Chapter iv

The European Union Anti-Terrorism Policy in Relation to other International Organizations

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Introduction

It is certainly a daring issue to talk about European Union (EU) Anti-Terrorism Policy at this stage. This chapter will focus on one concrete aspect of EU external action related to this counter-terrorism strategy: how it is developed in relation to other international organizations and how the actions — lato sensu — undertaken by these secondary subjects of International Law are effecting the European Union’s performance in this area.

Three points need to be clarified at this early juncture:

1. While recent terrorist attacks — starting with 9/11 in the United States in 2001, followed by the bombs that killed hundreds of people in Madrid in March 2004, in Bali in October that same year and in London in June 2005 — have boosted the formation of a system that encompasses a variety of activities, bodies and different legal measures organized and adopted within and outside the European Union framework, the formation of a specific EU policy in this domain is in its infancy.

2. Despite the title of this paper, the European Union does not really fit within the category of “international organization”. Its sui generis nature and its highly developed structure differentiate it from other international organizations. This alone suffices to explain for its capacity and power to organize a wide range of ad intra and ad extra actions aimed at preventing and combating terrorism.

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Only if compared to state cooperation, does the institutional cooperation developed within the framework of international organizations (including the EU), in the field of counter-terrorism, possess a complementary character. It is of the utmost importance to put these different subjects of international Law in their proper place so as to avoid generating false expectations in this area. One has to bear in mind, nonetheless, that, regardless of their legal autonomy, any international organization “laisse voir les États toujours présents derrière ses structures”. On one hand, the states’ political will is essential in making an international organization work; on the other, states are necessary to implement secondary law (which consists of legal developments created by different sets of resolutions).

This chapter will focus primarily on the evolution of this institutional strategy for counter-terrorism within the European Union (1.), together with some actions undertaken in this field by international organizations – such as the United Nations (UN), the Council of Europe, the Association of Southeast Asian Nations (ASEAN), the Organization for Security and Cooperation in Europe (OSCE), as well as other entities without international legal personality, such as the G-5, the Asia Pacific Economic Cooperation (APEC) or the Financial Action Task Force (FATF). Special attention will be paid to the forms of mutual cooperation established (2.).

1. The evolution of European Union action in the fight against terrorism: The external perspective

In the mid 1970s, the European regional integration process developed measures against all forms of cross-border organized crime, including terrorism, by means of European Political Cooperation. The TREVI Group increased police co-operation to combat terrorism (3). This simple method changed slightly when the Maastricht Treaty (4) – signed in 1992 – confirmed in Article K.1(9) that “police cooperation for the purposes of prevention and combating terrorism” – inter alia

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1 Some EU documents of a different nature emphasize that Member States are primarily responsible for the starting point in combating terrorism; See Efforts by the European Union to combat terrorism. Contribution to the orientation debate in COREPER, drafted by the General Secretariat of the Council of the European Union and sent to COREPER Doc. 7377/04 JAI, 8 March 2004.


3 The TREVI – French acronym for “Terrorisme, Radicalisme, Extremisme et Violence International” – Group met the Interior Ministers of the European Communities Member States.

4 The first version of the Treaty on the European Union (TEU) was signed 7 February 1992 and came into force on 1 November 1993.