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# Between Great Transformation and Politics as Usual. Formal and Informal Security Governance in EU Counterterrorism Policy

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**Abstract**

Debates about EU counterterrorism policy commonly oscillate between promises of a supranational 'great transformation' and reminders regarding the realities of intergovernmental 'politics as usual'. Yet, the paper argues that post-9/11 EU counterterrorism has come to encompass a broader set of formal and informal policies and structures that extends beyond this dichotomy. The emerging system of security governance aims to reconcile a common interest in cooperation and coordination with member states' reluctance to delegate substantial competences and resources. The paper draws on the security governance concept to grasp the ensuing complexity and offer a broader conceptual basis for the analysis EU counterterrorism cooperation. First, it identifies four key dimensions of security governance based on the existing literature. Second, it maps EU counterterrorism cooperation along these four dimensions, points to the variation of formal and informal security governance, and identifies some overall trends. Third, it identifies three main dynamics driving the emergence of formal and informal security governance by lining out a power-based, a functional, and a knowledge-based perspective.

## I. Introduction

The 9/11-attacks and the subsequent Madrid and London bombings prompted a hitherto impossible acceleration and expansion of EU counterterrorism policy. The EU agreed upon a common definition of terrorism, formulated a common strategy, and adopted binding legal instruments. It thereby raised expectations about the emergence of a new supranational policy-field (Davis Cross 2007; Kaunert 2010). At the same time, overall analyses point to an event-driven, incoherent, and badly implemented agenda (Bossong 2008) as well as normative concerns regarding human rights and democratic accountability (Bigo et al. 2010). EU counterterrorism cooperation has therefore been labeled a "paper tiger" (Bures 2011). This misperformance is generally ascribed to the "paradox" that states call for more cooperation in their public rhetoric but refuse to transfer the necessary formal competences to the EU level (Keohane 2005: 3). According to this common assessment, the aftermath of 9/11 apparently promised a 'great transformation', which eventually became bogged down in EU 'politics as usual'. In the words of EU integration theory, a foreshadowed supranational institutionalization apparently had to encounter the reality of intergovernmental politics and bargaining (Stone-Sweet/Sandholtz 1997; Moravcsik 1999).

This study adds to this debate by showing that EU counterterrorism cooperation has come to encompass a broader set of formal and informal structures and processes than the common account

[1] Previous versions of this article have been presented at the SGIR 7th Pan-European Conference, Stockholm, September 10-12, 2010 and at the German Society for Political Science (DGfP) Young Researchers Workshop, Berlin, November 3, 2010. Helpful comments have been provided by Raphael Bossong, Oldrich Bures, Christopher Daase, Hans-Georg Ehrhart, Martin Kahl, and Ursula Schröder.

would suggest. 9/11 and subsequent events neither led to a 'great transformation' nor limited itself to pure 'politics as usual'. Rather, an ambiguous and multifaceted system of security governance has emerged that aims to reconcile the need for more integration with national prerogatives and sensitivities. This system leaves most formal competences to member states but incorporates a growing number of actors, issues, modes of cooperation, and compliance mechanisms that vary in their degree of formality and informality. The EU's counterterrorism strategy has considerably extended the scope of activities into relatively new policy-fields and EU institutions increased their networking and research activities. Studies on other international institutions lend further support to the combination and co-existence of formal and informal governance in counterterrorism cooperation (Heupel 2008). Thus, analyses should take into account the whole array of formal and informal security governance in order to grasp the achievements and failures of EU counterterrorism. This argument builds upon ideas developed by the burgeoning literature on security governance that offers an explicit alternative to the traditional supranational-intergovernmental dichotomy in EU security policy (Webber et al. 2004; Kirchner/Sperling 2006; Wagnsson et al. 2009; Christou et al. 2010; Ehrhart/Kahl 2010; Schröder 2011). The paper draws on this literature to elucidate the dynamics and practices of EU counterterrorism cooperation between supranational transformation and intergovernmental politics. It thereby sheds further light on the "contested transformation" of EU counterterrorism cooperation since 9/11 (Edwards/Meyer 2011).

Existing research does not fully account for this diverse system of security governance. Many scholars focus on policy-oriented evaluations of EU effectiveness and legitimacy and the formulation of relevant recommendations (Zimmermann 2006; Monar 2007; Bures 2011). Other studies explain the dynamics of counterterrorism policy-making (Bossong 2008; Argomaniz 2009), look at the EU's formal institutional framework (Lugna 2006; Schröder 2011), or examine implementation and convergence at the national level (Argomaniz 2010; Nohrstedt/Hansen 2010). Scholars using a critical-constructivist framework have alerted to the securitizing effects of EU counterterrorism cooperation and its role in societal control and the spread of fear and insecurity (Balzacq 2008; Bigo et al. 2010). Hence, existing research largely focuses on the ability or inability of EU actors to adopt formal policies and the consequences thereof. Some studies have alluded to the potential role of informal mechanisms and the emergence of a larger field of security governance, but mainly used this as a catchword to describe general dynamics without explicit conceptualization (den Boer 2006; Edwards/Meyer 2008; Grusczak 2008).

The article proceeds as follows. First, it offers a conceptualization of formal and informal security governance that is well-suited to accommodate this diversity of arrangements. The study identifies four analytical dimensions of security governance: content, mode of cooperation, agency, and

compliance. The second section maps manifestations of formal and informal security governance along these four dimensions. The analysis highlights a shift towards informal arrangements and pinpoints variation with regard to different issues, policy-levels, and periods of post-9/11 EU counterterrorism cooperation. A third part identifies three main drivers of choices for formal and informal security governance based on existing perspectives in theories of international relations and European integration. Finally, the conclusion summarizes the empirical findings and considers conceptual and political repercussions. The paper does not offer an exhaustive assessment of EU counterterrorism since 9/11.[2] Rather, it provides a conceptualization and empirical illustration of the multifaceted system of security governance characterizing EU counterterrorism.

## II. Conceptualizing Formal and Informal Security Governance: Analytical Dimensions

Post-Cold War international security has been shaped by the transnationalization of security risks in the context of the "post-national constellation" (Zangl/Zürn 2003; Kahl 2010). For long, scholarly debates have been preoccupied with the resulting conceptual widening of security (Buzan et al. 1998). Yet, scholarship increasingly sheds light on ways for the collective response to transnational security risks. The concept of security governance has become particularly prominent in this regard (Krahmann 2003; Webber et al. 2004). The management of transnational risks has to accommodate a high degree of uncertainty, the increasing participation of non-state actors, and the use of new technologies. The development of an adequate approach hence hinges upon the ability of national and international actors to orchestrate networks among a growing number of public and private actors and to broaden their knowledge base to come up with innovative and adequate approaches. At the same time, international security cooperation has to confront a common tension between the basic call for cross-border coordination on the one hand and assertive nation-states that remain reluctant to delegate formal powers on the other hand. One consequence has been a partial informalization of security cooperation using a greater variety of governing arrangements and allowing actors to handle this trade-off in a more flexible way (Eilstrup-Sangiovanni 2007). While some form of security governance is probably essential to manage transnational security risks, it is not per se effective, inclusive, or socially desirable. In fact, it can produce problematic pathologies and exclude those that are directly affected by it (Webber 2007; Daase/Engert 2008; Daase/Friesendorf 2010).

Despite the term's ubiquity in scholarly and political debates, security governance remains a blurry and contested concept. This study neither can nor aims to solve all definitional debates but it seems

[2] For recent overviews and appraisals see for example Argomaniz (2011); Bures (2011).

possible to pinpoint some core features. In a nutshell, governance includes a wide range of public and private actors, relies on formal and informal arrangements in which hierarchy is less important though not necessarily absent, and is oriented towards coordinative processes and mechanisms rather than manifest structures of coercion and control (van Kersbergen/van Waarden 2004: 151-152). Hence, governance is a distinct perspective that transcends beyond mere state-centered and formalized forms of international cooperation (Dingwerth/Pattberg 2006). However, governance explicitly covers a broad spectrum of formal *and* informal arrangements that may interact or apply to different degrees in different areas (Trubek/Trubek 2007). Webber et al. (2004: 4) pick up this understanding in their standard definition according to which security governance denotes:

> The coordinated management and regulation of issues by multiple and separate authorities, the interventions of both public and private actors (depending upon the issue), formal and informal arrangements, in turn structured by discourse and norms, and purposefully directed toward particular policy outcomes.

Security governance thus highlights the rise of increasingly transnational security risks emanating from non-state actors, the mounting importance of various public and private actors for the provision of security under these circumstances, and the proliferation of networked forms of coordination to facilitate flexible solutions among a growing bulk of national and international actors. Its ability to grasp such a broad range of formal and informal arrangements beyond the simple dichotomy of pure intergovernmentalism or full-fledged supranational integration makes the security governance especially conducive to the purposes of this paper.

On first view, the EU constitutes an ideal case for security governance. Over the last decade, studies of EU regulation have pointed to new modes of governance that encompass a hybrid mix of public and private actors, rest upon horizontal networks, and rely on soft instruments such as exchanging best practices (Hix 1998; Kohler-Koch/Eising 1999). Internal security cooperation is often described as a somewhat special case that – due to its proximity to the core of national sovereignty – places particular emphasis on operational coordination among national practitioners in the context of "intensive transgovernmentalism" (Lavenex 2009). The paper's broad understanding of security governance covers the phenomena highlighted by debates on new modes of governance and transgovernmentalism. However, the concept of security governance is particularly well-suited for the purposes of this study since it neither focuses on regulatory policies nor precludes a more prominent inclusion of private actors and international bureaucracies. Furthermore, security governance has already proven its relevance and adequateness for the study of EU security cooperation (Kirchner/Sperling, 2007; Wagnsson et al. 2009; Ehrhart/Kahl, 2010; Christou et al. 2010; Schröder 2011).

Formal and informal security governance in this broad understanding can be conceptualized along four essential dimensions: content, mode of cooperation, agency, and compliance (Daase/Engert 2008: 479-82; Daase/Friesendorf 2010: 2). First, security governance in the "post-national constellation" should cover the whole array of 'new' transnational risks such as terrorism as well as 'old' threats to national security (Zangl/Zürn 2003). Yet, risk assessments and problem definitions are subject to inter-institutional bargaining and securitization processes and analyses of security governance therefore first have to assess the underlying understanding of security and the respective framing of internal and external risks that ought to be governed (Christou et al. 2010). Second, security governance assumes a plural agency structure that includes private and public actors from different levels. Since it has proven difficult for states to provide security independently in the face of new transnational security risks proponents of security governance highlight that states had to transfer important responsibilities to international fora above and societal and sub-state actors below the state-level. While security governance concedes that the state remains the pivotal actor in international security it holds that "it is not the only actor, and sometimes or under certain circumstances, it may not even be the most important one" (Caparini 2006: 265). Third, security governance can encompass informal and decentralized networks or formal integration and centralization. Security governance stresses that flexible and heterarchical networks are able to convene responsible actors and advance concrete projects and policies in a flexible and adaptable manner when intergovernmental negotiations are stalemated due to political reservations or bureaucratization (Webber et al. 2004: 5). Fourth, security governance suggests that compliance and implementation under these conditions will commonly have to rely on soft and voluntary mechanisms such as capacity-building, mutual learning, and best practices and only selectively resort to mandatory formal enforcement (Chayes/Chayes 1995).

**Figure 1. Characteristics of Formal and Informal Security Governance**

| | Formal Security Governance | Informal Security Governance |
|---|---|---|
| Content | Conventional | Comprehensive |
| Agency | State-centered | Plural |
| Mode of Cooperation | Hierarchy<br>Integration, legislation<br>Centralized decision-making | Heterarchy<br>Coordination, information<br>Decentralized networks |
| Compliance | Mandatory<br>Enforcement (top-down) | Voluntary<br>Management (bottom-up) |

Source: Author

## III. Mapping Formal and Informal Security Governance in Post-9/11 EU Counterterrorism

Post-9/11 EU counterterrorism did not start from scratches. There have been coordination and information exchange since at least the creation of the TREVI group in the 1970s.[3] The EU's role had remained nascent and situational, but it is important to note that a basic acknowledgement of the threat, existing channels of cooperation, and emerging competences for the EU were already in place by the time of 9/11. With this background in mind, this paper restricts itself to the post-9/11 period since it clearly dwarfs previous efforts in scope and depth. This section is structured along the four dimensions of security governance identified above: content, agency, mode of cooperation, and compliance.

### *Content*

The content of EU counterterrorism has clearly evolved since 9/11. In particular, the agenda has been significantly expanded as the EU moved from an initial response to an external crisis towards a more comprehensive engagement with underlying issues that are often part of a broader all-hazards approach. In the immediate aftermath of 9/11, the EU focused on a formal legal approach to terrorism, which was primarily seen as a law enforcement problem. The Council adopted far-reaching legislation in accelerated decision-making processes of hitherto unknown pace. In particular, it agreed upon a common definition of terrorism and the European Arrest Warrant through formally binding though not legally enforceable framework decisions. Both the Commission and the Council defined these two projects as the core of their response to 9/11 (Council of the European Union 2001; European Commission 2001). In addition, the Council agreed upon a vast and non-binding action plan that emerged out of a hectic post-crisis effort and primarily accelerated projects and policies that were already under way in the context of the 1999 Tampere program for the general advancement of EU internal security policy. Yet, the vaguely formulated action plan exhibited severe problems at the implementation stage as the post-9/11 momentum ceased and the ambitious goals were not matched to states' waning attention and the limited capacities of EU institutions (Bossong 2008a).

Following the attacks in Madrid 2004 and London 2005, the recognition of 'homegrown terrorism' as a multi-faceted problem stemming from within European societies began to shape the development of EU counterterrorism cooperation. The EU's experience with domestic terrorism and its pre-

[3] For a more detailed analysis of pre-9/11 EU counterterrorism see den Boer (2000).

existing competences in internal security cooperation had initially led the EU to approach terrorism as a mere law enforcement problem. However, after Madrid and London the Commission quickly made the case for an "integrated approach" that would require "novel solutions, means and approaches" (European Commission 2004: 3). This concept is embodied most visible by the EU's overarching strategy founded upon four interrelated work strands: pursue, protect, prevent, and respond (Council of the European Union 2005a). The strategy clearly widened the EU's understanding of counterterrorism and offered a platform for a more comprehensive approach. Yet, it has been too comprehensive and not comprehensive enough at the same time. On the one hand, it connected various internal and external policy issues, many of which were at best indirectly related to terrorism, and raised high demands for their governance across institutional divides. On the other hand, there has been a lack of coherent political guidance and sufficient institutional and ideational capacities at the working level necessary to fulfill the new and complex tasks (Schröder 2011). Hence, the strategy formulated general guiding principles rather than serving as a tool for concrete action.

The four work strands of the EU strategy have seen highly uneven activity and progress. Since 9/11, most activity has focused on the pursuit of terrorists through police and judicial cooperation and the protection of potential targets whereas the prevention of new attacks has received considerably less attention (Council of the European Union 2009a: 4). Yet, this has changed somewhat as decision-making on new legal instruments became increasingly stalled and new preventive initiatives were started. The pursue strand has clearly drawn most attention since 9/11. It has focused on legal approximation and operational cooperation in police and judicial cooperation. Yet, the legislative process has slowed down or even stalled since the immediate aftermath of the London bombings that saw the adoption of a directive of telecommunications data retention and other instruments. The Counterterrorism Coordinator has noted that the Council had tended to follow "an imperative to take visible repressive action" in the aftermath of attacks and then began to realize the limits of its event-driven and narrow approach. In addition, he argued that EU counterterrorism would be subject to "a growing sense of ct-fatigue" as the attention of member states moved to other issues in the absence of new attacks (Council of the European Union 2009a: 2). Moreover, many practitioners apparently see a legislative saturation in the counterterrorism field with a view to the large amount of available measures (Coolsaet 2010: 861). Operational coordination and information exchange between intelligence and police agencies have frequently taken place among interested countries, but has overwhelmingly been carried out through ad-hoc contacts rather than official EU channels (Müller-Wille 2008).

With cooperation in the protect and respond strands the EU has moved into relatively new technical areas such as critical infrastructure protection and consequence management. The EU aimed to

consolidate policies and competences from various supranational and intergovernmental areas under the umbrella of a protective policy space covering diverse hazards ranging from terrorist attacks to infrastructure breakdowns and natural disasters (Boin et al. 2006). In its post-Madrid communications, the Commission was particularly eager to push for cooperation in those areas. It hoped to provide "a smooth institutional landing" for EU counterterrorism based on existing competences in areas such as energy or transportation policy and its ties to new stakeholders such as industry representatives and national regulators (European Commission 2004: 5). However, formal legislative action has been rather limited to a few acts such as a directive on the designation of critical infrastructure. Overall, cooperation in these areas has been more incremental and technical. The EU has built up some collective capacities for civil protection and crisis management but their use so far remains largely on paper and, particularly in the response field, it seems doubtful whether member states will actually use them in real crisis situations. In addition to a series of action plans on critical infrastructure protection or explosives security, most practical action has taken the form of joint exercises, best practices exchange, security research funding, and networks for the coordination of local authorities and the private sector (Rhinard et al. 2007; Bossong 2008b).

Preventive efforts have grown in importance but also posed particular challenges. The Council explicitly prioritized countering radicalization and recruitment into terrorism in a distinct strategy adopted after the 2005 London bombings (Council of the European Union 2005b). Progress in this area is especially difficult since it impinges upon essential member state competences in areas such as state-church relations or integration. Moreover, the very notion of radicalization is problematic since it is seen to interfere with cultural and religious sensitivities among Muslim populations. The Counterterrorism Coordination acknowledged this: "We are often criticised that by communicating on counter terrorism in the context of specific religions or ideologies we encourage the idea that some are more prone to terrorism than others, in particular that we associate Islam with terrorism" (Council of the European Union 2011: 4). The resulting limits for formal action in this field are exemplified by a Commission communication that was blocked by Commissioner Jacques Barrot due to its potential contentiousness (Brady 2009: 20). Moreover, the nature and consequences of radicalization remain fundamentally contested and ill-defined. There is a staggering lack of scholarly and political consensus on this relatively new issue (Coolsaet 2010: 869-70). As a consequence, cooperation so far has focused on a bottom-up pragmatism aiming to raise awareness, advance a basic common understanding, and identify best practices through practitioner-led networks and scientific research as a basis for further cooperation. The Commission announced that it intended to issue a new communication on radicalization in 2011 and to hold a ministerial conference on the issue in 2012 based on the outcomes of its two main recent activities, the Network of European

Experts on Radicalization and the Radicalization Awareness Network (European Commission 2010: 5; European Commission 2011: 18). By the time of writing in December 2011, the communication has not come out yet and it will hence be interesting to see whether the Commission has been able to create a more stable base for its new plans in this area.

***Agency***

Member states without doubt continue to rule the roost in EU counterterrorism cooperation. The counterterrorism strategy unmistakably clarifies that member states carry the main responsibility for fighting terrorism and the EU can support them by adding value where possible and appropriate (Council of the European Union 2005a: 4). Even under the Lisbon Treaty operational competences and capacities almost exclusively reside with national agencies and services and the Council holds crucial prerogatives in areas such as police cooperation. However, post-9/11 counterterrorism has seen the emergence of a "crowded policy space" in which international, national and sub-state officials with the partial inclusion of private actors interact through formal institutions as well as informal networks (den Boer 2006: 99). The number and role of actors varies significantly with regard to different issues and levels.

After the Madrid bombings, the Council installed the Counterterrorism Coordinator within the Council Secretariat to foster implementation, improve coordination, and suggest long-term priorities. The first officeholder Gijs de Vries, a former Dutch politician, largely failed with his political ambitions and stepped down in 2007 since he lacked not only formal capacities but also the experience with bureaucratic turf wars and incremental policy development in Brussels.[4] His successor Gilles de Kerchove, a long-standing Council official, gave his post a more bureaucratic and pragmatic outlook focusing on the advancement of mutual learning, the pinpointing of practical priorities, and the creation of ties to national officials. His widely accepted experience and expertise as well as his practical orientation and outreach allowed him to enhance the post's authority building on a larger process of "bureaucratization" as EU counterterrorism moved from post-crisis bargaining to long-term implementation (Coolsaet 2010: 861). He achieved some notable success with his pilot projects on specific aspects of radicalization, which will be discussed below, and was also able to use his bully pulpit to raise more critical strategic and political issues in his discussion papers.[5] His staff is limited to four persons, his official mandate stems only from a brief statement in the 2004 Declaration on Combating Terrorism, and there is no formal rule governing his participation in the Council working structures or his coordination with the Commission, which had been very skeptical towards the post in the beginning. Hence, he primarily relies on his reports to the Council, public appearances as the

[4] See 'Hesitations over New Counterterrorism Coordinator', *European Security*, July 10, 2007.
[5] See particularly Council of the European Union (2009a).

EU's counterterrorism face, and informal coordination with the Commission and Council working groups (de Kerchove/de Biolley 2010).

Furthermore, the Commission has become a central player in EU counterterrorism despite persisting constraints. During the aftermath of 9/11 and the Madrid bombings the Commission exploited the existing "window of opportunity" and acted as a "policy entrepreneur"' by advancing a range of its general internal security priorities based on pre-existing proposals, early agenda-setting, and skilled alliance-building (Kaunert 2010; Bossong 2008). However, the Commission's initial hopes to assume the "traditional policy preparation and execution role" (European Commission 2004: 5) that it holds in formal decision-making and implementation in communitarized policy-fields clearly did not fully materialize. After the failing of the attempted enactment of the Constitutional Treaty's bridging-clause for the Justice and Home Affairs domain and the withdrawal of its radicalization communication, the Commission had to acknowledge that its political aspirations were apparently not very much appreciated by member states. It would therefore have to tone down its supranational ambitions and build up experience, expertise, and capacities to strengthen its positions in a bottom-up approach (Argomaniz 2009: 162). Thus, the Commission has increasingly shifted attention to more informal powers in technical and social aspects of counterterrorism. In doing so, the Commission has not so much benefited from formal delegation but rather drew on "implicit capacities" such as the convening and coordination of networks and the marshalling of expertise (Rhinard et al. 2007). The Commission has flanked its encroachment into new issue-areas such as critical infrastructure protection by linking "public sector users" and "front-line practitioners" from the national, regional, and local level to industry representatives and security research institutions (European Commission 2010: 5, 7). The Commission strategically chose to focus on security research and public-private dialogue not only because it has existing budgets and competences. It can also prove its value-added through these efforts since they are "a less-controversial upstream activity where the Community', the MS' and the Industry's co-ordination activities can yield results in a short to medium time frame" (European Commission 2007b: 3). Hence, knowledge dissemination and reliable multi-level networks with public and private actors that create the basis for accepted capacities and authority rather than influencing treaty-based bargaining or the mere expansion of formal mandates under the Lisbon Treaty might grant EU bureaucracies more sustained – albeit constrained – agency.

Finally, private actors are increasingly included. Particularly more technical questions in the pursue and response strands pertain directly to the work of operators of critical infrastructure, manufacturers of explosives, and other private actors. The Commission therefore from early on stated its belief that "the whole of society will need to participate" and it therefore placed special

emphasis on public-private dialogue where it could rely on established networks (European Commission 2004: 3). This has clearly facilitated an increased participation by private actors and the next section will look more closely at respective efforts through consultation processes and security research. Yet, some caveats are in order. First, private actor participation is usually limited to technical issues and informal arrangements without granting direct access to formal Council bargaining and traditional security concerns in police or judicial cooperation. Second, in many cases we find top-down co-optation processes with private actors being obliged to comply with counterterrorist requirements rather than non-hierarchical bottom-up interactions among autonomous actors. Examples include telecommunications operators having to store connection data or financial institutions that are obliged to submit information on terrorist financing. Third, we will see below that public-private dialogue is far from representative with most participation coming from the security industry and government-associated research institutes rather than non-governmental organizations or independent experts. Hence, it does not necessarily signal an enhancement in terms of accountability and transparency.

***Mode of Cooperation***

Decision-making on the legal and political fundamentals of counterterrorism at the Council level is still predominantly intergovernmental. The hierarchical bargaining processes have been characterized by domination of the "haves", i.e. the few directly affected and capable big member states, over the "have nots" (Zimmermann 2006: 133-4). The Lisbon Treaty has technically removed the European Parliament's and the Commission's legal constraints and makes them full partners in the legislative process. It is clear that these innovations, particularly the strengthening of the traditionally skeptical European Parliament, change the equation in counterterrorist decision-making and tie the hands of member states to a considerable degree. However, member states retain the last word on binding decisions and some issues – such as operational police cooperation – are still not communitarized and remain firmly in the hands of national agencies. Moreover, we have already seen that the high-politics of treaty-based Council decision-making that have shaped the aftermath of major attacks have stalemated to a large degree. With a view to the vast number of already existing coercive legal instruments and their largely politically-driven adoption it indeed be good news if EU counterterrorist decision-making evolves at cruising speed rather than through accelerated post-crisis politics.

The picture is more diverse when we take action at the working level into account. To offer an escape from the trap of crisis-induced legal acceleration and long-term inertia, Gilles de Kerchove, the EU's current Counterterrorism Coordinator, has reminded all actors that "the EU CT strategy was deliberately designed to remedy this defect [event-driven agreements with subsequent

implementation problems] by setting out a comprehensive approach, to be implemented steadily, and so providing a more solid and durable basis for long-term success" (Council of the European Union 2009a: 4). This reminder particularly addresses the lack of institutional and ideational underpinning at the working level where the actual responsibilities and expertise for implementation reside. Counterterrorist strategies and action plans in sensitive and contested policy-fields such as counter-radicalization often represent political compromises between member states with divergent traditions and entail only vague recommendations that are not tailored to and do not reflect the experience of those who have to translate them into action (Council of the European Union 2007a: 8). Hence, it appears that comprehensive counterterrorism will have to rely on and stimulate the "willingness and know-how of the multitude of European actors and levels" that is competent and responsible for its implementation and further development (Ekengren 2006: 91).

Information exchange and operational coordination among law enforcement and intelligence officials has a particular tradition dating back to the foundation of EU internal security cooperation in the TREVI group. The two most important fora are Europol and Eurojust. Despite some successes and a proven ability to provide quality assessments and reports, member states are reluctant to share sensitive information and delegate formal powers due to a lack of mutual trust, fragile confidence in their value-added and the traditional preference for direct bilateral exchange. EU networks in the pursue strands are thus still limited by the political and practical concerns of national agencies and these operational aspects are explicitly kept outside the reach of the Lisbon Treaty (Coolsaet 2010: 862-865). Member states' preference for flexible coordination in clandestine areas has led them to rely on long-standing ad-hoc channels. To a large degree, counterterrorist intelligence and information exchange is handled in the framework of informal grouping such as the Club of Berne, the Salzburg Forum and the Baltic Sea Task Force (Müller-Wille 2008). These horizontal networks are seemingly useful in the eyes of national practitioners. Yet, there is a trade-off between their perceived effectiveness and serious legitimacy concerns. Police and intelligence networks face serious normative drawbacks since they lack transparency and accountability even though they can directly interfere with citizens' human rights and civil liberties (den Boer et al. 2008).

Moreover, member states and the Commission have set up counterterrorist networks beyond the sphere of more or less conventional police and judicial cooperation. Regarding technical questions within the strategy's respond and protect strands the Commission has advanced multi-level networks with state and sub-state actors as well as the private sector in order to ground its proposal on "extensive consultations of stakeholders" and to secure the "appropriate technology and knowledge base" (European Commission 2007a: 7). In addition, the Commission has organized task forces and conferences with public and private actors during its preparation of proposals on issues such as

critical infrastructure protection, the security of explosives and CBRN security.[6] In some instances – such as in the case of identifying critical infrastructure – these informal processes even led to the submission and adoption of formal regulation, though this granted only very limited supranational powers to the Commission. The Commission has also initiated a growing number of networks such as the Critical Infrastructure Warning and Information Network (CIWIN) that link national and local officials as well as private stakeholders for the exchange of information and best practices as well as training and joint exercises (Rhinard et al. 2007: 95-7).

Furthermore, the Commission places much emphasis on security research. For the period 2007 to 2013 it can distribute 1.4 billion Euros under the security research program of the seventh research framework program. Much of the money is spent on counterterrorism-related programs and the origin of security research is closely associated with new risks assessments after 9/11, Madrid, and London. A particularly prominent case of public-private dialogue in this field is the European Security Research and Innovation Forum (ESRIF) that advised the Commission on future priorities for security research.[7] ESRIF has drawn fierce criticism for its imbalanced and industry-focused composition (Bigo/Jeandesboz 2010). Indeed, 'stakeholder' in the Commission's understanding has practically meant a non-comprehensive and non-accountable group of national officials, industry representatives, and defense research institutions, which tended to favor a technical and industry-oriented approach towards counterterrorism (Schröder 2006).

The field of counter-radicalization apparently has gained particular momentum in terms of informal and knowledge-based networks. In response to the initially humble progress, Gilles de Kerchove initiated a range of projects for national and local practitioners in order to increase awareness and ownership at the working level (Council of the European Union 2007a: 9). Under the lead of one member state and with financial support from the Commission the projects offer the opportunity to discuss specific aspects of prevention such as the training of Imams or terrorist recruitment on the internet. Despite their still early phase, they are applauded as a promising tool to facilitate pragmatic progress among concerned parties and some concrete results – such as a European Agreement Model for public-private dialogue on online-radicalization – are already emerging. However, their main effect will most likely be to raise awareness and spread ideas rather than immediately facilitating impressive collective action (Coolsaet 2010: 870). Furthermore, the Commission has funded numerous studies on processes of radicalization and set up several expert networks such as the European Network of Experts on Radicalization and the Radicalization Awareness Network. Hence, with a view to the EU's legal and operational limitations and member states' uncertainty how

[6] On CBRN security and the CBRN Task Force see for example European Commission (2009: 5-7).
[7] For the final report see European Security Research & Innovation Forum (2009).

exactly to deal with radicalization, a growing – though still not fully tapped – potential for the EU is its role as "counter-terror think-tank" (Brady 2009: 19). It is not clear yet who is taking the lead in this regard and the Commission and the coordinator eventually will have to proof their value-added vis-à-vis state-led efforts such as the Belgian-led program on radicalization and community policing (COPPRA) or conferences of the European Expert Network on Terrorism Issues (EENeT) run by German authorities.

Informal networks and knowledge-based activities at the working level have clearly expanded in scope, number and available resources as the EU has moved beyond its initial post-crisis response. This appears to be driven by limited opportunities for formal action at the political level as well as attempts to adapt to the demands and shortcomings of the comprehensive strategy. The use of these arrangements also varies in different policy sub-fields. The discussion pointed to direct information exchange outside the EU in police and intelligence cooperation, technical networks and stakeholder consultations in counterterrorism protection, and expert-oriented efforts to develop common understandings in counter-radicalization. So far we do not know much about the emergence, operation and consequences of these mechanisms. Future research should investigate more closely how they affect the transfer of ideas among states and the standing of EU bureaucracies within counterterrorism cooperation.

***Compliance***

Commentators regularly lament the EU's patchy compliance record and attribute this to a commitment-implementation gap among member states and lacking enforcement powers for EU institutions (Zimmermann 2006: 134; Monar 2007: 279). Member states have only reluctantly transposed their obligations into national law and diverging justice systems demanded numerous compromises and exceptions.[8] The Commission and the Council Secretariat were unable to force member states into compliance since they were largely restricted to reporting. The Lisbon Treaty has formally cleared the way for infringement procedures in the JHA domain but the foregoing discussion would lead to us to doubt that the Commission will fundamentally depart from its soft compliance approach in the near future and jeopardize its nascent authority (Argomaniz 2010: 312).

EU institutions are apparently trying to come to terms with the insufficiencies of formal compliance and – for the time being – aim to adapt to this situation by strengthening soft and informal mechanisms. The Counterterrorism Coordinator has alluded to the need for a pragmatic and tailored approach at the working level since the pivotal task of implementation would be to maintain a steady pace rather than to sprint ahead too quickly and end up falling behind" (Council of the European

[8] See particularly the coordinator's six-monthly implementation reports.

Union 2009a: 4). Rather than focusing on detailed state of plays regarding action plans that are not comprehended in their entirety by busy practitioners anyway, he apparently prioritizes more strategic discussion papers with general priorities and practical recommendations in order to raise awareness and share best practices. This entails the hope that they translate into "concrete operational tools" that are of "concrete relevance to as many as possible" (Council of the European Union 2009b: 6). Furthermore, the Commission disposes of substantial funds to support these efforts under its multi million Euro programs on "Prevention, Preparedness and Consequence Management", "Prevention of and Fight against Crime", and additional frameworks.[9] These funding activities have been hampered by a lack of strategic priorities, byzantine application procedures and insufficient communication. Yet, they have been appreciated by member states and the Commission is considering their improvement and extension in the context of an Internal Security Fund (European Commission 2010: 12-13). The use of these instruments clearly is one way to address the insight that the implementation of counterterrorist policies, in most cases, is hampered by divergent administrative cultures and a lack of institutional capacities rather than different threat perceptions and political interests (Argomaniz 2010).

Peer reviews have been another important soft instrument. So far, there have been two rounds of peer reviews on information exchange and civil protection. The first round of peer reviews an impressive official implementation rate of over 95 per cent (Council of the European Union 2007b: 5). However, we do not know much about the scope and mechanisms of their practical impact and the country-specific reports continue to be classified. Existing evidence suggests that peer reviews are valued by practitioners as practical and informal instruments for exchange but are more limited in terms of formal effects on enhanced compliance and learning (Bossong 2011). Overall, awareness-raising, best-practices, and capacity-building tailored at national practitioners seem to offer some advantages to centralized enforcement and monitoring. Though it is clear that these informal and knowledge-based compliance instruments have become more prominent over time, more research seems necessary to ascertain in how far they can accommodate the deficiencies of formal enforcement.

## IV. Drivers of Formal and Informal Security Governance

The next question is how we can account for the emerging combination of formal or informal security governance in EU counterterrorism. The study argues that there are three main drivers that

[9] For more information see http://ec.europa.eu/homeaffairs/funding/intro/funding_intro_en.htm; Accessed 29 November 2010.

can be linked to existing theories of international relations and European integration. They stress the importance of power and national prerogatives, functional spill-over and the need for coordination, and the role of knowledge and learning, respectively. This section cannot offer a comprehensive test of the different claims. Rather, it links the inductive patterns that have been identified based on the rather descriptive security governance perspective to some more theoretical arguments about potential drivers that might help elucidate the emergence of specific manifestations of security governance. Further developing these theoretical linkages could be particularly rewarding as security governance analyses commonly restrict themselves to description and often also prescription but offer less in terms of explanation.

First, a power-based approach would argue that the emergence of particular security governance structures is driven by forum-shopping strategies of powerful states that choose those venues and institutional forms offering the combination of formality and informality that allows them to pursue their particular interests with as few binding commitments as possible (Stone 2011). This underlines the familiar point that member states frequently call for more cooperation but remain unwilling to delegate formal competences and adopt directly enforceable legislation (Keohane 2005: 3). This approach can easily explain the preference of the bigger and particularly concerned member states to handle information exchange and operational coordination through informal bilateral channels or the reliance on non-enforceable framework decisions rather than directives in the case of the European Arrest Warrant or the common definition of terrorism. Moreover, this approach elucidates why states participate in the Coordinator's lead projects but remain skeptical towards Commission action in this area. Yet, this approach does not sufficiently account for changes over time and variations across issues and levels.

Second, a functional view would suggest that informal arrangements are chosen due to spill-overs and inherent functional ties across institutionally separated pillars and integrative interests by institutional actors (Stetter 2004). This perspective helps to understand the emergence of informal networks for the coordination of functionally interrelated but institutionally separated issues over the pre-Lisbon pillar structure (Edwards/Meyer 2008: 11). It also accounts for the fact that informal actors drawing on private and public actors are especially pertinent in areas such as radicalization or critical infrastructure protection that cut across established areas and are not directly linked to one of the EU's traditional supranational competences. Moreover, this perspective sheds light on Commission tactics to securitize areas with pre-existing competences such as transport and link them under the post-Madrid drive for counterterrorist action. However, it is important to remind that such dynamics do not follow automatically from inevitable functional demands arising out of specific issues. The underlying understanding of an issue rather emerges out of securitization processes

through which institutional actors advance a specific framing of an issue and attach a certain priority to it in a way that has direct ramifications for the resulting governance arrangements (Christou et al. 2010).

Third, a knowledge-based approach would allude to instances of learning through which actors incrementally adapt structures and processes to their experiences and new knowledge (Schout 2009). This approach offers some insights on changes in approaches of EU institutions and the scope of issues covered by EU action. For instance, the increasingly comprehensive approach taken after the Madrid and London bombings could be seen as a consequence of lessons learned from the 'homegrown' dimension of these attacks. One could also point to the Coordinator's call for more pragmatic bottom-action in response to initial problems with strategy implementation. Yet, adaptation in these cases clearly does not follow a pure problem-oriented logic but, as noted above, reflects institutional interests to take hold in promising policy-fields or expand the EU's counterterrorism agenda. Moreover, revised strategies by the Coordinator or the Commission are only partially conscious innovations. To a large degree, there are also limitations forced by member states' sensitivities and the need to act on the basis of the lowest common denominator. In many cases, learning is also limited by the lack of reliable knowledge regarding the effectiveness of new instruments such as peer reviews and adaptation therefore is often restricted to trial-and-error approaches.

## V. Conclusion

This article has made a contribution to debates about the emergence and adaptation of specific governance patterns in post-9/11 EU counterterrorism. It has argued that EU counterterrorism can be characterized as a multifaceted system of security governance that offers an alternative to either supranational integration or intergovernmental relations. The ensuing diversity of formal and informal security governance often goes unnoticed in existing accounts of EU counterterrorism. It has mapped the range of governance mechanisms along four analytical dimensions. The empirical examination suggests that the use of formal and informal security governance is not static but varies with regard to different periods, levels, and issues. In terms of policy-levels, the examination suggests that there are severe differences regarding the "high politics route" of formal centralized decision-making by political leaders that still determine the legal and operational fundamentals of EU counterterrorism and the "low-politics route" that is more conducive to informal expert networks that coordinate practical action and exchange ideas and knowledge (Princen/Rhinard 2006). While the lines between the counterterrorism strategy's four work strands are blurry and often arbitrary,

governance arrangements also vary with regard to issues in specific sub-fields. Police and judicial cooperation in the pursue strand has included either event-driven but increasingly saturated legislation or operational coordination that largely takes place outside of the EU framework. The technical incrementalism in counterterrorism protection relied on some preparatory legal action and vertical networks in areas of pre-existing competences as well as the strengthening of informal stakeholder networks and security research. Preventive policies targeting radicalization and recruitment have come to be characterized by a bottom-up pragmatism trying to raise awareness and develop common problem definitions. Finally, temporal dynamics have played an important role. In particular, the EU has moved from a focus on crisis response through repressive law enforcement action to a more comprehensive understanding of security and more incremental action through networking and security research.

Conceptually, security governance has demonstrated its general potential to account for a growing diversity of governing arrangements and to map shifts among formal and informal governance in institutions' attempt to deal with transnational security risks. Yet, security governance is no full-fledged theory and is much better at describing how and by whom specific security issues are handled rather than explaining why these practices emerge. The article has already suggested three avenues for theoretical dialogue that should be further explored. Security governance is generally compatible with rationalist as well as constructivist theories of international relations (Webber et al. 2004: 6-7). Additional ways for fertile dialogue could be closer exchange with concepts of securitization and governmentality in order to elucidate in more detail the link to changes in the underlying meaning and logic of security that has already been partially addresses in this paper through the content dimension of security governance (Christou et al. 2010).

Finally, the paper also carries some political ramifications. The discussion indicates that formal integration through legislative bargaining has apparently reached its limits, at least when it comes to core areas of counterterrorism policy. Member states and EU institutions have been innovative in creating new and more informal mechanisms that produce some concrete results and by now can rely on substantial amounts of funding and coordinative platforms that incorporate more relevant actors and issues than ever before. Yet, we do not know much about the long-term impact of incremental exercises such as peer reviews or security research on the development of actual national policies and the EU's comparative advantage remains fragile with a view to the much larger national budgets and institutional infrastructures. Eventually, the plethora of informal networks and projects might be a problem itself and spread more confusion that coordination and coherence. Hence, informal security governance certainly is no panacea for the practical problems of EU counterterrorism. Moreover, it is problematic to limit informal aspects of security governance to

technocratic or apolitical exchanges among problem-oriented stakeholders. Counterterrorism is inherently political and can cause severe consequences for societies. Human rights infringements can emanate from exchanges among national intelligence officials, allegedly comprehensive strategies can securitize policy-fields that are not directly related to terrorism, and non-transparent and non-representative consultations entail problems from a democratic standpoint. Hence, security governance in EU counterterrorism fundamentally requires political guidance and accountability in order to address persisting legitimacy concerns

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