



INSTITUT PRO EVROPSKOU POLITIKU

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## **Counterterrorism policies in Central Europe**

**Vera Rihackova**  
**EUROPEUM Institute for European Policy**

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## Executive summary

- Counterterrorism policy-making in Central Europe is driven to a large extent by foreign templates and the pressure to comply with internationally agreed measures and regimes. Domestically driven policy-making needs political impetus; generally, the degree of political involvement accurately mirrors the level of security threat perception and the counterterrorism agenda is not often an issue of political debate.
- In Central Europe, the internal and external aspects of counterterrorism policies have been largely dominated by different templates, the internal by that of the EU, the external by that of NATO/U.S.; despite their complementarities, tensions and problems related to the lack of internal coherence and inconsistencies have emerged from time to time. Despite national action plans, counterterrorism policies have often been planned and executed by different competing power centres within nation states without the support of a unifying political dynamic or strategy.
- Foreign templates used with existing domestic structures offer a reasonable means of improving areas where expertise is lacking; however, two problems appear widespread. First, the existence of different templates for modelling external and internal security policy domains is one of the factors contributing to a sort of “zero-sum game” within the competition of ideas in the defence policy discourse in Central European countries. Second, templates can work both ways –providing guidelines but also legitimizing *ex-post* or demanding extended competencies without a proper debate on appropriacy to tailor and control mechanisms.
- The EU counterterrorism agenda is largely about law enforcement. Responsibility for the bulk of actions debated in Brussels falls back on member states; Whilst EU debates are good for building peer pressure, delivering on agreed policies is a national matter, and here the record is mixed. Central European countries suffer from the problem of “virtual” *acquis*.
- The budget for counterterrorism purposes remains rather limited despite their growing economies, as the threat perception is low.
- The public in Central Europe does not regard global terrorism as an imminent threat against their national territory.
- It would be wrong to assume that the public is not interested in terrorism and counterterrorism measures. Public demand for competence-sharing between the EU and the nation states in the field of counterterrorism is high. Possible reasons for this are varied: incomplete understanding of what is actually meant by pooling of competencies by the EU; the assumption that global *Jihadi* terrorism threatens the developed world in general, but does not pose a particular threat to smaller nation-states but the developed world in general and that therefore the response has to come from and be guaranteed by a larger unit than the nation-state; low public confidence in Central Europe in

nation–state institutions and their response capabilities; the lack of experience in dealing with terrorism and generally low public awareness of the nature and scope of the response such a challenge requires.

- Central European public opinion is not particularly sensitive to human rights and civil liberties violations in connection with counterterrorism measures, despite some suggesting they should instead show even greater sensitivity to such issues, as a result of their historical experience of living with communist “big brother” regimes.
- Part of the public discourse on terrorism threat perception echoes islamophobia, present in the Central European societies since Islam is quite a new phenomenon in the region.
- With rising living standards, Central European countries are experiencing the change from being transit countries for immigrants, to countries of final destination. The rising number of immigrants will bring about changes in the structure of Muslim minorities too. Societies will gradually have to accommodate demands related to freedom of religion and there are already public debates on various related topics. These debates do not conceal the fear that the changing Muslim minorities fail to strive for integration in the majority society.
- Countering terrorism financing (CTF) and the anti–money laundering (AML) regimes were modelled solely according to the foreign templates with the former following, with delays, the latter. The legislative frameworks have not been completed so far and some of the Central European countries studied (Czech Republic, Slovakia) do not fully comply with international regimes, namely due to the absence of criminal liability of legal persons. Law enforcement results are also lacking in terms of specific prosecutions, convictions and asset recovery under the CFT regime, caused largely by deficiencies on the law enforcement and judiciary side, rather than the analytical one.
- Hungary, Czech Republic and Slovakia have not carried out a review of the weaknesses of their Not-for-Profit Organization sectors, although plans for such a review, as well as for drafting better oversight measures, are contained in action plans.
- The continuous reform attempts of the intelligence services have brought about mixed results; although partly driven by the NATO and EU accession, the primary impetus for most of the changes has been the need to overcome the legacy of previous regimes and the political struggles within the Central European countries studied themselves.
- Intelligence services competencies must be strengthened but more transparency and better-functioning oversight mechanisms are needed. The reform of the intelligence services should not be undertaken for political purposes only but after a comprehensive debate, including examination of the

foreign templates and the transferability of their systems of checks and balances.

- Inefficient inter-institutional counterterrorism policy coordination; the coordination of the inward- and outward-oriented counterterrorism policies is a problem, operational activities coordination is not functioning very well in most cases; efforts to add another layer of coordination, which would embrace all relevant bodies, usually break down over the need for a new legislative basis, the struggle for competencies and the resistance of existing institutions. Existing channels and instruments for cooperation should be improved and given additional power before new institutions and instruments are created, whilst adding new layers of coordination should also be given thorough consideration.
- In the Central European countries studied, the EU is not seen as the forum for developing a coherent counterterrorism policy template; rather it is expected to continue to provide space for experience exchange and allow for creation of expertise in the fields in which they are lacking in it.
- The absence of experience and expertise calls for the use of foreign templates and best practice in some areas of counterterrorism policy-making in Central Europe; moreover, the pressure of the EU and other international institutions to comply with adopted regimes and standards is needed in order to develop the counterterrorism policies and the legislative frameworks further.

## Introduction

In this paper, the terms counterterrorism and counterterrorism policies are used as a general definition of a complex set of measures, actions and tools designed to prevent the perpetrators of terrorist acts preparing and completing their plans<sup>1</sup>.

The paper does not aim at a comprehensive account and comparison of the counterterrorism policies of the four countries selected (the Czech Republic, Hungary, Poland and Slovakia) but rather at the testing of a number of hypotheses on counterterrorism policy-making. It also focuses on selected issues considered to be crucial for further development in the field. The similarities in historical experience and institutional features of the countries selected should allow for comparison as well as for a certain level of generalization.

The response mechanisms which should be employed in case of a terrorist attack and their problematization in the Central European countries studied, will be tackled only marginally. Also the international counterterrorism efforts pursued by these countries in participating in foreign missions of military and non-military character are not deeply elaborated here, despite the fact they are an indispensable part of the overall security arrangements and the international cooperation of the Central European states in fighting terrorism. The author believes there is already a body of literature on the subject.

Central Europe cannot be considered either as a driving force of international and supranational cooperation in the fight against global terrorism or a source of effective national measures to be implemented elsewhere in order to improve the prevention and responsive capacity. Together with the democratic transition and efforts to rebuild their societies and structures, these countries have been experiencing dramatic changes in security concepts and the security milieu since the end of the Cold War. With new security challenges and threats, the internal and external security concepts have gradually started to overlap, especially in the field of fighting terrorism, placing high demands on the institutional response and coordination

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<sup>1</sup> The narrow definition of counterterrorism states that only the actions conducted in order to stop a particular terrorist operation in progress can be labelled counterterrorism (Samson, 2003).

capacities on national, international and supranational levels. In case of Central Europe, the institutional responses have been lagging behind, due to several factors – unfinished transformation, continued structural weakness of the post–communist system, poor–performance of public administration, limited capability of effective and adequate strategic planning, persisting unresolved issues of divisions of competencies and responsibilities, unfinished legislative frameworks, problematic law enforcement, the so-called “historical burden” leading to continued mistrust of the partners within the wider intelligence community, mismanagement and lack of mechanisms for cyclical strategic reviews<sup>2</sup>. In the process of NATO and EU accession and membership, some of the major problems have been already removed, some still remain.

Nation states are crucial actors in fighting terrorism. In this paper, it is assumed that the foreign templates provided by EU member states, the USA, the EU itself or other international organisations, as well as the pressure to comply, were crucial for counterterrorism policy–making in the Central European countries studied after regime change at the beginning of 1990’s and that the need for reform and relatively quick accession to these policies in the EU and transatlantic framework resulted in continuing adoption of new templates. Following this overall approach, it is also assumed that a number of other factors play a part in this process: these countries prefer to model their own counterterrorism policies on existing templates because they have very limited experience of new forms of global terrorism, and because counterterrorism policy–making is not an issue with the public, and as a result it is not a domestic political issue. With regard to their capabilities, resources and experience, it is also assumed that, as new EU member states, they should be supportive of the counterterrorism measures taken within the EU supranational framework.

The templates are understood here as functionally emulated models<sup>3</sup>, where the models are adopted pragmatically and partially, with the process of modelling taking place on a voluntary and internally–driven basis, providing an outline for an institutional structure or policy. The template adoption does not imply a one–way hierarchical relationship; there are substantial organizational and intellectual

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<sup>2</sup> (Gogolewska, 2005)

<sup>3</sup> (Jacoby, 2001)

resources on the part of the Central European countries studied, which play a part in the process.

Testing the hypotheses, desk research and interviews with selected experts were undertaken, both in person or using a short questionnaire. The research also aimed at capturing the major persistent issues which influence the system of counterterrorism policy making and counterterrorism performance of these countries<sup>4</sup>. The experts were questioned on the following: efficiency of coordination of the nation–state institutions in the field of counterterrorism policies, public opinion on terrorism and counterterrorism measures, the level of political involvement, the lack of experience with global terrorism, policy transfer and modelling, security systems and especially the intelligence services delivery efficiency and coordination, the interest in promoting further developments of EU policies and priority areas of the Central European member states in this field.

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<sup>4</sup> See also: EU Council, Final report on the Evaluation of National Anti-Terrorist Arrangements: Improving national machinery and capability for the fight against terrorism, September 2005, <http://register.consilium.europa.eu/pdf/en/05/st12/st12168.en05.pdf>

## I. Counterterrorism policies in Central Europe – policies under influence

Counterterrorism policies and policy-making have gone through several stages in Central Europe since the beginning of 1990's<sup>5</sup>. The new democracies did not start from scratch; they inherited legal frameworks and institutional settings, designed for the purposes of previous regimes. In many areas, such as intelligence services, it was not possible to undertake fundamental reform or set up completely new institutions. The lack of experienced human resources can be seen as the main reason for this, but there were also other security risks related to such steps; the reform of the national security sector was one of the most difficult tasks these countries had to accomplish. The first phase, which was carried out in the first half of 1990's, was dedicated to dismantling the communist legacy. The second phase was marked by the successful conclusion of NATO and EU accession negotiations; the foundations of the new counterterrorism policies and policy-making were laid. The last phase started with the NATO and EU membership and can be labelled as Internationalization and Europeanization<sup>6</sup>.

Even if the decade between 1991 and 2001 brought some radical changes in the security sectors of the countries concerned, with the degree of implemented reforms varying from one sub-sector to another<sup>7</sup>, the turning point in counterterrorism policy-making in the region came with the events of 9/11 2001<sup>8</sup>. Until the 9/11 the security strategies of the Central European countries studied did not consider a large-scale terrorist attack to be a realistic possibility. Consequently, there were no national plans dealing with challenges related to global terrorism and no serious contingency plans for civil and military emergency services in case of a terrorist attack. Political representatives in Central European countries largely prioritized the external dimension of national security policies (with the exception of organized crime) and viewed this through the positive lense of international cooperation with the Western allies. This narrow view of the security situation, along with the simplified threat assessments, was challenged by 9/11 after which a new more complex approach to

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<sup>5</sup> (Mares, 2005)

<sup>6</sup> Ibid

<sup>7</sup> In that period the new national security strategies were adopted in Central European countries and a number of government reforms were prepared - the reforms of the military, police, intelligence and legal frameworks were amended or created anew in considerable part (see bellow).

<sup>8</sup> (Gogolewska, 2005), (Kousalova, Princova, Krulik, 2006)

counterterrorism began to emerge; reinforced by international developments and the need to comply with new instruments, now designed at the international level, namely that of the EU. The terrorist attacks which followed worldwide, but above all those in Madrid (March 2004) and in London (July 2005), intensified the efforts still further.

### ***The dynamics of counterterrorism policy-making in Central Europe***

*Hypothesis: In the Central European countries studied, the regime change at the beginning of 1990's, the need for reform and the relatively quick accession to the EU and transatlantic framework resulted in the continuing adoption of pre-existing, external templates rather than in the development of their own counterterrorism policies.*

Counterterrorism policy-making in the Central European countries studied features diverse and sometimes divergent dynamics. As elsewhere, the counterterrorism policy is not unified; ranging from the defence field to migration, it is not a policy in itself. It has frequently been planned and executed by different and often competing, power centres within the nation states, without a unifying political dynamic or strategy behind it; hence the counterterrorism policies have been quite open to shaping by different external demands and templates although the domestically driven reforms and measures taken in the realm the counterterrorism have also been marginally present. The simplified cleavage between domestically-<sup>9</sup> and externally-driven dynamics is suggested here; with the externally-driven dynamics complicated further by competing templates and pressures to comply, which mostly work in synergy but sometimes can create tensions and incongruity as well.

Despite the shifts in conceptions of power and vulnerability from the state-centric and territorial-based to the stateless and network-based and the reinforcement of international cooperation on various counterterrorism measures since 9/11, counterterrorism efforts and responsibilities rest largely with nation states<sup>10</sup>. The challenges of global terrorism are not the only security threat out there; as a result it seems that in Europe at least the “old fashioned” division of competencies and the

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<sup>9</sup> The templates are adopted on the internally-driven basis; the purely domestic solutions and policies are rather meant here.

<sup>10</sup> EU declared the bottom-up approach as the major determinant for further steps in the field.

institutional settings of a nation state will retain their traditional outlook<sup>11</sup>. The threat of global terrorism and the blurred division between external and internal security threats make high demands in terms of strengthening the coordination and cooperation both within a nation state and at the international level. However, the division internal/external still holds as a determinant, not only in Central Europe but elsewhere, too. In Central Europe the external part of counterterrorism policies<sup>12</sup>, and of security policies as such, has been dominated largely by the NATO/U.S. templates, whilst the internal dimension has been dominated by the EU, which has avoided offering a militarized response to the terrorist threat for various reasons<sup>13</sup>; despite their links and complementarities, problems related to the lack of internal coherence and inconsistencies have emerged from time to time.

Modelling the policy or institutions according to a foreign template with regard to the existing domestic structures is a reasonable solution for improving areas where countries lack expertise. However, in case of Central European countries this process seems to contain two dangers. Firstly, different templates for modelling the external and internal domains of security policies have been used, one of the factors contributing to a sort of “zero-sum game” within the competition of ideas in the field of defence policy discourse in Central European countries; with the main templates provided by NATO and the U.S., Poland and Slovakia, for example, tend to perceive the European Security and Defence Policy (ESDP) development primarily through the lense of “duplicating NATO in the EU for solely political purposes”. Secondly, the templates can work both ways – to provide a guideline for policy or institutional improvement, but also to legitimize the steps already undertaken without a proper debate or proposals demanding extended competencies, sometimes without a proper set of control mechanisms.

The external dynamics, predominantly modelling internal counterterrorism policy-making of the Central European countries studied, was driven mainly by the EU, which in some cases even reinforced the international efforts in particular domains by

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<sup>11</sup> Pursuing rather the societal security concept (Hamilton, Sundelius, Grönvall, 2005) and holistic approach than turning to a homeland security template of the U.S. since it draws heavily on particular domestic structures and historical traditions.

<sup>12</sup> Aiming mainly at the military, in case of the humanitarian assistance, it is not of course the case.

<sup>13</sup> Also the other international organizations, especially the UN, Council of Europe, OECD and World Bank played part.

legislating further the issue, as in the case of countering terrorism financing<sup>14</sup>. Moreover, the pressure to comply is most efficient within the EU framework; the carrots and sticks of the accession negotiations being replaced by regular procedures, including judicial (ECJ) oversight of implementation process where applicable.

After 9/11, Central European countries' legislative frameworks were not suitable for fighting global terrorism, they were rather designed for fighting organized crime; for example acts of terrorism or the involvement in terrorist organizations<sup>15</sup> were not codified as distinct types of criminal offence, the use of military troops in civilian emergencies and for counterterrorism purposes presented a similar picture. None of these countries prepared separate "terrorist laws" of the type seen in the USA ("the Patriot Act"), or the 2005 legislation in France<sup>16</sup> and the UK. Penal Codes (in particular) have been gradually amended.

During the accession period, Central European countries had already been adopting EU measures and modelling their counterterrorism documents, namely national action plans to combat terrorism, to comply with the EU<sup>17</sup>. The model for the national action plans was "The Resolution and Action plan of the Extraordinary Session of the European Council" of 21st September 2001 and the Road Map, adopted by the European Council in October 2001, which contains a number of concrete measures; this text became a model for the Hungarian action plan. After the attacks in the Madrid in March 2004, the European Council approved the Declaration on Combating Terrorism; Annex I of the Declaration is the updated Action Plan of the European Council. The objectives, listed in the Declaration and in the Action Plan, set

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<sup>14</sup> See below

<sup>15</sup> The definition of both offences copies almost word for word the EU definitions in Czech legal provisions.

<sup>16</sup> On November 29th, 2005, French National Assembly adopted a new law against terrorism. This law includes the development of video surveillance, as well as an easier access for the police to certain data (held by the Ministry of Interior). It reinforces the possibilities of surveillance of phone and electronic communications, and the obligation for some service providers to transfer certain data to the State (phone operators, transportation, internet cafes). It facilitates controls of identities on international trains. Another aspect of the law reinforces the penal sentences (20 years of imprisonment for a participation in a terrorist association, 30 years for the leaders) and centralizes the penal decisions and management in Paris. It also extends the time that French authorities are allowed to withdraw French nationality from people who have been convicted of terrorist offences committed before naturalization. Some aspects of the law will be re-evaluated by Parliament after three years. This law has been adopted in view of the perceived underlying necessity to adopt legislation to curb the threat of terrorism. However, the National Committee on Information Technology and Civil Liberties has made a statement considering that the new measures created by the law should be only considered as exceptional measures.

out the measures member states are obliged to complete, including the adoption of legal instruments like the European Arrest Warrant<sup>18</sup>. In the aftermath of EU accession certain fields of counterterrorism policies were given higher priority in Central European countries, such as border controls<sup>19</sup>, intelligence sharing or countering terrorism financing.

EU peer evaluation missions in 2004 and 2005 assessed the degree of implementation<sup>20</sup> of counterterrorism measures and the effectiveness of the systems in operation in the Central European countries studied<sup>21</sup>. For Poland and the Czech Republic<sup>22</sup> the final conclusions of the peer evaluation were generally positive although the missions highlighted a number of substantial shortcomings, particularly in coordination and in information sharing systems.

The implementation of the EU Action Plan and compliance with the international regimes has been further scrutinized by the EU Counterterrorism Coordinator. The Coordinator was appointed in the spring of 2004<sup>23</sup>, but has no line-authority over the European Commission officials or over the member state agencies, and lacks a significant budget to promote counterterrorism measures. Assessing member state performance, the tactic of “naming and shaming” is largely used in order to speed up implementation; EU counterterrorism measures are largely about law enforcement. The bulk of actions debated in Brussels fall to member states; EU debates and evaluations are good for building peer pressure; delivering on agreed policies is a

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<sup>17</sup> The drafting of documents on counterterrorism already started in some countries before 9/11, In the Czech Republic, for example, as early as in the year 2000 the work on the secret conception called “Study of the Preparedness of the CR for dealing with the Threat of Terrorist Attack” was undertaken.

<sup>18</sup> Implementation of the EAW was particularly complicated in the Czech Republic but it must be noted that the “old” member states implementation record of EAW was even worse, especially in Italy and Germany.

<sup>19</sup> Particularly in Poland, but also in Hungary and Slovakia; as these countries secure the EU external border

<sup>20</sup> On the other hand, the pressure before EU accession resulted in some accession countries, particularly Poland, being more advanced than the old EU members in terms of implementing the Framework Decisions listed in the Declaration on combating terrorism of 2004, including the European Arrest Warrant or the Joint Investigation Teams.

<sup>21</sup> On the basis of Council decision 2002/996/JHA from September 28, 2002, Member States have been evaluated by means of two questionnaires and on-site visits from June 2003 to May 2005 by teams consisting member states, European Commission, General Secretariat of the EU Council and Europol experts. The final report evaluates the whole system pinpointing the best practice of the other member states may consider and the substantial drawbacks. The reports usually address the following issues: intra-agency coordination, international cooperation, threat assessment, information collection and access to databases, police training and border control, legal bases, secure communications systems and security clearances and crisis management. After the mission a country report was drafted in six months and the concluding report was completed by the end of 2005. The concluding report was not made public in full length. See: EU Council, Final report on the Evaluation of National Anti-Terrorist Arrangements: Improving national machinery and capability for the fight against terrorism, September 2005, <http://register.consilium.europa.eu/pdf/en/05/st12/st12168.en05.pdf>

<sup>22</sup> The reports on Hungary and Slovakia or their summaries were not made publicly available.

national matter, and here the record is more mixed in Central Europe. EU works rather as a horizontal network in the field of counterterrorism with the expertise based not in Brussels but in Paris or London.

Aside from the general EU framework, the Central European countries studied also take part in cooperation between the groups of governments in Europe; Poland is member of the so called G-6 group, consisting of the six biggest countries— Great Britain, France, Germany, Italy, Spain and Poland. These countries work on improvements in their intelligence sharing and at the moment, they do not appear to be willing to share with the rest of the EU member states in the same way; they do not trust all the governments in the EU; but the eventual involvement of more countries in the future is not excluded. All four countries surveyed are members of the Salzburg Group<sup>24</sup>, established in 1999 in order to coordinate the security agenda of the interior ministries of the acceding countries. This regional cooperation has continued since accession and the group was enlarged to include Austria and most recently Romania; counterterrorism measures are part of the agenda<sup>25</sup>. Another example of the enhanced intergovernmental cooperation is the Treaty of Prum<sup>26</sup>, which was signed by seven member states, none of them Central European, in 2005, to intensify their police and judicial cooperation.

NATO<sup>27</sup> and the U.S. mostly shaped the external military dimension of the counterterrorism policies, namely the issue of armed forces reform, which were NATO-centred and US-assisted, although NATO accession also implied changes in some internal measures like revision of the classification and clearances regimes in Central European countries. The U.S. models were used for templates in the domain of countering terrorism financing although not directly, but rather through the regimes

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<sup>23</sup> Mr. Gijs de Vries was appointed the first Counterterrorism coordinator by the European Council.

<sup>24</sup> Together with Austria, Slovenia and Romania

<sup>25</sup> However, counterterrorism is not the main decisive issue; priorities for 2006 are Schengen evaluation; coordination of tasks connected with the area of witness protection, approach to the future exchange of credible and updated information regarding the country of origin and coordination of efforts in the area of road traffic patrol and safety on roads.

<sup>26</sup> The so-called Schengen III was signed by Belgium, Germany, the Netherlands, Luxembourg, Spain, France and Austria. As Daniel Keohane has noted, the signatories declared that the other EU member states are welcomed to join in 2008 and there is a lot of speculation that it will become an EU wide measure by the end of decade.

<sup>27</sup> NATO took decisive steps in order to play a role in the counterterrorism operations. At the Prague summit in November 2002, it changed from being solely a defensive organization for preserving stability by formally endorsing out-of-area military operations and by approving a U.S. proposal to form an elite NATO reaction force (NRF).

developed within the international framework<sup>28</sup>. The influence of the U.S. varies considerably from country to country<sup>29</sup> as well as on an *ad hoc* basis; however, even if the practical policy influence is close to zero, the ideological or political impact of U.S. concepts on the public debate is significant and strong, unlike in case of EU. The cooperation between the Central European countries studied and the U.S. following 9/11 is embodied namely in the revision of the existing security strategies and the subsequent works on the sectoral strategies, and in the case of Poland the Strategic Defence Review<sup>30</sup>.

The Homeland security concept is defined in the U.S. national security strategy as a concerted national effort to prevent a terrorist attack within the U.S. territory, to reduce vulnerability, minimize damage and assure the recovery. In Europe, there is not the same historical tradition of centralization of competencies and capabilities as in the US and no European country is ready to implement anything equivalent to Homeland Security. However, expert opinion varies on the issue. As one expert put it: "U.S. counterterrorism models are underrated in the European debate. The establishment of a Homeland Security Department, the integration of intelligence services, as well as some novel uses of the military, are groundbreaking steps; they stand as a model for Europe, which is only waking up to the new terrorism."

### **Public Opinion**

*Hypothesis: The Central European countries studied prefer to adopt existing templates than create their own counterterrorism policies since counterterrorism policymaking is not an issue with the public; with regard to the level of security risks perception the public is not interested in active pursuing of counterterrorism policies by the political elites.*

EU Counterterrorism Coordinator Gijs de Vries stated that public opinion is a critical component in any counterterrorism strategy. Formulation of counterterrorism policies and legal frameworks in order to operate against terrorism often calls for public support. In this part, the attitudes of the public in the Czech Republic, Hungary,

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<sup>28</sup> See the section Countering terrorism financing

<sup>29</sup> With the strongest involvement in Poland, followed by Hungary; Poland, for example, modelled a special counterterrorism military unit, known as the Operational and Mobile Reconnaissance Group (GROM) according to the US Delta force and also the British SAS in 1990. Poland public was informed only in 1994 about GROM existence when the unit took part in the mission of allied forces in Haiti and later in former Yugoslavia.

<sup>30</sup> The Polish approach to the security and counterterrorism mirrored that from the U.S. strategy in its holistic character and the angle towards military responses, see (Gogolewska, 2005).

Poland and Slovakia towards terrorism, counterterrorism policies, threat perception, trust in response mechanisms, preparedness and possible links between the public opinion and the counterterrorism policymaking are examined.

Apart from the standard set of Eurobarometer<sup>31</sup> data concerning terrorism, the surveys available from national polling institutions<sup>32</sup> will be used. A worldwide survey on terrorism threat perception conducted by *Synovate*, a market research company, between September and October 2005 in 13 countries<sup>33</sup> is also used here. In the most opinion polls, counterterrorism policies are usually rather a side issue; not the main topic surveyed<sup>34</sup>. The only opinion poll on counterterrorism policy was carried out in Hungary in June 2004 by the *Centre for Strategic and Defence Studies* in Budapest, asking the respondents to assess the effectiveness of particular counterterrorism policy tools<sup>35</sup>. It is worth noting that the only detailed survey on counterterrorism policies in Central Europe was conducted by a think-tank; no national-based polling institute is willing to conduct such a qualitative survey. The obvious reason is the lack of demand and as one expert put it: "No survey institute is ready to lose precious money to conduct such polls, because the result would not affect any political decisions." Ferenc Molnar, who conducted the only special survey on counterterrorism policy in Hungary, regrets the absence of budget to carry out another similar survey and he also points out that there is rather a general problem: „I would also say that only the surveys of imminent importance are ordered by the state and scientific surveys are lacking financial support in the field of security and defence."<sup>36</sup> These statements also demonstrate, that counterterrorism policymaking is a rather under-politicized topic in the public domain in Central Europe despite the essential nature of public approval and media scrutiny of further institutional and

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<sup>31</sup> Standard Eurobarometer 64 and 65 (autumn 2005, spring 2006) – Country reports for the Czech Republic, Hungary, Poland, and Slovakia, See [http://europa.eu.int/comm/public\\_opinion/index\\_en.htm](http://europa.eu.int/comm/public_opinion/index_en.htm), [http://ec.europa.eu/public\\_opinion/archives/eb/eb65/eb65\\_en.htm](http://ec.europa.eu/public_opinion/archives/eb/eb65/eb65_en.htm)

<sup>32</sup> CVVM–CZ, TNS OBOP–PL, see References for details.

<sup>33</sup> <http://www.synovate.com/knowledge/infact/issues/200510/>. A little over 9.000 respondents were surveyed in 13 countries.

<sup>34</sup> For example Public Opinion Research Centre (CVVM) in Prague questioned the respondents on terrorism in connection to the NATO membership and NATO enlargement, Defence strategy of the Czech Republic or the war in Iraq. See <http://www.cvvm.cas.cz/index.php?lang=1>. Polish institute TNS OBOP runs the regular survey "Do we feel secure" including all kinds of threats but one special survey on terrorism threat perception was run by TNS OBOP in August 2004.

<sup>35</sup> See Molnar, Ferenc, the Hungarian Public's Perception of Terrorism, DCAF Conference Paper. [http://www.dcaf.ch/news/past\\_2005/ev\\_moscow\\_050489\\_paper4.pdf](http://www.dcaf.ch/news/past_2005/ev_moscow_050489_paper4.pdf)

<sup>36</sup> *Ibid*

legislative steps as well as the discussion on the nature of the threat posed by terrorism, the ways leading to radicalization and the response measures.

The last Eurobarometers<sup>37</sup> show that only a minority of the population of the Central European countries studied considers terrorism to be one of the most serious problems facing their countries. With the EU average reaching 14% and 10% respectively in spring 2006, the number for the Czech Republic has increased from the 2% in the spring 2005 to 3% in the autumn 2005<sup>38</sup> and decreased to 1% in spring 2006. In Hungary and Poland only 2% and 3% respectively consider terrorism to be a serious problem, both in autumn 2005 and spring 2006. The number for Slovakia dropped from 5% in autumn 2005 to 3% in spring 2006<sup>39</sup>.

The other set of questions targets the pooling of competencies between the nation–states and EU. When presented with the struggle against terrorism all the Central European countries studied score above the EU average in preferring joint progress in the field of counterterrorism to policy–making at the level of the nation state. Slovakia leads the league table of member states with 91% public support for shared decision–making, Hungary is second with 90%, the Czech Republic and Poland share third place with the Netherlands, Estonia and Latvia with 88% support. On average 78% of EU citizens prefer joint-EU to national action, so the level of support across the EU is generally high. Apart from terrorism, only research and development with 69% support, protection of the environment (66%) and defence and external relations (63%) scored so high within this set of questions. The lowest support for pooled competencies in the field of fighting terrorism are presented by EU countries which have experienced terrorist attacks quite recently – UK and Spain with 63% and 67% support respectively.

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<sup>37</sup> Standard Eurobarometer 64 and 65 (autumn 2005, spring 2006)

<sup>38</sup> According to CVVM opinion poll on security strategy and NATO enlargement done in November 2002, 10% of Czechs believed terrorism is a major problem of the country. This number is possibly connected to the imminent issue of the NATO summit in Prague. In August 2005, According to the same polling institution, only 1% of Czechs perceived terrorism as the country's main problem  
[http://www.cvvm.cas.cz/upl/zpravy/100505s\\_ps50822.pdf](http://www.cvvm.cas.cz/upl/zpravy/100505s_ps50822.pdf)

<sup>39</sup> The most serious problem is considered to be unemployment with 48% in the Czech Republic, 50% in Hungary, 71% in Poland, and 49% in Slovakia. The EU average for unemployment is 44%. A few EU countries, in particular those where terrorist attacks took place or particular threats were voiced, experienced an increase terrorist threat perception. In the UK for example, a 20 point increase was recorded (from 14% in spring 2005 to 34% in autumn 2005) and in the Netherlands of 18 points (from 22% to 40%). The concerns have also increased significantly in

Lastly, the Eurobarometer also polls for the EU future priorities. In the Czech Republic, the preference given to the fight against terrorism as one of the EU priorities can be clearly observed – a 9 point increase has been recorded (from 15% in spring 2005 to 24% in autumn 2005) with the EU average raising from 19% in spring 2005 to 23% in autumn 2005. Also 18% of Slovaks and 17% of Hungarians think terrorism should be the future priority of the EU<sup>40</sup>.

High public demand for competence sharing between the EU and the nation states in the field of counterterrorism in the Central European countries studied encourages theorizing. Naturally, it is hard to assess whether the supporters of pooling competencies understand the issue in the way the EU itself does, i.e. the communitarization of certain policy domains governed by unanimity but with the main counterterrorism agenda being carried out by the member states. According to the opinion polls, one could assume that the citizens of the Czech Republic, Poland, Hungary and Slovakia tend to perceive terrorism as not endangering particularly their rather small nation states but the developed world in general and the international system as such; the response then should come from and be guaranteed by a larger unit than the nation–state. Even in case of Poland, which cannot be considered small country and aspires to more visible role in the field of counterterrorism, a certain alienation from the policymakers who are pushing for a more autonomous course, for example in fighting terrorism abroad, can be observed on the part of a significant part of public opinion. Low trust on the part of the Central European public of nation state institutions and response capabilities both also contribute to the overall explanation<sup>41</sup>. Another fact is the lack of experience with terrorism and generally low public awareness of the nature and response scope necessitated such a challenge. For the general public, it is also difficult to assess on which level counterterrorism policies need to be undertaken in order to be effective.

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Denmark; despite the absence of attacks 32% of Danes see terrorism as one of the most serious problems (+20 points).

<sup>40</sup> With fight against poverty and unemployment leading the priorities chart (44% and 43% EU average), followed by keeping peace and stability in Europe and fight against organized crime (28% and 25% EU average), terrorism follows the suit with 23% EU average.

### Trust in national institutions, Eurobarometer 64 and 65<sup>42</sup>

	Government		Parliament	
	Tend to trust (autumn 2005)	Tend to trust (spring 2006)	Tend to trust (autumn 2005)	Tend to trust (spring 2006)
<b>Czech Republic</b>	26%	34%	16%	22%
<b>Hungary</b>	33%	48%	26%	47%
<b>Poland</b>	14%	22%	12%	13%
<b>Slovakia</b>	18%	21%	20%	27%
<b>EU average</b>	31%	35%	35%	38%

As far as the threat perception<sup>43</sup> is concerned, the opinion polls provide mixed results. As in Sweden, Finland, and Austria<sup>44</sup> and, outside the EU, Switzerland and Norway, one would assume there to be a strong belief that “it can’t happen here”; but it is not quite the case. The ambivalence is also mirrored in the public discourse and media coverage. Some claim that being small states, the Czech Republic, Slovakia and Hungary enjoy the advantage of being less irrelevant on the international stage and it is questionable how many people outside the countries knew of their involvement in Afghanistan and Iraq campaigns, which are generally regarded as the main reasons for a possible terrorist attack. Also the almost negligible number of Muslims is seen as the crucial advantage. In addition to fighting terrorism abroad, the other reasons why they might be a terror target usually indicate the fact of belonging to the Western world and to special issues, which could arouse terrorist interest – hosting Radio Free Europe/Radio Liberty in case of the Czech Republic or the Tazsar air base in case of Hungary for example. Some Polish experts also stated in the media that Poland had become a potential target for terrorist groups because of the news about clandestine CIA prisons allegedly hosted by the country<sup>45</sup>. Some point at the fact that, although by virtue of their size etc. they are unlikely to be major targets

<sup>41</sup> According to the same polls, the trust in EU institutions is also generally high in the Central Europe, too, which may also partly explain the findings.

<sup>42</sup> Fieldwork for Eurobarometer 64 was done in October and November 2005, quite shortly after the parliamentary elections in Poland (September 2005) and quite shortly before the parliamentary elections in Hungary (May 2006), the Czech Republic (June 2006) and Slovakia (June 2006, preliminary elections). Fieldwork for Eurobarometer 65 was done in May, June and July 2006, in time of elections in Hungary, Czech Republic and Slovakia.

<sup>43</sup> Generally within Europe and the EU, there are big differences in the threat perception and the divide runs clearly between East and West. In Western Europe, the average percentage of those who think terrorism is the most important security issue varies between 20–40%; further east it starts falling rapidly. As Daniel Keohane has noted, this feeds into a perception generally shared in Brussels that Central and Eastern European governments don’t feel they are in the line of fire the way the Western European governments do.

<sup>44</sup> An interesting observation is made by Hamilton, Sidelius and Grönvall (2005) that the neutral states in this sense believe the neutrality protects them in some way.

of terrorist attack, still they may suffer the aftermath of terrorist attack in neighbouring countries. Part of the terrorism threat perception discourse also echoes islamophobia, which is present in the Central European societies in view of the fact that Islam is quite a new phenomenon in this territory<sup>46</sup>.

Overall it appears that the public perception of the imminence of the threat posed by terrorism also naturally varies according to the nature of the polling question used; however, the threat perception clearly exists and the explanation lies in the external security policy these countries pursue; being more or less staunch US allies and labelled “new” Atlanticist Europe<sup>47</sup>, all four Central European states were directly included to the list of targets by Al-Qaeda’s fatwas because of their participation in the operations in Afghanistan and Iraq. Concrete threats were also voiced; Poland was named by the Tawhid Islamic Group, a previously unknown group declaring itself to be an Al-Qaeda cell in Europe and threatened attacks in July 2004 if the Polish troops remained in Iraq. Furthermore, the Slovak Embassy in Baghdad was attacked<sup>48</sup> and a warning of a possible attack against Slovakia was voiced on a Middle Eastern radio station<sup>49</sup>. All issues of such a nature are naturally covered by the domestic media.

As the data suggests, the majority public in the Central Europe does not consider terrorism to be the future problem<sup>50</sup> of their countries but, according to some polls, it does not exclude that its national territory can be subject to imminent threat of terrorist attack. It is also interesting that the public in the Central Europe does not think its country is well prepared and ready to deal with it. This sharply contrasts with the situation in Western European countries which have experienced terrorist attack. According to TNS OBOP, the Polish polling agency which undertook a survey on terrorist attack threat perception in Poland in August 2004, 74% of Poles think Poland could become the target. Only 18% of Poles believe that the country is well prepared to deal with an act of terrorism and only 16% believe the public Integrated Rescue

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<sup>45</sup> See for example [http://english.people.com.cn/200512/17/eng20051217\\_228656.html](http://english.people.com.cn/200512/17/eng20051217_228656.html)

<sup>46</sup> The recent activities of the Czech National Party serve as an example. The leaflets inciting against Muslims were distributed before a party gathering. The police detained some party members after the public meeting.

<sup>47</sup> U.S. Secretary of Defense Donald Rumsfeld divided Europe into “old” and “new” in his speech in January 2003.

<sup>48</sup> Later investigation proved that the action was not politically motivated; it was a simple case of looting.

<sup>49</sup> Source: Mario Nicolini

<sup>50</sup> See Eurobarometer data above.

System (police, fire brigades, medical assistance and army) is ready to cope with such a “disruptive challenge”. The detailed survey carried out by the *Centre for Strategic and Defence Studies* in Budapest in June 2004 adds to the mixed results of the opinion polls on the threat perception. It found that the overwhelming majority (85%) of respondent’s perceived terrorism as both a real and serious threat to Hungary. Yet according to Ferenc Molnar, “they [Hungarian respondents] perceived a number of threats to be real. That is the nature of our societies. Terrorism is not the top threat for Hungarians.” Indeed, in this survey, climate change, pandemics, pollution and drug-trafficking all scored higher than terrorism.

A survey conducted by *Synovate* between September and October 2005 in 13 countries <sup>51</sup> shows the difference between Western and Eastern Europe. Whereas 84% of French respondents and 68% of Dutch respondents considered that their country would be the target of a terrorist attack in the near future, only 17% of Hungarians and 12% of Slovaks gave the same answer. Percentages were higher in Poland, where around 37% of respondents answered positively. However, this is still relatively low number compared to Western Europe, where even Germany (47%) registered a higher percentage<sup>52</sup>. In the same survey, the affirmation “I don’t feel as safe as I used to” resulted in similar percentages in both Central and Western Europe (e.g. 40% in Hungary and 44% in the Netherlands, 55% in Poland and 61% in France). These numbers illustrate that the gap between the regions widens when terrorism is mentioned explicitly in the question, as compared to the situation where the questions merely ask about perception of the “dangerous world” and security threats in general.

Polling for the question: “*Do you think your country is well prepared to respond to a terrorist attack?*” resulted in 89% of Poles, 76% of Hungarians and 71% of Slovaks, answering “no”. These numbers are much higher comparing to French (46%) or British (48%) respondents. On the whole, the three Central European countries cited belong to those with the highest percentages of all the countries polled, together with the Netherlands (79%) and USA (73%). As in case of pooling competencies with the

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<sup>51</sup> The countries surveyed were: France, the Netherlands, Hong–Kong, India, Indonesia, Hungary, Germany, Poland, Singapore, Serbia and Montenegro, USA, Great Britain and Slovakia.

<sup>52</sup> With the plot (attacks on regional trains in Germany) which was interrupted this summer, the number will most probably increase.

EU, the explanation can again be linked to the low trust on the part of the Central European public in the nation–state institutions, the lack of experience of the threat of terrorism and next to no experience of testing response mechanisms.

This chapter shows that the public in Central Europe does not see terrorism as an imminent problem for their countries and, above all, does not consider that terrorism represents an urgent threat to their national territory, even where the general threat perception related to the security risks, including terrorism, is present<sup>53</sup>. Unlike in Western Europe, where the percentages are high both for the threat perception posed by terrorism and confidence in the effectiveness of the response by the nation state, the public in Central Europe does not think their countries are well prepared. There have been several attempts to test response mechanisms. However, such efforts have been largely perceived as political gestures, dictated by events elsewhere including foreign acts of terrorism and by higher security demands on the part of the public. An example of the latter is the testing of the Integrated Rescue System response to a terrorist attack in the Prague subway in autumn 2005, following the attacks in London.

There is also public support for sharing more competencies in the fight against terrorism with supranational institutions, namely with the EU. However, it is hard to assess whether there a clear conception of the nature of cooperation and future policy priorities exists, in this sense. According to given data, it is also hard to assess to what extent the public is interested in actively pursuing counterterrorism policies within their nation states, and which policy moves might be sensitive. It can be expected that the debates on counterterrorism measures in connection with possible human rights violations will emerge with the attempts of the Central European governments to undertake new legislative steps reinforcing, *inter alia*, the competencies of intelligence services. On the other hand, it appears that the citizens of Central European countries are not particularly sensitive towards any symptoms of human rights and civil liberties violations in connection with counterterrorism

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<sup>53</sup> With the process of internationalization, the public in the Central European countries studied perceives that being European or a “citizen of the world” is more dangerous than being Hungarian or Czech. Consequently, they feel it is necessary to counter terrorism on levels of decision-making other than the national one. As Ferenc Molnar has underlined, “the Hungarian public considers it an international duty and is willing to contribute when legally and morally acceptable steps are taken.”

measures, which some commentators suggest is a phenomenon caused by historical experience with communist “big brother” regimes<sup>54</sup>.

Comparing the data for Central and Western Europe, it is clear that there is a link between threat perception and the public debate on the counterterrorism policies. The impact of public opinion on political decision making in the field of counterterrorism policies in the Central European countries studied is minimal. It is brought about by the nature of the policy itself as well as the lack of elaborated public opinion surveys and data analyses. There is no pressure at the moment on politicians in Central Europe to go public with their counterterrorism policies proposals to secure support. As one expert has stated, “Still, there has been little public diplomacy to elicit the support of citizens for crisis response or for possible human rights measures. I would hate for it to take an attack in order for us to wake up to the threat, but this scenario is quite likely.”

The other reason is that security is not an issue during national elections in the Central European states studied since there is a general tendency to give precedence to economic issues when voting. However, it would be wrong to assume that the public is not interested in terrorism and counterterrorism measures; rather it is more a question of there not being enough ways to voice it. There is also a danger that a terrorist attack on the Central European countries studied would very probably have a devastating effect on the countries' *esprit*. It is questionable whether the public would unite in support of governments, as they clearly did in the UK, for example. Citizens are generally distrustful of nation-state institutions, as demonstrated in the surveys. If the governments in question failed to prevent or adequately respond to an act of terrorism, it could lead to political instability.

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<sup>54</sup> For example the e-petition “Data retention is not a solution” which emerged in autumn 2005 in connection to the EU legislation on data-retention, when it was argued that the EU needs new data privacy rights as international law enforcement authorities try to fight terrorism was signed by 848 Hungarians, 648 Polish, 309 Czechs and 74 Slovaks in comparison to 21612 Dutch, 6969 Germans or 5984 Fins. See <http://www.dataretentionisnosolution.com/>. Or the issue of PNR, list of data on airline passengers, linked with a wider EU debate on the balance between privacy rights and accelerating counterterrorism measures has not provoked a debate in Central Europe.

## ***Experience with terrorism***

*Hypothesis: The Central European countries studied would rather adopt existing templates than create their own counterterrorism policies since they have very limited direct experience of global Islamist terrorism.*

Despite the historical experience with terrorism of different kinds<sup>55</sup>, none of the Central European countries studied has had to face the consequences of acts of global Islamist terrorism so far; no large scale terrorist attack has ever occurred on their territories, nor have their citizens suffered from terrorist attacks abroad in the way that, for example, Australian citizens did in Bali. This said, such experiences do not seem to be the only trigger for efficient implementation of counterterrorism measures and policies development. Looking at the case of the Netherlands, which had long resisted bolstering existing counterterrorism measures, refusing for example to apply the EU list of terrorist organizations and individuals, the catalyst event triggering major changes in the counterterrorism policy was the murder of the film director Theo van Gogh. Denmark offers another example<sup>56</sup>. However, experience of global Islamist terrorism in the Central European countries studied does not go much further than threat assessment, preventive monitoring of suspicious individuals and protection of critical points and infrastructure; in addition, the experience of countering organized crime is worth noting - terrorism financing and money laundering are interconnected phenomenon, although the record of the Central European countries studied is rather mixed in this field.

After the fall of their communist regimes, the risks posed by terrorism increased in Central European countries, mainly due to two factors. Firstly, the role these countries played on the international scene under their previous regimes changed dramatically, former friends were also cast off, or became enemies. The friendly relations which had existed with Libya or the PLO, for example, were abandoned, however, the networks of contacts on the territories of Central European states remained. Secondly, the involvement of the new democracies in international

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<sup>55</sup> For details see (Mares, 2005), (Samson, 2003), (Gogolewska, 2005). Only a few terrorist-related cases have been encountered in Central European countries since the beginning of 1990's and instead of relating to international terrorism they were actually forms of domestic terrorism, including offences such as hostage-taking or other serious offences endangering public order.

<sup>56</sup> It is, however, questionable whether the emergency situation caused by the terrorist threat alert, which the Czech Republic, for example, experienced in September 2006, could work the same way.

operations, namely in Kuwait, the Balkans, Afghanistan and Iraq, as well as their NATO membership itself, also increased the overall security risks<sup>57</sup>.

Preventive monitoring concerns domestic left- and right-wing radicals. It also concerns those Muslim minorities and individuals suspected of involvement in the activities of radical Islamist groups. They may be residents but in most cases they are merely transiting the territory of the Central European countries studied. The Muslim minorities are rather sensitive issue not only because these Central European countries remain largely inexperienced in the field of countering radicalization and preventing recruitment to terrorist groups, but also due to the fact that without being completely new, the phenomenon of Muslim minorities has until now been alien to them. It is viewed as something exotic by the public and the majority of the citizens have only a vague understanding of Islam and its followers<sup>58</sup>.

Of the four countries examined, none has a large Muslim minority. In Poland, where the country is dominated by Christians, who make up as much as 99% the population, there are approximately 30,000 foreign Muslims and between 500 and 1,000 Polish Muslims. In the Czech Republic, the number given varies from between 10,000 and 20,000 Muslims, with around 400 Muslims of Czech origin. Estimates of the Muslim population in Slovakia vary from between 300 and 3,000 and in Hungary from 10,000 and 20,000<sup>59</sup>. The Muslim communities are quite well integrated into the respective societies and members of foreign origin usually possess a higher education degree and a command of languages. With the raising standard of living, the Central European countries studied are experiencing a change from being transit countries to becoming countries of final destination, and the number of immigrants from the Balkans, the Caucasus and from Arab countries is expected to rise; this is also bringing a change in the structure of Muslim minorities. The societies will gradually have to accommodate demands related to freedom of religion and there are already public debates on various related topics in Central European countries<sup>60</sup>. These

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<sup>57</sup> The key event in the region as far as the security and counterterrorism measures are concerned was the NATO summit in Prague in November 2002. As a result of the summit, new institutional platforms for the coordination of counterterrorism efforts emerged in the Czech public administration (see *Coordination* section).

<sup>58</sup> For example, according to an opinion poll carried out by STEM agency in the Czech Republic in September 2006, 60% of Czechs stated they fear Islam, without any other specification.

<sup>59</sup> Approximate total populations: Poland (40m), Czech Republic (10.2m), Slovakia (5.4m) and Hungary (10.1m).

<sup>60</sup> In the Czech Republic, Islam was registered as an officially recognized religion only in 2004. The government is currently deciding on the application of the exemption from the legal provision which only allows religious societies

debates do not conceal the fear that the changing Muslim minorities will not strive for integration to the majority society.

According to public reports by various authorities, the Muslim communities did not pose any security problems until 2003 and the start of the Iraq crisis<sup>61</sup>, which not only increased the direct security risk but also marked the start of some undesirable activities within the Muslim communities and an increased inflow of individuals with a mission to radicalize their members. In addition, the intelligence services also reported the efforts to monitor Muslim humanitarian or non-profit organizations known elsewhere for their involvement in sponsoring terrorism<sup>62</sup>, the transit of persons involved in the terrorist activities, the travels of a limited number of citizens to conflict zones, cases of terrorist organization financing<sup>63</sup> or the efforts to obtain arms, explosives and so-called "sensitive technology" linked to organized groups, possibly connected to terrorist organizations or individuals suspected of the involvement with terrorist activities.

At the moment none of the countries surveyed has a comprehensive strategy on how to counter radicalization or how to prevent recruitment to terrorist groups. The Czech Republic and Slovakia have declared in their action plans on combating terrorism that such a strategy needs to be developed by the end of 2007 on the basis of EU recommendations. An action plan on combating radicalization and recruitment to terrorism has been put to the fore by the EU counterterrorism coordinator Gijs de Vries in December 2005, following the UK proposal submitted shortly after the London bombings in July<sup>64</sup>. The Central European countries studied are waiting for a template from the EU level, based on the experiences of other member states, even

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to conduct religious services such as weddings or education only after 10 years of registration. The Czech counterintelligence service expressed its dissent despite reports and statements showing trouble-free relations with the Muslim minority in the Czech Republic. Another issue concerns the authorizations for building mosques with opposition coming mostly from local politicians.

<sup>61</sup> The monitoring of foreign Muslims living or studying in Central European countries goes back to the pre-1989 period.

<sup>62</sup> Also before 2003

<sup>63</sup> E.g. Hamas, which is on the EU list of terrorist organizations.

<sup>64</sup> The action plan on radicalization and recruitment states that the EU needs to "engage with Muslim organizations and faith groups to reject the distorted version of Islam put forward by Al-Qaeda and others", and should also "create a non-emotive lexicon for discussing the issues in order to avoid linking Islam to terrorism". In addition, an expert group on Violent Radicalization composed of academics was also established by the European Commission in April 2006. Several expert meetings have been convened to allow for exchange of national experiences and the identification of good practices since then, discussing radicalization in prisons, threats posed by returning Jihadists and strategies to encourage recruits to leave terrorist groups. To the author's knowledge, no expert from the Central European states studied has taken part in the work of this group.

though the situation on the ground differs in these countries. The reason is that they lack the experts and expertise<sup>65</sup>. The creation of cross-border networks among European experts and intensified contacts between counterparts elsewhere represents a particularly useful aspect of the work carried out so far in this field and Central European Countries should profit from it, building their expertise gradually<sup>66</sup>. Another area where these countries face similar problems is the use of the Internet for terrorist purposes and terrorism promotion<sup>67</sup>.

### ***Countering terrorism financing***

The fact that in the field of financing terrorism has “gone global” requires a continuing response and cooperation on the international level. The Central European countries studied were not well equipped for fighting terrorism in this area; most of the institutions<sup>68</sup>, legal frameworks and policies were modelled on international templates for countering terrorism financing (CTF), following the introduction of anti-money laundering (AML) regimes and using the existing AML regime structures. Countering terrorism financing has been lagging behind, largely due the feeling that these offences are not relevant to these Central European countries. The authorities in these countries have worked on key draft legislative reforms to bring their legislation into full compliance with the international requirements necessary for EU accession, with some legislation coming into force only recently<sup>69</sup>. Legislation criminalizing the financing of terrorism, authorizing criminal liability for legal persons and enacting other provisions related to the fight against the financing of terrorism has been continuously drafted or amended. Moreover, suspicious transaction reporting (STR) systems have had to be improved in order to cover transactions suspected of aiming at the financing of terrorism. Compliance with international standards has been assured by the supervision of key international organisations in the field<sup>70</sup>. However,

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<sup>65</sup> There are many prominent academics in the field Islamic studies in Central Europe; it is experts on radicalization and recruitment with a background in Islamic studies who are lacking.

<sup>66</sup> To prevent radicalization outside the EU, according to their action plans or statements the Central European states studied will take part in projects elsewhere, namely in the Mediterranean.

<sup>67</sup> Coordination and surveillance of the Internet by national law enforcement authorities and Europol will be discussed during the upcoming German EU presidency.

<sup>68</sup> Most notably the Financial Analytical Units, which are responsible for analyzing the suspicious transactions.

<sup>69</sup> E.g. in the Czech Republic an amendment to Criminal Code came into effect in October 2004 making terrorist attacks a crime (in Poland this had already happened in 2002). In Slovakia, the banking laws and the Penal Code were appropriately amended only in 2005.

<sup>70</sup> As one government expert put it; “the IMF, UN and EU questionnaires made us comply”.

despite these efforts, effective investigation and prosecution is still sometimes jeopardized by the absence of a comprehensive legal basis.

All four countries have now ratified the 1999 UN Convention on the Suppression of Terrorist Financing (the Czech Republic only as recently as January 2006)<sup>71</sup>. Also the EU has continued to strengthen its legislative framework to combat terrorist financing following the recommendations and findings of FATF<sup>72</sup>. The last comprehensive step is the adoption of the Third Money Laundering Directive<sup>73</sup> in October 2005 (in effect since December 2005), covering several key aspects of the nine FATF Special Recommendations. The EU directive is in the implementation phase at the moment (ending on December 12, 2007).

Of the countries surveyed, the Czech Republic and Slovakia still do not fully comply with the international CTF regime due the absence of criminal liability for legal persons from their legal frameworks. The debate on criminal liability of legal persons is no longer whether to have corporate liability but what form it should take, once introduced. The traditional objection to imposing penal responsibility on legal persons is a feature of German criminal law culture, which is fundamental for Central European countries. However, in connection to CTM/AML regimes, the debate on the adoption of the concept as such is no longer relevant. In most jurisdictions, the administrative sanctions or prosecution under the civil code are gradually being replaced by direct criminal provisions<sup>74</sup>.

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<sup>71</sup> Signed on September 6, 2000; the late ratification was caused by the fact that the Czech Republic was not able to meet its obligations laid down in Article 5 and partly in Article 8 Sections 1 and 2 of the Convention. These obligations concern both the liability of legal persons in connection with the financing of terrorism and the detection, freezing and confiscation of financial means used or earmarked for the financing of terrorism and proceeds coming from such operations. The Convention was ratified despite the fact that the law on criminal liability of legal persons was rejected by the Czech Chamber of Deputies in January 2006. The Czech Republic claims that it is able to fulfil its obligations under Article 5 by using the provisions of civil law rather than criminal law; for example, there is liability under civil law relating to unfair competition. After 9/11, the general tendency is to provide for criminal liability of legal persons in order to deal better with all terrorism financing related issues and the debate on the introduction of a form of criminal liability of legal persons is under way in the Czech Republic, see below.

<sup>72</sup> The Financial Action Task Force (FATF) was established by the G-7 Summit in Paris in July 1989 to examine measures to combat money laundering. Originally comprising the G-7 member States, the European Commission, and eight other countries, the FATF was later also mandated to focus on terrorism financing. FATF also has a mandate to review existing national and international legislation and enforcement, and define further measures needed to combat money laundering and terrorism financing.

<sup>73</sup> In 2005 the Council also agreed a general approach on the Regulation on Funds Transfers. Similarly, a proposal for a Payment Services Directive (adopted by the European Commission on 1 December 2005) and The Framework Decision on the application of the principle of mutual recognition to confiscation orders is still subject to a parliamentary scrutiny reservation.

<sup>74</sup> Among the "old" EU member states, the aversion to the introduction of this concept was the strongest in Germany, Italy, and Spain.

Multilateral international pressure<sup>75</sup> has been brought to bear on the Central European countries studied to introduce criminal liability for legal persons into their Criminal codes. In Hungary, Act CIV of 2001 on Measures Applicable to Legal Entities under the Criminal Code was adopted by Parliament in December 2001 and entered into force at the same time as the Act publishing the international instrument on Hungary's accession to the European Union<sup>76</sup>. Also Act CXXI of 2001 amending the Criminal Code introduced criminal liability for managers of businesses. In Poland, the Act of 28 October 2002 on the Liability of Collective Entities for Acts Prohibited subject to Penalty was adopted and entered into force in November 2003. It regulates the penal liability of collective entities in a comprehensive manner and introduces a broad definition of the collective entities subject to such liability, including both legal persons and organisational entities without legal personality. The Act provides for a number of penal sanctions, beginning with fines and forfeiture of benefits, bans on promoting or advertising the business activities, products or services and prohibitions on using financial support from public funds and aid provided by international organisations.

The Czech Republic and Slovakia continue to be the countries where for various reasons criminal liability of legal persons has not yet been adopted<sup>77</sup>. In the Czech Republic, after giving up on incorporating the change in the amendment of the Penal Code, a new stand-alone law on criminal liability of legal persons was drafted but

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<sup>75</sup> Besides the conventions related to terrorism financing, OECD pressure connected to the Convention dealing with the Bribery of a Foreign Public Officials can also be mentioned. The various rounds of compliance evaluation have been taking place under the auspices of different organizations depending on the different topic areas – from bribery to money laundering. As a follow-up, Slovakia for example already planned to introduce criminal liability of legal persons by 1 January 2002. The provisions are still not in place.

<sup>76</sup> The Hungarian authorities explained that the purpose of this postponement was, on the one hand, to allow judicial authorities and law practitioners to acquire training, and, on the other hand, to take into account possible commentaries or recommendations before the entry into force of the new law.

<sup>77</sup> Most of the legislators, legal practitioners, representatives of bar associations and academics in criminal law opposed the government's proposals of creating criminal liability of legal persons both in the Czech Republic and in Slovakia. Most believed that the concept contradicts a basic principle of criminal law, namely that criminal liability derives from the fault of an individual, not a legal person. Some felt the concept offends the principle of *non bis in idem* (double jeopardy) because it punishes both natural and legal persons for the same offence. In Slovakia, it is believed that the proposed sanctions, such as the dissolution of a company, would have been too draconian. Some feared that the police could abuse the law. One academic added that liability against legal persons is not necessary in a jurisdiction like Slovakia where there are sufficient sanctions against natural persons. Another academic stated that the draft bill did not adequately protect the interests of third parties (e.g. shareholders and employees of the legal person). See OECD, Slovak Republic: Report on the application of the Convention on combating bribery of foreign public officials in international business transactions and the 1997 recommendation on combating bribery in international business transactions, November 2005, <http://www.oecd.org/dataoecd/28/15/35778308.pdf>.

rejected by the Parliament in January 2006<sup>78</sup>. In Slovakia in a similar manner, the Draft act on criminal liability of legal persons and on the amendment and supplementing of certain laws was tabled by the government in February 2006<sup>79</sup>. The National Council of Slovak Republic discussed the governmental proposal in April 2006 but did not manage to approve it before its mandate expired. The new Slovak Parliament convened in July 2006. In both countries, the former main opposition parties formed the new governments; given their resistance to the drafts on criminal liability of legal persons, tabled under previous governments, it is quite unlikely that the new legislation will be proposed and enter into effect soon.

According to the IMF reports on Hungary and the Czech Republic and the Council of Europe reports on Poland and Slovakia, there is an absence of law enforcement results in the sense of specific prosecutions, convictions and asset recovery under the CFT regime. In all four countries, Finance intelligence units (FIUs), performing a mostly analytical role, were successfully established in mid 1990's<sup>80</sup>, at first particularly fulfilling those tasks resulting from AML regime. Two templates were used; FIUs established at National Police Headquarters, as in Slovakia<sup>81</sup> and Hungary, and FIUs established by the Ministry of Finance, as in the Czech Republic and Poland<sup>82</sup>. The FIUs main tasks are to receive, analyze and disseminate reports from financial institutions on transactions which are suspicious in terms of AML/CFT regimes<sup>83</sup>. It seems that the FIUs working within the ministries of finance are better

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<sup>78</sup> The Czech Chamber of deputies rejected the draft law on criminal liability of legal persons already in November 2004. More specifically, it was the opposition Civic Democratic Party (ODS) which opposed it; however, it is fair to say that the draft was ill-designed, failing to designate the areas of application properly.

<sup>79</sup> Likewise in the case of Slovakia, the government proposed, and the legislature rejected, legislation on the subject in 2005. In early 2005, the government drafted a new Penal Code which provided for criminal liability of legal persons. After submitting the draft to the legislature for approval, the government withdrew the draft in the face of numerous amendments suggested by the legislature. In May 2005, the government submitted another draft to Parliament. Parliament adopted this draft after removing the provisions on liability of legal persons from the bill.

<sup>80</sup> All Central European FIUs meet the Egmont Group (Egmont group is the international network of FIUs for information exchange and best practice development) criteria, are members of the Egmont Group and are connected to the Egmont security web. Poland is very active in the transformation of the Egmont Group into a formal international organisation and has repeated its readiness to host the official seat of the Secretary of the future international organisation. In January 2006 Poland officially put up its candidature. Since EU accession, the other Central European countries can also exchange information with foreign FIUs in accordance with Council Decision (Council Decision No 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information). It can provide a formal basis for the cooperation with the countries with which no separate agreements are concluded.

<sup>81</sup> Slovak FIU is part of the Office of the Financial Police of the Police Force.

<sup>82</sup> In Poland, the General Inspector of Financial Information (GIIF) constitutes the FIU, with the head of the unit (General Inspector) acting as an under-secretary of state in the Ministry of Finance.

<sup>83</sup> The system for reporting suspicious transactions requires banks and various financial institutions, *inter alia*, to report "unusual business operations" to the FIUs, an "unusual business operation" being defined as an action which "may enable" money laundering or terrorist financing. Each reporting entity must create a compliance

able to pursue their controlling functions and are usually also staffed more sufficiently for the purpose of fulfilling all assigned tasks<sup>84</sup> as compared to the FIUs working within the police force. On the other hand, finance ministry-based FIUs do not possess the powers to complain and therefore cannot influence the decisions of the prosecutor's office. Also cooperation between finance ministry-based FIUs and law enforcement bodies seem to be more complicated. Other problems FIUs face in Central Europe include: ineffective cooperation between some financial institutions, the lack of central registers of bank accounts, the relatively slow process of establishing the identity ("deanonymization") of account holders and the language barrier, since not many employees of these units or special police investigative units are able to effectively monitor communication in Arabic. However, even where the FIUs are fully operational, the problems are usually shifted to the law enforcement authorities and judiciary, which often fail to take the issue further.

The implementation of the new legal frameworks has usually been followed by a clash of competencies and a reshuffling of responsibilities; according to one expert, the responsible authorities were unwilling to accept new criminal offences since the situation in the Central Europe was regarded as "calm" in terms of terrorist financing operations. In the Czech Republic, the absence of any law enforcement results leading to prosecutions, convictions and asset recovery for specific money laundering and terrorism financing led to the creation of a specialized police unit<sup>85</sup> and the establishment of an interdepartmental task force<sup>86</sup>. Nevertheless, no sentence has yet been passed in connection with any case of suspected terrorism financing, despite the fact that the FIU has investigated and reported several cases<sup>87</sup>. In

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department to implement its reporting duties. It must also maintain certain records relating to the transaction and the client for a certain period of time, and produce those records for the FIU upon demand.

<sup>84</sup> According to the reports mentioned, particularly the supervisory functions might fit poorly in a police-based FIU, due to the high potential for blurring of supervisory, investigatory, and enforcement roles.

<sup>85</sup> A special financial police unit (FIPO) was created in July 2004 with as one of its main tasks the financing terrorism agenda. This agenda had to be pursued by the unit for international cooperation and terrorism financing (OMSFT), which was created within FIPO. Cooperation had to be established with other police units specialising in organised crime as well as with the intelligence community and the Czech FIU. However, FIPO's activities were rather modest at the beginning. Most of the employees recruited in 2004 were young graduates without any experience. In creating the new unit, the police allegedly gave greater weight to the candidates' university degrees and physical condition than to experience with financial crime; consequently, although many custom officers and tax authorities' employees applied for positions, they were not recruited (Kafka, 2005). However, the current government proposed the dissolution of FIPO due the underperformance in November 2006, with the employees being incorporated into the other relevant police units.

<sup>86</sup> The so-called "Clearing House"

<sup>87</sup> Payments to Islamic centres were investigated; firstly, the sponsorship contribution by the Al Haramain Foundation and Third World Relief Agency – TWRA, organizations which have been investigated elsewhere for financing terrorist organizations and, secondly, the contributions by Saudi Arabian citizens who are known for

Hungary in 2003, a special unit was set up within the police to freeze financial assets of suspected terrorists and terrorist organisations. According to the 2005 IMF report on Hungary, only seven prosecutions for money laundering had been reported since 2001 with the predominant named-offences being fraud, misappropriation, and illegal financial service activities. In Poland, the major reason prosecution cases are usually thrown out is the failure to define the original crime that constituted the source of assets which are the subject of financial transactions. The limited notion of “financial transaction” and the particularly complex rules on financing terrorism offences could be among the reasons why these offences are difficult to prosecute. Also the police and the judiciary lack experience in the field; many cases are usually turned into tax fraud cases, which are more easily sentenced. The authorities also do not pay sufficient attention to the connection between offences linked to organized crime, and money laundering and financing terrorism. Although specialized bodies have been created to gather intelligence on organized crime, this information has rarely been widely used to tackle the AMI/CFT cases<sup>88</sup>. There is a need for specialized training, particularly for the public prosecutors<sup>89</sup> and the judiciary. It is also important to create case law and jurisprudence to test the adequacy of the CTF regime offences and identify the position of the courts with respect to evidentiary requirements.

In some of the countries surveyed<sup>90</sup>, the legislation should be amended to allow for the unconditional freezing of assets of terrorists or of those supporting them or terrorist organizations financially and, in others, where the legislation already exists, it is often in need of clarification. All Central European countries have legislation recognizing and employing asset-freezing mechanisms on conviction; it is the lack of clarity as to the circumstances in which this can occur without conviction, and again the absence of the criminal liability for legal persons in Slovakia and the Czech Republic, which are the problems<sup>91</sup> which need to be solved to ensure compliance

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having supported Muslim fighters in Bosnia. It is believed that Hamas is financed from profit made by certain individuals in the real estate business in Prague.

<sup>88</sup> In the Czech case, the explanation could also be the rivalry that exists between various police units, unwillingness to share information, and the relative “youth” of the departments created for CTF cases in the Police.

<sup>89</sup> There is a recommendation to appoint a public prosecutor specializing in terrorism since there are usually problems with the application of the CTF provisions of the new penal codes.

<sup>90</sup> Czech Republic, Hungary and Slovakia

<sup>91</sup> There are also other relevant legal problems, such as that which arises when measures to confiscate the proceeds of crime or the property used to finance terrorism are in place when the proceeds of crime or property are linked to terrorist-related offences, but there is no provision for the mandatory and systematic confiscation or

with, amongst others, the United Nations Security Council Resolutions<sup>92</sup> in this field. In addition, clear procedures for delisting and unfreezing are also missing elsewhere (Hungary), and some issues related to the responsibility of financial institutions for freezing assets on the basis of a wrong evaluation of a suspicious transaction have to be tackled (Czech Republic).

No review of the weaknesses of their Not-for-Profit Organization sectors has yet been undertaken in Hungary, Czech Republic and Slovakia, although their action plans envisage such a review, as well as for the drafting of better oversight measures. The relaxed provisions on foundations and NGOs need to be tightened up, transparency in the sector needs to be increased by strengthening the legal basis for supervision and oversight of NPO fundraising. Consultations should be carried out with the sector representatives on ways of improving transparency and reporting<sup>93</sup>.

Fighting terrorism financing must be successful worldwide for it to be successful at all; in this respect, the Central European countries studied or at least some of them have to improve their efforts, particularly in the field of law enforcement. Also changing the ruling general perception that countering terrorism financing is somehow ineffective since the costs of carrying out a terrorist attack are not high is important. Improving the CTF regime is a continuous effort, just as the state authorities have made progress in adjusting their legal and other tools, so the strategies and practices of the organized groups have been upgraded too. Today, unlike four or five years ago, forms of money laundering are very sophisticated. In order to achieve better results, not only law enforcement agencies, the judiciary and FIUs need to improve their expertise, but also the banks and other financial institutions have to introduce appropriate measures, including the training of the ordinary employees in CTF regimes and measures. All the countries studied are

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forfeiture of the object of the offence, i.e. the laundered money or property. This may lead to situations where the object of the offence cannot be confiscated/forfeited (Czech Republic, Hungary).

<sup>92</sup> United Nations Security Council Resolutions (UNSCRs) 1267 and 1373 followed by EC Regulations 881/2002 and 2580/2001, which are self-executing in the EU member state; by EC Regulation 881/2002 of May 2002, the EU has adopted embargo measures against persons and organisations suspected of having relations with Osama bin Laden, the Al Qaeda network and the Taliban. It is by EC Regulation 2580/2001 of December 2001 that the EU complied with the United Nations resolution in accordance with which all countries are required to freeze all capital and other financial assets or economic resources (e.g. also direct or indirect deliveries) of persons who are suspected of committing or try to commit terrorist attacks or who are involved in their planning or support them. These regulations also prohibit the provision of capital and other financial assets or economic resources to the benefit of these persons.

<sup>93</sup> The debate on the controversial NGO code of conduct related to the fight against terrorism and prepared by the EU Commission has, for example, already taken place in the Czech Republic.

taking more or less comprehensive steps in this direction, usually financed by the international donors; the most notable effort is being made in Poland<sup>94</sup>.

There are policy areas where lack of experience truly calls for template adoption; the measures to counter the tendencies to become the safe heavens for the preparation and planning of terrorist operations, including financial operations, are the prime examples as along with the strategies to counter radicalization and recruitment. Implementing viable models which would fit the domestic settings and conditions, also calls for political support and a strong public mandate. However, the Central European countries studied today are characterised by unfocused governmental leadership and guidance in this area, and an absence of involved and informed parliaments. With the exception of issues connected with the functioning of the intelligence services and special police forces, security clearances, the use of illegal wiretappings for political purposes and the disapproval of both the radical left and right of the political spectrum of general foreign policy lines adopted by governments, counterterrorism is not a largely political issue, subjected to the usual competition for ideas which is considered a normal part of democratic accountability. This is so, despite the fact that all leading politicians in the region have declared counterterrorism to be a priority in numerous official documents, plans and strategies<sup>95</sup>. Another issue is that the budget for counterterrorism remains quite limited or is even being downsized despite the growing economies in the Central European countries studied. The reasons for this are, again, the low threat perception and the feeling that such expenditure is somehow irrelevant. Not only do the budget lines for the operational activities remain low but also investment in research and development is rather limited.

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<sup>94</sup> Polish FIU launched two-week e-learning courses in 2005 with 3.442 persons participating. Also a new edition of the Counteracting money laundering – Guide for obligated institutions and cooperating units was issued in 2005. The material also analyze the suspicious transactions and discusses the methods of money laundering, presents the typology and examples of models and schemes associated with the transactions suspected of money laundering. Such a toolkit is missing in the Czech Republic for example. See Information of the General Inspector of Financial Information on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism, Ministry of Finance, Republic of Poland, March 2006, [http://www.mofnet.gov.pl/\\_files\\_/giiif/materialy\\_konferencyjne/sprawozdanie\\_2005\\_ang.doc](http://www.mofnet.gov.pl/_files_/giiif/materialy_konferencyjne/sprawozdanie_2005_ang.doc)

<sup>95</sup> Only the Slovak President, Rudolf Schuster, in light of the upcoming presidential elections (April 2004) voiced concerns that the government of then PM Mikulas Dzurinda was not doing enough to ensure the people's safety in connection to terrorism, and in particular the Madrid bombing. See for example <http://www.slovakspectator.sk/clanok-15584.html>

Some experts interviewed for this paper stated that in fact the level of political involvement mirrors the level of actual security threat posed by global terrorism in these countries; some claim persistent lack of interest by any government in office since the beginning of 1990's; as one expert put it: "Counterterrorism is not a political issue here. The line between preparedness and panic has not been approached, let alone tested." Some sense that there has been a lack of public diplomacy to elicit citizens' support for crisis response measures or other measures, which could be perceived as possible violations of human rights; and some believe that other security threats like extremism, economic criminality or the fight against corruption are being unfairly prioritized. Experts from the public administration domain see the political involvement as sufficient, stating that the governments' reactions to previous terrorist attacks were appropriate and subsequently became embodied in strategies and action plans. They also point to the fulfilment of the obligations arising out of NATO and EU membership, namely co-operation on the legislation making and involvement in military and non-military operations under the auspices of NATO and the EU. They also feel that the information channels between the expert communities and politicians are functioning well, providing sufficient clarification of proposed policy measures.

## **II. Counterterrorism policies in Central Europe – selected issues**

In the second part of this paper, three issues which are seen as crucial in terms of counterterrorism policies and the decision-making will be touched upon separately; in relation to the overarching topic already dealt with at a number of points elsewhere.

### ***Intelligence services***

Together with the national police forces, the intelligence services carry out most counterterrorism work. At the beginning of 1990's, the Central European countries

studied<sup>96</sup> had to redefine the mandate of their intelligence services; this was largely undertaken without a proper public debate on purposes and goals. The redefinition process already contained malfunctions as well as carrying the seeds of future abuses. This resulted in numerous affairs where the intelligence services were either taken hostage by the politicians or proved unable to function properly. Continuous reform attempts have brought mixed results; although partly driven by the NATO and EU accession, the primary impetus for most of the changes has been the need to overcome the legacy of the previous regimes and the political struggles within the Central European countries themselves.

Intelligence activities are organized differently in each country, reflecting unique historical circumstances. All Central European countries have multiple intelligence-gathering agencies with divided responsibilities, since there were concerns about creating a monolithic intelligence service which would be too powerful, although the existence of multiple actors in the sector may and does complicate the intelligence sharing, analysis and cooperation. The division between military and civilian intelligence has also been retained; with military intelligence exclusively gathering information connected to the defence field<sup>97</sup>.

Former communist security services were discontinued at the beginning of the year 1990 but not all officers and agents could be released at once; each of the Central European countries studied dealt with this problem in its own way. The general trend was to perform security checks on professional *cadres*, to dismiss those civil servants most compromised by the regime, to form new institutions and recruit new people as in addition to those retained after successfully undergoing the vetting procedure<sup>98</sup>. The process could not be accelerated as the dismissed agents were a potential security threat to the new democracies. In the process, many contact networks built

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<sup>96</sup> With the exception of Slovakia; whose intelligence service (BIS) was established in 1992-93, following the pattern of the Czechoslovak federal intelligence structures (FBIS) established in the 1990.

<sup>97</sup> From the counterterrorism point of view, due the lack of coordination between military and civilian intelligence, much useful data on terrorist groups collected, for example, during foreign military missions (Afghanistan, former Yugoslavia) has been lost to civilian counterintelligence.

<sup>98</sup> However, there have been several cases of prominent agents of previous regimes who are known to have managed to get through the vetting procedure (lustrations), carefully preparing their hearings in advance, by helping out the future elites which later sat on the lustration commissions; with many documents having disappeared into the shredding, the testimony of a particular person usually allowed former agents to retain their jobs. Another issue is the military intelligence services, which were left largely intact for quite a long time, at least in case of Poland and Czech Republic.

under previous regimes were lost in whole or in part, and new partners were understandably cautious and hesitant to cooperate<sup>99</sup>.

The intelligence services in Central Europe and their important role in the fight against terrorism raise several important questions: have they already coped successfully with the inheritance of the communist era and are the relevant systems in place, including supervision? Are these services already fully-fledged and trustworthy partners for their Western counterparts? Finally, do they have the competencies and capabilities necessary to cope with the new global security threats?

In the Czech Republic, the federal structures of the intelligence services were replaced by a new system after the so-called “velvet divorce”, which saw the break-up of the former Czechoslovakia. At the moment, three intelligence services operate in the Czech Republic: the Security Information Service (BIS, a civil counterintelligence agency), responsible to the whole government, the Office for Foreign Relations and Information (UZSI, a civil intelligence agency), responsible to the Ministry of Interior and without parliamentary supervision, and Military Intelligence (VOZ), which is part of the Ministry of Defence, comprising the Military Intelligence Service and Military Defensive Intelligence<sup>100</sup>. As one expert has put it, besides the merger of the military intelligence, which has been in effect since January 2005, no serious steps have as yet been taken to reform the intelligence services in the Czech

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<sup>99</sup> Also the trust of the general public in the intelligence services was generally very low due to memories of the previous regimes. However, despite all the scandals, it now seems it has been partially rebuilt. A special Hungarian poll on counterterrorism policies showed that intelligence services are considered by 40% of the respondents to be a very effective tool in counterterrorism, a higher percentage score than that achieved by the police, the diplomatic service and the military. This may be for two reasons: first, it is seen as the most effective tool because it is this body which is linked in people’s minds with measures such as “arresting terrorist leaders”, “hunting down terrorists”, “controlling terrorist supporter countries”, which were the possible answers given in the poll. Secondly, the scandals related to the intelligence services, as the author of the survey suggests, were mainly followed by the more-educated sections of the public, whilst the wider general public tended to concentrate on the general threat of terrorism and the need for special actions, taken under cover (Molnar, 2005).

<sup>100</sup> The basic legal provision in this field is Act No. 153/1994 Coll. on the Intelligence Services of the Czech Republic. This act regulates in particular the position, powers, coordination, cooperation and control over the intelligence services of the Czech Republic, it imposes tasks on them, and regulates reporting and disclosure of information to them. Pursuant this act, responsibility for activities of intelligence services of the Czech Republic lies with the government of the Czech Republic. Important tasks in this sphere are executed by the State Security Council and its Intelligence Activity Committee. Special statutes regulate things like the use of particular means, information acquisition and record keeping of personal data kept by Security Information Service and MDI as well as the position of members of intelligence services and their status: Act No. 154/1994 Coll. on Security Information Service; Act No. 67/1992 Coll. on the Military Defensive Intelligence, the Intelligence Services Act; Act No. 361/2003 Coll. on the Status of Members of the Armed Forces and Act No. 362/2003 Coll. on Amendment to Acts in Connection with Adoption of the Act on the Status of Members of the Armed Forces.

Republic<sup>101</sup>. There is a lack of political will to undertake major systemic reform. Appointed after the June 2006 elections, the new right-wing government, took certain steps in order to centralize the coordination of intelligence gathering and analysis and to develop one way delivery to the consumers. It also proposed the merger of civil counterintelligence and intelligence, dismissing the head of the intelligence agency. Leaving to one side the fact that the government had not been confirmed by Parliament by winning the necessary vote of confidence and arguably did not have the legitimacy to undertake the major reform of the intelligence services, the proposed steps were neither systemic nor widely debated; and it appeared to many that such reforms owed much to the settling of political scores. The expert community has recommended a number of steps; the appointment of a minister responsible for civil counterintelligence (BIS) and the abolition of whole-government collective responsibility for the intelligence services. Further down the line, it argues that the intelligence agency (UZSI) should be subject to parliamentary supervision<sup>102</sup>, with ministerial responsibility shifted from the interior to the foreign ministry. The competencies of the intelligence services should be enlarged and strengthened<sup>103</sup>, which is also the intention stated in the interior ministry's National Action Plan to Combat Terrorism 2005–2007.

The Czech intelligence services have suffered from several domestic as well as the international scandals; the best-known revelations came when then-Prime minister Milos Zeman announced on CNN in November 2001 that the Czech intelligence services could prove that one of the 9/11 hijackers Mohammed Atta had repeatedly come to the Czech Republic for meetings with the Iraqi diplomats, providing a possible connection between 9/11 and the former Iraqi regime. This later turned out to be a red herring<sup>104</sup>. The Czech military intelligence services were accused of mismanaging a significant part of their secret operations budget in September 2002

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<sup>101</sup> No reforms were proposed in connection with 9/11; the only significant opinion voiced publicly was that of the former head of the Military intelligence services, Andor Sandor, who urged the Czech Republic to adopt the British intelligence model.

<sup>102</sup> The existing legislation does not stipulate the existence of a special parliamentary committee for the control of UZSI (civil intelligence agency). Despite the fact that its work would probably be limited to only two elements, budget control and control of the compliance with the law, the introduction of parliamentary control is seen as essential.

<sup>103</sup> See below

<sup>104</sup> Some experts claim it was due an effort to please U.S. officials by providing the kind of information they wanted to hear.

and also of leaking a list of their agents<sup>105</sup>. As in Poland, the military intelligence services underwent limited reform in terms of human resources; changes occurred in connection with NATO accession. There were also several wiretapping scandals involving not only the intelligence agencies but also special police units, as well as leaks of classified reports to the media<sup>106</sup>.

Although legislative reform has not been undertaken, organisational reform in terms of the internal coordination and international cooperation is slowly taking place, namely thanks to the EU and NATO pressure. The informal coordination bodies, which were established, in some cases also by the impetus and recommendations of the external evaluations, namely the EU peer evaluation mission, will most probably be “legalized” and implemented in upcoming legislation. In 2005 the Common Intelligence Group became the working platform on terrorism for the individual intelligence services, the interior ministry, the police and the foreign ministry. In 2005 testing of the system of intelligence agenda coordination was initiated by the Board of Directors of Intelligence Services.

NATO and the EU have also been pushing for review of clearance and classification regimes. In the Czech Republic, the classification regime has been tougher than in the most of the EU member states and it has also lacked flexibility, often leading to over classification<sup>107</sup>, which may also be in breach of the law. A new law has been drafted and approved<sup>108</sup>, although experts have stated that, once again, the text is not very good. First and foremost, the current situation where a wide circle of the individuals are, by virtue of their job titles, automatically granted special access to

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<sup>105</sup> The total budget of both services (still divided at that time) was approximately 1.5 billion CZK (50m Euro approx.). The BBC Czech Language Service claimed that most of the funds for secret operations were used for events such as visits to the Geneva Autosalon. The leaking of the list of agents also caused major financial losses since the agents whose cover had been blown had to be removed instantly from their posts.

<sup>106</sup> Most recently, the so-called “Kubice-gate” contributed to the heated atmosphere before the June 2006 general elections. A classified report, prepared by the head of the special police unit for fight against organized crime, Jan Kubice, concerning interference by political parties and politicians in police work was deliberately leaked to the media by members of parliament from the main opposition party.

<sup>107</sup> The clashes over the dividing lines between protection of classified information and the right to information are quite common. For example in February 2004, the Czech Constitutional Court rejected an initiative from the Czech Ombudsman that would have compelled the Foreign Ministry to publish information classified by the ministry as falling within the category of “sensitive political, security, and economic information concerning international relations”. The presiding judge said approval of the initiative could threaten the Czech Republic’s ability to protect sensitive information. The judge also said international organizations might hesitate to provide the Czech Republic with classified information. While conceding that the current (1998) regulations could “in theory” lead to abuse, the judge also said citizens may appeal to the courts if they suspect such abuse.

<sup>108</sup> Act N. 412 of 21 September 2005 on the Protection of Classified Information, [http://www.nbu.cz/en/\\_download/Act\\_412\\_2005\\_CZ.pdf](http://www.nbu.cz/en/_download/Act_412_2005_CZ.pdf)

classified information, irrespective of the classification and without a valid personnel security clearance (PSC) is perpetuated<sup>109</sup>. In this respect, the new act has caused renewed problems, especially with NATO. Secondly, as far as the personnel security clearance regime is concerned, although the responsible authority assigned the task of conducting PSCs is the National Security Authority, the civil intelligence and counterintelligence agencies issue their own PSCs for their employees; the system of security clearances is not unified and compatible, and although the National Security Authority is required to guarantee that it is, it has no competencies to make the intelligence services adopt and comply with standard procedures and security levels.

The document on optimization of the security system of the Czech Republic calls for effective communication both in the intelligence community and between the intelligence community and the security system as such; it also underlines the need for feedback from customers and better coordination on the tasks input side. The intelligence services do not at the moment cooperate at the analysis stage for gathered information and provide rather different outputs to the consumers. There is also a need for a working body to coordinate the intelligence services at an operational level, rather than the coordination which is currently taking place within the informal Joint Intelligence Group on the level of directors<sup>110</sup>. Existing parliamentary supervision is not functioning well, and one of the problems is the blurred line which exists between responsibility resulting from the law on protection of classified information, which the deputies are bound by having PSC or not, and the vast immunity they enjoy, which allows them to operate with the classified information almost with impunity.

In Hungary, in the early 1990's, the so-called "Duna-gate scandal" led to a rapid reform of the system<sup>111</sup> including the creation of independent intelligence services.

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<sup>109</sup> According to Paragraph 58 of the law, special access to classified information irrespective of classification and without a valid personnel security clearance (PSC) or briefing is granted *ex officio* to the President, the Prime Minister, the Members of the government, all Deputies and Senators, to the Ombudsman and to his or her deputy, to all judges and to the President, Vice-president and Members of the Supreme Audit office.

<sup>110</sup> Another issue is also the cooperation between intelligence operatives and ministry officials. These links operate solely on a personal basis and with frequent post changes, especially in foreign ministries, the connections to the intelligence community are often lost and have to be rebuilt again. An institutionalization of the cooperation on the operational level should be considered.

<sup>111</sup> On 5 January 1990, two newly established Hungarian political parties, the Alliance of Free Democrats (SZDSZ) and the Alliance of Young Democrats, (FIDESZ), revealed that the state security organisation of the Ministry of Interior had been collecting information about opposition parties despite the prohibition laid down in the

According to one expert, this was done too quickly and the Hungarian system still suffers from the legacy of this hasty reform. The political elites have never shown interested in reforming the intelligence services again.

The Hungarian system is made up of the Military Security Office (KBH), the Military Reconnaissance Office (KFH), the Information Office (IH, intelligence), and the National Security Office (NBH, counterintelligence). Following the Duna-gate scandal, all four intelligence services were established in 1990 by the Act on the Interim Regulation of Special Clandestine Means and Methods. The new Act on National Security, regulating the operation of the services, came into force in March 1996. On the basis of this act, the National Security Special Service (NBSZ), which is authorised to carry out secret intelligence gathering, became just another independent security service. Supervision of the civilian intelligence services was exercised by a minister without portfolio between 1990 and 2002. Since May 2002 the minister leading the Prime Minister's Office has been responsible for the supervision of the civilian services and the National Security Committee of the National Assembly also exists, exercising parliamentary control. As elsewhere in the region, the Hungarian intelligence services complain of budget restrictions<sup>112</sup>, modest technical support and uneven but continuous staff fluctuations.

In Poland, a new agency Office for State Protection (UOP) was formed after 1990; as in the former Czechoslovakia (later in the Czech Republic) and Hungary, it was staffed mainly by the employees of the former security agency who successfully passed a verification procedure. Until 1996, it functioned as a department of the Ministry of Interior, then it was transformed into a separate government agency under the supervision of the Prime Minister. Its mission was primarily general espionage and intelligence gathering as well as counterespionage and the fight against organized crime. It was headed by a career intelligence officer but directly supervised by a government official – the Coordinator for the Special Services. During the time of its existence, the UOP was involved in some political fighting over the various appointments of its heads, lustration and perceived failures with investigating organized crime cases.

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1989 amendment to the Hungarian Constitution. Illegal information gathering was evident from copies of reports gained under clandestine circumstances.

The socialist government in Poland was planning an extensive reform of the intelligence services long before 9/11. In June 2002, the civil intelligence service was reorganized and divided into two agencies: the Internal Security Agency (ABW)<sup>113</sup> and the Foreign Intelligence Agency (AW)<sup>114</sup>, both accountable to the Prime Minister. Military intelligence and counterintelligence continued as one institution (WSI) to function without organizational change until October 2005 when a new Law and Justice Party-led conservative government announced the dissolution of the WSI and establishment of two new services – the Military Intelligence Agency and the Military Counterintelligence Agency<sup>115</sup>, employing both military personnel and civilians, and falling under the control of the Minister for the Secret Services, and not the Defence Ministry like their predecessor. The Intelligence Community (WW) was also founded in June 2002 as a result of the reform. It is made up of all the Polish secret services and is headed by the Head of the Foreign Intelligence Agency. A post of Minister-Coordinator of the Special Services, specially created to oversee the Services should have been abolished and replaced by WW; however, this did not happen. In 2005, the Polish system of protection of classified information was also revamped.

Polish politicians were tempted to use the intelligence services in domestic political struggles, too. The best known affair came out in December 1995. It concerned a false accusation, brought by the then interior minister Andrzej Milczanowski against the Prime Minister Josef Oleksy. The minister, responsible directly to President Lech Walesa, used the Office of State Protection (UOP) to spy on the PM and publicly accused him in the Parliament of being “a Russian spy”<sup>116</sup>. There was another scandal before the presidential elections in 2000.

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<sup>112</sup> In the period of 1992-1997, budget problems led to part of the core staff having to leave.

<sup>113</sup> The ABW was to some extent modelled on the American FBI, although it has no police powers.

<sup>114</sup> The move was widely perceived as a way of cleansing the higher ranks of the intelligence service of officers appointed by previous right-wing governments. AW is predominantly about civilian intelligence but there are a certain number of military officers, who were already transferred from the WSI in 2002 to work in strategic intelligence. ABW's main tasks are counterintelligence, government electronic security, and fighting corruption and organized crime.

<sup>115</sup> The conservative government allegedly feared WSI; it claimed it was full of original “communist” staff and that no reform has been undertaken since 1989, which according to the other sources is not true, at least since NATO accession in March 1999. The new government also adopted a new law on vetting that allows for the reassessment of individuals on the basis of their contacts with the communists secret police. The WSI officers were screened and there was a period during which they could confess to past misdeeds. The checked and cleared officers were able to join the newly established military intelligence which was to start working since October, 2006. (See for example *The Economist*, August 12, 2006 p. 22, “We’ve got a little list”)

<sup>116</sup> Although unproven, the accusation caused the resignation of the Prime Minister, and the “spy-case” went to the Military Prosecutor, who dismissed the alleged testimonies of the UOP agents. Mr. Josef Oleksy was found

With the creation of the Slovak Republic, a new intelligence service had to be established, capable of continuing the work of the Federal Security Intelligence Service (FBIS), the intelligence service of the Czech and Slovak Federative Republic<sup>117</sup>. The Slovak Information Service (SIS) was established by the Slovak Information Service Act 46/1993; together with Military intelligence - Military Intelligence Service (VSS) and Military Defence Service (VOS) - it constitutes the system of the Slovak intelligence services. In February 1995, the director of SIS along with those of military intelligence and counterintelligence resigned from their posts because of undemocratic developments in Slovakia. Ivan Lexa, a Member of Parliament representing the ruling HZDS party of PM Vladimir Meciar was appointed director of SIS. In April 1995, the Slovak Parliament approved an amendment to the Slovak Information Service Act, according to which the director of the service was appointed by the government, and not by the president who was then opposing the steps of the Meciar Cabinet. In 1996, SIS was excluded from the group of intelligence services – the Middle European Conference (MEC), consisting of 16 intelligence services of 13 states of Western and Central Europe. Until 1998, SIS was under suspicion of involvement in illegal activities<sup>118</sup>. In November 1998, the new ruling coalition formed after the parliamentary elections cleaned up the intelligence services. A special commission was formed to investigate the allegations of illegal activities. In the period 1998-2000, the SIS especially went through a broad internal reorganization; control mechanisms were created to ensure that the service functioned in accordance with the law. In 1999 the SIS re-joined the MEC. The Slovak parliament only finally passed a law on classified information in 2001<sup>119</sup>, stipulating basic tasks in protection of classified information. With NATO accession, a rigorous vetting system was implemented. In 2003, a series of illegal wiretapping scandals damaged the SIS reputation still further and this led to calls to limit, rather than widen, its powers. As one expert put it, it may take a long time before trust is restored and the trend is reversed, especially in a situation where few seem to acknowledge that a terrorist attack on Slovak territory is a real possibility. However, reform of the intelligence services is still needed as there is a continuing lack of

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not guilty but the intelligence officers, who were found to have manipulated the accusations, were promoted to higher positions by President Lech Walesa.

<sup>117</sup> At the end of 1992 the FBIS was split up under the FBIS Abolition Act 543/1992, following rather complicated negotiations concerning the property and information databases of the service.

<sup>118</sup> The SIS allegedly took part in the kidnapping of the son of President Michal Kovac in 1995, as well as in the murder of Robert Remias, a former intelligence agent who cooperated with the investigation into the case.

transparency, competencies remain unclear, and there are renewed accusations of use of unlawful procedures.

The counterterrorism has emerged as the new policy-making driver. Since the intelligence services are responsible for ensuring the key aspect in counterterrorism policy, namely prevention of terrorist attacks, the demand for enlarging their competencies has steadily been increasing. Although it is rightly argued that the ability of the intelligence services to obtain timely information is the basic prerequisite of successful in the fight against terrorism, there are many issues which need to be addressed. Firstly, systems need to be stabilized and protected against the temptation on the part of politicians to make abusive use of them. In order to prevent this happening, appropriate control and supervision mechanisms must be put in place. Secondly, the competencies of the intelligence services have to be strengthened and enlarged; at the same time, in order to avoid past mistakes, the public, as ultimate consumers, need to be encouraged to engage in an intelligent, non-political debate on intelligence outputs and the scope of competencies required to achieve them.

In the case of the Czech Republic, since 2003 a set of new legislative proposals has been developed, not only largely relying on foreign templates for designing the policy but also in order to legitimate the call for extended competencies of the intelligence services<sup>120</sup>. There are several issues which should be addressed in such a debate; firstly, the public perception that bodies ask for wider competencies than are needed. Secondly, the problems inherent in the transfer of checks and balances templates; the two legislative proposals, which were announced recently in the Czech Republic – the amendments to the existing law on the intelligence services extending their competencies and the act on intelligence services oversight<sup>121</sup> – are drafted

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<sup>119</sup> Classified Information Protection Act 241/2001 Coll.

<sup>120</sup> In relation to telecoms operators for example, the official report argues for (1) the existence of common databases of users of telecommunication operations and provision of information from them pointing to the example of Germany, Italy, Denmark; (2) for expenses to be borne proportionally (Belgium, the Netherlands, United Kingdom, Austria, Poland, Denmark, Sweden, Turkey) and (3) for the deanonymisation of telephone cards following the examples of the United Kingdom, Germany, Slovenia, Slovakia, Italy and Switzerland.

<sup>121</sup> A special act on supervision of the intelligence services had already been prepared in the Czech Republic in 1997; according to one expert; the draft was of a high quality, allowing for a high degree of control, whilst at the same time avoiding harmful interference in the day-to-day work of the intelligence services. It was not adopted because a Senate supervision committee was promised; however, in the Czech Constitution the government is not accountable to the Senate. In addition, the creation of the Senate was largely unpopular with the Czech

separately with two different initiating documents and comparative analyses as the basis<sup>122</sup>. This approach already contains the danger of neglecting important parts of control mechanisms and poses the question of the very transferability of certain elements to the Czech *milieu*.

Legislative proposals for enhancing the competencies of the intelligence services in relation to the fight against terrorism were made in accordance with the conclusions of the „Analysis of the Scope of Legal Competencies of the Intelligence Services and the Police of the Czech Republic Necessary for Execution of Their Tasks Related to Combating International Terrorism“<sup>123</sup>. The analysis was concluded in 2004 by the Ministry of Interior in cooperation with intelligence services and the Police of the Czech Republic. The document describes the current legal powers in comparison with the scope of legal powers of selected foreign counterparts, and argues for a significant extension of competencies, as well as for the “legalization” of a number of practices which are already taking place. Among the steps recommended are: regular access to further information collected by the public administration and selected private individuals<sup>124</sup>; which means that the intelligence services and law enforcement authorities would have the data they were previously prevented from obtaining under the normal regime<sup>125</sup>. There is also a call for the creation of a common database and evaluating system, the so-called common “knowledge fund”; such a step would require high security standards, especially in terms of data privacy protection. An Electronic Communications Act is also suggested to impose a duty on physical persons or corporate bodies involved in the business of providing communication services, usually at the request of the intelligence agency (UZSI), to establish and ensure the connection of devices for wiretapping and recording

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political elites. Despite being established by the Constitution, it only started operating in 1996. The new law has not been tabled yet.

<sup>122</sup> The drafting of the Act on control of intelligence services will be largely based on the document „Summary of Factual Solutions to Control of Intelligence Services by the Parliament of the Czech Republic“, which was drafted in 2004 by an expert working group within the Intelligence Activity Committee, under the guidance of the head of the Prime Minister’s Department of the Office of the Government of the Czech Republic. This document foresees the establishment of a control authority concerning all intelligence services of the Czech Republic. Experience from abroad was used during the preparation of this document, not only from legislative regulations of EU member states, but also from the United States, Canada, Australia and New Zealand.

<sup>123</sup> Acknowledged by the government by Resolution No. 737 of 15 June 2005

<sup>124</sup> Information from public bodies on tax proceedings, banks and other financial institutions and private companies – in particular information about account numbers and their holders and about ongoing bank transactions, names, addresses and account numbers of participating persons, and also information from social security or health insurance systems, information from private air carriers or other selected private firms and companies, information from providers of postal services, information about securities trading, etc.

information to their electronic communication network, and to do so at their own expense<sup>126</sup>. Additionally, intelligence services should benefit from an exception to the normal data protection rules, allowing them to process sensitive data, and where urgent, they should be allowed to use intelligence technology immediately, without waiting for the usual permission, on condition that a request is made to regularise the situation, within a certain, precisely determined time limit<sup>127</sup>. Legal powers need to be conferred on relevant authorities (including intelligence services) to interfere with and switch off electronic communication networks<sup>128</sup>, etc.

In case of the intelligence services in Central Europe, the templates have been used more to justify changes than for actual modelling<sup>129</sup>. Western pressure has helped to consolidate the sector; on a bilateral basis: being trusted by outside colleagues is the sign of professionalism<sup>130</sup>. The same goes for NATO, which lacks a standing intelligence capability and, as such, is unable to offer a model for intelligence reform. Instead, NATO accession implied new standards to be met and an increase in responsibilities, moreover, new tasks, such as industry security checks, were assigned to the intelligence services; in addition the security vetting of individuals entrusted with confidential positions was modified to meet NATO demands. The EU developed a set of recommendations primarily aimed at strengthening the exchange of data between the national intelligence agencies. The need for cooperation between intelligence services has necessitated the creation of mechanisms for judging effectiveness and control<sup>131</sup>.

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<sup>125</sup> The expansion of legal powers of relevant security bodies and intelligence services concerning obtaining information has already been approved in Hungary.

<sup>126</sup> To introduce more effective wiretapping measures and cost sharing with the private bodies is also an issue in Poland and Slovakia. Hungary has already approved enhanced competencies for the intelligence services in the field of special investigation techniques, including wiretapping – a special office has been established in order to deal with these issues (National Security Special Service, NBSZ), see above.

<sup>127</sup> This is rather a codification of the existing procedure.

<sup>128</sup> The same competencies were lacking in Poland but the intelligence services have recently been given the right to switch off the mobile networks.

<sup>129</sup> “Despite the potential value of outside help for intelligence reform, however, barriers to obtaining assistance in the immediate aftermath of the communist collapse included the reluctance of Western governments to dirty their hands by dealing with formerly repressive institutions. Exceptions were made, but the general policy was that the new political and institutional leaders should complete their intelligence reforms before Western states and their services would engage with them; a counterproductive policy, given that those leaders had no expertise to address the issue coherently or effectively. Without expertise or outside assistance, the results of intelligence were uniformly sub-optimal” (Watts, 2004).

<sup>130</sup> It is said namely the Polish intelligence score well in this respect.

<sup>131</sup> It is claimed even an informal set of common standards was created. The demands of procedural interoperability in the new security environment have already contributed to the success of the Central European intelligence services in adapting to the new paradigm (Watts, 2004).

## **Coordination**

In the Central European countries studied, with the traditional division of ministries and their competencies, the coordination of the counterterrorism policies is hampered in several ways; generally, the coordination of the inward- and outward-oriented counterterrorism policies presents a problem. Secondly, “operational” coordination does not function very well in most cases; information sharing and data exchange, as well as the cooperation at a later analysis stage, is complicated<sup>132</sup>. Thirdly, efforts to add another layer of coordination, which would embrace all relevant bodies, usually break down over the need for a new legislative basis, the struggle for competencies and the resistance of existing institutions. The main issue identified directly or indirectly by both types of experts questioned for this paper (i.e. experts working for government or other public bodies and the independent experts) is insufficient coordination. This was also pinpointed by the EU peer evaluation missions and enlisted in the final general report and recommendations<sup>133</sup>.

The first coordination problem has a lot to do with the division of agendas in the nation state and is also present elsewhere. Foreign ministries are usually responsible for international legislation and prevention in general along with aspects of the counterterrorism policy agenda. There is an even more complicated division of labour between defence and interior ministries. On the one hand, it is the defence ministries which are primarily responsible for supervising military forces, engaged in the fight against the global terrorism. On the other hand, interior ministries have a mixed agenda and competencies embracing prevention, as well as consequence

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<sup>132</sup> To cross information from various sources is crucial, starting already with the threat assessments, which should include various inputs from the law enforcement bodies and intelligence agencies; the finalized product that each provider controls would be than made available.

<sup>133</sup> The EU has issued 6 recommendations aiming at coordination within the member states and on an EU level: 1) Political coordination of counterterrorism efforts should be set up at a ministerial level and this structure should be responsible for national strategic policy on the prevention of terrorism; on the pursuit and investigation of terrorists by the security and law enforcement authorities; on the protection of critical infrastructure and on the development national crisis and consequence management arrangements. 2) Counterterrorism Coordinator should be appointed. 3) Coordination of prosecutions should be considered, including establishing an authority (e.g. a National Prosecutor) responsible for terrorism cases. 4) Member States should also consider putting in place national co-ordination arrangements to ensure strong inter-agency cooperation and to ensure that all competent national authorities have access to the information and intelligence needed. 5) All sources threat assessments: Member States should ensure that national arrangements allow for a coordinated assessment of the terrorist threat drawing on all available sources. Those responsible for producing threat assessments should respond to the requirements of their customers. 6) Information collection and exchange should be optimized both nationally and internationally on all aspects of the terrorist threat with collection priorities reviewed under a national requirements system. See EU Council, Final report on the Evaluation of National Anti-Terrorist Arrangements: Improving national machinery and capability for the fight against terrorism, September 2005, <http://register.consilium.europa.eu/pdf/en/05/st12/st12168.en05.pdf>

management. They are however, usually the main bodies for the coordination of counterterrorism policies in the EU and, at the same time, they are in charge of national strategies for the fight against terrorism.

Two main points are worth noting here: firstly, coordination between interior and defence ministries is far from perfect; secondly, the role of the “general” agenda of the foreign ministries is declining in the more “particular issue-oriented” atmosphere of modern counterterrorism policy-making. In relation to this, foreign ministries usually lack any document or strategy which would help them elaborate the generally stated priority of fighting terrorism and the approach based on promoting universal concepts like human rights in particular measures and institutional processes, which could be followed. In formulating counterterrorism policies in the course of inter-institutional deliberations, it is hard to design an agenda which follows universal concepts when concrete steps concerning highly-tangible, usually quite technical issues are being decided. Consequently, as no solutions are being offered, foreign ministries are losing ground in the policy-making process and in coordination.

Turning to operational activities coordination, the problem seems to be operational information sharing, something which has been resolved in some countries by the introduction of a coordination body dealing with the operational agenda<sup>134</sup>. Again it tends to be foreign ministries which have difficulties relating policy steps to the operational information. There are coordination bodies which meet on a regular basis at a particular level in the hierarchy, usually that of deputy ministers. For foreign ministry employees below this level, it is very difficult to obtain any intelligence information. Again, informal links with the representatives of the intelligence community have to be built and maintained on a personal basis. Regular reshuffling of posts at foreign ministries means that these links are frequently lost and every new employee assigned with the counterterrorism agenda has to build relations with the intelligence community more or less from the scratch. It is probably undesirable to formalize links at this level and in view of the difficulties described it is almost impossible in any event; on the other hand, the establishment of a truly functioning

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<sup>134</sup> The cooperation of the services at the operational level has been very effectively carried out by the Team for Coordination of Operational and Recognition Actions in Poland, chaired by the Head of Agency of Internal Security (ABW).

coordination body capable of giving access to the operational data to those people in the system who are authorized, could help to resolve the problems described.

The Central European countries studied are preparing their national action plans on combating terrorism<sup>135</sup>. These basically consist of a timetable setting deadlines for the fulfilment of particular tasks and distributing responsibilities. The intra-agency coordination and cooperation on this particular task appears to work well. In the Czech Republic, each public body involved in counterterrorism policy has an employee who is assigned the task of preparing that part of the plan for which his or her institution is responsible; the central coordination role lies with the interior ministry. The action plans are updated on a regular basis. Apart from this, the day to day coordination is not running particularly efficiently.

As some authors suggest, the overall trend in security organizations is to erect a “scaffold” – a new centre staffed from multiple agencies, designed to encourage and facilitate sharing and combine analysis, without limiting their competencies. Scaffolds are valid for intra-agency coordination both within a nation state and at the international level<sup>136</sup> and they are also recommended by the EU as examples of best practice. In the Czech Republic, the plan to create a “counterterrorism centre”, which would be responsible for all-source information gathering and analysis, would coordinate cooperation with the foreign partners and assure one way delivery to the foreign counterparts, was dropped by the new government after June 2006 elections. The centre should have comprised 30-50 people from the special police units and the intelligence services. Instead of creating this new layer, the Head of Civil Counterintelligence has been assigned the role of coordinating the fight against terrorist activities; in addition, informal coordination bodies are also working on regular basis<sup>137</sup>. In Hungary, the Anti-terrorism Coordination Committee was established in 2003, on the basis of a decision by the government’s National Security Cabinet. It is made up of members from all the intelligence services, the police and the border guards and surveys and coordinates all current information relevant to the security situation of the country. On the basis of this, it initiates concrete secret

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<sup>135</sup> Czech Republic, Hungary and Slovakia (in 2005)

<sup>136</sup> (Barger, 2004); the author cites not only EU efforts but also, for example, Saudi-Arabia’s ambitions to create a worldwide centre to share intelligence on terrorism.

service operations or overt police procedures. The scope of these measures is very wide. In Poland, a number of collective bodies were created or reinforced in the aftermath of the 9/11, however, the new entities failed to create clear communication channels and they worsened rather than improved the chaotic circulation of information<sup>138</sup>. The inter-ministerial collective bodies for coordination include the Board for Special Services, the Team for Coordination of Operational and Recognition Activities in Respect of Combating Political Terrorism and Inter-Ministerial Centre for Combating Organized Crime and International Terrorism. Until recently there was another inter-governmental body, the so-called WIR, but it was dissolved as a result of a decision by the Constitutional Court<sup>139</sup>. In Slovakia, coordination and close cooperation is only provided for in the National Action Plan, as one expert has put it; it needs to be strengthened further, both in general and also in connection with the growing agenda. The Security Council, an inter-agency body under the Prime Minister, has been identified as a good platform for coordinating policies.

The EU Member States have also been asked to consider appointing a high level national Counterterrorism Coordinator whose role should be to coordinate the counterterrorism activities of governmental as well as law-enforcement and intelligence agencies. In the Czech Republic, a coordinator was appointed at the foreign ministry in September 2005, following a recommendation and pressure from the EU. In fact, despite the fact that the appointee has the same status in the hierarchy as the ambassadors, he has no formal competencies in respect of the ministries and intelligence services. He cannot give orders to the other ministries since this would require new competence legislation. In Slovakia, the national Counterterrorism Coordinator was also appointed at the foreign ministry in 2005; according to one expert, this arrangement was not found to be effective and the position as such did not last long. It seems that *ad hoc* character of these

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<sup>137</sup> Like the Clearing house (see Countering Terrorism Financing); further proposals on coordination improvement are contained in the document on Optimization of the Security System of the Czech Republic.

<sup>138</sup> (Gogolewska, 2005); as the author puts it: "All those inter-ministerial bodies do not guarantee effective coordination in the case of a crisis caused by terrorist attacks. The competencies vested in each of the collective bodies are so broadly defined that it is virtually impossible to clearly delineate them. Furthermore, in most cases the inter-ministerial bodies are composed of the same high-ranking state officials, such as ministers, state secretaries etc. therefore in an emergency they would not know which of those institutions to visit first."

<sup>139</sup> According to Gogolewska, the fate of WIR, which was disbanded after two years of successful activity, is a prime example of the "system fighting back" (Gogolewska, 2005).

coordinating institutions means that they are not up to the tasks of advance planning and identifying possible problems<sup>140</sup>.

### ***EU role in counterterrorism***

After EU accession, the Central European countries studied started to participate in counterterrorism agenda-setting and policy-making in the EU<sup>141</sup>. In Brussels, EU efforts in the area of counterterrorism are seen as being driven by the “old” member states; the Central European governments are generally perceived as acting negligently on the issue. This is caused both by the lack of expertise and resources, and the low level of threat perception. As one expert has put it, the political culture in Central Europe in general, and in Hungary in particular, suffers greatly from the short-sighted approach of its politicians. Unless a very concrete and urgent threat suddenly arises in relation to Central Europe, EU policy in this area will continue to lack the immediate pay off which is needed to make long-term consideration of counterterrorism issues possible. The underlying question is how the role of the EU in counterterrorism is seen in these Central European countries.

With regard to the lack of expertise and knowledge, as well as the unfinished reform of the security sector, a willingness to enhance cooperation should be prevalent among the new member states. However, this is not always the case. The lack of financing is one factor which plays a large role. For example, terrorism related information is only transmitted following a specific request. The steps proposed at the EU level such as shifting the practice of data exchange from a reactive to a pro-active one or introducing the principle of availability would *inter alia* involve further investment in secure communication systems - systems which are not currently in place in most of the Central European countries studied, so enhancing further the classified information transmission is primarily seen as just another avoidable budget item.

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<sup>140</sup> Also after the Madrid attacks, a network of the so-called “focal points” was established; every member state is required to appoint a person responsible for the counterterrorism agenda at their permanent mission to the EU; their role is however unclear. At the moment, they rather fulfil the role the documents receiver and distributor.

<sup>141</sup> See (Keohane, 2005)

Another issue is the consistency of the proposed measures with existing legal frameworks; the Central European countries are largely willing to support proposals for amending the existing laws which do not cause problems in terms of the implementation burden, always greater when the measure represents a marked departure from existing provisions, and deadlines. Usually scrutinized by the justice ministries, where proposals cause problems of this nature, it is this ministry which usually objects that the content of the proposal is inconsistent in some way with the country's legal tradition. As one has put expert put it, "...until something happens, it is difficult to push new measures through. It depends on the political representation, but we are not going to be "troublemakers" if the new measures are in accordance with our existing legislative framework". Considering the unfinished state of the legislative frameworks in most of these countries and the lack of primary expertise, what is understandable from the view point of domestic politics, nevertheless again appears to be rather a short-sighted approach.

The other tendency, observable particularly in case of Poland, is for internal security to remain the prerogative of the member states; sometimes used by the politicians in order to reinforce the nation state. Consequently, there is almost no support for establishing internal security institutions for the EU or extending the competence of bodies which already exist, such as Europol or Eurojust, and Poland has also suggested rather specific actions which develop the area of freedom, security and justice<sup>142</sup>. Slovakia has also been opposing almost any supranationalization of the EU's Justice and Home Affairs agenda; this has explicitly been the case of the issue of illegal immigration.

Concerning the EU counterterrorism agenda, the Central European countries studied are promoting their timely accession to Schengen, on the pretext of modernizing the Schengen Information System, linked to establishing European borders management<sup>143</sup>. Generally, there is also broad support for the EU Framework for countering radicalization, critical infrastructure protection, countering cyber crime and the use of the Internet for the purposes of radical Islam and the promotion of terrorist

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<sup>142</sup> The negative attitude towards the idea of establishing a European Corps of border guards or a European Asylum Office (EAO) for example, (Podolski, 2004). The other Central European countries prefer to support the enhanced competencies of Europol and Eurojust but the involvement of the staff from their institutions has been quite limited for a long time.

techniques, including the provisions allowing for removing the illegal content from the websites. Overall, the EU is not seen as the place for developing a coherent counterterrorism policy template; rather it should continue to provide space for the experience exchange and allow for creation of expertise in the fields in which the Central European countries lack it.

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<sup>143</sup> FRONTEX, The European Border Agency was established in October 2004, with its seat in Warsaw.

## **Conclusion**

Counterterrorism policy-making in Central Europe is subject to several parallel dynamics; it is to a large extent driven by the foreign templates and the pressure to comply with the measures and regimes agreed internationally. Domestically driven policy-making needs a sense of political urgency and a strong impetus from the ruling elite; given the sensitivity of the issues, it quite often also leads to unhealthy over-politicization and unsystematic solutions. Generally, the political involvement mirrors the level of security threat perception; experts have repeatedly stated that unless there is an imminent crisis situation caused by an act of terrorism, this tendency is unlikely to change.

Already in the beginning of 1990's, counterterrorism policies existed in a limited way in the Central European countries studied both institutionally in the form of specialized police and intelligence units and in documents setting out the concept. However, NATO and EU accession, as well as the influence of the other international organizations, has played the key role. The limited experience with global Islamist terrorism is one of the crucial variables in this process.

As far as the assumption of the involvement of public opinion is concerned, the polls show that threat perception is low and that the Central European public also does not think terrorism is the main challenge in the near future. However, it would be wrong to assume that the public is not interested in terrorism and counterterrorism measures. There are public concerns about the state of preparation of nation state institutions to handle the terrorist challenge and a high public demand for further competence sharing between the EU and the nation states in the field of counterterrorism.

The absence of experience and expertise calls for the use of foreign templates and best practice in some areas of counterterrorism policy-making in Central Europe; also pressure from the EU and other international institutions to ensure compliance with adopted regimes and standards is needed in order to develop counterterrorism policies and the legislative frameworks further. However, the EU is not seen as the place for developing a coherent counterterrorism policy template; it should rather

continue to provide space for experience exchange and allow for the creation of expertise in the fields in which the Central European countries studied lack it.

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