

The European Union after November 13th : a new élan for the European security ? 1/5



After the Paris attacks of November 13th that shocked France and Europe, the terror threat, weighting on all the european soil, has reached a level with no precedents.

This threat has invaded all the european countries and particularly France and Belgium. It has proved that the terrorist network has

no barriers and that the phe-

nomenon has a transnational extension : terrorists are european nationals, freely acting on the european soil.

It is mainly for this reason that the European Union action has immediately appeared indispensable : the european and national political actors called the necessity to give a common response to terrorism.

In which way, thus, did the european institutions react after the attacks?

And, which kind of responses did they adopt with regards to the terrorist threat ?

The European Union will be ready to overcome the limits it has to face when acting in relation to security matters ?

After the attacks, the reaction of the Heads of State and of the European Union was immediate, starting from the French President, **François Hollande**.

He immediately showed his will to set up a prompt european response against the terrorist threat. The jihadists, according to Hollande, are not *“only the enemy of France but the enemy of Europe”*.

It is under this perspective that the President, during his discourse in front of the French Parliament in joint session on November 16th in Versailles, invoked the european **mutual defense clause**, envisaging that *“if a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power (...)”*.

A novelty in the entire history of the European construction : for the first time a Head of State calls for a european action in the field of security and defense, by invoking article 42.7 of the treaty of the European Union.

Following this speech, at the Bruxelles meeting of the Foreign Affairs Council of November 17th, the 28 European Countries agreed in principle with the French request.

According to the High Representative of the EU, Federica Mogherini : *"Europe said yes"*.

But, if this seems to be a good starting point for the construction of a european response, the agreement in principle, conceded by the 28, will be put in practice only through bilateral agreements among France and each Member State.

The French President, indeed, did not invoke the **solidarity clause**, that is to say article 222 envisaging that *"the Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or manmade disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States"* . On the contrary, he chose the mutual assistance clause : art 42.7 specifying that it *"shall not prejudice the specific character of the security and defense policy of certain Member States"*.

François Hollande, thus, clearly opted for the most soft and national european security.

Also the European Institutions (Commission, Parliament Council) have nonetheless massively reacted after the attacks.

At first instance, on November 18th, the **Commission** reacted by adopting a package of measures concerning the control of firearms on the european soil, aimed at strengthening the already existing directive. Those measures are designed to make the procurement of firearms harder, to enhance the traceability of legally detained arms and to ensure that the neutralized firearms are inoperative. All this also by strengthening the cooperation and the exchange of information among Member States.

Those proposals had already been presented in the framework of the European Agenda on Security adopted in April. The last events, however, pushed the Commission to accelerate its works. This, according to the words used by Claude Juncker, in order to *"respond to the threat of illegal arms falling into the hands of dangerous terrorists"*.

In front of the transnational nature of the threat, the college of Commissioners acknowledged the necessity to adopt rules and common criteria to improve the european security.

The same day, the Commission announced the setting up of an action plan to fight against the illegal traffic of arms and explosives crack down the black market and the organized crime.

The plan was adopted by the Commission on December 2nd. It envisages the restriction of the access to illegal arms and explosives and the improvement of common rules concerning this specific topic. In order to pursue that, it is indispensable that the Member States efficiently exchange information among them and with countries of the Middle-East, of Northern Africa and the Western Balkans, and that they cooperate under an operational point of view. The strengthening security also in the cyberspace and at the external borders of the European Union are also necessary.

The speeding up of works by the European Commission shows the European will to set up a rapid response to the security problems and to the lack of coordination between Member States.

The lack of security in the European Union has been heavily criticized by some European personalities such as Guy Verhofstadt, head of the ALDE parliamentary group. According to him, the attacks of November 13th represent a proper failure of the European Union and of the European intelligence services. Given the cross-border dimension of the terrorist threat, it is clear that the European intelligence services should not have national borders limits. The European deputy addressed the issue in those terms : *“either we set up a system of mandatory exchange between intelligence services, either we create a European structure”* . The idea of a “European structure” highlights the wish of certain deputies to create a European intelligence service or a European operational center such as a European CIA or a European FBI, but also the wish to better apply and strengthen the already existing tools in the security field.

Those ideas came out also during the meeting of the **LIBE committee** of November 19th : Aguillar, a Spanish deputy of the group S&D, underlined the possibility to create *“a sort of European FBI”*, in order to intercept dangerous people at the European level. In his opinion, it is important that the European Union moves on and faces the terrorist threat through the intelligence tools.

If many support this idea, that will be difficult to achieve in practical terms, other deputies preferred to focus their attention on the strengthening of the already existing European tools in security matters as for example Europol. Together with the promotion of a better coordination for the exchange of information and for the activities of the intelligence services.

This was the major position within the LIBE committee : the deputies, regardless of the diverse political orientations, claimed the necessity of more transnational cooperation and denounced the paralysis of the Member States that, according to Laurentin (S&D), constitute the “Achilles heel” of the European Union.

The deputies, almost at the unanimity, asked for a major European action especially in the control of external borders, as well as in the de-radicalization and prevention programs within the Member States. They reminded the urgency of the conclusion of the European PNR system and the importance to not associate migrants with terrorists, as well as to protect and guarantee the European citizens’ freedoms.

Those remarks have been re-affirmed within the second meeting of the LIBE committee of December 1st. The Socialist deputy, Ana Gomes, reminded the necessity to reinforce the European action and the necessity to re-affirm a real *“political will”* in order to build a solid base for all that, both at the national and at the European level. The German deputy Sippel, coming from the same political group, focused on the fact that the strengthening of the European security should be addressed through the already existing European tools that unfortunately are badly or scarcely used.

Some other deputies such as the French socialist Sylvie Guillaume and the Dutch liberal Sophie in 't Veld asked the Institutions to rapidly achieve an agreement on the European PNR, while others, such as Michael Boni of the EPP, focused on the need of efficient European policies with regards to prevention and de-radicalization.

Those topics have been recalled during the debate in the **EP plenary** session in November 25th. The majority of the MEPs showed their will for more cooperation among the Member States and among the national intelligence services, for the conclusion of the PNR as encouraged by the head of the EPP group, Manfred Weber, who called the European colleagues to react : *"We should not speak, we must act"* .

The head of the S&D group, Gianni Pittella, urged the necessity of *"more Europe"* in order to create greater cohesion among the European countries and the intelligence services. According to him, *"Europe must behave as Europe"*.

Moreover, all this has to be made : first of all in full respect of the fundamental liberties, as stressed by Guy Verhofstadt, who made reference to the PNR ; secondly, without falling into populist messages, as reminded by many deputies among which the Head of the GUE group, Gabi Zimmer.

The MEPs claimed the need of a better judicial and police cooperation among national authorities through Europol and the use of the European tools such as Schengen Information System or a systematic control of the external borders.

The same day, the European Hemicycle adopted by 548 votes to 110 and with 36 abstentions, the resolution drafted by Rachida Dati, concerning the prevention of radicalisation and the recruitment of European citizens by terrorist organisations. This resolution put forward the need that European Member States act in the fight against extremism within the prison environment and on the internet, through means of education and social inclusion.

The deputies also showed an explicit will to establish a *"European black list of suspected jihadists and terrorists"* and to establish a common definition of *"foreign fighters"* in order to be able to prosecute them when they come back to Europe.

At the end of the debate in the Plenary session, the **President of the Italian Republic**, Sergio Mattarella, during his talk in front of the MEPs, called the unity of all the Europeans in order to fight the terrorist threat and violence. According to him, indeed, *"no country is able to face terrorism by itself"* and Europe constitutes the only response, given that *"the European institutions architecture is based on the values of democracy, acceptance and consensus"*

The MEPs clearly turned in the direction of a real common European action, however, it is not possible to achieve it without taking into account the role of the **Council**.

In this regard, the Ministers of Justice and Home Affairs met in Bruxelles on November 20th, in an extraordinary session of the JHA Council, called immediately after the Paris Attacks. Etienne Schneider, Minister of the Home Affairs of Luxembourg, affirmed that *"the European Union had to give a strong and common response about the essential priorities for*

the fight against the terrorist threat, that is trying to settle down in the European Union in a sustainable manner”.

According to him, this meeting allowed the adoption of concrete measures with the aim to *“considerably reinforce our tools to fight against terrorism”.*

The Ministers agreed on 8 principal questions : the PNR, the firearms, the control of external borders, the exchange of information, the financing of terrorism, the judicial response to terrorism and the fight against radicalisation.

PNR : the Council affirmed the necessity to finalize the agreement on the european PNR before the end of the year 2015. In order to make the directive operational and effective, the text has to include intraeuropean flights, a reasonable time of retention, and no limitations to transnational crimes. This instrument is *“indispensable”* especially for the foreign fighters’ monitoring, the French Minister of Home Affairs Cazeneuve affirmed. In addition to this, the Ministers also committed to strengthening the collaboration among Member States and Europol.

Control of external borders : the Council concluded that in order to fight the terrorist threat, it is necessary that *“border controls are not an option, but an obligation”* to be accomplished through the use of instruments such as VIS, SIS and the work of Frontex and Europe. In order to do that, the Ministers invited the Commission to present a proposal to revise the Schengen code and its proposition concerning the Smart Borders package.

Exchange of information : concerning the exchange of information about suspected terrorists between Member States, *“the gaps are clear”*, Etienne Schneider affirmed. This is a serious problem given that *“the Union disposes of effective tools to exchange information concerning certain individuals, as it is the SIS system”.*

The Ministers acknowledged the necessity that the States make full use of those systems such as the Prüm system, allowing the exchange of data as fingerprints or DNA, and that they systematically collaborate with Europol and the European Center for the Fight Against Terrorism, an information platform that will be launched in January 2016.

Financing of terrorism : despite the existence of the directive concerning the fight against the financing of terrorism and money laundering, the Ministers decided that it may be the case to reinforce the collaboration among financial intelligence units.

Judicial response to terrorism : the Council, during the meeting, approved the signature of the European Union to the Council of Europe Convention concerning the prevention of terrorism and the additional protocol relative to foreign fighters, FAITE in Riga the last October 22nd. They also underlined that it is important that Member States exchange criminal records about suspected terrorists and that they use the ECRIS (European Criminal Records Information System) system.

Fight against radicalisation : the Ministers focused their attention on the question of radicalisation and agreed on the need that the Commission proposes the placement of funds

aimed at reinforcing the judicial tools that are necessary to prevent the radicalisation or at promoting programs of reintegration and rehabilitation. According to the French Minister of Justice, Christiane Taubira, this is a *“long-term work to start from now”*.

All the institutions actively responded after the Paris attacks. However, it is not to forget about one of the principal figure, involved in the european fight against terrorism : Gilles de Kerchove, **European Coordinator for the Fight Against Terrorism**.

His speech during the LIBE committee on December 1st underlined the necessity to act by adopting a european approach and showed the weaknesses of the European Union in the security domain, that according to the Lisbon Treaty is not included among the competences of the Union. The recent events in Paris raised three important challenges for the EU :

1. The security of the european citizens
2. The maintenance of Schengen
3. The association among the phenomena of immigration and terrorism

It is by keeping in mind all this that he prompted the european institutions to address appropriate responses concerning the prevention, the repression and the external action of the EU.

If the challenges are many and diverse, the European Institutions have to face some limits in the security field, especially the obstacles imposed by the Member States that have real difficulties to achieve “more Europe” within this specific matters. Matters that are the main important symbols of national sovereignty.

This is evident if we look at the results of the Danish referendum of December 3rd : 53,1 % of the Danish citizens said “no” to the enhancement of the european cooperation in security matters. Denmark refuses to concede more of its sovereignty to the Union and excludes itself even from the cooperation with Europol.

The pursuit of a “european security”, apparently so much desired and so much wished by the political actors, seems to be a pure rhetorical element.

Fernando Pessoa was right : *“we want a Europe speaking with one voice, but also in each language and soul”*.

Emilie Gronelli

(Credit photo telegraph.co.uk)

In the same dossier :

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<https://eurodroits.files.wordpress.com/2015/12/war-to-a-false-god.pdf>

For further information :

Article Eu Logos sur le PNR

<http://europe-liberte-securite-justice.org/2015/09/08/pnr-un-premier-feu-vert-donne-par-le-parlement-europeen-un-compromis-entre-securite-et-droit-a-la-vie-privee-des-nouvelles-pressions-pour-ladoption-du-dossier-apres-lattaque-du/>

<http://europe-liberte-securite-justice.org/2015/09/30/eu-pnr-system-condemned-by-the-european-data-protection-supervisor-lack-of-necessity-and-proportionality-the-system-might-lead-to-a-move-towards-a-surveillance-society/>

Article Eu Logos sur la radicalisation et le rapport Dati

<http://europe-liberte-securite-justice.org/2015/10/22/lutte-contre-la-menace-terroriste-union-europeenne-cherche-une-reponse-politique-et-juridique-commune-face-a-la-radicalisation/>

Works of the LIBE committee

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+IM-PRESS+20151118IPR03209+0+DOC+XML+V0//EN>

Works of the JHA Council of November 20th

<http://www.consilium.europa.eu/en/press/press-releases/2015/11/20-jha-conclusions-counter-terrorism/>

Debate at the plenary session of the EP on November 25th

<http://www.europarl.europa.eu/plenary/en/debate-details.html?date=20151125&detailBy=date>

Debate at the LIBE committee on November 19th

<http://www.europarl.europa.eu/ep-live/fr/committees/video?event=20151116-1500-COMMITTEE-LIBE>

Débat en commission LIBE avec Gilles de Kerchove du 1er décembre

<http://www.europarl.europa.eu/ep-live/fr/committees/video?event=20151201-0900-COMMITTEE-LIBE>

Study of the CEPS: " The EU and its Counter-terroris Policies after the Paris attacks"

<https://www.ceps.eu/publications/eu-and-its-counter-terrorism-policies-after-paris-attacks>

Works of the Commission on firearms

[http://europa.eu/rapid/press-release MEMO-15-6219 fr.htm](http://europa.eu/rapid/press-release_MEMO-15-6219_fr.htm)

[http://europa.eu/rapid/press-release IP-15-6110 fr.htm](http://europa.eu/rapid/press-release_IP-15-6110_fr.htm)