

The European union as a counter–terrorism actor: right path, wrong direction?

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Introduction

The challenges presented by terrorism to our governments in the past decade have led to fundamental changes in many things. The way we travel and the way we bank have, for instance, changed perceptibly. Some avoid travelling to the USA—the country formerly known as “the leader of the free world”—out of a desire to avoid the need for a passport featuring biometric information or “being treated as a criminal” surrendering fingerprints at the point of entry. The more data protection aware amongst us may have changed the way we use the internet and other forms of communication technology or simply accepted the feeling that we can be watched at all times. Less obviously, a new security architecture has emerged around us and for Europeans, the EU looms large within it.¹

Not all changes in this setting can be ascribed to terrorism; the post-Lisbon EU² is undoubtedly a creature very different to anything envisaged by the founding fathers of its origin European Communities -, nor do all of those perhaps associated with the threat of terrorism connect to counter-terrorism in a logical way when examined closely. Nevertheless, there is no denying that terrorism and the desire of European governments to counter it effectively, have driven changes; spear-headed impulses for change which have deeply changed some aspects of our lives and the role the EU plays in relation to them. The dynamics of reform have been so pervasive, it is almost shocking to reflect upon all that has shifted in the past ten years.

It is no coincidence that within those 10 years the EU has emerged as a security and criminal justice actor of entirely new dimensions. The Treaty of Lisbon which

¹For more general commentary see Wuertenberger et al. [118]

²The Treaty of Lisbon is an international agreement between the EU member states that amends prior treaties to consolidate EU competence and restructure its bureaucracy post eastward expansion. It has introduced very significant changes to the EU’s profile as a criminal justice actor providing it, e.g. with a competence to require the use of criminal law to combat fraud against its financial interests. It also includes a legal basis for the creation of a European Public Prosecutor’s Office (EPPO)—See Consolidated Version of the Treaty on European Union [6] Treaty on the Functioning of the European Union [7; arts. 325 and 86]

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