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The European Union and Counter Terrorism Policy-Making

**- A Study on the Relationship Between Supranational Institutions and
Member States**

Abstract

In recent years Europe has experienced a number of terrorist attacks, most recently seen in Manchester, United Kingdom. Gradually over the years counter-terrorism has risen in priority on the European Union's security agenda constituting one of the Union's top priorities, but there was a point in time in which counter terrorism did not hold the importance it does today. This dissertation seeks to examine the initial phases, in which the internal field of counter-terrorism became increasingly integrated, namely the period 2001-2005. In order to understand which factors made such a development possible, the following problem statement will be answered:

Why did integration within the field of counter-terrorism occur in the period 2001-2005?

In order to answer the abovementioned problem statement three theories have been applied through the use of hypotheses. Two theories of European integration have been applied namely Liberal Intergovernmentalism by Andrew Moravcsik and Historical Institutionalism as described by Paul Pierson. Furthermore John W. Kingdon's multiple streams theory on policy-making has been applied, in order to understand the process of policy-making and agenda setting in greater detail. The theories of European integration focus on the overall process of integration, while Kingdon's multiple streams theory explains in greater detail the method through which policies are developed, and how they may take up a place on the EU agenda. The claim of the first hypothesis, which originates from Historical Institutionalism is that integration within the field of counter-terrorism was path-dependent, and partly a result of agenda setting by EU institutions and exogenous shocks in the shape of terrorist attacks, while the second hypothesis based on the multiple streams theory states that the field of counter-terrorism became integrated because the Commission acted as a policy-entrepreneur. The argument of hypothesis three deduced from Liberal Intergovernmentalism claims that the field of counter-terrorism became integrated in the period 2001-2005, because this reflected the national preferences of the member states. The data examined in this dissertation, leads to the confirmation of hypothesis one and two, while hypothesis three is disconfirmed. By examining the development within counter-terrorism, this dissertation concludes that integration within the field of counter terrorism occurred as a result of the terrorist attacks in New York (2001), Madrid (2004) and London (2005) constituting exogenous shocks, as well as the European Commission's ability to set the agenda and act as a policy-entrepreneur.

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Chapter 1

Introduction

The terrorist attack on 9/11 was an epoch event, which initiated the beginning of a new course for the European Union's (EU) counter-terrorism cooperation. Previously to the events, the existent cooperation within counter-terrorism was characterized by its intergovernmental character. Much academic debate has since been generated on the rapid development of counter-terrorism polices after the abovementioned terrorist attack, as well as those that took place in Madrid in 2004 and London in 2005. On the relationship between state sovereignty and regional integration Stanley Hoffmann wrote in 1966, that the sovereign nation state was still operating and that it was a factor of *international non-integration* within the European Communities (EC) (Hoffmann 1966: 862). In the initial phases of the attempt at creating a more unified Western Europe, diversity between the Western European states in regards to domestic and external positions did not seem like an obstacle to growing unification, until the discussion came to high politics, high politics being defined as politics that “*go beyond the purely internal economic problems of little impact or dependence on the external relationship to the U.S.*” (ibid.:874). In other words integration of the states' defense and security policy towards a common European one was not possible due to the fact that those fields of high politics were perceived as closely attached to the sovereignty of the state (ibid.:874-876). Especially French nationalism and fear of loss of sovereignty in the early-mid 1950's slowed down the process of integration within high politics. A division was made between economics and defense in regards to European integration. Community integration limited itself to exclusively deal with low politics, as it was believed that it would further economic integration, without having to deal with controversial high politics topics of a political and military character (Wyatt-Walter 1997: 26-27). Given the historical fear of contact with high politics one may wonder how and why development within the field of security, or counter-terrorism to be precise, was possible after periods of inactivity. Which were the factors that allowed such a development? I look to the relationship between the member states and the institutions of the EU to answer the abovementioned question, through the following problem statement:

Why did integration within the field of counter-terrorism occur in the period 2001-2005?

In order to be able to answer the abovementioned problem statement a number of tools in the shape of theories will be applied. Historical Institutionalism as described by Paul Pierson (1996) will be

applied in order to understand the stability and change of institutions. In continuation hereof, John W. Kingdon's multiple streams theory (1984) will be applied to shed light on how political actors in the shape of policy entrepreneurs hold agenda-setting power that enables them to steer attention towards policies that are favorable to them. This thesis will test the multiple streams theory in order to understand whether supranational institutions, such as the Commission, managed to further its own power and act as a policy entrepreneur. Through Historical Institutionalism, the affect of external shocks in the shape of terrorist attacks will be measured. Lastly, Andrew Moravcsik's Liberal Intergovernmentalist theory is applied, when testing whether the development was driven by the member states and their preferences.

I define this research a case study in the sense that it seeks to generate more in-depth knowledge on a particular phenomenon, namely development within the field of internal counter terrorism cooperation in a particular period of time, the time being 2001-2005. The terrorist attack in New York on September 11, 2001 was an incident of high magnitude, which gave opportunity to the emergence of a distinct European counter-terrorism agenda. Therefore, 2001 is the year from which the analysis will start. 2005, which is the cut off year, is the year in which the terrorist attacks in London occurred, marking the last incident of a similarly shocking incident at the time. The period 2001-2005 marks a period in which a large number of counter-terrorism policies were developed. In other words, one may argue that 2001 and 2005 marks critical junctures in time¹. The approach used to arrive at answers is the hypothetical deductive approach, in which hypotheses with basis in the theory are derived. In other words, the methodological approach is explorative in character. Furthermore, the data examined is qualitative and a mixture of secondary data pre-processed by academic scholars and primary data in the form of public policy documents published by official EU bodies. The following chapter covers in greater detail the methodological approach taken in this research, as well as the overall structure of thesis.

¹ The term critical juncture is described in greater detail later in the dissertation.

Chapter 2

Methodology

Thesis Structure

The first chapter of this dissertation consists of the introduction while the second chapter covers methodology, including research design and the type of empirical data analyzed. In *Chapter two* I describe the nature of the research design, which is qualitative and explorative, the theory-testing approach as well as the characteristics of case studies. *Chapter three* presents a general overview of European integration theory, including Neo-functionalism, Intergovernmentalism, New Institutionalism and Constructivism, while *Chapter four* is the theoretical framework chosen for this thesis, in which Andrew Moravcsik's Liberal Intergovernmentalism, Historical Institutionalism as explained by Paul Pierson, and John W. Kingdon's multiple streams theory are explained. Finally, these theories are operationalized in which three hypotheses are derived, as well as indicators in order to measure the validity of the hypotheses. In *Chapter five* the main developments in the area of counter terrorism from 2001 to 2005 are presented, including framework decisions, declarations, strategies and policy proposals in general. Firstly the role of EU institutions in policy-making is briefly explained, as well as the counter-terrorism landscape prior to 9/11. *Chapter six* consists of the analysis, as the three hypotheses and their indicators are measured against each other. Lastly, in *Chapter seven*, I explain the final theoretical and methodological considerations as well as the thesis conclusion. In the following segment the research design chosen for this dissertation is explained.

Research Design

When developing a research design, one must first and foremost decide whether the research will be descriptive or explorative in character. This dissertation is characterized as an explorative research, given the fact that the main aim is to understand *why* a phenomenon occurs. In other words, when conducting an explorative research, one must generate causal explanations (de Vaus 2001: 2). Furthermore, the methodological approach taken in this research is a *theory testing* approach. This means that, the starting point of the research is theory, and that the theory guides the analysis. In other words, the approach is deductive (de Vaus 2001: 6). This is the case, since a total of three hypotheses are derived from the liberal intergovernmentalist and historical institutionalist theory as well as the multiple streams theory, which seek to either confirm or disconfirm the validity of the

theories in this particular case. Kenneth N. Waltz writes about theory testing, that one must take the following steps:

- “1. State the theory being tested.*
- 2. Infer hypotheses from it.*
- 3. Subject the hypotheses to experimental or observational tests.*
- 4. In taking steps two and three, use the definition of terms found in the theory being tested.*
- 5. Eliminate or control perturbing variables not included in the theory under test.*
- 6. Devise a number of distinct and demanding tests.*
- 7. If a test is not passed, ask whether the theory flunks completely, needs repair and restatement, or requires a narrowing of the scope of its explanatory claims.” (Waltz 2010: 13).*

Waltz states that there is no way to test a theory directly, so one must generate a hypothesis for testing. If one finds that the hypothesis is invalid, one has to reevaluate point two and seven. In other words, one has to examine whether the hypothesis was rightfully inferred from the theory. Waltz argues that it is important to remain critical, in the sense that a theory must not be rejected hastily, nor must it be accepted easily, if the preferred results are found. He stresses that even if a hypothesis passes all tests, no theories² can be proven true (Waltz 2010: 14). The way forward when attempting to test a theory is to link theoretical concepts with a few variables, making it possible to deduce hypotheses and test them (ibid.:17). Moreover, this research is classified a case study. John Gerring defines a case study the following way:

“For methodological purposes a case study is best defined as an in-depth study of a single unit (a relatively bounded phenomenon) where the scholar's aim is to elucidate features of a larger class of similar phenomena.” (Gerring 2004: 341).

Gerring goes on to describe the term *unit*:

“A unit connotes a spatially bounded phenomenon – e.g. a nation state, revolution, political party, election or person – observed at a single point in time or over some delimited period of time.” (ibid.: 342).

^{2 2} Kenneth Waltz speaks in particular of international political theories (Waltz 2010: 14).

In the case of this dissertation, the unit or phenomenon analyzed is the process of European integration in the period 2001-2005. A number of different types of case studies exist. The one applied in this study is the type, which examines variation within a single unit, over a period of time. In other words it contains temporal variation (Gerring 2004: 343). As this thesis aim at examining a process unfolding over a five-year period, it examines temporal variation. The particular type of case study chosen, is what Alan Bryman defines an *extreme* or *unique* case. With a reference to the work of Robert Yin, Bryman explains that this type of case study deals with a unique case (Yin 2009; Bryman 2016: 62). The EU is a very unique entity, which is unlike any other international institutions, as it holds legislative powers.

Furthermore Lotte B. Andersen, Kasper M. Hansen and Robert Klemmensen argue that all empirical studies are comparative in character to some degree. In case studies this happens as the researcher may compare theory, internally within the single unit for example over a certain period of time, as well as towards the research of other scholars (Andersen, Hansen & Klemmensen 2014: 83) – a technique which is applied in this research. According to Gerring one of the strengths of the case study is that it offers an in-depth understanding on a phenomenon (Gerring 2004: 348). The case study has often been subject to critique with the main argument being that “*General theoretical (context-independent) knowledge is more valuable than concrete, practical (context-dependent) knowledge*” (Flyvbjerg 2006: 3). Bent Flyvbjerg finds this, among other criticisms of case studies incorrect. He argues that concrete knowledge is of more value than the searching for predictive theories as well as universals. This is because predictive theories and universals are not to be found in the study of human affairs (Flyvbjerg 2006: 7)

Type of data and data collection

The type of data examined in this study is dominantly qualitative data. Matthew Miles and A. Michael Huberman focus on the form of qualitative data that consists of language as extended text. The texts are based on “*observations, interviews or documents*” (Miles & Huberman 1994: 9). Given the nature of this study, the empirical data examined is official policy documents such as framework decisions, council decisions, declarations and strategies, but also policy proposals, which were present at the time. Additionally, due to the fact that I cover a five-year period 2001-2005 and focus on the process through which policy decisions are made, I also rely on the work of other scholars, who have examined the process of integration and policy-making within the field of counter-terrorism prior. This is partly due to the vast majority of policy proposals and negotiations,

which were dominant in the given period, and due to the fact that the period covered is historical. Thus the data examined is a mixture of primary sources as well as secondary sources. Official public documents issued by EU bodies generally have a high validity due to their origin. However, when examining the work of other scholars and thus secondary sources, one may fall victim to the interpretations of these scholars. This is a weakness of qualitative, historical research within the social sciences. Miles and Huberman argue that qualitative data is not only a well fitting for developing hypotheses, but also in testing hypotheses. (Miles & Huberman 1994: 10).

Alternatively, interviews as a method of data collection would add other perspectives, dimension and thus more depth to the final conclusions. A strength of the qualitative research interview is that it enables the researcher to examine the world-views and the meaning and significance that individuals attach to certain social relations (Fog 2004: 11; Kvale 1997: 40-46; Andersen et. al. 2014: 145). In other words, the interviews may bring the researcher closer to the situation or process that one wishes to examine - in this case the process of integration and policy-making in the field of counter-terrorism. But due to the fact the time period under investigation lays a decade to a decade and a half back in time, conducting interviews was not a reasonable option. Conducting interviews with actors who engaged in the policy making process would furthermore require that the researcher had contact to the individuals in question.

The type of qualitative data analysis conducted in this study seems most fitting with what Bryman defines a secondary analysis of qualitative data (Bryman 2016: 594). Secondary analysis is defined as an analysis, in which the researcher has most likely not taken part in collecting the data (Bryman 2016: 309). As previously mentioned primary sources of data in the shape of policy documents issued by EU institutions will be examined in this study, but other scholar's analyses of these documents and the overall process of policy-making are also examined. Bryman writes that the time for data analysis is often squeezed as a result of the time the researcher puts into collecting the data. Thus only dealing with data analysis will allow the researcher more time for consideration (Bryman 2016: 311-312). Due to the scope of this dissertation, it will exclusively deal with the development of the internal dimension of the Union's counter-terrorism agenda in the period 2001-2005, and therefore the Union's foreign policy, including the international efforts to fight terrorism, will not be examined. Thus when referring to counter-terrorism, I speak of the internal dimension. A number of different counter terrorism policies were at play in the aftermath of 9/11, as well as the 2004 Madrid and 2005 London bombings. Naturally this means that one is not able to cover all measures produced in this period. However, some

measures received more attention than others, and it is those measures, which will be subject to investigation in this research.

Chapter 3

Theoretical Overview

Within academic literature the term *integration* has been used to describe both a process and a state (Dosenrode: 2). In this section a short theoretical overview of the most prominent theories within the field of European integration will be presented.

Neo-functionalism

In 1958 Ernst Haas published "*The Uniting of Europe*" presenting neo-functionalist theory to explain regional integration (Wallace, Wallace & Pollack 2005: 15). Neo-functionalism explained a process defined as *functional spillover*. Through this process, a government's original decision to place a particular sector under the authority of key institutions would result in pressures to expand the power of the institutions to cover other related policy fields. It was the prediction of neo-functionalists, that a byproduct of sectoral integration would be, an unintentional and unanticipated consequences of the promotion of further integration in other policy areas (Haas³ 1958, 1961, Lindberg 1963, Lindberg & Scheingold 1970; Wallace, Wallace & Pollack: 15). Stephen George added a second aspect of the spillover affect, which was termed political-spillover. In this type of spillover both supranational institutions such as the Commission and subnational actors such as interests groups and other actors at the subnational level would generate pressure to integrate further (George 1991; Wallace, Wallace & Pollack 2005: 15). According to Haas, the interest groups, which were present at the subnational level in a sector that was integrated, would network with the international organizations, which were the actors responsible for managing the sector. As time passed by, a result of the relationship, the interest groups would come to value the benefits generated by integration. As a result of this, they would transfer demands, expectations and loyalties from the state level to the European level. Supranational institutions such as the Commission would seize the opportunity and support this shift. The neo-functionalists argued that the spillover affects would lead to self-sustaining integration and centralization of power in Brussels

³ Haas did however later dismiss the theory of neo-functionalism, after resistance towards European integration proved present, demonstrated by French President Charles De Gaulle's opposition towards greater integration (Haas 1967, 1975; Tranholm-Mikkelsen 1991: 7-9).

(Wallace, Wallace & Pollack 2005: 15-16). To put it simply, neo-functionalism stressed the process through which power would slowly become transferred from the national level to the supranational level. Intergovernmentalists explain a quite different approach.

Intergovernmentalism

In opposition to the neo-functionalist view on European integration, intergovernmentalist theories emerged, with one of the first being by Stanley Hoffmann (Wallace, Wallace & Pollack 2005: 17). As mentioned in the introduction of this thesis, Hoffmann argued that the member states of the EC still valued their sovereignty. In fact Hoffman described the member states as factors of *international non-integration* (Hoffmann 1966: 862). According to Hoffmann, the member states would not allow integration in fields of high politics, as those were considered closely attached to the sovereignty of the state (ibid.:874-876). Other intergovernmentalist thinkers were Alan Milward and Frances M. B. Lynch who subscribe to the idea that the main actors in the development of the EU were the member state governments and not the supranational institutions. The idea was that the member states became strengthened by the integration process (Milward 2000, Lynch 1993; Wallace, Wallace & Pollack: 2005: 17). A theory, which contained the intergovernmentalist stance, was Liberal Intergovernmentalism linked to Andrew Moravcsik. The liberal intergovernmentalist stance will be presented later in this thesis in greater detail, as it is the basis upon which one of the main hypotheses is derived.

New Institutionalisms

During the 1980-1990's three types of institutionalisms emerged in which the characteristics and affects of institutions took center stage (March & Olsen 1984, 1989, Hall & Taylor 1996; Wallace, Wallace & Pollack 2005: 19). The first institutionalism had the rational choice approach as its starting point. This approach was initiated by American political scientists, who wished to understand how the Congressional institutions of the U.S. affected legislative behavior and policy results. Despite the fact that the rational choice approach originated in the U.S. with the aim of examining the American political institutions, the approach was adopted to the study of the EU by scholars such as George Tsebelis and Geoffrey Garret in the 1990's. They applied the rational choice approach to understand the EU institutions in terms of adoption, execution and adjudication of EU public policies. Another branch of the new institutionalisms is Historical Institutionalism, in which the main focus is the way in which institutions can affect the behavior of the actors, who established them over time. Both Rational Choice Institutionalism and Historical Institutionalism

share the assumption that actors are rational, meaning that the institutions have an ability to affect the incentives, which the different actors are faced with, but not the identity or essential preferences of these actors (Wallace, Wallace & Pollack 2005: 20). Historical Institutionalism, as explained by Paul Pierson will be covered in greater detail in this thesis. The third institutionalism is Sociological Institutionalism, in which institutions are defined more broadly to also contain norms, conventions and informal rules. In line with constructivist thinking, a common understanding within sociological institutionalism is that institutions not only shape the preferences of the actors, but also form their identity. In other words, the institutions make the actors (ibid.).

Constructivism

Constructivist theory was not developed on the study of the EU, but was applied to the study of the EU in the late 1990's (Risse 2004; Wallace, Wallace & Pollack: 22). A general held belief within the constructivist stance is that, institutions affect or constitute the actors that engage in them, as they form their identities and their preferences. This naturally means that constructivist theory does not subscribe to the idea that actor preferences are exogenously fixed, as is the belief in the rational approach, but that the preferences are shaped by the institutions, while the identity of individuals is formed by the social environment in which they are present (Wallace, Wallace & Pollack 2005: 22-23). In other words, constructivists do not consider actors as utility-maximizers, meaning that actors do not have a fixed set of preferences and calculate their actions with the aim of maximizing their utility, but instead socially constructed roles and institutional rules guide their behavior (March & Olsen 1989; Wallace, Wallace & Pollack 2005: 23). Within the study of the EU some of the prominent names within constructivist thinking is Wayne Sandholtz, Knud Erik Jørgensen and Jeffrey Lewis, as they argue that the institutions of the EU shape the behavior, preferences and identities of individuals as well as the member governments (Sandholtz 1993, Jørgensen 1997, Lewis 1998; Wallace, Wallace & Pollack 2005: 23).

In this thesis, the two main theories of European integration applied are Liberal Intergovernmentalism and Historical Institutionalism. These theories, despite agreeing on the notion that actors are essentially rational, differ in their understanding of the process of integration. While Historical Institutionalism does acknowledge the liberal intergovernmentalist claim that member states act in accordance with their preferences, Historical Institutionalism stresses that Liberal Intergovernmentalism fails to understand the affects that institutions can have on member states

over time. Thus member states may act in accordance with national preferences, but they fail to factor in the long-term consequences of their actions, and may eventually find themselves locked-in on paths, which cannot be reversed. These two theories of European integration have been chosen, since despite agreeing to a certain point, present two different outlooks on how integration can be perceived. Taking as a starting point that integration within the EU equals the transferring or pooling of national power to EU institutions, one may argue that this process of integration can be detected through the development of EU policies, legally binding or not. Thus one will benefit from accompanying theories on integration with theories concerning policy-making and agenda setting, which is why John Kingdon's multiple streams theory is applied. The following section will present the main ideas of Liberal Intergovernmentalism, as presented by Andrew Moravcsik.

Chapter 4

Theoretical Framework

Liberal Intergovernmentalism

Andrew Moravcsik and Frank Schimmelfennig describe Liberal Intergovernmentalism (LI) as a rationalist institutionalism (Moravcsik & Schimmelfennig: 67). LI is a grand theory, meaning it is a theoretical framework or synthesis and not a narrow theory, seeking to explain one specific political activity. It is believed that looking at one factor when explaining integration is insufficient and that instead several theories and factors must be taken into consideration and linked together to create one single comprehensible approach, which can explain the course of integration over time (ibid.: 68). In other words, LI opposes mono-causal explanations and argues that at least three theories are essential in order to properly explain integration. The three theories explain preferences, bargaining and institutions (ibid: 68). Through the liberal intergovernmentalist lens, the development of the EC can be explained by a two-stage approach. In the first stage the national preferences of the member states are mainly formed by the constraints and opportunities as a product of economic interdependence. In the second stage the results of intergovernmental negotiations are formed on the basis of the relative bargaining power of governments as well as the incentives for institutionalization, which are made by high transactions costs and the wish to control national agendas. Moravcsik considers European integration to be a result of a number of rational choices made by rational leaders. In other words the belief is that states act rationally when pursuing their

interests (Moravcsik 1998: 18). He argues that the then EC is an “*international regime for policy coordination*” (Moravcsik 1993: 480; Moravcsik & Schimmelfennig: 68).

It is argued that the development of the institutions can be explained by “*a sequential analysis of national preference formation and intergovernmental strategic interaction.*” (Moravcsik 1993: 480). This assumption is not considered realist for a number of reasons: national security is not considered the main motivation of states, the power of the state is not founded on capabilities that are coercive, the identities and preferences of the states are not identical and interstate institutions are important (Keohane & Nye 1977; Moravcsik & Schimmelfennig: 68). States are not “billiards balls” or “black boxes” consisting of unchanging preferences of wealth, security and power (Moravcsik 1993: 481). The actions of states in the international arena are based on goals, which have been defined domestically (Moravcsik 1993: 481). In line with liberal theories, it is believed that a state's foreign policy goal varies as a result of changing pressure from domestic social groups. (Moravcsik 1993: 481). On the emergence of national interests, Moravcsik writes:

“National interests are therefore neither invariant or unimportant, but emerge through domestic political conflict as societal groups compete for political influence, national and transnational coalitions form, and new policy alternative are recognized by governments.” (Moravcsik 1991, 1992b; Moravcsik 1993: 481).

He argues that one needs to understand domestic politics in order to understand the strategic interaction between states (Moravcsik 1991, 1992b; Moravcsik 1993: 481). Moravcsik explains that governments first establish certain interests and afterwards bargain among themselves with the aim of realizing the interests (Moravcsik 1993: 481). In regards to national preference formation Moravcsik is inspired by liberal theory, in which the relation between state and society has an impact on the shaping of national preferences. In liberal theory the most important actors in politics are individuals and voluntary associations that interacts in civil society. What influences the foreign policy of states the most are the identity of key societal groups, their type of interests as well as their relative impact on domestic policy. The identity and influence of the different groups differ depending on time, place and issue-area in accordance with the net expected costs and benefits of the possible foreign policies (Moravcsik 1993: 483). The main objective of governments is to stay in office. Thus, within democracies it is crucial that the governments have the support of domestic voters, parties, interest groups and bureaucracies. The opinions of these actors are communicated

through domestic institutions and political representation, indirectly or directly. National interests are formed through this process, and these interests will then be brought to international negotiations (Moravcsik 1993: 483). Moravcsik's starting point in understanding the strategies that governments pursue within the EC, is intergovernmentalist theory. Here rational governments pursue different strategies based on their preferences and power (ibid.: 496). He lists three assumptions about interstate bargaining, in order to understand decision-making within the EC. First, it is stated that interstate bargaining within the EC is voluntary, meaning that military coercion and economic sanctions are not taken into use with the aim of forcing agreement. In other words, decisions within the EC are taken in an environment of non-coercive unanimity voting. The second assumption is that the governments of the EC bargain in an environment that is classified as information-rich (ibid.: 498). Communication between negotiators can take place at low cost and obtain information about the preferences of other negotiators, as well as the technical implications of policies that are the most important to them. The third assumption is that intergovernmental bargaining has low transaction costs (Moravcsik 1993: 498-499). About the negotiations, Moravcsik writes: *"EC negotiations can be viewed as a cooperative game in which the level of cooperation reflects patterns in the preferences of national governments."* (Moravcsik 1993: 499). During the negotiations some governments may have bargaining leverage over others. He argues that this is due to asymmetries in relative intensity of national preferences that are a reflection of relative cost and benefits of agreements to remove externalities. The more a government favors an agreement, the more effort they will put in to achieving it. About the governments' bargaining power, Moravcsik writes:

"The greater the potential gains for a government from cooperation, as compared to its best alternative policy, the less risk of non-agreement it is willing to assume and, therefore, the weaker its bargaining power over the specific terms of agreement." (ibid.).

Through the intergovernmentalist lens, the national governments accept the institutions of the EC as long as it strengthens, as oppose to weakens, their control of domestic affairs allowing them to reach goals, that otherwise would have been impossible (Moravcsik 1993: 507). The institutions strengthen the power of the governments in two different ways. Firstly, they heighten the efficiency of interstate bargaining. The fact that there is a forum for common negotiation, decision making procedures, and compliance monitoring decreases the costs of identifying, making and keeping

agreements, and results in a larger range of cooperative arrangements. Secondly, the institutions of the EC reinforce the autonomy of national political leaders (ibid.: 507). The institutions furthermore promote international cooperation by having a forum for negotiation containing bureaucratic institutions that distribute information as well as policy ideas. In this forum, business representatives, political parties, national bureaucracies and interest groups have the opportunity to discuss joint issues, joint decision-making procedures, a joint set of legal and political norms and institutions, which monitor and define national compliance. The more information and predictability, the less the cost of bargaining and the risk of unilateral non-compliance (ibid.: 508).

Moravcsik sets the EC apart from all other types of international regimes, in at least two fundamental ways: through the pooling of national sovereignty via rules of qualified majority voting, and by delegating sovereign powers to key institutions that are semi-autonomous. He argues that the two types of national sovereignty transferring are tightly related. Through qualified majority voting the formal decision-making of a government, becomes more dependent on the votes of the other member states as well as more dependent of the Commission's agenda-setting (ibid.: 508-509). When trying to understand why member states pool or delegate decision-making powers, Moravcsik considers three conditions that will encourage member states to support such pooling or delegation in opposition to unanimity voting, the first one being "*potential gains from cooperation*". (ibid.: 510). It is believed that the pooling or delegating of power is more likely when there is a need for more rapid decision-making. This may be the case when certain conditions are present such as, a time pressure, previous failures arriving at agreements, the wish to implement an earlier decision, or a shift in national preferences. Moravcsik states that: "*The less attractive the status quo and the greater the expected gains from increased co-operation, the greater the corresponding incentive to pool or delegate.*" (ibid.: 510). He mentions two particular factors that are more likely to result in the pooling or delegating of power, namely economic transactions and intra-industry trade. Another condition, which may increase the need to pool power, is "*the level of uncertainty regarding the details of specific delegated or pooled decisions*" (ibid.). By this is meant that the lack of exact information concerning the form, details and outcome of future decisions helps in calming opposition from actors that might be disadvantaged from such pooling. The third condition is "*the level of political risk for individual governments or interest groups with intense preferences*", political risks being defined as the likelihood of a great loss to a government or an interest group. He elaborates that governments only delegate authority when there is a small

likelihood that the cumulative distributional effects of delegated or pooled decisions will be used in a way not favorable to the national government or national group (Moravcsik 1993: 511).

Liberal Intergovernmentalism has also met criticism, one of the critics being Helen Wallace focusing in particular on Moravcsik's views as presented in the Choice for Europe. Wallace problematizes, Moravcsik's view of the limited and uninfluential role of supranational policy entrepreneurs as well as transnational coalitions. She argues that although it is not her view that supranational policy entrepreneurs can control the process of integration, but that "*in some circumstances they can be – and sometimes have been – important catalysts of plausible ideas and brokered agreements.*" (Wallace, Caporaso, Schampf & Moravcsik 1999: 158). She goes on to state, contrary to Moravcsik's belief, that the institutional setting of the EU does play an impact on the behavior of the states, in the sense that it can constrain their behavior or offer opportunity structures. Moravcsik's Liberal Intergovernmentalism has been used in this dissertation exactly because it stands in contrast to theories, which focus primarily on the institutions and their affect on actors, such as Historical Institutionalism. Choosing theories that oppose each other on a number of aspects, allows the researcher to challenge the theories and view a case from two distinct angles. In the following section, the main arguments of Historical Institutionalism will be presented.

Historical Institutionalism

According to Paul Pierson historical institutionalism shares some key aspects of neo-functionalism. Both neo-functionalism and historical institutionalism share the view that unintentional consequences, including spillover, affects institutional development, and both theoretical approaches stress the importance of supranational actors (Pierson 1996: 147). The two theoretical stances differ on the perception of political control:

"A crucial difference is that neo-functionalism sees political control as a zero-sum phenomenon, with authority gradually transferred from member states to supranational actors, whereas historical institutionalism emphasizes how the evolution of rules and policies along with social adaption creates an increasingly structured polity that restricts the options available to all political actors." (Pierson 1996: 147).

In other words, as oppose to neo-functionalism, Historical Institutionalism brings to the table a more in-depth analysis of member states constraints (Pierson 1996: 147). Furthermore, it differs

from Intergovernmentalism in a number of ways. Whereas Intergovernmentalism considers initial bargaining at a certain point in time, Historical Institutionalism analyzes the consequences of that bargain over time. Because of this historical focus, it becomes possible to understand when gaps occur in the control of member states. The member states may be the key actors dominating in intergovernmental bargains, where they aim at realizing their interests, but they are restricted, as a result of the decisions taken by the actors in power prior to themselves. Thus, analyzing the processes of policy and institutional change over time enables one to see that the gaps in control may be far-reaching, and that regaining lost control is a difficult task (ibid.: 148). Pierson explains his theoretical stance and the term *Historical Institutionalism* the following way:

“This scholarship is historical because it recognizes that political development must be understood as a process that unfolds over time. It is institutionalist because it stresses that many of the contemporary implications of these temporal processes are embedded in institutions – whether these be formal rules, policy structures or norms.” (ibid.: 126).

Pierson argues that states initially aim at maximizing their own interests, but may end up achieving institutional or policy reforms that will leave them in an undesired or unanticipated position. He stresses the importance of looking towards processes appearing over a period of time, and thus one should consider Europe's development over a period of time, in order to reach an understanding of the then EC as an emerging polity (ibid.: 127). On the relationship between the member states and the EC institutions, it is explained that in order to reach reasonably effective decision-making and enforcement, the member states needed to establish certain arrangements. This is due to the large number states involved in the process – states, which hold different interests, as well as the complex and attached nature of several policy areas (ibid.: 132). The situation resulted in pressure to give substantial authority to those running the institutions. Pierson argues that the EC organizations will, over time, use the authority they are holding to serve their own objectives, in particular to increase their autonomy. They will aim at expanding the gaps in the control of the member states and resist efforts that seek to restrain their authority (Pierson 1996: 132). It is argued that the objective of the member states in most cases is to hold control within the institutions, but they do however recognize that authority must be given to these organizations, and that the required authority will increase in parallel with the increasing complexity and growing number of the tasks, dealt with at the European level (ibid.: 133). The European institutions (The European Commission, the

European Court of Justice and the European Parliament) will always seek opportunities, through which their powers can increase. With the agenda-setting powers that the European Commission and European Parliament share, these institutions are well positioned, despite the fact that the Commission does not have the power to pass proposals, which do not take into consideration the preferences of the member states. Nevertheless entrepreneurial actors within the Commission are able to frame different issues, create certain packages and construct the order of the proposals in a certain manner that may in the end result in increased room for independent initiative (ibid.: 133-135). Pierson argues that decision-makers typically are mostly concerned with the short-term consequences of their actions, while the long-term affects are considered less important. The long-term institutional effects of decisions are believed to be by-products of decisions taken due to short-term political motives. The reasons behind the establishment of an institution are not its long-term effects (ibid.: 136). Gaps in the control of the member states may also occur due to unanticipated consequences. Pierson explains that even if policy makers focus on long-term effects, unanticipated consequences will typically occur. It is explained that there is a high issue density within the EC, in which unanticipated consequences are meaningful. The fact that the issue density is growing brings about two particular consequences: it creates overload problems meaning that since decision-making at the European level becomes increasingly dominant and complex, it results in heightened demands on the gatekeepers of the sovereignty of member states. In this scenario unanticipated consequences and gaps in the member state control may occur as a result of time limits, lack of information and the necessity to delegate decisions to experts. Policy may develop, but this will likely decrease the member states power to control the process (Pierson 1996: 136-137). The second effect of issue density is the spillover process. The spillover process describes how adopted tasks have an effect on areas outside the ones they were originally intended to, as well as the empowering of actors that create new requirements for extended intervention (Haas 1958; Pierson 1996: 139).

On the institutional and policy preferences of member states, Pierson oppose the intergovernmentalist view that these preferences are fixed (Pierson 1996: 139). There are a number of reasons why member states may change their policy preferences, one of them being changed circumstances or new information. Another reason may be the fact that governments change on a regular basis and the different parties usually hold rather different views on policy issues at the EC level. When gaps in the member states control occur, they typically cannot be corrected (ibid.: 140).

These gaps are typically difficult to close, even if they are identified (ibid.: 142). Three reasons for this exist, one of them being resistance from the institutional actors of the EC. The second reason is institutional obstacles in regards to reform within the EC, while the third reason is the sunk costs related to actions taken previously. Pierson explains that political decision makers are aware of the fact that continuous institutional control is unlikely, and that this creates problems in regards to the way in which institutions are designed, as well as the prospects of changing these institutions after they have been established. The actors designing the institutions have to take into account the likelihood that future governments would like to change the design of the institutions and have the institutions serving new purposes (ibid.: 143). Pierson writes: “*Thus, political institutions are often “sticky” – specifically designed to hinder the process of institutional and policy reform.*”. He explains that the member states hold the power to reform or abolish the Court, Commission and Parliament, but “*the rule of the game*” within the EC was specifically designed to prevent even the smallest changes (ibid.). He notes that member states may often hold different views of different issues and thus is it problematic when for instance policy changes require an unanimous vote (ibid.:143-144). Additionally, member states may find policy reversal unappealing due to the fact that individual and organizational adaptations to decisions taken prior in time may result in sunk costs. Once the member states socially adapt to the institutions and policies of the EC, it heightens the costs of exiting from current arrangements (ibid.: 144- 145).

With a reference to Stephen Krasner, Pierson subscribes to the idea of path-dependence, stating that: “*Institutional and policy decisions can become self-reinforcing over time.*” (Krasner 1989; North 1990; Pierson 1996: 145). Pierson elaborates, that initial choices inspire the creation of elaborate social and economic networks, which heightens the cost of adopting alternatives that were once possible. This situation hinders member states from exiting the current policy path (Pierson 1992, 1993; Pierson 1996: 145). He elaborates that path dependence can also be characteristic for policy development, since policies can also generate a system of rules, incentives and constraints (Pierson 1993: 607-608; Pierson 1996: 145). Particularly in the case of the EC, he argues that as “*sovereign states*”, the member states are able to leave the EC, but due to the constantly increasing exit costs in a polity that have become densely integrated, the idea of leaving is rather unthinkable (Pierson 1996: 146). The member states do play a vital part in the development of policies, but they do it in a context, which is beyond their individual and collective control. Pierson argues that despite the fact that the member states are powerful, when analyzing the process of integration over time, it becomes evident that their power is limited (Pierson 1996: 158).

He defines path dependence as: “*social processes that exhibit increasing returns.*” (Pierson 2000: 252). The process of increasing returns is explained: “*In an increasing return process, the probability of further steps along the same path increases with each move down that path.*” (ibid.). It is argued that the relative benefits of the existing activity increase over time, compared to other potential options. The processes of increasing returns are also called self-reinforcing or positive feedback processes (Pierson 2000: 252). Once a certain path has been created processes of self-reinforcement hinder reversal (Pierson 2004: 10). In processes where path dependence or increasing returns are evident, political life is characterized by four qualities: *multiple equilibria, contingency, a critical role for timing and sequencing* and *inertia* (Pierson 2000: 263). By multiple equilibria, Pierson refers to the outcomes that are possible during initial conditions beneficial to increasing returns. Contingency is defined as rather small incidents, which can have great and lasting consequences, if they occur at the right time. A critical role for timing and sequencing is explained as the time, when an incident occurs in processes of increasing return. Here the time of the incident is the key factor. The earlier parts of a sequence are believed to be more important, than later parts. It is argued that the early phases of a sequence have the ability to place a certain aspect of political systems on a certain path, which over time will become strengthened (Pierson 2004: 45). Pierson argues that if one wants to understand path dependence one must look to the past, since the conditions for existing outcomes took place in the past. Thus one must analyze critical juncture or critical event that focused the development in a certain path (Pierson 2000: 263). Building on the work of Ruth B. Collier and David Collier, Pierson argues that an event such as an exogenous shock can have a different effect, based on the time, which it occurs in a sequence of events (Collier & Collier 1991; Ertman 1996; Pierson 2000: 264). Moreover, inertia is the result of a process of increasing returns. Once such as process is created, possible feedback can result in a single equilibrium, which is resilient towards change, as previously mentioned (ibid.).

The rationalist view, which characterizes Rational Choice and to some extent Historical Institutionalism, has met critique from scholars of constructivist thinking. In Pierson's Historical Institutionalism actors are rational and make choices based on rational thinking, but that institutions do over time have an impact in shaping the preferences of the national actors. Within constructivist thinking, institutions may shape the actors engaged in these institutions in a much broader way, as they shape their very identity (Christiansen, Jørgensen & Wiener 1999). In the following section John W. Kingdon's multiple streams theory will be presented.

The Multiple Streams Theory

Liberal Intergovernmentalism and Historical Institutionalism shed light on the role of political actors, such as member states and EC institutions in the overall process of integration. Pierson argues that the EC institutions will take advantage of the gap in member state control, and try to maximize their own autonomy. In this section John W. Kingdon's theory will be presented, as a tool to understand the exact process of agenda setting and policy making, in order to generate a more in-depth and particular understanding of how actors hold agenda-setting power. In 1984 Kingdon published his book *"Agenda, Alternatives and Public Policy"* in which he examined agenda setting and policy making in the American political system. The aim was to understand how political actors, for example in the shape of individuals, value some topics more important than others, how their agendas may change over time and how they limit their choice from a great number of alternatives to very few (Kingdon 2011: 2). Kingdon describes public policy making as a number of processes, which includes at least:

"1) The setting of the agenda, 2) the specifications of alternatives from which a choice is to be made, 3) an authoritative choice among those specified alternatives, as in a legislative vote or a presidential decision, and 4) the implementation of the decision." (ibid.: 3).

Out of the four processes, his work focuses on the first two processes. The aim is to understand why some topics dominate the policy agenda, while others do not, and why some choice alternatives are taken into consideration, while others are not. Kingdon defines agenda the following way:

"The agenda, as I conceive of it, is the list of subjects or problems to which governmental officials, and people outside of government closely associated with those officials, are paying some serious attention at any given time." (ibid.).

He elaborates that the process of agenda setting limits the sets of topics, to the set that becomes the main object of attention. In addition to the topics, which are on the agenda, a set of plausible alternatives for governmental action are taken into consideration by the officials of the government, and the individuals who are closely linked to them. The officials contemplate some of the alternatives more than others. The process of focusing attention to a certain amount of alternatives

limits the plausible alternatives to just those, that are seriously considered (Kingdon 2011: 3-4). In order to comprehend the processes of agenda-setting and the way in which alternatives are specified, Kingdon deals with three types of processes: problems, policies and politics (ibid.: 16). Problems that may pressure the system, such as a crisis or a noticeable event can influence the agenda. Another aspect that can influence agendas and alternatives is described as a gradual buildup of knowledge and perspectives between specialists in a particular policy field, as well as policy proposals generated by these specialists. These ideas may come to be through processes of ongoing discussion, speeches, hearings and introduction of bills. The third process, which affects the agenda, is the political process. A political process can be understood as changes in the national mood, the mood of the public opinion, elections results, administration changes as well as turnover in Congress (ibid.: 17). What is characteristic of these three processes of problem recognition, construction of policy proposals and political events, is that they act as either an impetus or constraint. When they act as an impetus, things are given a higher priority on the agenda, while if acting as a constraint; things are hindered from rising on the agenda. (ibid.: 18). Building on the work of Michael D. Cohen, James G. March and Johan P. Olsen, Kingdon describes the abovementioned processes as streams, which flow through the system (problem, policies and politics streams) (March et. al. 1972:1-25; Kingdon 2011: 19). The streams are affected by each other, and they evolve as a result of certain dynamics and rules, which dominate the particular stream. The three streams are unified at critical junctures and the problem, policy proposals and politics are coupled. When the three streams are coupled it produces large policy changes (ibid.: 19).

In an attempt to understand the problem stream, Kingdon considers how problems take up the attention of government officials and people outside government associated with them. In some cases what affects their attention is a systematic indicator of a problem, while it at times may be caused by a dramatic event, or when feedback from existing active programs, which implies that something is wrong. He stresses that problems are not completely obvious, but that the way in which people define a problem should be considered as well (Kingdon 2011: 90). Problems frequently come to the attention of government officials (governmental decision-makers) because a systematic indicator implies that a problem is present. The indicators become evident because governmental and non-governmental agencies monitor a number of activities and events. (ibid.:90-91). As previously mentioned, the indicators are typically not obvious in themselves, thus they

need a push to catch the attention of the individuals in government and around. What can sometimes cause the push is a focusing event, for example in the form of a crisis or disaster, which act as a powerful symbol (ibid.: 94-95). Sometimes the crises rise to the top of the agenda. A powerful symbol can sometimes focus the attention of key individuals. A topic may already be on the minds of these individuals, and the symbol focuses their attention. Kingdon writes that symbols can occur for political events, policy proposals and for problems (ibid.: 97). Feedback can also bring problems to the attention of government officials. Since they monitor activities, the feedback from these activities highlights potential problems (ibid.: 100).

In an attempt to characterize the policy stream, Kingdon describes the presence of a community consisting of specialists, in which ideas float. When trying to understand how proposals and alternatives come into being in the community, he draws a parallel to the biological natural selection, stating:

“Much as molecules floated around in what biologists call the ‘primeval soup’ before life came into being, so ideas float around in these communities...While many ideas float around in this policy primeval soup, the ones that last, as in a natural selection system, meet some criteria. Some ideas survive and prosper; some proposals are taken more seriously than others” (ibid.: 116-117).

In this policy primeval soup the range of ideas that are possible and which are taken into consideration to some extent is wide. Kingdon underlines that many options are possible at this stage (ibid.: 122). Additionally, he defines the individuals, which argue in favor of proposals or for the importance of an idea as policy entrepreneurs. They can be found in government as well as outside of government for example in interests groups or research organizations (ibid.: 123-124). Additionally, Kingdon argues that new public policy ideas do not suddenly emerge. What happens is that people recombine components, which seem familiar into new structures or new proposals. Thus change is considered recombination more than it is innovation (ibid.: 124). The ideas flow freely through the policy primeval soup to some extent, but the individuals advocating them influence the process and thus the ideas do not flow completely free. These policy entrepreneurs push their own ideas in a number of varying ways and in different forums. What they do, is that they try to “soften up” policy communities, which are considered to be bound by inertia and resilient towards change, as well as the larger publics, in order to make them familiar with new

ideas, with the aim of creating acceptance for their proposals. When a short opportunity to push proposals appears the work has already been done and the path clear (ibid.: 127- 128). The target, which the policy entrepreneurs aim at softening up, may be the general public, a specialized public with interests in a particular issue or the policy community. Softening up is necessary in order for a proposal to be considered serious. Sometimes the media is used as a tool to carry out the softening up. (ibid.:128-129). There are a number of criteria for the survival of ideas. These criteria are technical feasibility, value acceptability within the community, reasonable cost, anticipated public consent as well as a sensible chance for receptiveness among elected decision-makers. If a proposal fails at least one of the criteria it might be joined with something else (ibid.: 131). Gradually an idea is established between individuals in government and around government, and people start speaking of the idea (ibid.:139). The attention towards ideas, proposals and issues rises and falls from one period of time to another, but they never disappear completely. Sometimes they are altered and they come back in connection with something else, or linked to a different problem from which it originated (ibid.: 141-142).

Kingdon writes that the political stream consists of items such as public mood, pressure group campaigns, election results, partisan or ideological circulations in Congress as well as changes of administration. Within the policy stream consensus is established through processes of persuasion and diffusion. If an idea meets a number of criteria it then is diffused within the policy community. While the policy stream focuses on persuasion when building consensus, the creation of coalition consensus within the political stream is managed by bargaining. Within this stream coalitions are established via the granting of something in return, in order to raise support for the coalition. The joining of a coalition is not just a result of persuasion, but because of fear that failing to join can result in one being excluded from benefits associated with participation (ibid.: 159-160). In other words, a bandwagoning effect is present within the political stream. When a bargaining process is occurring, some individuals join the coalition by the promise that they are given benefits, while others bandwagon due to fear that they will be left out, and miss out on benefits (Kingdon 2011: 161).

The policy window is described as: *“An opportunity for advocates of proposals to push their pet solutions, or to push attention to their special problems...Advocates lie in wait in and around government with their solutions at hand, waiting for problems to float by to which they can attach*

their solutions, waiting for a development in the political stream they can use to their advantage.” (ibid: 165).

A window may open predictably or unpredictably (ibid). The policy windows and the opportunities they bring are open for a short period of time. The three streams, previously mentioned, come together and are coupled at times when windows open. The windows open due to change in the political stream, for example in the shape of a new administration or a change in the national mood, or it opens because a new problem catches the attention of government officials and those associated with them (ibid.: 168). The windows close because of a number of reasons, some of them being, that participants are under the impression, that the issue has already been dealt with or they fail to develop action. A third reason for the closing of a window may be that the event, which caused it to open, passes. This is the case with crises or focusing events, which have a short duration. A fourth reason for the closing of a window is that the change in personnel, which caused the window to open, in the first place can change again (ibid.: 169). The last reason for the closing of a window is if there are no ready alternatives, meaning if there previously has been no softening up of the system - an already worked out proposal (ibid.: 170). Problems and politics in themselves may be on the governmental agenda, but the likelihood of an item achieving a place on the decision agenda rises when the three problem, policy and politics streams are coupled. If the coupling does not take place rather quickly the window may close (ibid.: 178). The policy entrepreneurs make the coupling of the streams (ibid.:179). Apart from pushing for their proposals, the policy entrepreneurs wait for a window to open, and then couple the streams at the window. In order to be successful they must have their ideas, expertise and proposals ready prior to the opening of the window. The entrepreneurs couple the streams by attaching solutions to problems, proposals to political momentum as well as political events to policy problems. Without the presence of an entrepreneur the streams will not be coupled (ibid.: 181-182). With a reference to Ernst B. Haas, a spillover effect may occur (Haas 1968: 291-299; Kingdon 2011: 190). The occurrence of a window in relation to one subject typically heightens the likelihood of the opening of another window on a similar matter. Sometimes a practice spills over from one field to a neighboring one (Kingdon 2011: 190). The aim of the following section is to operationalize the three theories presented.

Operationalization

Within social science, the concepts that the researcher wishes to observe must be defined in a way, which allows one to measure them. This means that the researcher must operationalize the concepts (de Vaus 2001: 24). Robert Adcock and David Collier write that the operationalization of a theoretical concept is a four-level process (Adcock & Collier 2001: 530). At the broadest level, one starts out with the background concept, which may be understood in a number of different ways. From the broadest sense of the concept, one moves to the second level. At this step the researcher uses a systematized concept, which is normally a specific formulation or definition of the concept presented by one or more scholars. At the third level, the systematized concept must be operationalized. This is done by generating indicators, also known as measures, which will allow the researcher to classify and measure (ibid.: 530-531). From the third level, one moves to the fourth level, in which the indicators used produce scores for the cases. Scores refer to numerical scores, as well as the results of qualitative classification. One can achieve measurement validity when the scores capture the ideas of the concept that one is operationalizing (ibid.:530).

Three hypotheses have been derived with the aim of first and foremost to confirm or disconfirm a given theory's validity in this particular case, and secondly to answer the problem statement. The hypotheses are phrased the following way:

Hypothesis 1: Integration within the field of counter terrorism in the period 2001-2005 was path-dependent, and partly a result of agenda setting by EU institutions and exogenous shocks in the shape of terrorist attacks.

Hypothesis 2: The field of counter-terrorism became integrated in the period 2001-2005, because the Commission acted as a policy-entrepreneur.

Hypothesis 3: The field of counter-terrorism became integrated in the period 2001-2005, because this reflected the national preferences of the member states.

The first hypothesis is derived from Historical Institutionalism when explaining the path-dependent character of the development within counter-terrorism and the role of EU institutions, while the second hypothesis is derived from the multiple streams theory, as it is fitting when testing how policy entrepreneurs, in this case the Commission, attempt at setting the agenda. The theoretical

basis of the third hypothesis is Liberal Intergovernmentalism as explained by Moravcsik. Moravcsik stresses that the member states hold the most power within the Union, and thus they are the main actors in shaping the directions taken, as oppose to the institutions, which are merely a vessel for the member states to further their own agenda. Moravcsik is of the opinion that member states as rational actors seek to achieve their national preferences, which are fixed at the national level, independent of the institutions. Therefore this hypothesis argues that integration occurred because it reflected the national preferences of the member states. Due to the complex nature of this research, meaning the fact that a number of actors are involved in the process, as well as the many policies proposed and adopted in the period 2001-2005, I will look to a few indicators in order to assess the validity of the abovementioned hypotheses. One of these indicators is *national implementation*. The national implementation of policies adopted at the European level says a great deal about the political will, which a member state holds. I argue that the political will to implement policies agreed upon at the European level, sheds light on whether it reflects the preferences of the member states. If one finds that the implementation record of the counter-terrorism policies is generally successful, this may indicate that the member states did in fact act in accordance with national preferences, when adopting counter-terrorism policies at the European level. In line with Liberal Intergovernmentalist theory, the national preferences of the member states vary, so one cannot assume that all member states share the same preferences. But as it is the aim of this thesis to generate a general overview, of whether it was the member states or the institutions, which caused the integration of the counter-terrorism field, one has to assess the overall implementation record. With Historical Institutionalism in mind, I argue that slow or delayed national implementation indicates that the EU institutions have been successful in maximizing their autonomy and taken advantage of the gaps in member state control, having left the member states in unanticipated and undesirable situations. Another indicator for measurement is *agenda setting*. When seeking to understand which political actors exercised the most influence on the process of integration and thus policy making in the given period, one can assess agenda setting. If one finds that the Commission was more successful in setting the agenda, and thereby the course of the Unions internal counter-terrorism policy field, it may indicate that it held the most agenda setting power. On the other hand if one finds that the member states were successful in setting the agenda through intergovernmental strategic interaction, it may suggest that they were the main actors influencing the direction taken. When examining the validity of hypothesis 1 building on Historical Institutionalism, stating that integration within the field of counter-terrorism was path-dependent,

partly generated by EU institutions and exogenous shocks, one can furthermore look towards the *growing adoption of counter-terrorism policies*. The following figure presents the indicators, in a more comprehensive manner.

Indicators

Hypothesis 1	Hypothesis 2	Hypothesis 3
Slow/delayed implementation		Implementation in due time (before deadline)
Agenda-setting by EU institutions (Commission)	Agenda-setting by EU institutions (Commission)	Agenda-setting by the member states
A growing adoption of counter-terrorism policies		

Indicators have been presented with the aim of measuring the validity of each theory, in this specific case. It is however worth mentioning that one will always run the risk of having failed to take into account other variables that may affect the process under investigation. After having operationalized the theories, by presenting hypotheses for testing and indicators for measurement, I move on to describing the role of the EU institutions in policy-making.

Chapter 5

The EU Institutions and policy-making

Three policy-making institutions exist within the EU, namely the Council, the European Parliament and the European Commission. The Council of the European Union and the European Parliament are the legislative bodies. It is the Council, which adopts legislation and deals with the details of the policies produced. Within the hierarchy the European Council is at the highest, then comes the Council of Ministers (Council of the European Union or simply Council), the Committees of Permanent Representatives (COREPER) and other high preparative groups (Wallace, Wallace & Pollack; Kaunert 2010: 17). Normally it is the COREPER, which arrange the Council agenda, as well as discuss topics that are small in scope and not controversial. Under the COREPER are the member states' civil servants, who work in the Council Working Groups (Peterson & Shackleton 2002; Kaunert 2010: 17). The working groups are sometimes the decision-makers within the ASFJ

(ibid.:). The administrative work of the Council is dealt with by the Council General Secretariat. The officials within the secretariat draft agendas, keep records, provide legal advice, process and distribute documentation, translate and monitor policy decisions (Nugent 1999: 152-153; Kaunert 2010: 17). The General Secretariat also contributes with policy-advice and general support for the Presidencies. The Secretary General was, at the time discussed here, also the High Representative for the Common Foreign and Security Policy (CFSP) (Kaunert 2010: 17). The European Parliament is the Union's parliamentary body, which since 1979 is directly elected by the citizens of the EU every five years. In the beginning the role of the Parliament was very limited and in the AFSJ it was only to be consulted via the Tampere Programme of 1999 to 2004, meaning that the role of the Parliament was different in this policy field. The powers of the Parliament were heightened since 2004 to cover "co-decision" and the later Lisbon Treaty increased its power even further. Generally speaking the Parliament does not have the power to initiate legislation solely, but it has the right to amend or veto in a number of policy fields. The highly used way of decision-making, at the time this dissertation covers, was known as the "co-decision" methods, which means that the Parliament along with the Council of Ministers are co-legislators (ibid.). Normally the Parliament oversees the Commission, approves appointments to it and has the power to dismiss it via a vote of censure (Wallace et. al. 2005; Kaunert 2010: 18). The Commission is described, by scholars such as Neill Nugent, as a hybrid institution, due to the fact that it merges the tasks of bureaucracy and executive (Nugent 2001; Kaunert 2010: 18). It consists of both political and administrative bodies. The political body involves commissioners, who are typically previous high-ranking national politicians, while the administrative body involves the Commission's services, who are appointed bureaucratically and in a meritocratic way. It is the responsibility of the Commission to initiate and implement EU policies, as well as the in depth drafting of legislation. Moreover, the Commission is a caretaker of the Treaties and it also has the task of assessing whether or not policy proposals are covered by the Union's competence (Wallace et. al.; Kaunert 2010: 18). Furthermore, the Commission is a mediating body between institutions and between the member states in the Council (Kaunert 2010: 18). The following section will deal with the European counter-terrorism landscape prior to the 9/11.

Europe's history with Counter-Terrorism prior to 9/11

In order for one to understand how the counter-terrorism field became increasingly integrated after 9/11, one must first consider the arrangements, which were present in the field prior to 9/11. This section will highlight exactly that. European cooperation within Counter-Terrorism began in the 1970s (Bossong 2014: 225 & Bures 2006: 58). After the 1972 attack targeting the Israeli Team during the Olympic Games in Munich, the European states turned to the Council of Europe (COE), which consisted of more members than the then European Communities (EC) and which also held a mandate in security affairs as oppose to the EC's economic affairs. In 1977 the COE drafted the first Convention on the Suppression of Terrorism (Council of Europe 1977; Bossong 2014: 26). Building on the older European Convention on Extradition, which stated that international extradition could be refused in cases concerning what was labeled "political offenses" (ibid.). The aim of the Convention on the Suppression of Terrorism from 1977 was to reduce the political reasons by which a request for extradition could be refused among the states in question (Freestone 1985: 211-213; Bossong 26). The Convention however failed, and didn't undergo ratification by certain European Member States, such as France, Belgium or Italy until 1986. Though an effort was made through several ministerial and expert conferences, the actual practical counter-terrorism cooperation was rather limited (Gol 1988:16-17; Bossong 2014: 26).

At the same time the cooperation between the EC members was strengthened. In 1976 a parliamentary resolution took place, which requested direct European action and created a link between terrorism and the relations with third countries in which the EC was engaging. This was a result of the European Parliament stating its opinion on matters on which the EC had no competence (Lodge 1981: 172-173; Bossong 2014: 26-27). This political pressure was upheld by the European Parliament in the 1980's - a period in which several related resolutions and declarations were passed (European Parliament 05/09/2001: 36; Bossong 2014: 27). In the aftermath of the 1978 kidnapping of Italian Prime Minister Aldo Moro, The European Council of Heads of States and Government created a declaration on terrorism (Lodge 1981: 180; Bossong 2014: 27). Here the European Council referred to a French initiative aiming at establishing a European judicial area covering a broader criminal cooperation (Bossong 2014: 27). This initiative did not find sufficient long-term support, due to concerns regarding national sovereignty and political disagreements related to other issues (ibid.). As a result of insufficient support for the efforts of the Council of Europe and the European judicial area project, a compromise was created in 1979, which later resulted in the Dublin Convention, seeking at applying the main objectives of

the Council of Europe Convention on the Suppression of Terrorism to all members of the EC (Bossong 2014: 27). The convention was not ratified by all Member States, since France was still hoping for a European judicial space (Gueydan 1997: 104; Bossong 2014: 27).

Outside the EC framework a British proposal of 1975, having prior informal discussions in the aftermath of the Munich attacks as its point of departure (Bunyan 1993: 15; Bossong 2014: 27), established the Terrorism, Radicalism, Extremism, International Violence group (TREVI) under the intergovernmental European Political Cooperation. TREVI was a forum in which the Interior Ministries and security services of the EC member states were able to exchange information (Bunyan 1993: 15-16; Bossong 2014: 27-28). Oldrich Bures writes that justice and interior ministers exchanged intelligence information, created a blacklist of terrorists, assessed the external terrorist threat, pursued particular terrorist groups and made possible the arrest and prosecution of terrorists (Bures 2006: 58). Initially TREVI was meant to consist of five working groups, working with counter-terrorism as well as aviation security, police cooperation and nuclear safety among other topics. Nevertheless the working groups concerned with counter-terrorism and police-techniques and training were the two, which became functioning, stressing the importance of counter-terrorism during the period of time (Bunyan 1993: 15-16; Bossong 2014: 27-28). In 1985 the inoperative third working group of the TREVI concerning air travel, was rearranged to having a new focus, namely drugs and serious organized crime (Bossong 2014: 28). TREVI released the Palma-Document concerning migration and border security issues, and presented this to the European Council in 1989 (Coordinator's Group June 1989; Bossong 2014: 28). Its focus on counter-terrorism was however not lost. With the creation of the Single Market and abolition of border controls (Bossong 2014: 28), information concerning undesirable persons and goods needed to be passed around within the market. This information also covered terrorism suspects and theft of arms or explosives (Coordinator's Group June 1989: Title IV; Belgium October 1993: points 4,6,7,9,10; Bossong 2014: 28). As a result of TREVI's work, a secure operational in particular communications system was built, which brought about regular common terrorist threat assessments for the members of the EC (Belgium April 1987: Title II B; Bossong 2014: 28).

With the signing of the 1992 Maastricht Treaty the European Communities (EC) and European Political Cooperation (EPC) became the European Union (EU), which consisted of pillars concerning economic and security affairs. Here the second pillar covered the foreign policy of the Union while the third pillar summarized activities concerning Justice and Home Affairs (JHA)

(Bossong 2014: 29). A Terrorism Working Group (TWG) was created and it continued the work of the TREVI working group, which dealt with terrorism. The TWG continued to generate periodical terrorist threat assessments (Bossong 2014: 29). However, the actual internal security cooperation of the Union came to be, as a result of the Schengen process, which abolished the internal borders. The central security concern of the EU had moved from simply terrorism, to a much broader range of concerns linked to illegal flow of goods, money or individuals between the member states (Bossong 2014: 29). In the Maastricht Treaty, terrorism was mentioned as one among other reasons to heighten the European police cooperation. Other reasons were drug trafficking and other kinds of serious international crimes (Bossong 2014: 29). The Maastricht Treaty referred to terrorism as a serious crime, which should be prevented and fought through the development of joint action in three separate ways:

- “1) Closer cooperation between police forces, customs authorities, and other competent authorities, including Europol;*
- 2) Closer cooperation among judicial and other competent authorities of the Member States;*
- 3) Approximation, where necessary, of rules on criminal matters.”* (Bures 2006: 59).

Some progress had taken place in developing joint actions within the abovementioned areas before 9/11, but the practical implementation was typically slow (Bures 2006: 59). Article K1.9 in the Maastricht Treaty established a foundation for the creation of Europol, which would deal with terrorism years later (Bossong 2014: 29). The creation of Europol was a complex and lengthy process (Woodward 1993; Occhipinti 2003; ch. 4; Bossong 2014: 29). Most of the member states opposed Germany's proposal for a strong Europol with operational powers. Disagreement was also evident in regards to which issues that Europol should deal with (Bossong 2014: 29). Until 1995 a European Drugs Unit worked as a compromise (Bossong 2014: 29). Terrorism and serious crime were added as an area of competence in 1999 (Council 03/11/1999; Bossong 2014: 29). Throughout the 1990's terrorism was a threat to several European member states. The dominating terrorist groups were the nationalist Euskadi Ta Askatasuna (ETA), the Provisional Irish Republican Army (IRA) as well as Islamic fundamentalist terrorist groups (Engene 2004: 170-172; Bossong 2014: 29). The European Council passed the La Gomera Declaration in 1995 (Council 16/12/1995; Bossong 2014: 30). The new aspect that the Declaration brought to the table was that the document mentioned “fundamentalist action” as a type of terrorism as well as the need to counter terrorist

financing (Belgium 21/10/1993: point 3; Bossong 2014: 30). The declaration resulted in two legislative initiatives. The first concerned the creation of a “directory of expertise” among the member states (Council 15/10/1996; Bossong 2014: 30) while the other concerned another convention, with the aim of enabling cross-national extradition (Council 27/09/1996; Bossong 2014: 30). Neither of the two initiatives proved to be particularly useful. The directory of expertise did not become a key part in the Union’s counter-terrorism effort, and the extradition convention was only ratified by a minority of the member states (Messelken 2003:11; Bossong 2014: 30).

In 1998 the Treaty of Amsterdam established a political goal of creating an Area of Freedom, Security and Justice (ASFJ). The threat of terrorism was not considered the main reason for the establishment of the ASFJ (Norman 2006: 223-228; Bossong 2014: 30), but rather asylum, migration, justice and police cooperation (Bossong 2014: 30). In regards to terrorism, the only initiative passed between the ratification of the Treaty of Amsterdam and 9/11, was a recommendation by the Council for more cooperation on fighting terrorist financing (Council 09/12/1999; Bossong 2014: 30).

The development of EU’s counter terrorism policies after 9/11

Action Plan to Combat Terrorism and the Anti Terrorist Roadmap

Naturally as a large number of adopted policies and policy proposal were presented in the period 2001-2005, one has to limit the ones examined to the most vital. Prior to 9/11 counter-terrorism was mainly thought of as a national competence (Argomaniz 2011: 19). Cooperation typically took place bilaterally while multilateral cooperation was typically impromptu and normally outside the structure of the EU. Javier Argomaniz argues that after the terrorist attacks of 9/11 as well as the 2004 Madrid and 2005 London attacks, counter-terrorism has become a great multi-dimensional policy domain (Argomaniz 2011: 19). Raphael Bossong also argues that the Union’s response after the attacks on 9/11 was distinguished from the previous cooperation within the field of counter-terrorism (Bossong 2013: 38).

As an immediate response to the attacks in New York, three days after the attack on September the 14th, heads of member states, the High representative, the President of the European Parliament and the Commission published a joint declaration of support (Argomaniz 2011: 19). Additionally, the representatives of the member states participated in a long series of meetings that resulted in the Extraordinary European Council meeting, which took place the 21st of September 2001 (Bures 2006: 60). This was the first time that a European summit had terrorism as its first

priority. The same day, Colin Powell, the US secretary of state met with EU president Louis Michel, the CFSP High representative Javier Solana and External Relations Commissioner Chris Patten. The aim of the meeting was to discuss counter-terrorism cooperation. This meeting initiated a strong counter-terrorism relationship, which shows that the attacks generated high-level attention (Argomaniz 2011: 19-20). The European Council went on to present an Action Plan to Combat Terrorism (Kaunert 2010: 68). The document listed the following measures:

- “1) *Enhancing police and judicial cooperation;*
- 2) *Developing international legal instruments;*
- 3) *Putting an end to the funding of terrorism;*
- 4) *Strengthening air security;*
- 5) *Coordinating the European Union’s global action.*” (Bures 2006: 60 & Council 21, September 2001).

As a result of the meeting on the 21st of September 2001, an Anti-Terrorist Roadmap was presented (Argomaniz 2011: 20 & Council 26, September 2001). In this document a number of 46 measures were listed, such as the European Arrest Warrant, a definition of terrorism, the identification of terrorists in Europe and the organizations supporting them, the setting up of two or more investigation teams, “terrorist proofing” the legislation, making Eurojust operational, transmitting useful information to Europol. In the document it is stated that the measures should be implemented “*as rapidly as possible*” (Council 26, September 2001).

The Framework Decision⁴ on the European Arrest Warrant (EAW)

Just after 9/11 the European Commission saw the opportunity to promote further EU integration, by focusing on two measures known as the European Arrest Warrant (EAW) and the Framework Decision on combating Terrorism (Commission 14/09/2001; Bossong 2014: 41). Both were on the Commission’s working agenda prior to 9/11 (Bossong 2014: 41). The EAW stemmed from the

⁴ Council Framework decisions are described in the Amsterdam Treaty as binding on member states as to the results, but the method is decided by national authorities. The decisions do not entail direct affect. https://europa.eu/european-union/sites/europaeu/files/docs/body/treaty_of_amsterdam_en.pdf
The abolition of the third pillar with the Lisbon Treaty in 2009 abolished framework decisions, decisions and conventions and introduced regulations, directives and decisions. http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_5.12.6.html

1999 Tempere European Council (Bures 2006: 61). The Commission saw the ultimate goal of the EAW to be the creation of a European judicial area⁵. Originally the EAW was a controversial subject and did not achieve acceptance prior to September 2001. The terrorist attacks on 9/11 brought attention to the fact that the Union's open borders and legal systems enabled terrorists and other criminals to escape arrest and prosecution. In December 2001 the Council reached a political agreement and the EAW was approved in June 2002⁶. The aim of the EAW was to make extradition more efficient and effective. It had three new characteristics. The EAW had short time limits for formal extradition procedures. Furthermore, only one judicial decision for arrest and surrender was now necessary. The EAW also abolished the principle of double criminality within 32 serious criminal offences. Participation in criminal organizations and terrorism were included. What was furthermore abolished was the principle of political and nationality as a rational reason for the refusal of extradition. At the same time it was stated that the implementation of the extradition could be postponed on account on humanitarian reasons, and some provisions were in place to protect human rights (Bures 2006: 61). Christian Kaunert stresses that the European Arrest Warrant was revolutionary, as it abolished extradition between member states. This is because the decision to allow extradition to another country was only the right of sovereign states. In other words, extradition is linked to the very nature state sovereignty (Kaunert 2010: 70). Previously to the European Arrest Warrant, extradition was a matter of intergovernmental cooperation based on international law. The European Arrest Warrant was different in the sense that it became a transnational or European law (Wagner 2003a; Kaunert 2010: 71), and replaced the validity of international law (Kaunert 2010: 71). The actors responsible for the enforcement of the law is the national judicial agencies, meaning that national executives were now excluded form the decision-making process (ibid.).

The Framework Decision on Combating Terrorism

One of the measures taken within the field of counter-terrorism after the terrorist attacks on 9/11 was as mentioned also the Framework Decision on Combatting Terrorism, as mentioned in the Anti Terrorist Roadmap. Prior to 9/11 there was no formal officially agreed upon definition of terrorism

⁵ Den Boer & Monar, "Keynote Article" 21; Bures 2006: 61.

⁶ Council of the European Union, Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures Between Member States – Statements made by Certain Member States on the Adoption of Framework Decision, EN OJ L 190 (2002) 0001-0020; Bures 2006: 62.

within the EU (Brown 2010: 63). During the same period, only seven member states held national counter-terrorism legislation. Despite the fact that measures had been taken at the EU-level to address terrorism prior to 9/11, such as the La Gomera Declaration of 1995, no actual definition of terrorism existed. (Brown 2010: 63). The Framework Decision on Combatting Terrorism attempted to establish a common definition of terrorism. Article One is the basis of the Framework Decision on Combating Terrorism, as it aims at defining terrorist offences, and thus terrorism in general. Terrorist offences is defined the following way:

“Offences under national law, which given their nature or context may seriously damage a country or an international organization where committed with the aim of:

- *Seriously intimidating a population, or*
- *Unduly compelling a Government or international organization to perform or abstain from performing any act, or*
- *Seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or international organization.”* (Brown 2010 & Council 13, June 2002a)

Article Two describes a number of terrorist offences concerning the directing and participation in terrorist groups, while article three concerns the offences linked to terrorism in the form of theft or extortion with aim of preparing for an act of terrorism, while Article four deals with incitement, aiding or abetting an act of terrorism (Brown 65). Furthermore a number of penalties were set, which also included maximum sentence limits for particular offenses. The framework decision consists of a total of 13 articles in which article 11, 12 and 13 simply concerns implementation reports written by the Commission, the territorial application and entry into force of the framework decision (Council 13, June 2002a). Apart from these three articles and the first four, the remaining articles concern liability, jurisdiction and protection of victims (Brown 2010: 65). The initial deadline was set to December 2002, before which all member states ought to comply with the terms of the framework decision (ibid.: 68). Out of the eleven articles, which the Framework Decision contained, six of them were already proposed before 9/11, while another four were already on the agenda of the EU (Kaunert 2010: 69).

The Framework Decision on the creation of Joint Investigation Teams

Another measure produced after 9/11 was the Framework Decision on Joint Investigation Teams of June 13th 2002 (Argomaniz 2011: 21). The Framework Decision consisted of a total of 5 articles concerning the character of the investigation teams and when and how they should be operative (Council 13, June 2002c). Article One states that by mutual agreement two or more member states have the ability to set up Joint Investigation Teams, for a specific reason and during a specific period of time. It is stated that the investigations teams can be established where:

“a) A member state’s investigations into criminal offences require difficult and demanding investigations having links with other member states,

b) A number of member states are conducting investigations into criminal offences in which circumstances of the case necessitate coordinated, concerted action in the member states involved.”

(Council 13, June 2002c)

The document goes on to explain that any member state has the right to request the creation of an investigation team. The joint investigation teams was on the Tampere agenda of October 15 and 16 1999⁷ (Council 13, June 2002c & Argomaniz 2011: 22). Prior to 9/11, the idea of joint investigations teams had not met agreement in the Council, but after 9/11 the joint investigation teams initiatives were adopted (Argomaniz 2011: 21). In this section the most vital measures adopted after the terrorist attacks on 9/11 were presented. The aim of the next section is to cover the measures presented during 2002-2003.

The development of EU’s counter terrorism policies in the period 2002-2003

Council Decision on Setting Up Eurojust

Spain, which was the country holding the EU presidency in the first half of 2002 pushed for finalizing legislative measures concerning police and criminal justice cooperation, on which a temporary agreement had been achieved in the end of 2001 (Council 07/12/2001 9-111; Bossong 2011: 59). The JHA Council also finalized the decision on the establishment of Eurojust (Council 28/02/2002; Bossong 2014: 59). The Council decision listed a number of Articles such as Eurojust’s legal personality, composition, objectives of its work, competences and tasks (Council

⁷ See Tampere European Council 15 and 16 October 1999 Presidency Conclusions here: http://www.europarl.europa.eu/summits/tam_en.htm

28, February 2002). Eurojust was created to have a legal personality, and to consist of one national member (prosecutor, judge or police officer) who may be accompanied by one person or more if necessary. The objectives of Eurojust were stated as follows:

- “a) To stimulate and improve the coordination, between the competent authorities of the member states, of investigations and prosecutions in the member states, taking into account any request emanating from a competent authority of member state and any information provided by any body competent by virtue of provisions adopted within the framework of the treaties;*
- b) To improve cooperation between competent authorities of member states, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests;*
- c) To support otherwise the competent authorities of the member states in order to render their investigations and prosecutions more effective.”* (Council 28, February 2002).

Negotiations Concerning Attacks Against Information Systems and Taking of Evidence

In addition to Eurojust, the Commission presented a Framework Decision on Attacks against Information Systems (Commission 22/04/2002; Bossong 2014:59). The process to get it through was however lengthy, and the Parliament did not present its opinion until October 2002, after which the JHA Council obtained a political agreement in February 2003 (Council 27/02/2003; Bossong 2014: 59-60). A formal agreement was however blocked by a number of member states, due to hesitations on parliamentary scrutiny. The member states were Ireland, France, Sweden, Denmark and the Netherlands (Edri-Gram 10/03/2005; Bossong 2014: 60). In the aftermath of 9/11, in December 2001 the Council passed an amendment to the EC data protection directive, with the aim of allowing independent national regulations on data retention (Council 07/12/2001; Bossong 2014: 60). However while a number of member states had data retention procedures at the national level, a common European regulation was not developed until after the terrorist attacks in London in 2005 (Bossong 2014: 60). Furthermore, one of the proposals presented in the Anti-terrorism Roadmap was blocked in 2002. This was the Framework decision on mutual recognition of measures on the taking of evidence. According to Raphael Bossong this framework decision was a way of speaking of the European Evidence Warrant (EEW), which was meant to complement the European Arrest Warrant (EAW) (European Parliament 05/09/2001; Bossong 2014: 60). But unlike the EAW, there was no proposal for the EEW after the attacks on 9/11, until November 2003 (Commission

14/11/2003). In the first following discussion on the EEW, which was in January 2004, the member states were very skeptical of the proposal, and especially Italy expressed strong hesitation (Euractiv.com 27/01/2004; Bossong 2014: 60).

Policy Proposals by Member States Holding the Presidency

Spain, which held the Presidency of the Council of the European Union in the first half of 2002, also presented policy proposals. The first dealt with initiating “*a standard form for exchanging incidents caused by violent radical groups with terrorist links*” (Council 13/02/2002; Bossong 2014: 64). However, this proposal was not backed by all the member states, and became adopted as a recommendation⁸, after Spain was no longer holding the presidency (Council 04/04/2002; Bossong 2014: 64). A second proposal by Spain concerned the “*creation of multi-national ad-hoc teams for gatherings and exchanging information on terrorists*” (Council 11/03/2002; Bossong 2014: 64). The idea behind this proposal was that “*non-judicial or pre-judicial*” investigations should be used in association with the Joint Investigation Teams (Council 04/04/2002; Bossong 2014: 64). However, the value of these kinds of teams was questioned by the member states (Council 26/04/2002; Bossong 2014: 64). Therefore, the proposal resulted in a recommendation (Council 26/04/2002; Bossong 2014: 64). Spain presented another proposal, which was based on the Council Common Position 2001/931/CFSP (Council 28/12/2001b; Bossong 2014: 64). The aim of this common position was the freezing of assets of terrorist suspects and organizations (Bossong 2014: 65). Spain argued that Article Four within this common position should be used to generate a new Council decision. The article suggested police and judicial cooperation in regards to the aforementioned terrorists (Council 18/03/2002; Bossong 2014: 65). Once again, the proposal met much opposition (House of Commons 15/05/2002; Bossong 2014: 65), but in the end the JHA Council came to a decision. This was however more narrow (Council 22/01/2003; Bossong 2014: 65), but it did stress lack of commitments in relation to information sharing and judicial cooperation via Europol, Eurojust and the Joint Investigation teams (Bossong 2014: 65).

During the last period of the end of 2002 to 2003, the countries holding the presidency did not propose many counter-terrorism policies. In the other half of 2002, Denmark held the presidency, and Denmark proposed the establishment of electronic profiles of terrorist suspects via

⁸ A recommendation is non-binding, meaning that no legal obligation is present.
https://europa.eu/european-union/eu-law/legal-acts_en

Europol (Council 29/10/2001; Bossong 2014: 66), but this proposal was not met (Bossong 2014: 66). Greece held the presidency after Denmark, in which the country planned a seminar concerning “sporting events and terrorism” as a preparation for the Olympic Games in Greece (Council 29/10/2001; Bossong 2014: 66). The country to have the presidency after Greece was Italy. Italy argued in favor of better cooperation between the Terrorism Working Groups (TWG), Committee on Terrorism (COTER) and national security services (Council 28/10/2003; Bossong 2014: 66).

Negotiation on Passenger Name Records and Biometrics

In the aftermath of 9/11 the United States introduced a new act named the *Aviation and Transportation Security Act*, of November 2001 (United States Congress 19/11/2001; Bossong 2014:66). In addition to this the U.S. also required access to Passenger Name Records (PNR). The PNR was produced by airlines in order to manage passengers. The records consisted of information on sensitive financial data as well as personal data. It was data such as contact details and credit card information (Bossong 2014: 67). The U.S. required the PNR data to become obligatory in February 2003, but this was a breach of the EU's law on data protection (ibid.). However, the Commission managed to arrive at a temporary agreement with the U.S., which would stop the application of EU data protection laws on airlines, which sent PNR data. In return, the U.S. promised safe usage of the data received. This met criticism by the Parliament and the Working Party on Data Protection⁹ (ibid.). Because of this, the Commission obtained a new proposal by the U.S., in which it was stated that the European airlines would send a narrower version of PNR data to the U.S., as oppose to the U.S. pulling the information that it would finds of relevance (Commission 21/11/2003; Bossong 2014: 67). The Parliament was not content with this new proposal. This new proposal was however achieved rather quickly after the attacks in Madrid (Council 04/05/2004; Bossong 2014: 67). In the beginning of 2002 the U.S. also introduced a new act named the *Enhanced Border and Security and Visa Entry Reform Act*. With this act, all U.S. citizens had to have passports, which were machine-readable and which also contained biometric information, before October 2004 (Congress 2002L: Title III, section 303; Bossong 2014: 67). At the same time, some member states in the EU were calling for similar policies. Germany had for a period of time been arguing in favor of a development of the Visa Information System known as

⁹ See the following website for description of the Working Party on Data Protection:
http://ec.europa.eu/justice/data-protection/article-29/files/tasks-art-29_en.pdf

VIS¹⁰, as well as other documents concerning biometric identity (Koch 2002; Bossong 2014: 67). France was also in favor of such a development. In fact, this resulted in a French-German declaration on biometrics in the Annex to the JHA Council conclusions of February 2003 (Council 28/02/2003; Bossong 2014: 67). Nicolas Sarkozy, who was the French Interior Minister at the time, started a number of meetings in May 2003. The individuals present at the meetings were the Interior Ministers of the five biggest member states, and the aim was to overcome difficulties in arriving at unanimous agreement in the JHA Council, and to generate wishes for greater security cooperation (Bossong 2007; Bossong 2014: 68). The meetings were referred to as G5. G5 did not publish documents, but the development of biometric security standards was an issue it dealt with. In June 2003, the European Council pushed for more work on EU initiatives concerning technical border security through the Visa Information System (VIS) and the Schengen Information System (SIS II)¹¹ (Bossong 2014: 68). In continuation of this pressure, the Commission produced two draft council conclusions concerning the presentation of biometric standards in visas as well as residence permits (Commission 24/09/2003; Bossong 2014: 68). This was a place in which the Commission had the right of initiative. Additionally the Commission produced another proposal concerning biometric standards in European citizen's passports (Commission 18/02/2004; Bossong 2014: 68), despite the fact that it only held competence on visas for third country nationals (Bossong 2014: 68).

Strengthening of Europol

The mandate of Europol was expanded after 9/11. Europol achieved the power to require from the member state police forces to start investigations and share information with the U.S. as well as other third parties. Furthermore, Europol was to create terrorist profiles, aiming at identifying terrorist targets and active organizations within the EU (Bures 2006: 62). In December 2002 a Council decision stated that every member state must provide Europol with the following intelligence information:

“a) Data, which identify the person, group or entity;

¹⁰ VIS is a system, which allows the exchange of visa data among the Schengen States.
http://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-information-system_en

¹¹ SIS II was an information system that allowed competent national authorities to release and access alerts concerning, among other things, individuals who were suspected of having taking part in serious crime or who did not have right to enter the Union.
http://europa.eu/rapid/press-release MEMO-13-309_da.htm

- b) Acts under investigation and their specific circumstances;*
- c) Links with other relevant cases of terrorist offences;*
- d) The use of communication technologies;*
- e) The threat posed by the possession of weapons of mass destruction.” (Bures 2006: 62).*

Moreover, the decision also made available specialized services or judges within the police services and judicial authorities, such as Eurojust as well as an urgent priority treatment for requesting mutual assistance on individuals and groups, which were on the Union's terrorist list. Additionally the decision aimed at establishing maximum access to information on the individual or group in question, to the authorities of other member states¹². Furthermore, a 24-hour alert Counterterrorism Unit within Europol was created¹³. This Unit was later renamed the Counter Terrorism Task Force (CTTF) and it consisted of national liaison officers from different police and intelligence services. The aim of the task force was to gather all relevant information and intelligence on the terrorist threat of the time, analyze the information, start the operational and strategic analysis as well as drafting a document on the threat assessment (Bures 2006: 62).

In this section the main developments of policies related to counter-terrorism have been presented. In the next section, focus will be on the development of policies after the 2004 Madrid terrorist attacks.

The development of EU's counter terrorism policies after the 2004 Madrid bombings

The Declaration on Combating Terrorism and strengthening of SitCen

The impetus of the attacks on 9/11 had slowed down by the end of 2003, but the Madrid bombings were a wake-up call (Argomaniz 2011: 24). The terrorist attacks in Madrid, which took place on March 11, 2004 brought with them a number of new measures. In March 2004, the European Council adopted the Declaration on Combating Terrorism, listing fifteen measures in connection to the fight against terrorism, touching on subjects such as the European security strategy, assistance to the victims of the terrorist attacks, the building on existing cooperation, the strengthening of border controls and document security, more efficient intelligence sharing between member states,

¹² Council of the European Union, Council Decision of 19 December 2002 on the Implementation of Specific Measures for Police and Judicial Cooperation to Combat Terrorism in accordance with Article 4 of Common Position 2001/931/CFSP, EN OJ L 016 (2003), 0068-70; Bures 2006: 62.

¹³ Council of the European Union, "Extraordinary European Council."; Bures 2006: 62.

preventing terrorist financing, strengthening the security of all types of transportation systems, strengthening of international cooperation through the UN, strengthening of the cooperation with the U.S. and the creation of a counter-terrorism coordinator (Council 25, March 2004). The Declaration on combating terrorism touched upon aspects of the Anti-Terrorist Roadmap, which had been delayed and not implemented at the national level. The document stressed the importance of the EAW implementation, as well as improved cooperation between member states in Europol and Eurojust (Bossong 2014: 75-76). The Declaration on Combating Terrorism also contained security policies, which were not on the Anti-terrorism Roadmap, but which had been produced in 2002 and 2003. These were the measures regarding border security (Bossong 2014: 75-76). In the Declaration on combating terrorism a connection was drawn to the migration policy of the Union. Previously to the attacks in Madrid, there were negotiations on a European border agency, which were not dealt with as a part of the Unions counter-terrorism policies, but after the bombings in Madrid these were now stated as being a part of the counter-terrorism effort. Moreover, the document contained proposals, which were not previously on the Union's decision-making agenda prior to the attacks. Some of these were increased information and intelligence sharing, policies on counter-radicalization and protection of infrastructure (Bossong 2014: 76). Additionally, the document contained seven objectives on how to combat terrorism:

“Objective 1: To deepen the international consensus and enhance international efforts to combat terrorism...

Objective 2: To reduce the access of terrorists to financial and other economic resources...

Objective 3: To maximize capacity within EU bodies and Member States to detect, investigate and prosecute terrorists and prevent terrorist attacks...

Objective 4: To protect the security of international transport and ensure effective systems of border control...

Objective 5: To enhance the capability of the European Union and Member States to deal with the consequences of a terrorist attack...

Objective 6: To address the factors which contribute to support for, and recruitment into, terrorism...

Objective 7: To target actions under EU external relations towards priority Third Countries where counter-terrorist capacity of commitment to combating terrorism needs to be enhanced.” (Council 25, March 2004).

The Declaration on combating terrorism was based on an internal report of the Council Secretariat (Council of the European Union 08/03/2004; Bossong 2014: 77). This report had been presented three days before the attacks in Madrid (Bossong 2014: 77). It stressed implementation deficits within the member states, and was critical towards the Union's overall counter-terrorism agenda. It also highlighted a wish for more action in the fields of border security and police cooperation. These were proposals, which later showed up in the Declaration on combating terrorism. One of the major proposals, which the report contained, was a proposal concerning the strengthening of intelligence cooperation. Intelligence cooperation was previously mostly a topic absent from EU discussions (Bossong 2014: 77). However, in February 2004 there was an Austrian idea of an EU equivalent to the CIA in the JHA council (Council 09/03/2004; Bossong 2014: 77). This initiative was rejected by the big member states, as they were not keen on the idea of a supranational intelligence agency, but rather the usage of networks that were already existent and less ambitious such as SitCen (Argomaniz 2011: 25). Javier Solana¹⁴ suggested that the Situation Centre (SitCen) should be strengthened. SitCen had originally been established with the aim of improving the Union's handling and prediction of external security crises (Council 08/03/2004: section D; Bossong 2014: 77-78). SitCen consisted of national experts and the aim was not taking parts in operational intelligence work, but instead to produce strategic threat assessment (Bossong 2014: 78). Furthermore, in the report the Council Secretariat mentioned two proposals regarding implementation and cooperation issues within the Union's counter-terrorism policy. These proposals were later in the Declaration on Combating Terrorism, and they resulted in the establishment of the Counter-terrorism Coordinator (Bossong 2014: 78).

The Commission published a paper, which was policy-oriented (Commission 18/03/2004; Bossong 2014: 78). One of the accomplishments of the paper was that it added more proposals to the Union's agenda after the Madrid attacks, one of them being the establishment of a fund consisting of one million euros for the victims of terrorism. The Council had to accept this proposal, due to its symbolic character in relations to the attacks in Madrid. The Commission then produced a framework decision concerning compensation for victims of crime, which was hindered

¹⁴ Javier Solana was the EU's High Representative for Foreign Affairs and Security from 1999-2009. https://eeas.europa.eu/headquarters/headquarters-homepage_en/3598/High%20Representative/Vice%20President

during the process of negotiation in the JHA Council (Council 03/03/04; Bossong 2014: 78-79). According to Raphael Bossong, this was an entrepreneurial move by the Commission, which resulted in the fact that the framework decision on crime victims was included in the Declaration on Combating Terrorism. In the same manner, the Commission attached to the Union's counter-terrorism agenda, developments within financial crime fighting and civil protection. This was in the form of proposals, which had no direct connection to the attacks in Madrid among other things. Instead these proposals regarding finance and civil protection were present in two Commission communications (Commission 25/03/2004, 26/04/2004; Bossong 2014: 79), which were issued rapidly after the attacks in Madrid (Bossong 2014: 79). Additionally, the Commission also argued in favor of proposals within migration control, one of them concerning an integrated European information system. The point of this would be to merge the Schengen Information System with other databases dealing with migration control. Germany had previously argued in favor of the merging of databases for a number of years, but this did not meet acceptance among the member states. After the attacks in Madrid, the Commission further advanced the vision of this proposal. Moreover, the Declaration on Combating Terrorism also contained a proposal, concerning a common system for exchange of information on criminal records. This idea had been debated in relation to the fight against terrorism. Bossong argues that the development of AFSJ became entangled with the response to terrorist attacks (Bossong 2014: 80). When tracing the ideas from member states in regards to the Declaration on Combating Terrorism, two major topics were directly linked to initiatives by member states. These concerned retention of telecommunication data as well as radicalization/recruitment to terrorism (Council 28/04/2004; Bossong 2014: 80).

Plan of Action on Combating Terrorism

In addition to the Declaration on Combating Terrorism, the Plan of Action on Combating Terrorism was updated (Argomaniz 2011: 24). In this document, the particular measures necessary to achieve the previously mentioned objectives were presented (Council, 1, June 2004). Many of the measures presented, expanded the counter-terrorism policies to neighboring fields such as border control, response management, protection of infrastructure, judicial cooperation and exchange of information (Argomaniz 2011: 24). The updated Plan of Action on Combating Terrorism contained measures from the old Anti-terrorism Roadmap, the Declaration on Combating Terrorism and proposals from the Commission. Another goal of the updated Action Plan on Combating Terrorism was to better the Union's implementation record (Bossong 2014: 82). This was to be done through a

scoreboard, which would stress which member states were lagging behind with the implementation (Council 15/06/2004a: Bossong 2014: 82). The body responsible for this would be the newly created Counter-terrorism Coordinator as well as the Council (Council 15/06/2004b: 26-29; Bossong 2014: 82). The new Counter-terrorism Coordinator was a senior office placed below the CFSP High Representative (Argomaniz 2011: 25).

Negotiations Concerning Information Exchange

After the attacks in Madrid, alongside the Declaration on Combating Terrorism, the Commission had issued a communication (Commission 29/03/2004; Bossong 2014: 84). In this communication the connection between terrorism and organized crime was stressed, as well as the need for change in regards to cross-border cooperation among security authorities (ibid.). The Commission argued in favor of a system for exchange of criminal records, as well as other measures aiming at strengthening information sharing with Europol and Eurojust. After two months had passed, the Commission issued a general assessment report concerning the police and customs cooperation (Commission 18/05/2004; Bossong 2014: 84). This communication argued further for better information sharing, and it also developed the idea of forensic and DNA data exchange and the potential use of databases within the Union's border security and migration policy (ibid). In addition to the Commission's proposals, Sweden presented another proposal. Unlike the Commission's proposal, the Swedish proposal did not aim at more mandatory data exchange, but to make technical procedures easier whenever a request for cross-border information had been made. Furthermore, the proposal stated that the information, which had been exchanged, could not be used in criminal proceedings, unless the member state, which had given the information, allowed it (Bossong 2014: 84). As a response to the Swedish proposal, the Commission generated another initiative in the form of another Communication to counter the Swedish proposal. The aim was to strengthen the information access by law enforcement agencies, and argued that law enforcement agencies from other member states should have access to data in the same way that the equivalent national authorities has (Commission 16/06/2004; Bossong 2014: 84). The Commission's framework decision on increased information exchange on terrorism offences and on criminal convictions continued to be debated (Commission 13/10/2004; Bossong 2014: 84). Bossong argues that this is a sign of the Commission's increased agenda-setting power. However the Swedish proposal, which was to be concluded in fall 2005, undermined the relevance of the aforementioned discussions (Bossong 2014: 85). Furthermore, a German initiative for a new Treaty concerning

increased information-sharing and police cooperation was initiated in the end of 2003. This was started as a personal initiative by Otto Schily, who was the German Interior Minister when a new police cooperation center in Luxembourg opened. Germany, France, Belgium and Luxembourg backed the proposal. This proposal was what later developed into the Treaty of Prüm¹⁵ (Luif 2007; Bossong 2014: 85). The following section will highlight the proposals and ideas at play and those adopted after the July 7th, 2005 London terrorist attacks.

The development of EU's counter terrorism policies after the 2005 London bombings

Declaration on the EU response to the London Bombings

Around May 2005 police and criminal cooperation proved to be moving rather slow and challenging (Council 31/05/2005a; Bossong 2014: 93). An example of this was that the European Evidence Warrant (EEW) was subject to many revisions and amendments, while the framework decision on data retention was not adopted in June 2005, despite the fact that this was the plan (Bossong 2014: 93). The plan for biometric information in visas and travel documents, and the exchange of this information in the Visa Information System, also underwent delay. This was due to technical problems (Council 11/02/2005; Associated Press 30/03/2005; Bossong 2014: 93) and increased concerns in regards to reliability and data protection standards (European Commission Joint Research Centre 2005; Bossong 2014: 93). Furthermore, other crises were subject to attention, for example the Asian Tsunami of December 2004 or the Iranian presidential election in 2005. Focus was on the Union's foreign policy agenda (Bossong 2014: 93).

In the aftermath of the London attacks, the JHA Council held an extraordinary meeting (Associated Press 08/07/2005b; Bossong 2014: 95). A declaration concerning "*the EU's response to London bombings*" was produced (Council of the European Union 13/07/2005; Bossong 2014: 95). This declaration concerned policy proposals, which were already existent, such as proposals concerning the combat against terrorist financing, the EEW as well as the Commission's proposal concerning a better exchange of information on terrorist offences. Furthermore, topics within operational cooperation via Europol and SitCen were also mentioned in the aforementioned declaration (Council of the European Union 13/07/2005; Bossong 2014: 96).

¹⁵ The Treaty of Prüm was originally signed in May 27, 2005 by Germany, Spain, France, Austria, Belgium, Netherlands and Luxembourg. The treaty enables direct access by law enforcement agencies to the database on DNA, fingerprints and vehicle registration of other states (Argomaniz 2011: 52).

The declaration also pushed for initiatives concerning civil protection as it backed an initiative to establish revised crisis-response procedures for policy-makers as well as EU officials (Council 13/07/2007: Par. 7; Bossong 2014: 96). This vision originated from Dutch officials that were involved in a NATO project of fall 2004 (Wendling 2010; Bossong 2014: 96). After the London bombings, this idea caught the attention of British officials and finally resulted in arrangements concerning crisis coordination (Council 29/11/2005; Bossong 2014: 97). Bossong points out that this is an example of how policies that were already existing, which were developed in another context became linked to terrorism (Bossong 2014: 97).

The UK, which was the country holding the Presidency of the Council of the European Union in the second half of 2005, made a proposal in the EU Strategic Committee on Immigration Frontiers and Asylum on introducing national ID cards (Council 11/07/2005; Bossong 2014: 97). This had previously been debated by the G8 countries and Commission experts in April 2005 (Council 19/07/2005:5; Bossong 2014: 97). Due to the fact that biometric identifiers in national ID cards were not within the competence of the Union, it simply lead to a non-binding recommendation. Additionally, after the first extraordinary JHA meeting, the UK asked the member states for more ideas in regards to the Union's fight against terrorism. According to Bossong that move indicates that the UK presidency attempted to limit the control of the EU institutions, and thus have more control of national security measures (Bossong 2014: 97). National experts from the member states did bring ideas through the Terrorism Working Group (Council 02/09/2005; Bossong 2014: 97). These ideas were a reflection of national positions. Germany suggested that the provisions of the Prüm Treaty for police cooperation should cover the entire EU, and that a system of biometric entry and exit controls at the Union's borders should be established. Belgium suggested that more trust should be built among national security and intelligence agencies, while Italy was in favor of making the expulsion procedure concerning terrorist suspects easier, and the extension of residence permits to individuals that acted as informants against radical groups. Italy also proposed cooperation in Europe in regards to the monitoring of radical websites. This proposal was not new in character, as it had been subject to discussion since 2004. All in all, the ideas did not establish themselves as useful proposals. Bossong argues that the member states had a general weakness if they attempted to act as policy entrepreneurs within the Union's security policy (Bossong 2014: 98).

Debate on data retention and radicalization

Two weeks after the attacks in London, the Commission issued a small counter-terrorism package containing four measures (Commission 21/09/2005a; Bossong 2014: 99). The package contained the following proposals:

“A proposal for First Pillar directive on data retention, the signing of the Council of Europe’s convention on money laundering and terrorism financing, a Communication on radicalization and recruitment into terrorism, and a financial decision to use €7 million for pilot projects in the areas of ‘prevention preparedness and response to terrorist attacks’.” (Commission 21/09/2005; Bossong 2014: 99).

The first proposal for First Pillar directive on data retention presented a counter measure to what the UK had been pushing, namely an agreement on an already existing proposal under the JHA framework, meaning the third pillar (Bossong 2014: 99). Furthermore, after the attacks in London a presidency document concerning radicalization was published, in which the role of the member states was stressed. In the document it was also highlighted that the member states were in charge of *“foreign, defense and security policies.”* The document also stressed that the member states were in control of the *“strategic priorities of their law enforcement, security and intelligence authorities.”*(Council 12/09/2005: 6; Bossong 2014: 100). In opposition to this document, the Commission went on to publish a Communication concerning radicalization and recruitment (Commission 21/09/2005b; Bossong 2014: 100), in which focus was on *“common dialogue with minority communities, and active exchange of ideas on possible reforms in religious education and community policing.”* (Bossong 2014: 100). The debate on radicalization and recruitment went on until the end of November and ended up being based on the presidency document (Council 22/11/2005a; Bossong 2014: 101). The JHA Council signed the strategy to combat radicalization in the beginning of December, and the Commission’s proposal on a Community directive on data retention was at last accepted by the Council (Bossong 2014: 106).

The EU’s Counter-terrorism Strategy

The UK proposed a EU Counter-terrorism Strategy, which was based on a national counter-terrorism strategy. The aim was to prevent, pursue, prepare and protect (Bossong 2014: 102). The EU counter-terrorism Strategy was adopted by the JHA Council meeting December 1st 2005.

Whereas the focus previously was on Al-Qaeda, the Counter-terrorism Strategy now also drew attention to terrorism as *“home-grown”* and thus radicalization and recruitment to terrorist groups (Argomaniz 2011: 26). In the document the EU's counter-terrorism strategic commitment is defined by the Union as a strategic commitment: *“To combat terrorism globally while respecting human rights and, make Europe safer, allowing its citizen to live in an area of freedom, security and justice.”* (Council 30, November 2005: 3). Inspired by the UK's national counter-terrorism strategy, the European strategy was made up of four pillars: prevent, protect, pursue and respond. The aim of the prevent pillar was defined: *“To prevent people turning to terrorism by tackling the factors or root causes which can lead to radicalization and recruitment, in Europe and internationally.”* The objective of the protect pillar is: *“To protect citizen and infrastructure and reduce our vulnerability to attack. Including through improved security of borders, transport and official infrastructure.”* (ibid.). With the pursue pillar is meant: *“To pursue and investigate terrorists across our borders and globally; to impede planning, travel and communications; to disrupt support networks; to cut off funding and access to attack materials, and bring terrorists to justice.”*(ibid). The last pillar named respond seeks: *“To prepare ourselves in the spirit of solidarity, to manage and minimize the consequences of a terrorist attack, by improving capabilities to deal with: the aftermath; the co-ordination of the response; and the needs of victims.”* (ibid.).

According to Javier Argomaniz, the prevent pillar is the most unique. Despite the fact that the fight against radicalization had been part of the Union's priority with the 2004 European Council Declaration, the new Counter-terrorism Strategy stressed the need for combining preventive actions with repressive ones (Argomaniz 2011: 27). The prevent pillar has extended the EU's participation in other fields (ibid). Argomaniz states that the Counter-terrorism Strategy did generally not contain that many new measures, and that the four pillars were considered to simply be another way of phrasing the seven strategic objectives of the Council Declaration on Combating Terrorism (Argomaniz 2014: 27). In the previous sections the policy proposals and the measures adopted during the period 2001-2005 have been presented. The following section will briefly summarize how the field of counter-terrorism did indeed become increasingly integrated after 9/11.

Chapter 6

Integration Within The Field of Counter-terrorism

What the developments presented in the previous chapter show, is that the field of counter-terrorism within the EU developed rapidly post 9/11. As previously mentioned, counter-terrorism cooperation within Europe began in the 1970's, but was characterized by being intergovernmental cooperation. Concerns about national sovereignty weighed a great deal, which stood in the way of the development of certain policies, such as the 1977 Convention on the suppression of Terrorism, which was not ratified until 1986 by member states such as France, Belgium and Italy. It has also been described how counter-terrorism cooperation also took place outside the then EC framework through the TREVI-group. Although terrorism was an issue dealt with in the Union, as described in the Maastricht Treaty, it did not hold a particularly high priority prior to 9/11. As previously mentioned, between the ratification of the Amsterdam Treaty, which created an Area of Freedom, Security and Justice and the terrorist attacks on 9/11, there was only one measure passed, which was a recommendation by the Council, concerning more cooperation in fighting terrorist financing. In other words, terrorism was not a main priority of the Union. In the aftermath of the attacks on 9/11 a number of decisions were reached such as the Council Framework Decision on Combating Terrorism, the Council Framework Decision on the European Arrest Warrant, the Council Framework Decision on the creation of Joint Investigation teams as well as the Council decision on setting up Eurojust. These were some among other legislative acts seeking to increase the level of cooperation between the member states. The fact that the period post 9/11 brought with it many new legislative acts reveals that the field of counter-terrorism became increasingly integrated. Also the high level attention that the area received through the creation of declarations, plans of action and common EU strategies to counter radicalization or terrorism in general, are indicators of increased integration. Through the previous chapter it has been explained how the field of counter-terrorism became increasingly integrated in the period 2001-2005. The following sections will measure the indicators mentioned in the Operationalization, in order to determine the validity of the three hypotheses.

Path Dependence and Critical Junctures

As mentioned in the theoretical section concerning Historical Institutionalism Paul Pierson focuses on the effect of institutions over time. It was argued that moments in time, which one can classify as

critical junctures or critical event such as an exogenous shock can set development on a certain path. With hypothesis one in mind, one may argue in accordance with Argomaniz, that the terrorist attacks of 9/11, the Madrid bombings and London bombings were exogenous shocks or critical junctures (Argomaniz 2011: 18). In the previous parts of this thesis it was seen how the policies developed immediately after the different terrorist attacks set the overall development of the Union's counter-terrorism field on a certain path. The policies, which were developed in the abovementioned periods were in the years after subject to scrutiny, sometimes developed further within the same framework or into new policy proposals resulting in new policies. As shown in the previous sections this was the case with the Declaration on Combating Terrorism produced in 2004, which drew on aspects of the previous Anti-Terrorist Roadmap developed in the aftermath of 9/11 that had been delayed and not nationally implemented. The declaration attached new policies to the preexisting ones of the Anti-Terrorist Roadmap, which had been generated in 2002 and 2003. These concerned information and intelligence sharing, policies on counter-radicalization and protection. Also the updated Plan of Action on Combating Terrorism, which was presented after the Madrid attacks, built on measures from the old Anti-terrorism Roadmap, the Declaration on Combating Terrorism and new proposals from the Commission. As previously mentioned another goal of the updated Action Plan on Combating Terrorism was to better the Union's implementation record, and in the end this resulted in the creation of the Counter-terrorism Coordinator. Another example of the path-dependent character of the development within counter terrorism was the adoption of the Counter-Terrorism Strategy, adopted after the London bombings in 2005. This document built, as previously mentioned, on the seven objectives mentioned in the Council Declaration on Combating Terrorism from 2004 and added to them another aspect, namely the need to prevent against radicalization and recruitment. Also the European Arrest Warrant and the Framework Decision on Combating Terrorism, which were adopted in the aftermath of 9/11, were topics, which the Commission was dealing with prior to 9/11, indicating the path dependent character of the development. It is evident that the development within the counter-terrorism field was path-dependent for a number of reasons, one of them being the fact that older documents were the source or starting point for new policies. One may argue that the initial introduction of counter-terrorism policies legitimize the further development of policies of the same character, which would previously, going back to for instance the 1980's or 1990's be unreachable and maybe even unthinkable. As mentioned in the theoretical section, Pierson defined path-dependence as "*social processes that exhibit increasing returns*". In this process the likelihood of steps down the same

path increase, with each step down that path. In other words costs of exiting the path increase and the process become self-reinforcing and resistant to change (Pierson 2000). One may argue that the abovementioned examples are indications of the path-dependent development within the field of counter-terrorism. Moreover, one can argue that the self-reinforced nature and resistance towards change of path, is evident in the process of integration that took place. This is the case when considering the several member states' opposition to decisions or agreements, which still ended up being agreed upon. This is illustrated via the criticism by among others the Parliament opposition towards the Commission's agreement with the U.S. concerning PNR data. Also the new ideas put forward by member states after the London bombings in regards to the fight against terrorism, as a response to the UK's wish, did not end up becoming useful proposals. Bossong argued that this was the UK's attempt at limiting the control of the institutions and that it indicated the weakness of the member states. One may also argue that it is an indication of the resistance towards change, present in the area of counter-terrorism. Furthermore, the various member states' policy proposals and opposition towards proposals presented by institutions such as the Commission can be considered an indicator of the member states' attempt at closing gaps in their control.

Agenda-setting by EU Institutions

As explained in the theoretical chapter, Pierson argued that the then EC institutions will over time, use their authority to serve own objectives and increase their autonomy, thus expand the gaps in member state control. He particularly mentioned entrepreneurial actors within the Commission, who have the ability to frame certain issues, create packages and construct the order of the proposals in a certain manner that can in the end result in increased room for independent initiative. Also Kingdon stressed the role of what he termed *policy entrepreneurs*, individuals, who argue in favor of proposals or for the importance of an idea. These policy entrepreneurs could be individuals within and outside governments. With Kingdon's definition of policy entrepreneurs, one may argue that the previously described policy proposals and the adoption of these proposals are examples of how individuals within the Commission and within the member states attempt to act as policy entrepreneurs. The adoption of previously described policies indicate that the Commission attempted to increase its own autonomy and act as a policy entrepreneur, by pushing a number of policies, which were on its agenda. This was for instance seen with the EAW, the Framework Decision on Combating Terrorism, and the Framework Decision on Attacks against Information

Systems. These were policies, which originated from the Commission and which over time were accepted. Going back to the cooperation within European counter-terrorism in the 1980's or 1990's, the adoption of for example the EAW, would most likely not have been accepted by the member states, due to its "high-politics" nature. In fact, as mentioned previously both the EAW and the Framework Decision on Combating Terrorism were on the Commission's agenda before the attacks of 9/11, but one may argue that the shock of the attacks produced the circumstances to get the decisions through. Kingdon argued how policy entrepreneurs must "soften up" a policy community, which like Pierson explained, is characterized by inertia and resilient towards change. The aim was to make the target familiar with the ideas and establish acceptance towards proposals so that the path would be clear to push the policies through, once an opportunity would arise. I argue this was the case with the abovementioned framework decisions, the creation of the Joint Investigation Teams post 9/11, which originated from the Tampere Agenda of 1999, the PNR agreement with the U.S., which was introduced in 2003 and subject to opposition by the Parliament, but was agreed upon after the 2004 Madrid attacks, The Declaration on Combating Terrorism published after the London attacks, which consisted of proposals that had been presented prior to when they were presented in this document – proposals concerning the combat of terrorist financing and better exchange of information on terrorist offences. These documents contained proposals that had been presented prior to them appearing in the new documents, but which had often been stuck, as they did not meet greater agreement. One can argue that the policy entrepreneurs had softened up the policy community previously, by presenting the proposals prior, and that they succeeded in pushing the proposals through when a window of opportunity opened. It can also be argued that these policy proposals were not new, but simply recombined into new structures in new documents. Kingdon described policy windows as being open during a short period of time, in which advocates of proposals are able to push their solutions and to draw attention to a specific issue. One of the reasons for the opening of the window was a focusing event. In line with scholars such as Argomaniz (2011) and Bossong (2014), it can be argued that the terrorist attacks in New York, Madrid and London were external shocks or focusing events, which opened windows of opportunity, that allowed the Commission to push the abovementioned policy proposals, which had previously not met sufficient agreement. It is evident that after a large-scale terrorist attack, that the Commission managed to reinvent or reintroduce topics on its agenda in the new context that the aftermath periods created – in other words it managed to couple the streams at the right time. One can argue that the aforementioned pattern shows that the Commission managed to attach new

proposals to political momentum created by the terrorist attacks and, attaching solutions to the problems and political events to policy problems. The Commission was however not the only actor, attempting to set the agenda.

Agenda-setting by the Member States

Development within the field of counter-terrorism indicates that the member states also played a role. This was for instance the case when Spain held the presidency in the first half of 2002. As previously mentioned Spain presented policy proposals concerning *“a standard form for exchanging incidents caused by violent radical groups with terrorist links”*, the *“creation of multinational ad-hoc teams for gatherings and exchanging information on terrorists”* and a proposal concerning Article Four in the Council Common Position on the freezing of assets of terrorist suspects and organizations. It was also seen that Denmark, Greece and Italy holding the presidency in 2002 and 2003, argued in favor of certain views, such as a Danish proposal for the establishment of electronic profiles of terrorist suspects via Europol, Greece's planning of a seminar concerning *“sporting events and terrorism”* as a preparation for the Olympic Games in Greece and Italy's wish for better cooperation between the Terrorism Working Groups, Committee on Terrorism and national security services. Furthermore, there was the German-French declaration on biometrics in the Annex to the JHA Council conclusions of February 2003. It was also shown that Austria, in early 2004 argued in favor of a EU equivalent to the CIA and thus intelligence sharing. The Declaration on Combating Terrorism produced in the aftermath of the 2004 Madrid bombings also contains measures, which were traced directly to the member states concerning retention of telecommunication data and radicalization and recruitment to terrorism. It has also been described how Sweden in 2004 presented a proposal in response to the Commission's wish for better information sharing, forensic and DNA data exchange and the potential use of databases within the Union's border security and migration policy. The Swedish proposal sought to limit the Commission's idea of data exchange. Another indicator of member state agenda setting was the German initiative for a new Treaty concerning increased information-sharing and police cooperation initiated in the end of 2003, which was later adopted as the Treaty of Prüm. Moreover, it has been described how certain member states attempted to set the agenda by presenting policy proposals after the attacks in London in 2005. It has been shown how the UK when in charge of the presidency in the first half of 2005 managed to affect the debate on radicalization and recruitment

into terrorism as well as the EU's Counter-terrorism Strategy, which to a certain extent was based on the UK's national counter-terrorism strategy. With the abovementioned ideas of the member states it is evident that the member states did play a part in affecting the setting of agenda for the direction of the counter-terrorism field, but it is one thing to present proposals and argue in favor of national wishes or ideas, but succeeding in the adoption of policies is another story. For instance, the first two Spanish proposals of 2002 resulted in non-binding recommendations, while the Danish proposal of 2002 and the 2004 Austrian wish for more intelligence sharing via a EU equivalent to the CIA, did not meet agreement. On the other hand one can argue that the Swedish succeeding in limiting the Commission's proposal concerning data exchange, while the German initiative for a Treaty concerning increased information-sharing and police cooperation did become reality. Lastly, the UK managed to affect the debate and outcome of the EU's Counter-Terrorism Strategy as well that on radicalization and recruitment to terrorism. The following section will shed light on the national implementation of various decisions adopted at the EU-level, in order to measure the last indicator.

National Implementation of Counter-terrorism Policies

The national implementation of EU counter-terrorism policies has been subject to much academic scrutiny. Daniel Keohane argues that problems are evident when assessing implementation of EU counter-terrorism measures (Keohane 2006: 68). He writes that the EU governments generally are missing political will to coordinate their laws and have their police forces work together. According to Keohane it takes a disastrous event to remove political blockage, which was the case with the EAW after 9/11. Even when a policy has achieved political agreement, the member states can be extremely slow at implementing the measure. An example is the Joint Investigation teams agreed upon in 2002. The aim was for the member states to work together through these teams by 2003, but in June 2005 four member states still had not managed to implement the measure. These were Greece, Italy, Luxembourg and Hungary (ibid.). Also, in areas where the member states had been implementing joint decisions, it has at times been done incorrectly. In February 2005 the Commission stated that eleven out of twenty-five member states had made mistakes in the transposition the EAW into national law (ibid.). Bures also argues that decisions, which were adopted at the EU level, were typically not implemented at the national and subject to different interpretations (Bures 2006: 72). The EAW, which was agreed in 2002, had December 2003 as the deadline by which the member states should have done all necessary provisions in order for the

EAW to apply from January 1st 2004. Only eight of the twenty-five member states were able to complete the process before the original deadline (Brown 2010: 115). On the other hand it can be argued that the slow implementation was not purely a result of lacking political will at the national level, as Brown points out that the deadline for the EAW was in itself rather ambitious taking into account the Union's previous history with the area of extradition (ibid). He also argues that the Framework Decision on Combating Terrorism was given a short deadline for national implementation (Brown 2010: 131). The Framework Decision on Combating Terrorism agreed upon in June 2002 was not implemented in due time. The deadline was six months after, for member states to implement and comply. Only two member states managed to fully implement and comply, while three others sent the Commission information on their national legislative progress, which it had requested (ibid.: 131). In the Commission's 2004 evaluation report it was stated that Greece had provided information which was not specific, while Luxembourg and the Netherlands still had not provided the Commission with any information at all (ibid.). In the second evaluation report of 2007, the Commission could still not conclude that all member states had implemented all measure of the Framework Decision on Combating Terrorism (ibid.). Additionally, Javier Argomaniz argues that transposition of EU counter-terrorism legislation is characterized by considerable delays that are lengthier than in other EU policy fields, but still characteristic of the situation within the field of JHA (Argomaniz 2010: 298). The following table by Argomaniz sheds light on this claim.

Table 1. Number of countries yet to implement counter-terror measures.

	29 November 2004 ^a	30 May 2005 ^a	9 December 2005	19 May 2006	30 November 2006	20 May 2007	29 November 2007 ^b	26 May 2008 ^{b,c}	2 June 2009 ^b	27 November 2009 ^b
European Arrest Warrant (date of agreement: 13 June 2002; transposition deadline: June 2004)	1	–	1	1	–	–	–	–	–	–
Joint Investigation Teams (date of agreement: 13 June 2002; transposition deadline: June 2004)	8	4	3	2	2	4	4	1	1	1
Framework Decision on Combating Terrorism (date of agreement: 13 June 2002; transposition deadline: June 2004)	8	7	4	3	3	5	1	2	2	2
Framework Decision on money laundering and confiscation of proceeds of crime (date of agreement: 26 June 2001; transposition deadline: June 2004)	10	8	6	2	3	5	2	2	1	–
Decision establishing Eurojust (date of agreement: 28 February 2002; transposition deadline: June 2004)	6	4	4	4	2	3	2	1	1	1
Decision on the implementation of specific measures for police and judicial cooperation to combat terrorism (date of agreement 19 December 2002; transposition deadline: June 2004)	–	–	–	–	–	2	–	–	–	–
Convention on Mutual Assistance in Criminal Matters (date of agreement: 29 May 2000; transposition deadline: December 2004)	17	12	9	6	5	7	7	4	3	3
Protocol to the Convention on Mutual Assistance in Criminal Matters (date of agreement: 16 October 2001; transposition deadline: December 2004)	21	14	11	8	7	8	8	5	4	4

Table 1 (Continued)

	29 November 2004 ^a	30 May 2005 ^a	9 December 2005	19 May 2006	30 November 2006	20 May 2007	29 November 2007 ^b	26 May 2008 ^{b,c}	2 June 2009 ^b	27 November 2009 ^b
First Protocol to Europol Convention (date of agreement: 30 November 2000; transposition deadline: December 2004)	7	3	3	2	1	–	–	–	–	–
Second Protocol to Europol Convention (date of agreement: 28 November 2002; transposition deadline: December 2004)	12	6	5	4	2	–	–	–	–	–
Third Protocol to Europol Convention (date of agreement: 27 November 2003; transposition deadline: December 2004)	15	9	7	5	3	–	–	–	–	–
Framework Decision on the execution of orders freezing property or evidence (date of agreement: 22 July 2003; transposition deadline: December 2004)	25	22	17	15	14	16	11	10	6	5
Framework Decision on attacks against information systems (date of agreement: 24 February 2005, transposition deadline: March 2007)	–	–	–	–	–	–	13	13	10	7
Decision on the exchange of information and cooperation concerning terrorist offences (date of agreement: 20 September 2005, transposition deadline: June 2006)	–	–	–	–	–	–	25	16	13	11

^aSource: EU Plan of Action on Combating Terrorism Updates (2004–2005).

^bIncludes Romania and Bulgaria.

^c24 Nov 2008 publicly available version of the report is unreadable. See: <http://register.consilium.europa.eu/pdf/en/08/st15/st15912-ad01re01.en08.pdf>

Note: Implementation completed and legislation has entered into force. Source: Counter-Terror Coordinator Implementation of the Action Plan to Combat Terrorism reports (2005–2009).

(Source: Javier Argomaniz 2010 “Before and After Lisbon: legal implementation as the ‘Achilles heel in EU Counter-Terrorism?’”: 302-303)

When examining the implementation scores listed in the table by Argomaniz, concerning the implementation of a number of counter-terrorism measures discussed earlier in this dissertation and produced in the timeframe 2001-2005, it is evident that legal implementation is generally delayed at the national level. In addition to the EAW, the Framework Decision on Combating Terrorism, the establishment of Eurojust with the transposition deadline of June 2004, had six member states still missing by November 2004 and one member state still missing by November 2009. Also the Framework Decision on Attacks Against Information Systems agreed in February 2005 and with the transposition deadline of March 2007, 13 member states were still to transpose the measure by November 2007. These are some among other measures listed in the table, which were delayed. Following the terrorist attacks in Madrid the Declaration on Combating Terrorism and the updated or revised Action Plan, described earlier in this thesis, also argued in favor of better implementation of counter-terrorism measures. Many of the deadlines presented by the European Council in the March 2004 Declaration on Combating Terrorism were not achieved by the end of 2005. (Argomaniz 2011: 117). Argomaniz argues that implementation was still considered a great problem even after the policy expansion post the London attacks (ibid.: 118).

Following the initial argument of this dissertation that slow implementation understood as delayed implementation suggests the lack of national preference in relation to the counter-terrorism measure, one may argue that the overall delays in implementation of counter-terrorism policies indicates that the process of integration and policy-making in the field of counter-terrorism did not reflect the preferences of the member states, but instead that they reflect the wishes of supranational institutions such as the Commission and the ability of the Commission to act as a policy entrepreneur. However, theory on national legal implementation of EU policies indicate that other factors may play an impact, when considering national implementation of EU measures, demonstrating that viewing lacking national implementation as equal to the lack of national preference in the given area, may in fact be incorrect. This aspect, and measurement validity in general will be elaborated in the section concerning methodological and theoretical considerations. First the case of the three hypotheses will briefly be assessed, on the basis of the previous four sections.

Taking as a starting point that the indicators presented in the operationalization capture the theoretical concepts, which they seek to measure, I argue on the basis of this analysis that the case for hypothesis one stating that integration within the field of counter-terrorism in the

period 2001-2005 was path-dependent and was partly a result of agenda setting by EU institutions and exogenous shocks is strong, as the three indicators, slow implementation, agenda-setting by the EU institutions and the growing adoption of counter-terrorism policies proved to be evident. I argue that hypothesis 2 in which it is claimed that the field of counter-terrorism became integrated in the period 2001-2005, because the Commission acted as a policy-entrepreneur also proved to be strong, as the Commission played a particularly strong role and was successful in pushing through policies that previously were stuck, making use of new contexts, adding new policies and thus shaping the direction of the counter-terrorism field. This was shown in the section concerning agenda setting by institutions. Finally hypothesis three stated that the field of counter-terrorism became integrated in the period 2001-2005, because this reflected the national preferences of the member states. The indicators for this hypothesis were agenda setting by the member states and timely implementation of EU policies. As for the first indicator it became evident that the member states did play a role in shaping the development, for instance with the Spanish, Swedish and British proposals. However a number of the proposals were only adopted as non-binding recommendation, demonstrating their weak character. Still the member states set the agenda at times successfully as was seen with the British ideas on radicalization, recruitment and counter-terrorism strategy as well as the Swedish success in limiting the Commission's ideas on data exchange. The implementation record however shows a different case. The implementation of counter-terrorism policies was proven to be characterized by delays, and thus the overall assessment is that the case for hypothesis three is quite weak, and I therefore argue for the disconfirmation of this hypothesis. However, as previously mentioned other variables, which have not been taken into consideration, may have had an impact on the delayed implementation of policies. The next section will deal with this aspect.

Chapter 7

Final Theoretical and Methodological Considerations.

Earlier in this thesis it has been described how David de Vaus, Robert Adcock and David Collier described that the researcher must operationalize the concept, which is to be measured through the use of indicators. In the operationalization I attempted to derive indicators from the concepts under investigation, namely path-dependence, the role of policy-entrepreneurship and member state preferences. All in all I have attempted to capture the essence of the theoretical concepts, but whether or not this is the case can be discussed. As described earlier, Waltz indicated, once a

hypothesis was deemed invalid, the researcher has to reexamine whether it was rightfully derived from the theory. Hypothesis three derived from Liberal Intergovernmentalism was disconfirmed. Particularly the indicator concerning implementation is argued to be problematic, as academic literature on the matter indicates other causes for slow or delayed national implementation of legal acts. Gerda Faulkner, Miriam Hartlapp and Oliver Treib argue that different member states find different factors important when implementing and complying with EU legal acts. They present a typology of “three worlds of compliance”, in which different member states are placed. The typology is considered a filter, which determines which factors are important for the member states (Faulkner, Hartlapp & Treib 2007: 410). The worlds are the “*world of law observance*”, “*world of domestic politics*” and “*world of transposition neglect*”. If a country belongs in the first world transposition will happen in a dutiful manner, in which administrators and politicians have respect for the rule of law, as is the culture. In the second world the transposition process is normally affected by political negotiations among political parties and interests groups, which at times result in adaption and sometimes in resistance. In the last world the process is normally characterized by long periods of inactivity since the administration does not start the transposition process correctly, and the result will normally be non-compliance until intervention by the Commission, which may trigger the process (ibid.: 411). To put it shortly, the theory by Faulkner et. al. stresses the importance of different cultural patterns as oppose to national preferences, when dealing with implementation. Additionally, Risto Lampinen and Petri Uusikylä argue that successful implementation of EU directives is best achieved in member states with stable political cultures and effective and flexible institutional politico-administrative designs, suggesting that criteria for successful implementation of EU directives depends on the political and institutional characteristics of the member states (Lampinen & Uusikylä 1998: 248-249). Furthermore, within Liberal Intergovernmentalism Moravcsik does not deal with the process of implementation, but the process of preference formation on the national level and interstate bargaining at the EU level, which one can argue implies that Liberal Intergovernmentalism is not well suited for describing implementation. All in all the measurement validity in hypothesis three is low, due to implications with this indicator. Historical institutionalism as described by Paul Pierson is likewise not a theory, which deals with implementation of legal acts, and thus it is fair to question whether this indicator is reasonably applied as well. All in all one can argue that examining implementation lowers the measurement validity of the theoretical concepts in question. Furthermore, it is natural to assume that other variables may have affected the process of integration within counter terrorism. One such

variable can be the changing nature of the terrorist threat¹⁶. Lastly, the generalizability of this dissertation as a whole is rather low, as it is a single case study. Thereby not saying that the information generated is useless, as it sheds light on the role of political actors and the impact of large-scale events.

A methodological approach, which could have proven more efficient when testing the validity of Liberal Intergovernmentalism, could be that of process tracing¹⁷. Due to limitations in scope one would have to limit the focus to the bargaining of one or two policies, and examine the process of preference formation at the national level, and the process of inter state bargaining at the EU level within a single member state, step by step. Afterwards, one would be able to assess whether the member state achieved its national preferences. However this approach would undermine the initial aim of this thesis, which was to understand, why the field of counter-terrorism became increasingly integrated in the period 2001-2005, and consequently the most influential actors in that process. Moreover, one may argue that Liberal Intergovernmentalism is not well suited for the study of integration within security-policy as a high-politics field, as it simply was not developed in that context and for that purpose. Instead Moravcsik examined cases, which concerned aspects of economic integration or low-politics. Fritz W. Schampf criticizes Moravcsik's selection of cases. He stresses that it is not surprising that, Moravcsik arrives at the conclusion that the preferences of the national governments shaped the outcome of negotiations, since he only considers cases of intergovernmental negotiations, and the fact that all cases examined have economic integration as their focus. Furthermore he problematizes the fact that all decisions examined require unanimous agreement, leading to the conclusion that the governments' relative bargaining power affected the outcome (Wallace, Caporaso, Schampf & Moravcsik 1999: 165).

An alternative theoretical approach to the study of integration in the field of counter terrorism is the social constructivist approach. Here one would be able to examine the power of the discourse, and assess whether the discourse concerning counter-terrorism may have affected the creation of a common European idea of the terrorist threat, and furthered integration within this area.

¹⁶ See Tucker, D (2001) "What is new about the new terrorism and how dangerous is it?" in *Terrorism and Political Violence* Vol. 13 No. 3 pp. 1-14

¹⁷ See Andersen, Lotte Bøgh, Kasper Møller Hansen & Robert Klemmensen *Metoder I Statskundskab*, (2014) p. 235 for explanation on process tracing.

Conclusion

In the initial years following the terrorist attack in New York on September 11th 2001, counter-terrorism rose in priority and became an issue on the EU's security agenda, and consequently the field became increasingly integrated. In continuation thereof it was the aim of this dissertation to answer the problem statement:

Why did integration within the field of counter-terrorism occur in the period 2001-2005?

Three hypotheses were derived with the aim of answering the abovementioned problem statement deduced from the theories Historical Institutionalism, the multiple streams theory and Liberal Intergovernmentalism. In the first hypothesis the claim was that integration within the field of counter-terrorism in the period 2001-2005 was path-dependent and partly a result of agenda-setting by EU institutions and exogenous shocks in the shape of terrorist attacks, while the second hypothesis argued that the field of counter-terrorism became integrated in the period 2001-2005 because the Commission acted as a policy-entrepreneur. The last hypothesis, deduced from Liberal Intergovernmentalism stated that the field of counter-terrorism became integrated in the period 2001-2005, because this reflected the national preferences of the member states. Firstly, the empirical data in the shape of policy proposals, adopted framework decisions, council decisions, declarations and strategies reinforced the argument that counter-terrorism as a field had become increasingly integrated. Hypothesis one was confirmed, as it was seen that the process of integration proved to be path-dependent, since ideas, policy proposals, including adopted policies at critical junctures, set the course for the development of further policies down the same path – a path which was distinctly different from that of the Union prior to the occurrence of the critical junctures. It was argued that 9/11 and the 2004 Madrid and 2005 London bombings were exogenous shocks, which constituted such critical junctures. It was further argued that the Commission, as a supranational institution, attempted to maximize its own autonomy with the ongoing introduction of new policy proposals. Moreover, the second hypothesis was confirmed, as the Commission successfully managed to act as a policy entrepreneur and get a number of, previously blocked policies through, some of them being the European Arrest Warrant and the Framework Decision on Combating Terrorism adopted in the aftermath of 9/11. A pattern was detected, as many ideas, which were previously on the Commission agenda, were reinvented or rephrased in new contexts and adopted, once a policy window opened as the result of a terrorist attacks. This pattern not only

backed the claim of hypothesis two, but also hypothesis one derived from Historical Institutionalism, as it highlighted the role of supranational EU institutions as bodies seeking to maximize their own autonomy. Lastly, the claim of the third hypothesis appeared weak and thus it was disconfirmed. Although it was shown that the member states did manage to affect the counter-terrorism agenda, the ideas proposed by the member states were often not adopted at the EU level as policies with a legal dimension. As a result of the three hypotheses, one is able to answer the problem statement. The material examined in this dissertation points towards the answer that integration within the field of counter terrorism occurred as a result of the policy-entrepreneurial skills of the Commission, as well as the occurrence of exogenous shocks in the shape of large scale terrorist attacks. It is fair to argue that Stanley Hoffmann's argument that member states would be obstinate to integration within topics of high-politics has proven to be frail, as material examined in this dissertation has shown that in this case, what was needed was a strong Commission and shocking events, which shook the very foundation of the system.

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