

Summary

First inventory of policy on counterterrorism: Germany, France, Italy, Spain, the United Kingdom and the United States - ‘research in progress’

This report presents a first inventory of measures aimed at combating radicalisation, extremism and terrorism (referred to in this report as counterterrorism policy) in Germany, France, Italy, Spain, the United Kingdom and the United States. Commissioned by the NCTb, the WODC (the Research and Documentation Centre of the Dutch Ministry of Justice) carried out a study into counterterrorism measures in place in the countries investigated in early 2006. This study comprises the first international inventory of a number of policy fields under development, whereby the counterterrorism policies discussed here are characterised by extremely rapid development and innovation. This inventory can serve as point of departure for the registration of policy developments and to obtain an insight into their effectiveness. The continuous monitoring of the developments is therefore recommended.

Researchers in Germany, France, Italy, Spain and the United States have drawn up working documents, each with an inventory of the policy in place in that particular country, taking their information from public sources, mostly government publications and Websites, as well as articles, reports and books. Data on the United Kingdom were collected by the WODC. The closing date for the data collection was 1 February 2006.

Besides the inventory, the researchers were invited:

- to present a brief history of the development of the counterterrorism policy in the country in question, focusing on experiences with past terrorism and how it was combated
- to devote attention where possible to (policy) assumptions on which more recent measures are based
- to present available evaluations.

Due to the study's character of providing an inventory, differences may occur between the countries as regards topic detailing. This is "*work in progress*" involving a policy field in progress. There is no systematic comparison between the countries. It is not possible, therefore, to draw conclusions based on this report for the introduction of certain measures in the Netherlands. However, following a summary of the key study results, seven strategic issues were identified as they emerged from the material.

Key points from the policy fields investigated

1 Prevention of radicalisation and recruitment

All countries investigated in the study recognise the phenomenon of radicalisation of young Muslims in particular (and the role the Internet plays in this). Some reports focus on the more general interpretation of the problem. Besides the Netherlands, the United Kingdom in particular seems to be devoting a great deal of policy attention to radicalisation. A somewhat detailed concept in the United Kingdom distinguishes between structural, motivational and environmental factors. The various government services involved in the United Kingdom try to take into consideration the impact any measure may have on relationships with the Muslim community.

The actual point of interference in the process in the countries investigated in the study also distinguishes the countries' approach to radicalisation. Some European countries, such as the United Kingdom and the Netherlands, clearly aim to prevent radicalisation, focusing on early interference in the process. According to the working document, the United States opts for a broad interpretation of its freedom of speech, focusing on preventing *recruitment* for terrorist acts. The United States and the United Kingdom have also developed an international approach to radicalisation, based on the assumption that improving poor living circumstances and solving local conflicts may help reduce the breeding ground for extremism.

2 Information to the general public

There are major differences between the countries as regards their information to the general public on the counterterrorism policy in place and their attempts to involve the public. Together with the United Kingdom, the Netherlands appears to have the most far-reaching information policy: besides a leaflet that was distributed door-to-door, a special Website was set up. An alerting system was set up in some countries. A dilemma in the information policy is that while extensive information may promote support from the population, it may also help the terrorists themselves. Experiences gained with provision of information in the various sectors, and the development of theories in relation to this, could be used to improve the effectiveness of the campaigns.

3 Institutional developments

In most countries, save for the United Kingdom, special bodies have been set up to coordinate the fight against terrorism. These new bodies may include cooperation between investigation and intelligence service, or other organisations, such as ministries. These organisations often accommodate people from a range of ministries and services, and developments regarding the organisation of these new bodies are often still in full swing. Some studies which have already been published regarding the Department of Homeland Security in the United States suggest that on the conceptual and organisational levels many problems still need to be solved.

4 Intelligence

In order to gain insight in terrorist activity, governments use a combination of strategies. The working documents refer to *human intelligence*, low level intelligence and the use of (linking) personal data by means of data mining. The

use of databases of personal data combined from a range of sources is emphasized in Germany (Rasterfahndung) and the United States, even if it is applied everywhere else, including the obligatory storage of telephone records for further analysis and investigation. Privacy is also an issue in all countries as regards topics such as data retention and dragnet investigations. Under a new Act of 2006, France, too, seems to favour a shift to databases, away from its traditional strong focus on *human intelligence*. It seems to suggest a certain *technologicalisation* of intelligence work. The exchange of information between national authorities within the countries themselves, between countries, and at the international level, continues to be a point for attention.

5 *Protection of the critical infrastructure*

While this issue was not extensively dealt with in all working documents, it seems that all national governments have developed regulations and set up schemes to protect their critical infrastructure in case of a threat or actual terrorist attack. Cooperation with companies that are part of the critical infrastructure has been initiated in some countries.

6 *Legislation and regulations*

In international legislation a considerable level of agreement between the various countries has been reached, thanks to, amongst other things, the European framework decision. Differences between the countries continue to exist, however. For example, the United Kingdom has voiced reservations in respect of article 5 of the European Treaty in Human Rights introducing the 'derogating control orders' (see par. 3.12).

Endeavours against terrorism are being furthered through legislation and regulation, and in this connection the report focuses on measures with respect to the financing of terrorism, measures under aliens law, new penalisation measures and criminal proceedings measures. The use of *Information from intelligence services in the criminal process* was only implemented into UK regulations, but has not yet been put to practical use.

Certain national laws provide for the detention of terrorist suspects for longer periods of time without a formal charge, and the limitation of contact with lawyers or relatives ('incommunicado'). National laws are often difficult to compare as the pre-trial or preventive detention must be regarded in the light of the legal tradition of the country in question. Also, some countries allow a restriction to be placed on the lawyers' (complete) access to the police file for the trial.

Certain national laws provide for restrictions with regard to (self)employment for individuals who are convicted for terrorist crimes.

7 *Implementation and evaluation*

It is expected that in the coming years most countries will have reports on the degree in which the measures taken meet their targets (and at which costs). For now, little has been found on the measures taken after September 2001. Some authors of the working documents call for the inclusion in the evaluation study of the question whether or not the measures developed by policymakers have actually been implemented.

It is clear that many of the policies in place in the countries investigated were implemented recently, with the working documents frequently referring to

emergency measures. These left little time for *evidence-based policy making* or the detailing of the assumptions behind the various measures. Researchers can play a key role in this by tracing and systematising policy assumptions. By using syntheses of existing studies, aimed at mechanisms assumed to play a role in counterterrorism policies, these assumptions can be clarified and checked. This scope extends far beyond an analysis of only those investigations carried out as ‘evaluations of counterterrorism policy’.

Strategic issues

This report is an inventory of counterterrorism policies — in a broad sense - in place in Germany, France, Italy, Spain, the United Kingdom and the United States. What are the strategic policy issues that have emerged from the study?

1 Learning from previous experiences?

While the analysis of ‘old terrorism’ in the light of the most recent developments seems to have only just begun, it could prove very worthwhile (see chapter 2). The history of the rise and fall of terrorist movements may offer leads for today’s government policies. What are the conditions for negotiating with terrorists or their ‘political’ wings (Spain, Northern Ireland)? When could amnesty schemes apply (France)? What can be learnt from the approach to RAF sympathisers in the nineteen seventies in deciding how to approach radicalising young Muslims today (Germany)? According to Wilkinson the IRA was inspired by the successful terrorist movements from the period of the decolonisation . The Netherlands was confronted by Malaccan actions in the nineteen seventies. What are the parallels with today’s situation?

2 Mostly repression, or also emphasis on prevention of radicalisation?

The overview of counterterrorism policy presented in this report yields a number of different ‘policy styles’, which may in part be dictated by previous experiences with terrorism and the (administrative) traditions in a particular country in general. All countries have introduced repressive measures through new penalisation systems and an extension of the investigation tools. A strategic question is how effective is it — in comparison — to concentrate on a broader policy which aims at stopping people from radicalising and joining extremist groups. In the United Kingdom in particular, prevention of radicalisation is a serious issue, in this case aimed particularly at improving relationships between the government and *minority communities*. As in the Netherlands, government memorandums on the subject of radicalisation have been published in the UK.

3 How to solve tensions between population groups?

Increasing polarisation can lead to radicalisation. Tensions between Muslims and persons of native origin increased after 9/11 in particular. The perception of the existence of groups strongly opposed to each other is not unusual. Extreme rightwing ideas amongst youngsters have been surfacing in some places. In the ‘Islam debate’ some look for confrontation, with the Islam as codified religion (Quran, hadith, etc.) being pinpointed as the source — and therefore the cause - of *jihadi* terrorism. Governments opting for a cautious approach (as was the case in the Danish Cartoons affair) are sometimes accused of ‘appeasement’, reinforcing

the 'enemy' by shying away from confrontation. Governments must find a balance in preventing tension between and within population groups.

The presence of large Muslim minorities forces governments to develop a policy on the attitude to take vis-à-vis Islam. This is a sensitive topic in the countries investigated. France is taking government action to promote a moderate Islam. The United Kingdom seems to restrict itself to combating the most radical elements. *Community impact assessments* are used to try and obtain an insight into the response the policy evokes in ethnic communities. The question is whether this should apply solely to the minority groups, or also (for example) to groups of potential supporters of extreme rightwing ideas.

4 *How to keep extremist elements out or how to deport them?*

All countries use their aliens policies in their fight against terrorism. Differences in nuance relate to differences in the degree to which extremism *imported* from abroad (GIA, PKK) and extremism *developed* amongst immigrants has surfaced in the past and present. A further analysis of these types of radicalisation and extremism is called for, one that goes beyond considerations taken solely within the context of the aliens policy. For example, the working document on France reports that while GIA terrorism is a form of 'Islamic' terrorism, it can only be interpreted in the light of the complex and decades-long relationship between France and Algeria. Obviously, there is also a form of 'home grown' terrorism, as appeared in London and Amsterdam, whose relationship with foreign influences is far more difficult to interpret in terms of the laws concerning aliens.

5 *An international approach?*

An international orientation is rooted in traditions which developed based on, amongst other things, the history of the international relations of (part and present) superpowers. The United States and United Kingdom in particular say they wish to contribute to solving regional conflicts in the Middle East and other countries where extremists originate or —more often — with whom they feel a connection (Palestine, Afghanistan, Iraq, Chechnya ...) in an attempt to reduce the breeding ground for extremism. South European countries (particularly referred to in the working document on Spain) are working towards cooperation with *all* Mediterranean countries (Euromed), also to reduce regional tensions. Would it be possible for the Netherlands to step up its role in the international field?

6 *Informing the public without assisting terrorists*

As set out above in the summary, countries differ in how they inform the general public on terrorism and the efforts being made against it. There does not always seem to be an articulated and substantiated vision of the role which information should play. The working documents do, however, make casual mention of the different factors that play a role in this. For example, a UK document is quoted, which states that the public is kept informed of the developments, without helping terrorists to avoid the measures that have been taken. The idea that the other party is 'listening' has already led to the removal of a number of documents from Websites where they were originally accessible to the public. More explicit use of the available theoretical insights into the conditions in which the public may be involved in the policy is one of the options available.

7 *Balance between security and freedom*

Some of the countries investigated are building giant databases with data taken from a range of sources, also including privacy-sensitive ones. Germany in particular has a tradition of 'Rasterfahndung'. Large databases are also being put together in the United States. The main difference between looking for patterns in databases and collecting information by means of *human intelligence* is that information gathering via informers and agents is aimed at specific individuals, while electronic analysis concerns large numbers of people, of whom only a very small number will be involved in extremism or terrorism. Critics have argued that the 'identifications' are not always right and, moreover, difficult to correct. Supporters claim that this promotes the safety of these very same people. It goes without saying that the latter can be investigated.

Bram van Riezen & Karlijn Roex. Abstract What characterizes the Dutch and British policy on terrorism? Are there any differences? This article reviews the relevant literature that addresses these questions. Several competing visions have been deduced from the literature and are compared in this article on counter- terrorism. Terrorist attacks, particularly those of 9/11, led to a demand for severe counter-terrorism measures. This can be characterized as a trend toward a more instrumentalist policy: in the name of security, more civil rights are sacrificed.Â Neve, R., Vervoorn, L., Leeuw, F. & Bogaerts S. (2005). Eerste inventarisatie van contraterrorismebeleid. Den Haag: WODC. Noije, Van. L. & Wittebrood, K. (2008). Sociale veiligheid ontsleuteld. Den Haag: SCP.