN KHALID, Fahd Bin Adballah; a.k.a. HENIN, Ashraf Refaat Nabith; a.k.a. WADOOD, Khalid Abdul) born 14.4.1965 alt. 1.3.1964 in Kuwait; citizen Kuwait,</p> <p>*— MORCILLO TORRES, Gracia (E.T.A. Activist; Member of Kas/Ekin) born 15.3.1967 in San Sebastián (Guipúzcoa), identity card No 72.439.052,</p> <p>*— MÚGICA GOÑI, Ainhoa (E.T.A. Activist) born 27.6.1970 in San Sebastián (Guipúzcoa), identity card No 34.101.243,</p> <p>— MUGHNIYAH, Imad Fa'iz (a.k.a. MUGHNIYAH, Imad Fayiz), Senior Intelligence Officer of HIZBALLAH, born 7.12.1962 in Tayr Dibba, Lebanon, passport No 432298 (Lebanon),</p> <p>*— MUÑOA ORDOZGOITI, Aloña (E.T.A. Activist; Member of Kas/Ekin) born 6.7.1976 in Segura (Guipúzcoa), identity card No 35.771.259,</p> <p>*— NARVÁEZ GOÑI, Juan Jesús (E.T.A. Activist) born 23.2.1961 in Pamplona (Navarra), identity card No 15.841.101,</p> <p>*— OLARRA GURIDI, Juan Antonio (E.T.A. Activist) born 11.9.1967 in San Sebastián (Guipúzcoa), identity card No 34.084.504,</p> <p>*— ORBE SEVILLANO, Zigur (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.9.1975 in Basauri (Biscay), identity card No 45.622.851,</p> <p>*— OTEGUI UNANUE, Mikel (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 8.10.1972 in Itsasondo (Guipúzcoa), identity card No 44.132.976,</p>			
<p>(1) Persons marked with an * shall be the subject of Article 4 only.</p>			

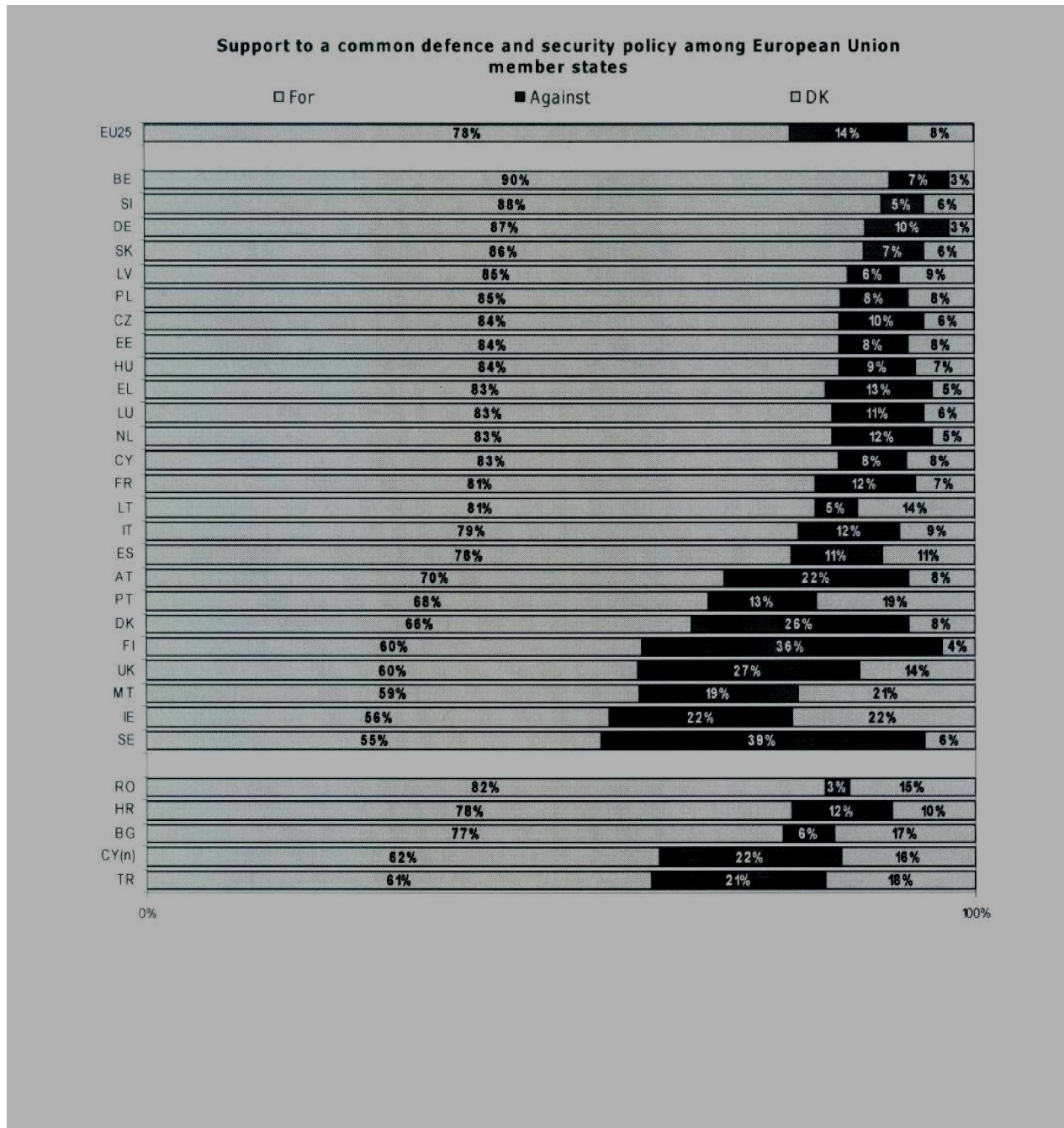
Table 2.4. Official Journal of European Communities, p.4

L 344/96	EN	Official Journal of the European Communities	28.12.2001
<ul style="list-style-type: none"> *— PEREZ ARAMBURU, Jon Iñaki (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 18.9.1964 in San Sebastián (Guipúzcoa), identity card No 15.976.521, *— SAEZ DE EGUILAZ MURGUIONDO, Carlos (E.T.A. Activist; Member of Kas/Ekin) born 9.12.1963 in San Sebastián (Guipúzcoa), identity card No 15.962.687, *— URANGA ARTOLA, Kamen (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna) born 25.5.1969 in Ondarroa (Biscay), identity card No 30.627.290, *— VILA MICHELENA, Fermín (E.T.A. Activist; Member of Kas/Ekin) born 12.3.1970 in Irún (Guipúzcoa), identity card No 15.254.214; 			
2. GROUPS AND ENTITIES			
<ul style="list-style-type: none"> *— Continuity Irish Republican Army (CIRA) *— Euskadi Ta Askatasuna/Tierra Vasca y Libertad/Basque Fatherland and Liberty (E.T.A.) (The following organisations are part of the terrorist group E.T.A.: K.a.s., Xaki; Ekin, Jarrai-Haika-Segi, Gestoras pro-amnistía.) *— Grupos de Resistencia Antifascista Primero de Octubre/Antifascist Resistance Groups First of October (G.R.A.P.O.) — Hamas-Izz al-Din al-Qassem (terrorist wing of Hamas) *— Loyalist Volunteer Force (LVF) *— Orange Volunteers (OV) — Palestinian Islamic Jihad (PIJ) *— Real IRA *— Red Hand Defenders (RHD) *— Revolutionary Nuclei/Epanastatiki Pirines *— Revolutionary Organisation 17 November/Dekati Evdomi Noemvri *— Revolutionary Popular Struggle/Epanastatikos Laikos Agonas (ELA) *— Ulster Defence Association/Ulster Freedom Fighters (UDA/UFF) 			

Source : URL. http://europa.eu.int/eur-lex/en/archive/index1_200112.html

Retrieved: 11 March 2004

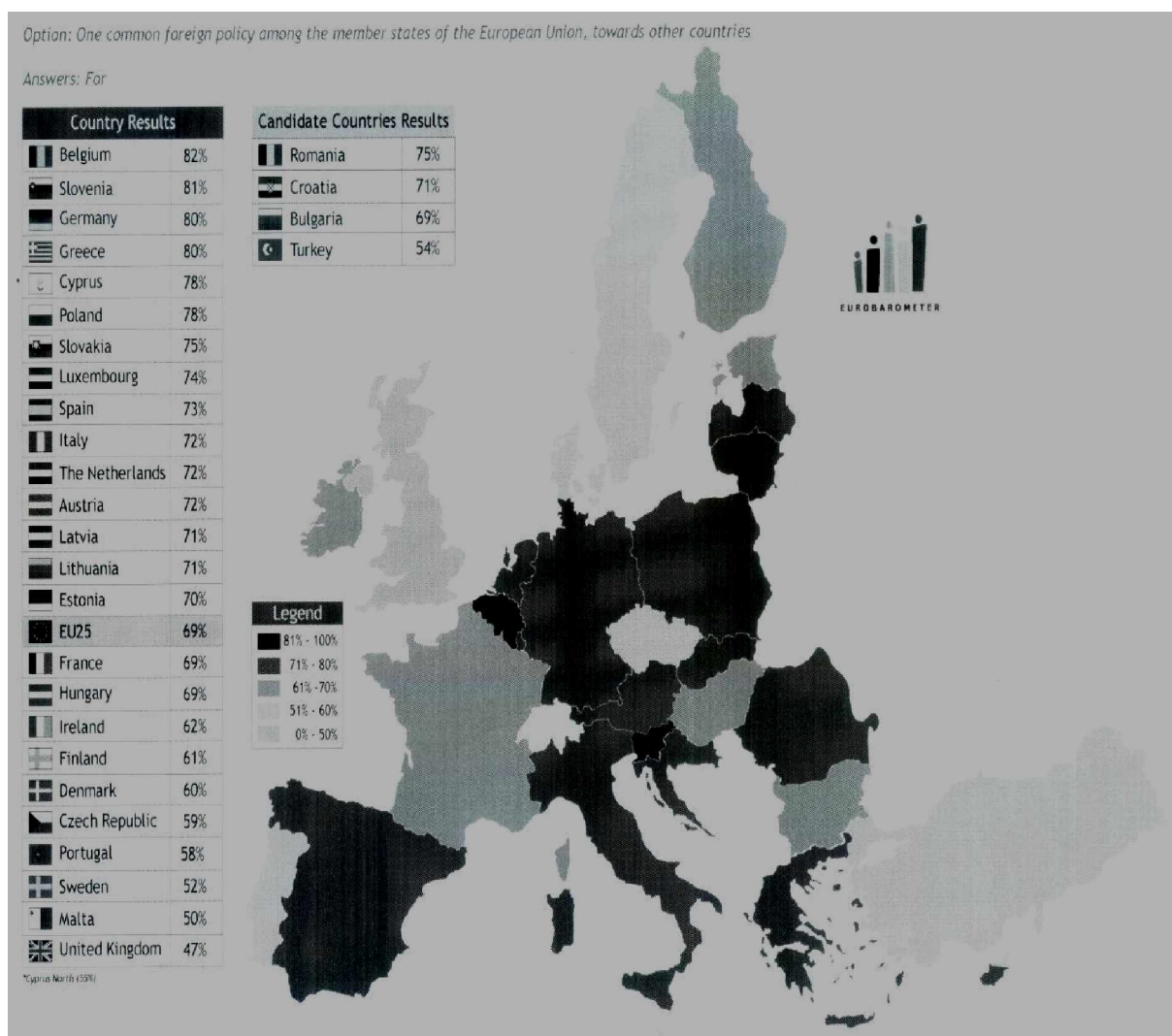
Table 3. EU Public Opinion on a Common Defence and Security Policy among the Member States



Source: Eurobarometer 6, Fieldwork : October –November 2004, p.23.

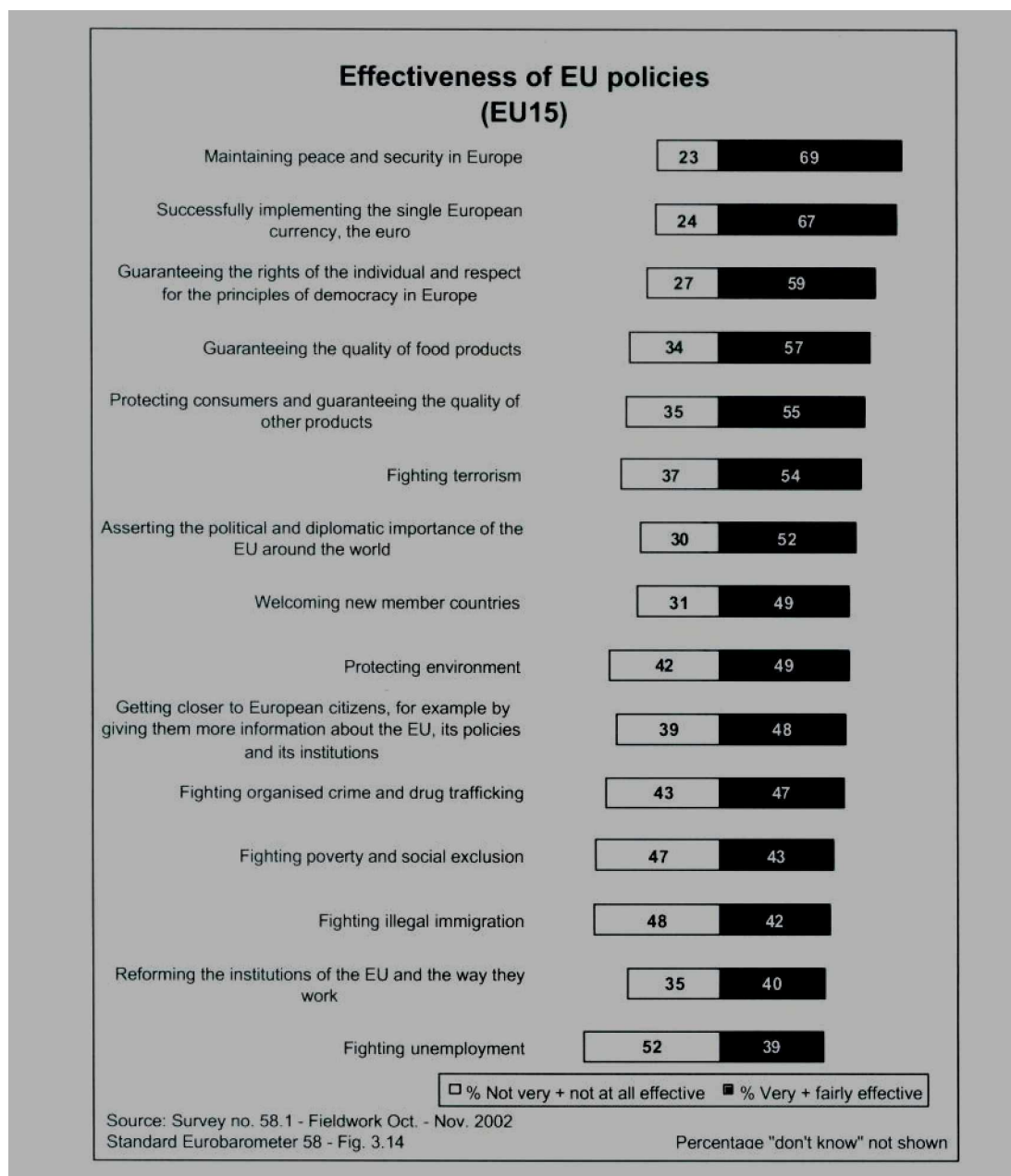
Retrieved: 23 December 2004

Table 4. EU Public Opinion on a Common Foreign Policy Towards Other Countries



Source: Eurobarometer 6, Fieldwork : October –November 2004, p. 25.

Retrieved: 30 December 2004

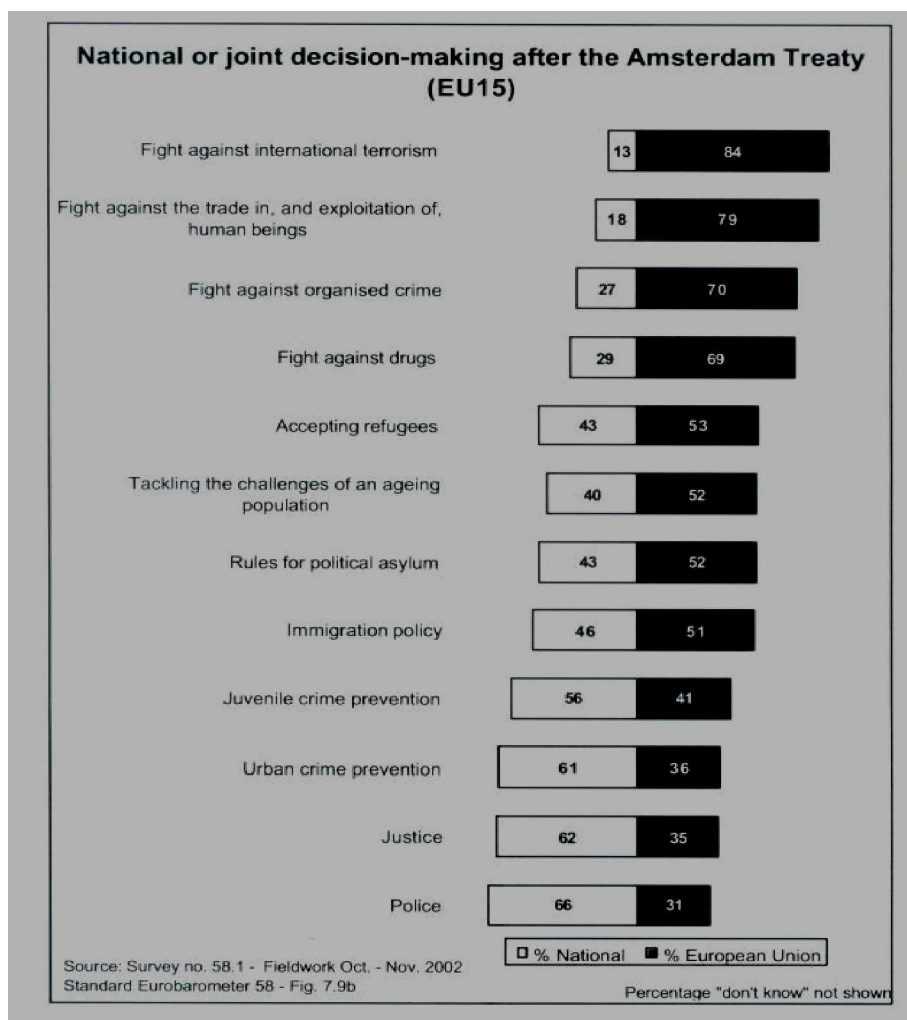
Table 5. EU Public Opinion on Effectiveness of EU Policies

Source: Eurobarometer 58 Autumn 2002, p.58.

URL. http://europa.eu.int/comm/public_opinion/archives/eb/eb58/eb58_en.pdf

Retrieved: 16 December 2004

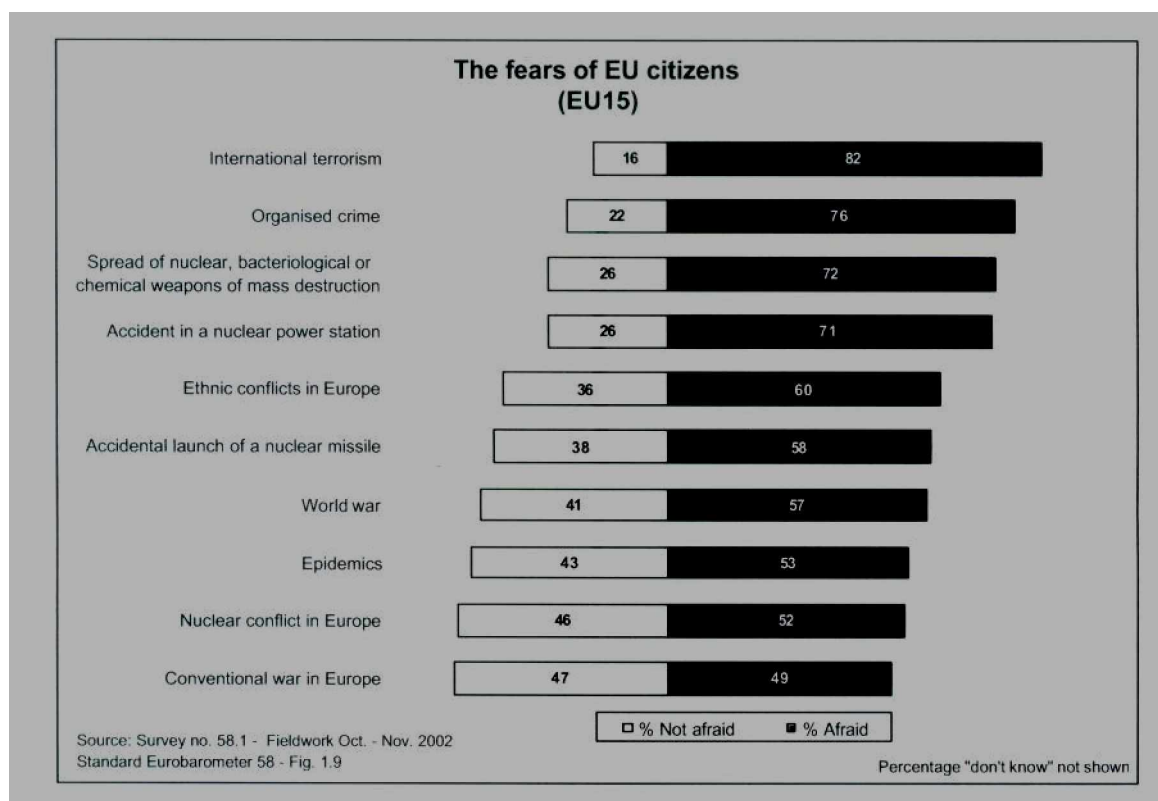
Table 6. EU Public Opinion on Decision Making after the Amsterdam Treaty



Source: Eurobarometer 58 Autumn 2002, p.58.

URL. http://europa.eu.int/comm/public_opinion/archives/eb/eb58/eb58_en.pdf

Retrieved: 16 December 2004

Table 7. EU Public Opinion on Their Fears

Source: Eurobarometer 58 Autumn 2002, p.58.

URL: http://europa.eu.int/comm/public_opinion/archives/eb/eb58/eb58_en.pdf

Retrieved: 16 December 2004

Table 8. EU Public Opinion on Threat of Terrorism

Table 1: Would you say that the threat of terrorist attacks in [our] country is very high, rather high, rather low or very low?

	Very High %	Rather High %	Rather Low %	Very Low %	Don't know %	High* %	Low** %
Austria	2	9	62	24	3	11	85
Belgium	7	25	55	11	2	32	66
Denmark	1	11	54	31	4	12	85
Finland	1	6	58	34	1	7	92
France	8	51	36	4	1	59	40
Germany	13	37	43	5	3	49	48
Greece	16	25	41	16	1	41	57
Holland	4	24	55	16	2	28	71
Ireland	7	18	46	26	3	25	72
Italy	15	44	34	6	1	59	40
Luxembourg	4	18	57	19	2	22	76
Portugal	9	17	48	22	4	26	69
Spain	17	53	24	3	3	70	27
Sweden	2	13	60	24	1	15	83
United Kingdom	27	56	14	2	1	83	16
EU-15	14	41	36	7	2	55	44

Note: May not add up to 100 per cent due to rounding. *'High' groups together the values for 'Very High' and 'Rather High'. **'Low' groups together the 'Rather Low' and 'Very Low' answer categories.

Source: Lindstrom, Gustav (2003). Terrorism: European myths and realities. In: Lindstrom, Gustav (Ed.) *Shift or Rift*, p.236. Paris: Institute for Security Studies.

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