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About the Author

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Abstract

This paper examines the links and dynamics between the counter-terrorism and humanitarian aid policies of the European Union (EU). These policies often target the same areas and are subject to sensitive interactions as one of them is very political and the other, by principle, is not. Thus, it is important to understand to what extent the dynamics between humanitarian aid and counter-terrorism policies contribute to the effective achievement of their respective objectives, and what the impact of these dynamics is on the overall coherence of EU foreign policy.

The paper finds that some of the objectives of the two policies may overlap but the ways in which these objectives are achieved differ. A certain complementarity exists in the prevention of violent extremism and terrorism, field expertise and the capacity of humanitarians to cooperate with local actors. However, contradictions generated by sanctions and the criminalisation of aid as well as the antagonism triggered by the humanitarian principles may cause ineffective or incoherent policies. Finally, the two policies are forced to co-exist on the ground and the EU has to some extent been able to meet some of the challenges but could not achieve coherence.

Introduction: The Challenge of Coherence in EU External Action

In its 2015 Joint Communication on the Regional Strategy against Da'esh, the European Union (EU) for the first time put forward a link between humanitarian aid and counter-terrorism policies:¹ “To prevent more recruitment by Da'esh, as well as future violence in and between displaced populations and host communities (...) humanitarian efforts must be linked with the affected person's longer-term development needs as a means to (...) counter potential extremism amongst refugee populations and host communities.”² This Communication introduced the idea that humanitarian aid, which is supposed to be independent and neutral, could help in the fight against extremism. While this strategy, subsequently adopted by the Council, does state that humanitarian aid is not subordinate to the EU's external action, such statements have created a debate within the humanitarian community.³

This paper focuses on the dynamics between counter-terrorism and humanitarian aid policies. Humanitarian aid, in its modern sense, has been understood as “the impartial, independent and neutral provision of aid to those in immediate danger”.⁴ More precisely, the EU defines it as:

Providing needs-based humanitarian assistance to the people hit by man-made and natural disasters with particular attention to the most vulnerable victims. Aid is channelled impartially to the affected populations, regardless of their race, ethnic group, religion, gender, age, nationality or political affiliation.⁵

Terrorism, on the other hand, is a more complex concept to define as it can encompass a wide variety of acts. This paper is based on Richards' definition of terrorism as “the use of violence or the threat of violence with the primary purpose of generating a psychological impact beyond the immediate victims or object of attack for a political

¹ European Commission and High Representative, *Elements for an EU regional strategy for Syria and Iraq as well as the Da'esh threat*, JOIN/2015/0002, Brussels, 6 February 2015.

² *Ibid.*, p. 13.

³ Council of the European Union, “Press release: Council conclusions on the EU regional strategy for Syria and Iraq as well as the ISIL/Da'esh threat”, Brussels, 16 March 2015.

⁴ *Ibid.*, p. 5.

⁵ European Commission, “Factsheet: Humanitarian Aid”. Retrieved 13 April 2022, https://ec.europa.eu/echo/what/humanitarian-aid_en.

motive".⁶ It should be stressed that the EU has not clearly defined terrorism, but often labels actors as terrorists. Indeed, the notion of terrorism is very political, opposed to the definition of humanitarian aid.⁷

Given that the EU is one of the largest donors of humanitarian aid in the world⁸ and that it seeks to become an important player in the global fight against terrorism,⁹ an analysis of the interaction of these policies is highly relevant. Moreover, since these policies often target the same areas and because the EU aims at an integrated and comprehensive approach,¹⁰ they face growing interactions. Thus, the dynamics that link them is a major challenge for European ambitions.¹¹

As the study focuses on the dynamics of two policies, the question of coherence arises. Coherence can be understood as "the absence of contradiction between policies"¹² and has been enshrined in Article 21 (3) of the Treaty on the European Union (TEU) which states that: "The Union shall ensure consistency between the different areas of its external action and between these and its other policies."¹³ The paper therefore seeks to answer the following questions: To what extent contribute the dynamics between humanitarian aid and counter-terrorism policies to the effective achievement of their respective objectives? What is the impact of these dynamics on the overall coherence of EU foreign policy?

The paper argues that the dynamics between EU humanitarian aid and counter-terrorism policies are partially effective and coherent regarding the objectives of EU counter-terrorism policy, yet not effective and coherent when it comes to the EU's humanitarian

⁶ Andrew Richards, "Defining Terrorism", in Andrew Silke (ed.), *Routledge Handbook of Terrorism and Counterterrorism*, London, Routledge (2019), p. 13.

⁷ Bruce Gregor, "Definition of Terrorism: Social and Political Effects", *Journal of Military and Veterans' Health* 21.2 (2013), p. 26.

⁸ European Commission, "Factsheet: Humanitarian Aid", *op. cit.*

⁹ Erik Brattberg and Mark Rhinard, "The EU as a Global Counter-terrorism Actor in the Making", *European Security* 21.4 (2012), p. 557.

¹⁰ European External Action Service, *Shared Vision, Common Action: A Stronger Europe – A Global Strategy for the European Union's Foreign and Security Policy*, Brussels, 2 June 2016, p. 21.

¹¹ European External Action Service, "Making the EU a global player", Brussels, 4 February 2021.

¹² Clara Portela and Kolja Raube, "(In-)Coherence in EU Foreign Policy: Exploring Sources and Remedies", *European Studies Association*, Los Angeles, April 2009, p. 3.

¹³ European Union, "Consolidated Version of the Treaty on European Union and the Treaty on the Functioning of the European Union", *Official Journal of the European Union*, C326/13, 26 October 2012, Article 21 (3) TEU. (hereafter "Lisbon").

aid objectives. Thus, this paper first identifies the objectives of these two policies in the official EU texts and their interactions. Finally, the implementation of these policies and different dynamics are then analysed.

Analytical Framework

Humanitarian aid and counter-terrorism policies are distinct European policies that are subject to interplay. Humanitarian aid is an external policy which aims to provide rapid assistance in areas outside the EU affected by the occurrence of natural or man-made disasters.¹⁴ Like development aid, humanitarian aid falls within the scope of parallel competence, meaning that the EU can exercise its competences without prejudice to the competences of other member states.¹⁵ The EU therefore has a duty of coordination and complementarity when carrying out its actions with the member states. Article 214 of the Treaty on the Functioning of the European Union (TFEU) provides the legal basis for humanitarian aid and Article 21 TEU, defining the EU's external action goals, specifies the presence of humanitarian aid in it.¹⁶

The rules governing the delivery of humanitarian aid are defined in a Council Regulation of 1996¹⁷ and the strategic objectives and principles of humanitarian aid are defined in the 2008 European Consensus on Humanitarian Aid.¹⁸ The main goal is to save lives, alleviate suffering and preserve human dignity. This consensus recalls the four humanitarian principles: humanity, by acting with respect for the dignity of all victims; neutrality, by not favouring any side in the conflict; impartiality, by giving aid on the basis of needs without discrimination; and independence, by acting independently of political, economic, military, or other objectives.¹⁹ The EU is an important provider of humanitarian

¹⁴ European Union, "Lisbon", *op. cit.*, Article 214 TFEU.

¹⁵ *Ibid.*, Article 4(4) TFEU.

¹⁶ *Ibid.*, Article 21 TFEU.

¹⁷ Council of the European Union, "Council Regulation (EC) n° 1257/96 concerning humanitarian aid", *Official Journal of the European Union*, L163/1, Brussels, 20 June 1996.

¹⁸ European Council, Council of the European Union, European Parliament, European Commission, "European Consensus on Humanitarian Aid." *Official Journal of the European Union*, 2008/C 25/01, 30 January 2008.

¹⁹ *Ibid.*, paragraphs 11, 12, 13, 14.

aid in the world, but only acts through its partners such as non-governmental organisations (NGOs), United Nations (UN) agencies and international organisations.²⁰

The EU's legal basis for a counter-terrorism policy is more complex, as it is the external expression of an internal EU policy. One of the main legal basis is Article 83 TFEU which states that terrorism is a form of crime,²¹ but it is important to remember that Article 4(2) TEU states that "national security remains the sole responsibility of each Member State".²² Counter-terrorism policy and its external aspects fall not only under the Area of Freedom, Security and Justice (AFSJ) but also the Common Security and Defence Policy (CSDP), particularly regarding sanctions, as stated in Article 215 TFEU.²³

The EU has developed its counter-terrorism commitments and presence in line with terrorist events in Europe, acting as a policy entrepreneur. This evolution clearly distinguishes counter-terrorism policy from humanitarian aid as the former is a more recent policy, whereas the latter already has a long history.²⁴ These two policies are quite distinct and have their own particularities regarding legal competences and actors involved, raising the question of consistency and effectiveness when used in parallel.

In the EU, coherence is often understood as consistency. Indeed, Article 21(3) TEU states that: "The Union shall ensure consistency between the different areas of its external action and between these and its other policies".²⁵ However, a nuance can be made, since consistency is defined as the absence of contradiction, whereas coherence seeks to reach the synergy of policies.²⁶ Moreover, the link between effectiveness and coherence is clear, since without coherence, ineffectiveness increases considerably. Coherence can have different dimensions such as internal, vertical, and horizontal.²⁷ Coherence and consistency can be internal, which means that "within the CFSP and the external action

²⁰ European Commission, "DG EHO Partner's". Retrieved 11 April 2022, <https://www.dgecho-partners-helpdesk.eu>.

²¹ European Union, "Lisbon", *op. cit.*, Article 83 TFEU.

²² *Ibid.*, Article 4(2) TEU.

²³ *Ibid.*, Article 215 TFEU.

²⁴ Ivica Stehlíková, "The development of the European Union counter-terrorism framework", *Security and Defence Quarterly* 1.2 (2013), p. 41.

²⁵ European Union, "Lisbon", *op. cit.*, Article 21(3) TEU.

²⁶ Clara Portela, "Conceptualizing Coherence in EU External Action", in *The External Action of the European Union: Concepts, Approaches, Theories*, eds. Gstöhl Sieglinde and Simon Schunz. (London: Red Globe Press, 2021), p. 88.

²⁷ Marina Tovar Velasco, "Coherence in the Union's External Action", Institute for a Greater Europe, 19 September 2021.

[...] the procedures and the internal dimensions of the policy follow the same direction".²⁸ Coherence can be vertical, such as 'speaking with one voice' on behalf of all member states.²⁹ Finally, coherence can be horizontal when two policies 'do not contradict each other' and operate in synergy.

Effectiveness can be understood as goal attainment.³⁰ Schunz has proposed a framework for the analysis of effectiveness. It seeks first "to identify the objectives of the EU in the given policy, [then] to match objectives with output and outcomes, to trace EU's external action [and] to determine the degree of EU's external effectiveness".³¹ Inspired by Schunz's framework, this paper identifies the objectives of the two EU policies in official documents, then seeks to observe the concrete results of their interactions in the EU's external action and finally assess the effectiveness of the coherence of one policy with regard to the other. The framework of this paper is thus not about assessing the effectiveness of one policy, but the interaction of two policies.

Since academic resources are scarce on this topic, this study relies predominantly on EU official documents and declarations, as well as a dozen interviews and research reports from think tanks and NGOs.

Humanitarian Aid and Counter-terrorism Policies: Conflicting or Common Objectives?

This section will first analyse the objectives in the official documents specific to each policy. The presence of these objectives in the strategic documents for external action will then allow to evaluate their interaction in terms of common, divergent, or conflicting interests.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ Simon Schunz, "Analysing the effectiveness of European Union external action", in Gsthöhl Sieglinde and Simon Schunz (eds), *The External Action of the European Union: Concepts, Approaches, Theories* (London: Red Globe Press, 2021), pp. 139-140.

³¹ *Ibid.*

Differences and Intersections between Policy Objectives

The two policies appear, at first sight, to be opposed in every respect. Based on the objectives listed in the 2017 Directive on combating terrorism,³² the 2020 Council Conclusions on EU external action concerning the prevention and combating of terrorism and violent extremism,³³ the 1996 Council Regulation³⁴ as well as the 2008 European Consensus on Humanitarian Aid,³⁵ there are several elements that link these two policies.

The main point of convergence lies in the return to peace and stabilisation. Indeed, the 2020 Council Conclusions on Preventing and Countering Terrorism and Violent Extremism discuss cooperation with humanitarian aid as one of the tools for stabilisation:

Together with broader diplomatic, development, security and humanitarian efforts, working as a stabilizing actor in the EU's neighbourhood and beyond, the EU and Member States external action represents an essential instrument for promoting the EU's interests and values on the global stage and for safeguarding the way of life of its citizens.³⁶

The first words, 'together with', suggest that not only does the EU in its fight against terrorism intend to work alongside stabilising actors, including those in humanitarian aid, but also that, by extension, it intends to be fully involved as a means of stabilising the EU's external action. In the Consensus on Humanitarian Aid this idea of humanitarian aid as a stabilising effect is also reflected,³⁷ but it does not directly mention the other policies, besides development. It only specifies that the EU should draw as much as possible on other instruments to stabilise a fragile situation, of which the fight against terrorism is an indirect part.

³² Council of the European Union, "Directive (EU) n° 2017/541 on combating terrorism", *Official Journal of the European Union* L88/6, Brussels, 31 March 2017.

³³ Council of the European Union, *Council Conclusions on EU External Action on Preventing and Countering Terrorism and Violent Extremism* (8868/20), Brussels, 16 June 2020.

³⁴ Council of the European Union, "Council Regulation (EC) n° 1257/96 concerning humanitarian aid", *op. cit.*

³⁵ European Commission, "European Consensus on Humanitarian Aid", *op. cit.*

³⁶ Council of the European Union, *Council Conclusions on EU External Action on Preventing and Countering Terrorism and Violent Extremism*, *op. cit.*, p. 2.

³⁷ European Commission, "European Consensus on Humanitarian Aid", *op. cit.*, p. 4.

A second key point of convergence are human rights and international humanitarian law, as both policies place their reinforcement at the heart of their action and both attempt to address human gravities at different levels.³⁸ While the European Consensus advocates “strongly and consistently for the respect of International Law, including International Humanitarian Law (IHL), Human Rights Law and Refugee Law”,³⁹ the Council Conclusions stress “the importance of a criminal justice approach to terrorism and the need to strengthen the human rights-compliant criminal justice chain worldwide [...] in compliance with the relevant international law, including international human rights law, international refugee law and international humanitarian law”.⁴⁰ Furthermore, both policies help protect the civilian population as IHL prohibits acts of terrorism, and humanitarian aid seeks to reduce suffering.⁴¹

Although several objectives would appear to be compatible between humanitarian aid and counter-terrorism policies, there are also many divergent objectives. While both seek stabilisation of fragile areas and respect for human rights, humanitarian aid seeks to “provide needs-based emergency assistance to save lives, prevent and alleviate human suffering, and preserve human dignity”,⁴² while counter-terrorism policy seeks to “protect EU citizens against terrorism and violent extremism in all their forms and irrespective of their origin”.⁴³

Another important difference resides in the very nature of humanitarian aid, which respects the four principles of impartiality, independence, neutrality, and humanity.⁴⁴ They clearly distinguish this policy from crisis management. Humanitarian aid should not be politicised and independent “from political, economic, or military objectives”.⁴⁵ Indeed, the fight against terrorism is not only about fighting a designated enemy, distinguishing it from humanitarian aid that does not discriminate when providing aid, but is also eminently political by placing the EU on the chessboard of a conflict, taking sides.

³⁸ Interview 2, video conference, 04/03/2022.

³⁹ European Commission, “European Consensus on Humanitarian Aid”, *op. cit.*, p. 2.

⁴⁰ Council of the European Union, *Council Conclusions on EU External Action on Preventing and Countering Terrorism and Violent Extremism*, *op. cit.*, p. 7.

⁴¹ Interview 2, video conference, 04/03/2022.

⁴² European Commission, “European Consensus on Humanitarian Aid”, *op. cit.*, p. 2.

⁴³ European Commission, *Communication from the Commission on the EU Security Union Strategy* (COM/2020/605), Brussels, 27 July 2020, p. 37.

⁴⁴ European Commission, “European Consensus on Humanitarian Aid”, *op. cit.*, p. 2.

⁴⁵ *Ibid.*

This distinction in the objectives and principles surrounding the implementation of these policies is fundamental to understand the existing dissension in the dynamics of these two policies.

Other distinctions can be made, such as the internal and external aspect of the fight against terrorism,⁴⁶ while humanitarian aid is, in principle, only deployed outside European borders.⁴⁷ Furthermore, the EU works exclusively through its partners to deliver humanitarian aid,⁴⁸ whereas the fight against terrorism is conducted mainly by European actors through civilian and military operations or sanctions as well as by member states.⁴⁹ However, there are similarities such as the actors with whom both policies work, namely the United Nations, and the willingness to engage at the local and multilateral levels.⁵⁰ In addition, among the EU's humanitarian aid objectives, morale and solidarity are essential elements,⁵¹ whereas in the fight against terrorism solidarity is quite different. Indeed, for the latter it is essentially a question of solidarity between member states at the internal level, particularly when a terrorist act takes place on European territory.⁵² Finally, while the EU chooses the areas of intervention in the fight against terrorism, the EU acts not where its interests are but where the needs are when it comes to humanitarian aid.⁵³

Interaction of the Two Policies in the EU's Foreign Policy Strategies

There have been two main foreign policy strategies, the 2003 European Security Strategy⁵⁴ and its successor, the 2016 Global Strategy for the European Union's Foreign and Security Policy (EUGS).⁵⁵ Through a comparative analysis of the place of these two policies in the EU's external action strategies, it is possible to examine the evolution of the perception of foreign threats, the EU's priorities, strategic objectives, and the political

⁴⁶ European Council, *The European Union Counter-Terrorism Strategy* (14469/4/05), Brussels, 30 November 2005, p. 6.

⁴⁷ European Commission, "European Consensus on Humanitarian Aid", *op. cit.* p. 4.

⁴⁸ European Commission, "DG EHO Partner's", *op. cit.*

⁴⁹ Council of the European Union, "The EU's response to terrorism", *op. cit.*

⁵⁰ European Council, "The European Union Counter-Terrorism Strategy", *op. cit.*, p. 4.

⁵¹ European Commission, "European Consensus on Humanitarian Aid", *op. cit.*, p. 1.

⁵² European Union, "Lisbon", *op. cit.*, Article 222(3).

⁵³ European Commission, "European Consensus on Humanitarian Aid", *op. cit.*, p. 1.

⁵⁴ Council of the European Union, *European Security Strategy, A secure Europe in a better world*, Brussels, 2003.

⁵⁵ European External Action Service, *A Global Strategy for the European Union's Foreign and Security Policy*, Brussels, 2016.

implications for the EU. In 2003, the main threats identified were terrorism, the proliferation of weapons of mass destruction, regional conflicts, state failure and organised crime.⁵⁶ The strategic objectives were to address these threats by building security in the neighbourhood and promoting multilateralism.⁵⁷ To this end, the Strategy recommended developing European capabilities and establishing strategic partnerships, but it did not provide clear indications on how to achieve them.⁵⁸ In 2016, the threats were more numerous and included “terrorism, hybrid threats, economic crises, climate change, energy insecurity, violent conflict, cyber security, disinformation, fragile states, cross-border crime and weapons of mass destruction”.⁵⁹ As the threats have evolved, so did the strategic priorities, with five focuses: “the security of the Union, the resilience of states and societies in the East and South, the integrated approach to conflicts and crises, the cooperative regional orders (and) the global governance for the 21st century”.⁶⁰

It is interesting to note that from 2003 to 2016, the actions have become more concrete, but also that there is more synergy between the different instruments. Indeed, the idea of coherence and effectiveness through greater cooperation has gained traction from 2003 onwards and culminated in the idea of an integrated approach in the EUGS in 2016.⁶¹ In 2003, the approach was more sequential and less integrated. However, the importance of adapting to each situation through a coherent use of external action instruments had already been stressed.⁶²

With the Lisbon Treaty of 2009, the idea of coherence of external action became more prominent.⁶³ It was embodied in the new concept of a comprehensive approach in 2013.⁶⁴ This comprehensive approach aims to make common and shared use of the tools and instruments available to the EU in the short, medium and long term, but also in prevention. In 2016, the increasingly complex and long-lasting nature of crises has pushed

⁵⁶ Council of the European Union, *European Security Strategy*, op. cit., pp. 30-32.

⁵⁷ *Ibid.*, p. 34.

⁵⁸ *Ibid.*, p. 22.

⁵⁹ European External Action Service, *A Global Strategy for the European Union's Foreign and Security Policy*, op. cit., p. 20.

⁶⁰ *Ibid.*, pp. 9-10.

⁶¹ *Ibid.*, p. 28.

⁶² Council of the European Union, *European Security Strategy*, op. cit., p. 41.

⁶³ European Union, “Lisbon”, op. cit., Article 21(3) TEU.

⁶⁴ European Commission and High Representative, *The EU's comprehensive approach to external conflict and crises*, JOIN/2013/30, Brussels, 11 December 2013.

the EU to address them in a more integrated way at 'multidimensional', 'multiphase', 'multi-level' and 'multilateral stages'.⁶⁵ The ambition of this approach is to promote coherence and complementarity between the different areas of the EU's external action, including humanitarian aid.

Table 1 compares the presence of humanitarian aid and counter-terrorist policies in the EU's strategies. Although terrorism is no longer one of the three most repeated words in the EUGS compared to the 2003 Security Strategy, one element stands out as new in the 2016 strategy: the notion of an integrated approach.

Table 1: Recurrence of selected terms in the 2003 and 2016 strategies

	Security Strategy (2003)	Global Strategy (2016)
Security	84	149
Terrorism	21	32
Peace	19	60
Trade	15	27
Defence	12	57
Humanitarian	8	12
Migration	4	26
Resilience	0	36
Diplomacy	0	31
Human Rights	0	31
Integrated approach	0	15

Source: compiled by the author.

More precisely, in 2016 humanitarian aid is repeatedly addressed through or with several other policies compared to 2003, particularly with regard to resilience.⁶⁶ This can be explained by the rise of the comprehensive and then integrated approaches. In the case of terrorism, in 2003 the term was mentioned as an amplifier of pre-existing threats such as failed states but remained a security issue and was often reduced to justice and home

⁶⁵ European External Action Service, *A Global Strategy for the European Union's Foreign and Security Policy*, *op. cit.*, p. 28.

⁶⁶ *Ibid.*, p. 30.

affairs.⁶⁷ In 2016, terrorism appears on numerous occasions in policies, notably the neighbourhood but also stabilisation policies, reflecting the evolution of counter-terrorism policy towards an anticipatory logic, where the prevention component introduces more connections with other policies.⁶⁸ Therefore, the evolution of strategies suggests that the dynamics and interactions between these policies are bound to increase in practice. However, neither in 2003 nor in 2016 are humanitarian aid and counter-terrorism policies mentioned together or with a common objective.

Implementation: Complementarity or Contradictions?

In the implementation of their objectives, policies come together through dynamics challenging the coherence of the EU's external action and the effectiveness in meeting their objectives. The analysis of the dynamics and the influence of one policy on the other is a complex matter and has not been analysed at the EU level. In order to explain them, this part is mainly based on interviews with EU officials and aid workers.⁶⁹

Complementarity: The Positive Effect of Humanitarian Aid in Preventing and Responding to Extreme Violence and Terrorism

A first element of complementarity between the two policies is that of prevention. While instability and misery are aggravating factors for violent extremism, humanitarian aid, through its action, helps minimise the effects of an environment favourable to extremism.⁷⁰ Indeed, an environment of strong political and social destabilisation is conducive to violent extremism⁷¹ although the causes of terrorism can also be "rational optimising behaviour, as a political existential good, or as a legacy of history".⁷² A report

⁶⁷ Council of the European Union, *European Security Strategy*, op. cit., p. 13.

⁶⁸ European External Action Service, *A Global Strategy for the European Union's Foreign and Security Policy*, op. cit., p. 24.

⁶⁹ For an application of this analytical framework to concrete cases, see Lucie Deffenain, *The European Union's External Action Walks a Tightrope. The Challenge of Balancing Dynamics between Humanitarian Aid and Counter-terrorism Policies. Case Studies from Syria and the Sahel*, Master's Thesis (Bruges: College of Europe, 2022).

⁷⁰ Interview 2, video conference, 04/03/2022.

⁷¹ Eelco Kessels and Christina Nemr, "Countering violent extremism and development assistance", *Policy Brief*, Washington, DC, *Global Center on Cooperative Security*, 2016, pp. 4-5.

⁷² Juliet U. Elu and Gregory N. Price, "The causes and consequences of terrorism in Africa", in Célestin Monga and Justin Yifu Lin (eds), *The Oxford Handbook of Africa and Economics* (Oxford: Oxford University Press, 2015), p. 735.

by the International Committee of the Red Cross (ICRC) in 2017 emphasises that the promotion of international humanitarian law and its values as well as education-related activities can contribute to the fight against extremism.⁷³ Thus, the promotion of values and humanitarian law offers a different approach to that of terrorist groups and is therefore a preventer of extremism.⁷⁴

However, the Norwegian Refugee Council points out that the activities related to indiscriminate violence and the promotion of IHL, particularly in prisons, can provoke a problem of perception of humanitarian aid work and generate confusion about the very principles of aid: "programmes developed on the assumption that certain communities are more likely to support violent extremism based on their religion, geographical location or other factors clearly contradict the principle of impartiality".⁷⁵ Humanitarian aid can then engage in such activities, but a distinction remains necessary to preserve the aid's principles. It should be emphasised that there is a difference between donors, such as the EU, and actors, such as the ICRC, in the obligation to respect these humanitarian principles. On the one hand, humanitarian actors must act in strict compliance with the principles for security, access and reputation reasons.⁷⁶ Donors can commit to these principles, such as the EU, by striving to neutrality on a voluntary basis.⁷⁷

It is also necessary to underline that the context in which aid is provided, especially in case of unfavourable narratives towards Western donors, could lead to criticism of Western aid and thus contribute to the radicalisation of some individuals. Furthermore, humanitarian aid can address the damage created by the terrorist groups' policies, hence indirectly removing the responsibility for their role.⁷⁸ Finally, the idea of long-term reintegration remains essential as short-term or insufficient help can lead some individual to radicalise.⁷⁹

⁷³ International Committee of the Red Cross, "Preventing and countering violent extremism", *Background note and guidance for national Red Cross and Red Crescent Societies*, Geneva, June 2017, p. 5.

⁷⁴ Luke Kelly, "Evidence on the Indirect Contribution of Humanitarian Activities to Deradicalisation and Countering Violent Extremism (CVE) and the Risks in Linking such Objectives or Activities", *K4D Helpdesk Report 625 Institute of Development Studies*, Brighton, 13 June 2019, pp. 4-5.

⁷⁵ The Norwegian Refugee Council, "Principles Under", *op. cit.*, pp. 18-19.

⁷⁶ Interview 7, video conference, 06/04/2022.

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

⁷⁹ Luke Kelly, *op. cit.*, p. 4.

Humanitarian actors' field expertise is an element that can be seen as complementary to counter-terrorism policy and to the EU's external action in general. With 5 regional offices, more than 50 field offices in over 40 countries, 153 international experts and 259 national staff members in December 2022, DG ECHO benefits from a strong field expertise.⁸⁰ Indeed, humanitarian aid expertise significantly improves the work of counter-terrorism officials by analysing situations on the ground or by monitoring the consequences of counter-terrorism policies on the humanitarian field,⁸¹ but also by having access to areas that other actors cannot enter.⁸² Not only does this provide downstream analysis, but the expertise of DG ECHO and its partners contributes to the drafting of counter-terrorism policy strategies and is consulted upstream.⁸³ The European Commission and the EEAS also benefit from the detailed assessment of DG ECHO experts in the programming phase of their Conflict Analysis Screening and create coherence through early warning.⁸⁴

Not only can humanitarian aid improve counter-terrorism policy through its field expertise, but also through its ability to engage with local actors. Whether in the domain of counter-terrorism or humanitarian aid policies, or even in the global vision of the integrated approach, the interviews conducted have highlighted the need for cooperation with local actors. Indeed, it has become necessary to view European policies not only from a Eurocentric perspective, but also to integrate the local perception of needs.⁸⁵ This perception, which is highlighted by the post-colonial theory of decentring, aims to shift the focus in order to adapt the EU's actions.⁸⁶ In this respect, DG ECHO provides real expertise as it essentially works with partners. Although its partners are usually the same, and are the most well-known Western NGOs or organisations, humanitarian aid has a local and field-based culture and follows the principle of impartiality. This ability to engage with non-state and non-traditional actors could be one of the future options in

⁸⁰ European Commission, "Field network", *op. cit.*

⁸¹ Interview 3, Staff member of the CTC Office, Brussels, 29/03/2022.

⁸² *Ibid.*

⁸³ Interview 6, EU official, video conference, 31/03/2022.

⁸⁴ Interview 8, EEAS Official, video conference, 11/04/2022.

⁸⁵ Interview 6, EU Official, video conference, 31/03/2022; Interview 8, EEAS Official, video conference, 11/04/2022.

⁸⁶ Stephan Keukeleire and Sharon Lecocq, "Operationalizing the Decentring Agenda: Analysing European Foreign Policy in a Non-European and Post-Western World", *Cooperation and Conflict* 53. 2 (2018), pp. 277-295.

the fight against terrorism.⁸⁷ Indeed, engaging with religious elites would be fundamental in the fight against extremism, since in failed states, the credible actor is often not the state but the religious referent.⁸⁸ For example, the EU has already been able to cooperate on humanitarian aid with Caritas Internationalis of the Catholic Church or the Aga Kahn Development Network of the Shiite Ismaili Islam.⁸⁹

These complementarities seem to be more in the interest of the counter-terrorism policy, which benefits indirectly and involuntarily from the humanitarian aid policy. These complementarities also seem to improve the coherence of the EU's external action as they allow for reflection on the improvement of its policies, particularly in the area of counter-terrorism policy. However, there are many contradictions that undermine this initial complementarity, particularly regarding the effectiveness of humanitarian aid.

Contradictions: The Impact of Counter-terrorism Policy on Effective Humanitarian Action

The interaction of the two policies can create complementarities but also contradictions with regard to the consequences of counter-terrorism policies on humanitarian aid in particular. While many tools are used to tackle terrorism, sanctions are the most problematic regarding humanitarian aid. Since they come in different forms, they each have direct and indirect impacts on the proper functioning and effectiveness of humanitarian aid, despite the possibility of exceptions.

Several types of sanctions exist as an instrument of the Common Foreign and Security Policy (CFSP). These sanctions can be targeted at governments, certain entities, groups or organisations, terrorists or persons who support or take part in terrorist activities. These sanctions are regulated by Articles 25, 29 and 31 TEU.⁹⁰ In its broadest sense, sanctions include arms embargoes, restrictions on admission to EU territory, freezing of assets and the prohibition of making funds available to entities, or economic sanctions related to specific sectors of activity.⁹¹ Counter-terrorism sanctions are one of the least used types

⁸⁷ Interview 4, Advisor to the EU CTC, Brussels, 29/03/2022.

⁸⁸ *Ibid.*

⁸⁹ European Parliament, "EU and faith-based organizations – development and humanitarian aid", *Briefing EU policies insight*, Brussels, 8 November 2017.

⁹⁰ European Union, "Lisbon", *op. cit.*, Article 25, 29 and 31 TEU.

⁹¹ Council of the European Union, "Different types of sanctions". Retrieved 22 April 2022. <https://www.consilium.europa.eu/en/policies/sanctions/different-types>.

of sanctions, representing only 5% of EU sanctions in 2021.⁹² However, asset freezes and arms embargoes account for more than half of the measures⁹³ and since the fight against terrorism also requires a stable environment and the control of arms' flow, almost all sanctions can indirectly address the fight against terrorism.

There are two specific categories of sanctions to fight terrorism: the restrictive measures with respect to the Islamic State of Iraq and the Levant (Da'esh) and Al-Qaida adopted by the UN and the EU, and the specific measures adopted by the EU. In the first case, the UN adopted restrictive measures against the Taliban through its Resolution 1267⁹⁴ and against Al-Qaida and other individuals, groups, undertakings and entities associated with them by its resolution 1390.⁹⁵ These sanctions were subsequently amended in 2011 and 2015, to distinguish between sanctions against Al-Qaida and those against the Taliban, specifically targeting Afghanistan,⁹⁶ but they were also extended to all companies and entities associated with Da'esh.⁹⁷ Finally, the EU can apply other restrictive measures against entities linked to Da'esh and Al-Qaida.⁹⁸ A Council Common Position allows for the freezing of assets and a prohibition on making funds or resources available to persons involved in terrorist activities on an autonomous basis, and this decision is reviewed every six months.⁹⁹

Finally, it is also worth adding that while multilateral organisations such as the EU and the UN can implement sanctions, other types of actors such as EU member states, host country governments and other states can institute their own policies, by restricting or by

⁹² Francesco Giumelli, Fabian Hoffmann, and Anna Książczaková, "The when, what, where and why of European Union sanctions", *European Security* 30, no. 1 (2021), pp. 12-13.

⁹³ *Ibid.*

⁹⁴ Security Council Committee, "Resolutions 1267 (1999) 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh) Al-Qaida and associated individuals groups undertakings and entities", S/RES1267, 15 October 1999.

⁹⁵ Security Council Committee, "Resolutions 1267 (1999) 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh) Al-Qaida and associated individuals groups undertakings and entities", S/RES1390, 16 January 2002.

⁹⁶ Security Council Committee, "Resolution S/RES1267", *op. cit.*

⁹⁷ *Ibid.*

⁹⁸ Council of the European Union, "Different types of sanctions", *op. cit.*

⁹⁹ Council of the European Union, "Council Implementing Regulation (EU) n° 2022/147 implementing Article 2(3) of Regulation (EC) n° 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulation (EU) n° 2021/1188", *Official Journal of the European Union*, L25/1, Brussels, 3 February 2022.

implementing executive and judicial legislation.¹⁰⁰ The role of banks and donors is also important, as they enable the delivery of aid and can also be affected by sanctions.¹⁰¹

Sanctions, of various types, have direct and indirect consequences on effective humanitarian aid action such as legal, operational, financial, reputational and security impacts. The consequences are first and foremost legal and judicial, as humanitarian staff of organisations may face a violation of restrictive measures against terrorism as they might be suspected of supporting terrorist groups, whether financially, materially or for medical assistance.¹⁰² For instance, in Mali, Syria or Somalia, actors may be seen as being affiliated with Al-Qaida, and may be threatened with sanctions by certain states, such as the United States.¹⁰³ According to IHL, organisations working on humanitarian grounds should not be subject to such pressure or sanctions, but some states use pressure to discourage humanitarians.¹⁰⁴

This legal aspect has operational and financial consequences, as to avoid being sanctioned, NGOs have to take more precautions, like hiring specialist lawyers.¹⁰⁵ Not only does this discourage some organisations from going to certain areas of conflict, but it also privileges the well-known and big organisations. This leads to a tendency of self-censorship and fear of the restrictive environment and potential liabilities, the so-called chilling effect.¹⁰⁶ This chilling effect was seen in Somalia, where UNSC resolution 1844 imposed sanctions against al-Shabaab, which controlled Somali territory, and it included criminalising the provision of resources and material support.¹⁰⁷ In addition, the chilling effect can have an impact on the quality and effectiveness of aid through donor conditionality, resulting in additional staff to draft monitoring reports, or limiting access to certain areas through “no-go zones”.¹⁰⁸ For example, in the case of Syria and Iraq, organisations have turned down \$14 million and \$3.3 million respectively because the

¹⁰⁰ Interview 7, video conference, 06/04/2022.

¹⁰¹ *Ibid.*

¹⁰² Interview 5, video conference, 31/03/2022.

¹⁰³ Alice Debarre, “Countering Terrorism and Violent Extremism: The Risks for Humanitarian Action”, in *Extremisms in Africa 2*, Byanston: Jonathan Ball Publishers (2019), p. 202.

¹⁰⁴ *Ibid.*

¹⁰⁵ Interview 5, video conference, 31/03/2022.

¹⁰⁶ Interview 7, video conference, 06/04/2022.

¹⁰⁷ Mark Bradbury, “State-building, Counterterrorism, and licensing Humanitarianism in Somalia”, *Feinstein International Center Briefing Paper*, September 2010, p. 13.

¹⁰⁸ Interview 5, video conference, 31/03/2022.

donor's demands were too high.¹⁰⁹ But these restrictions may also prevent humanitarian work as members of key companies may be under sanctions, such as Cham Wings Airlines and the mobile phone group SyriaTel in Syria.¹¹⁰ Sanctions create additional unexpected costs on programmes and operations but also create a decrease in grants as donors themselves may become reluctant and impose due diligence mechanisms.¹¹¹ The limitations are therefore administrative, bureaucratic, financial and staffing but it is also time consuming.

More indirectly, the security and reputation of humanitarian organisations can be questioned if such accusations compromise the relations of humanitarian actors with the parties involved in the conflict and impact their image for future donors or sponsors.¹¹² Indeed, "Al-Shabaab expelled the World Food Programme (WFP), the United Nations Children's Fund (UNICEF) and other humanitarian aid agencies from their territory in 2009 due to alleged concerns about their neutrality".¹¹³ Sanctions may affect the perception of humanitarianism by civilians themselves and therefore directly impacts their security.¹¹⁴ Indeed, they blur the boundaries of humanitarian activities, which are dictated by politicised states. Lastly, they can have a psychological impact on staff, who oscillate between the threat of sanctions from certain states, as happened to ICRC members at the beginning of the American operations in Afghanistan in 2001, and pressure from non-state armed actors.¹¹⁵

Finally, as persons in need increasingly find themselves in territories controlled by armed groups that may be under sanctions such as in Afghanistan, Colombia, Gaza, Iraq, Mali, Nigeria, Somalia, Syria, and Yemen, the demand for exceptions for humanitarian workers is growing.¹¹⁶ In times of armed conflict, IHL is supposed to be applied but with the rise of terrorism, the line between armed conflict and terrorism is becoming more and more

¹⁰⁹ Emma O'Leary, "Politics and principles: The impact of counterterrorism measures and sanctions on principled humanitarian action", *International Review of the Red Cross*, 2021, p. 466.

¹¹⁰ Interview 9, DG ECHO, video conference, 28/04/2022.

¹¹¹ Jessica Burniske, et al., "Counter-terrorism laws and regulations: What aid agencies need to know", *Humanitarian Practice Network - Network Paper 79*, November 2014, p. 4.

¹¹² *Ibid.*, p. 6.

¹¹³ Alice Debarre, "Countering Terrorism and Violent Extremism", *op. cit.*, p. 206.

¹¹⁴ Interview 5, video conference, 31/03/2022.

¹¹⁵ *Ibid.*

¹¹⁶ Dustin Lewis, "Humanitarian Exemptions from Counter-terrorism Measures: A Brief Introduction", *Bruges Colloquium 141*, 2017, p. 143.

blurred. Thus, the question of the legal obligation to allow or guarantee humanitarian aid in situations where IHL does not apply, i.e. in situations not characterised as armed conflict, also arises. The Council conclusions on humanitarian aid always refer to IHL without addressing situations outside IHL.¹¹⁷ However, regardless of a legal obligation, the EU and its member states have practices that aim not to impede aid.¹¹⁸ Lastly, sanctions are also intended to provide an incentive for actors not to violate IHL, and while a distinction must be made between humanitarian assistance and IHL,¹¹⁹ this helps to nuance the contradiction.

While point 15 of the EU Directive on combating terrorism indicates the various punishable acts such as material support or assistance, point 38 clearly recalls that humanitarian activities “do not fall within [this] scope”.¹²⁰ However, this sentence only appears in the preamble of the Directive, and is therefore not legally binding. In order to legally guarantee the facilitation of humanitarian work in the sanction regimes, exceptions exist. Two types of exceptions are available, namely derogations, which must be requested and will be examined subsequently, and exemptions, which are automatic and apply to all recognised humanitarian workers.¹²¹ They face several challenges: first, the time needed to ask countries for derogations is a problem since, by definition, these are humanitarian emergencies where time is of the essence. Exemptions are therefore preferred by humanitarian actors. In the case of exemptions, the question arises as to which humanitarian organisations would automatically benefit. One solution could be to select partners who have already implemented EU or UN-funded programmes, but this would mean strengthening traditional NGOs and leaving little room for local NGOs. Moreover, it would also contribute to increased control of humanitarian activities, as they would have to prove that they deserve to benefit from an exemption.¹²²

Compared to other actors, the EU seems to be a rather poor performer in the application of these exceptions. Indeed, both the UN and the North Atlantic Treaty Organisation

¹¹⁷ Council of the European Union, *Council Conclusions on EU External Action on Preventing and Countering Terrorism and Violent Extremism*, *op. cit.*

¹¹⁸ Interview 3, staff member of the CTC Office, Brussels, 29/03/2022.

¹¹⁹ Interview 7, video conference, 06/04/2022.

¹²⁰ Council of the European Union, “Directive (EU) 2017/541 on combating terrorism”, *op.cit.*, point 15 and 38.

¹²¹ Council of the European Union, “Different types of sanctions”, *op. cit.*

¹²² Dustin Lewis, “Humanitarian Exemptions from Counter-terrorism Measures”, *op. cit.*, p. 150.

(NATO) stress the importance of respecting the specificity of humanitarian activities and IHL.¹²³ While the UN has already introduced two exemption regimes for Somalia and Afghanistan, and the US has also introduced exemptions in its own sanction regimes, the EU remains much more restrictive.¹²⁴ It applies 7 derogations in North Korea, Congo, Libya, Myanmar, Nicaragua, Syria, and on horizontal sanctions related to human rights violations.¹²⁵ Two exemptions at EU level are due to the transposition of UN sanctions, namely in Somalia and Afghanistan.¹²⁶ A case of both derogation and exemption exists in Syria, but exemption has been applied only for fuel activities.¹²⁷ The fact that there are few exemptions in the EU is mainly due to the member states.¹²⁸ Indeed, despite advocacy by actors such as the ICRC, DG ECHO¹²⁹ as well as the position of the European Commission in general,¹³⁰ member states ultimately implement and vote on the sanctions.¹³¹ Thus, the disagreement of some member states on the implementation of exemptions prevents their implementation in European sanctions, despite the will of European institutions.

Moreover, even if the EU were to include exemptions in a systematic manner, this does not remove the banks' de-risking.¹³² Indeed, banks are over-compliant, for fear of sanctions. Moreover, the cost of falling under sanctions compared to the potential benefits of transferring money to countries under sanctions is not significant so they prefer to stop their activities.¹³³ This problem has been notable in the occupied Palestinian territories, Somalia, Syria and Yemen.¹³⁴ In this way, counter-terrorism policy undermines the effectiveness of humanitarian aid.

¹²³ Interview 1, DG ECHO Official, video conference, 03/03/2022.

¹²⁴ Interview 7, video conference, 06/04/2022.

¹²⁵ European Commission, DG ECHO, "Working with DG ECHO Sanctions 2021-2027". Retrieved 22 April 2022. <https://www.dgecho-partners-helpdesk.eu/sanctions/humanitarian-exceptions>.

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

¹²⁸ Interview 1, DG ECHO Official, video conference, 03/03/2022.

¹²⁹ Interview 5, video conference, 31/03/2022.

¹³⁰ Interview 7, video conference, 06/04/2022.

¹³¹ Interview 9, DG ECHO, video conference, 28/04/2022.

¹³² Stuart Gordon and Sherine El Taraboulsi-McCarthy, "Counter-Terrorism, Bank de-Risking and Humanitarian Response: A Path Forward", *Humanitarian Policy Group Policy Brief 72*, August 2018, p. 1.

¹³³ *Ibid.*

¹³⁴ *Ibid.*, p. 2.

The problem of over-compliance by banks could be solved by automating exemptions to make it easier for banks to understand the regulations and restore their confidence. However, the EU is not the only actor with a sanctions regime, and the implementation of humanitarian exemptions does not remove the anti-money laundering and anti-terrorist financing regime that applies to banks anyway.¹³⁵ Furthermore, banks are not the only ones involved in over-compliance as some companies are refusing to sell and send certain essential equipment such as water systems because of the sanctions.¹³⁶ The European Commission is working in coordination with the Directorate General for Financial Stability (DG FISMA), the EEAS and the Counter Terrorism Coordinator (CTC) to discuss these issues and find solutions, but also to organise round tables with banks to raise their awareness.¹³⁷ In addition, the Commission writes letters to the banks for the NGOs it funds to explain the humanitarian nature of the transfers, but this is not very effective.¹³⁸ One of the solutions could be inspired by Russia's war in Ukraine in 2022. Indeed, exemptions have been put in place by the EU, making it the third case of exemptions.¹³⁹ In addition, an interesting French initiative to use diplomatic bank accounts to compensate for the lack of international markets in the case of the war in Ukraine may be an innovative solution that should be explored in the future.¹⁴⁰

Humanitarian Principles as a Catalyst for Opposing Aid and Counter-terrorism Policies

The various interviews not only revealed complementarities and contradictions, they also highlighted a form of antagonism which prevents the achievement of complementarity or full consistency. This impossible achievement of coherence is notably entrenched by the existence of humanitarian principles.

¹³⁵ Interview 3, Staff member of the CTC Office, Brussels, 29/03/2022.

¹³⁶ Interview 9, DG ECHO, video conference, 28/04/2022.

¹³⁷ Interview 7, video conference, 06/04/2022.

¹³⁸ Interview 9, DG ECHO, video conference, 28/04/2022.

¹³⁹ Council of the European Union, "EU introduces exceptions to restrictive measures to facilitate humanitarian activities in Ukraine", Brussels, 13 April 2022.

¹⁴⁰ *Ibid.*

Principles of Humanity and Impartiality

Humanitarian aid can operate in opposition to the objectives of counter-terrorism policies since it can 'support' terrorism or 'legitimise' terrorist rhetoric through its principles of impartiality and humanity. Even if it does not attempt to achieve such objectives, humanitarian aid distributes its aid impartially, without looking at the individuals, and this can, for example, be done through medical care and equipment to terrorists.¹⁴¹ Indeed, humanitarian aid has the duty to treat all injured persons according to IHL¹⁴² and therefore, it can help terrorist groups.

Moreover, the way humanitarian aid operates can nourish the rhetoric of terrorists who are seeking to win the hearts and minds of the population.¹⁴³ Certainly, when terrorists control territories, it can be questioned why they accept the delivery of aid. In the case of the Gaza Strip, for example, terrorists have used the gravity of human need and suffering to legitimise their power by presenting themselves as the helpers.¹⁴⁴ Also, some critics, notably from the United States in the case of the Hamas group, point out that IHL awareness-raising missions can enable terrorists to better understand the law and thus better circumvent possible sanctions, limiting the condemnation of terrorists.¹⁴⁵ Thus, humanitarian aid may act in opposition to the fight against terrorism by its activities as well as by its objectives and principles. However, it is essential to nuance this since the work of humanitarian aid goes a long way to reducing the risk of radicalisation. For example, it has been demonstrated that a long time spent in refugee camps, without adequate assistance, can lead to a radicalisation and marginalisation of people.¹⁴⁶

Principles of Independence and Neutrality

Counter-terrorism policy can operate to the detriment of humanitarian aid with regard to the latter's principle of independence and neutrality. While the principle of neutrality requires humanitarian aid not to take part in a conflict, certain restrictions imposed by governments for political reasons lead to a form of indirect politicisation of aid and

¹⁴¹ Interview 5, video conference, 31/03/2022.

¹⁴² European Commission, "European Consensus on Humanitarian Aid", *op. cit.*, point 13.

¹⁴³ Interview 4, Advisor to the EU CTC, Brussels, 29/03/2022.

¹⁴⁴ Interview 6, EU Official, video conference, 31/03/2022.

¹⁴⁵ Interview 7, video conference, 06/04/2022.

¹⁴⁶ Luke Kelly, *op. cit.*, p. 9.

increase the risk of confusing humanitarian actors as taking sides in conflicts. This could explain the increase in attacks on humanitarian workers.¹⁴⁷ For example, an attack on six French aid workers in Niger in August 2020 was claimed by the Islamic State in West Africa.¹⁴⁸ Counter-terrorism policies also impact on the principle of independence, according to which humanitarian objectives must be detached from all other objectives. Indeed, some EU officials share very different views of these principles, and of humanitarian action globally.¹⁴⁹ While this does not indicate a deliberate instrumentalisation of aid, it does raise questions about the knowledge of security, defence and foreign affairs actors in understanding and protecting the particularities of humanitarian aid. Finally, the principle of humanity can be hampered by counter-terrorism policy since sanctions imposed by states can create humanitarian needs before the implementation of exemptions like in Somalia.¹⁵⁰

Dany has identified three types of politicisation: instrumentalisation, militarisation and developmentalisation.¹⁵¹ Instrumentalisation refers to the idea that humanitarian aid can serve interests different from its own, "compromising the principle of impartiality".¹⁵² Militarisation means that the line between the military and the humanitarian can become obscured, "compromising the principles of neutrality and independence".¹⁵³ Developmentalisation implies a narrowing of the differences between humanitarian and development aid policies, "compromising the principles of neutrality, impartiality and independence".¹⁵⁴ In the case of counter-terrorism affecting humanitarian aid, instrumentalisation seems to be the most relevant form of politicisation.

In a context of hyper-politicisation and polarisation of conflicts at the international level, the humanitarian space can be increasingly constrained, making it difficult for the EU to

¹⁴⁷ Kunle Adebajo, "'Islamic State' Accuses Aid Workers Of Espionage, Spreading 'Blasphemous Beliefs'", *HumAngle*, 20 August 2020.

¹⁴⁸ Nadia Massih, "Islamic State claims killing of French aid workers in Niger", *France 24*, 18 September 2020.

¹⁴⁹ Interview 7, video conference, 06/04/2022.

¹⁵⁰ Chatham House, "Recommendations for Reducing Tensions in the Interplay Between Sanctions, Counterterrorism Measures and Humanitarian Action", 23 August 2017, p. 7.

¹⁵¹ Charlotte Dany, "Beyond Principles vs Politics, Humanitarian Aid in the European Union", *Arena Working Paper II*, Arena Centre for European Studies, University of Oslo, November 2014, p. 7.

¹⁵² *Ibid.*

¹⁵³ *Ibid.*

¹⁵⁴ *Ibid.*

deliver humanitarian aid such as in Libya, Venezuela, Ukraine, Yemen, or Syria.¹⁵⁵ Indeed, humanitarian aid is sometimes the last remaining diplomatic lever between political actors, and can therefore be subject to other objectives, meaning it can be instrumentalised.

While the negative aspects of this politicisation have been discussed, the internal politicisation of aid can help to obtain more funds for humanitarian aid. In this respect, the EU's integrated approach through the Political Framework for Crisis Approach (PFCA) allows humanitarian aid to be included within a political framework which facilitates its presentation to the member states.¹⁵⁶ It could therefore be a form of positive politicisation that supports humanitarian activity. Donating funds for humanitarian aid is always a political act and only its implementation should be excluded from any politicisation. However, if humanitarian aid has a place in the integrated approach, it must be reasonable and must remain independent and impartial since humanitarian work cannot be at the service of other political decisions.¹⁵⁷

Need for Adaptation by Humanitarian Actors and the EU

These fundamental oppositions had to be considered by the various humanitarian actors, particularly at the EU level. A study conducted by the Harvard Law School Program on International Law and Armed Conflict in 2017 reveals some interesting elements regarding the necessary adaptation of humanitarian organisations.¹⁵⁸ Based on a quantitative analysis of "participants from 14 major international NGOs [...], 96 key informants, and an online survey of 398 humanitarian practitioners",¹⁵⁹ the study shows that no less than 60% of respondents said that the fight against terrorism is affecting humanitarian principles,¹⁶⁰ while 89% felt that they would need more information about counter-terrorism measures.

¹⁶¹ To overcome this deficiency, organisations had to invest more time in negotiating with

¹⁵⁵ Interview 1, DG ECHO Official, video conference, 03/03/2022.

¹⁵⁶ Interview 8, EEAS Official, video conference, 11/04/2022.

¹⁵⁷ Interview 5, video conference, 31/03/2022.

¹⁵⁸ Jessica S. Burniske and Naz K. Modirzadeh, "Pilot Empirical Survey Study on the Impact of Counterterrorism Measures on Humanitarian Action", Master's Thesis (Cambridge: Harvard Law School Program on International Law and Armed Conflict, 2017).

¹⁵⁹ *Ibid.*, p. 5.

¹⁶⁰ *Ibid.*, p. 23.

¹⁶¹ *Ibid.*, p. 22.

banks, employ more staff and specialist lawyers and develop banking and commercial knowledge.¹⁶² This is time consuming, requires a higher budget and discriminates organisations which cannot afford such expertise. Thus, changes should not only be made on the humanitarian organisations' side but also on the donors' and political actors' side, including the EU.¹⁶³

The EU has taken several initiatives since 2020 to support humanitarian aid in the context of counter-terrorism measures. For example, the European Commission and its DG ECHO state in a grant agreement that humanitarian aid and persons in need should not be affected by restrictive measures, even if they have to respect the latter.¹⁶⁴ Its guidance note on the fight against COVID-19 stressed that humanitarian aid and its delivery take precedence over restrictive measures and it also specified that banks should not over-comply.¹⁶⁵ Although this effort in favour of humanitarian activity should be highlighted, it is not legally binding and will not replace exemptions. This shows the discrepancy between the political will of DG ECHO and its partners and that of the member states. In 2021, the European Commission has created an information point for humanitarian organisations to facilitate the application for derogations.¹⁶⁶ Again, although these efforts remain weak in comparison to the benefits of the exemptions, it is a way for the Commission to meet the needs of NGOs by circumventing the necessary unanimity of the Council. In the first European Humanitarian Forum taking place in 2022, the issues of bank de-risking, barriers to counter-terrorism measures and sanctions were addressed, showing the ambition of DG ECHO and the EU to discuss these problems.¹⁶⁷ Thus, despite obvious antagonisms in both ways linked to the principles that characterise humanitarian aid,

¹⁶² Chatham House, *op. cit.*, p. 26.

¹⁶³ Sara Pantuliano et al., "Counter-terrorism and humanitarian action", *Humanitarian Policy Group*, October 2011, p. 11.

¹⁶⁴ European Commission, *Commission Decision amending Commission Decision C(2018)5120 on the Internal rules on the implementation of the general budget of the European Union as regards the model grant agreement for use as from 2021* (C(2020)3759), Brussels, 12 June 2020.

¹⁶⁵ European Commission, *Commission guidance note on the provision of humanitarian aid to fight the Covid-19 pandemic in certain environments subject to EU restrictive measures* (C(2021) 5944), Brussels, 13 August 2021.

¹⁶⁶ European Commission, "EU-level contact point for humanitarian aid in environments subject to EU sanctions". Retrieved 22 April 2022, https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/eu-level-contact-point-humanitarian-aid-environments-subject-eu-sanctions_en.

¹⁶⁷ European Humanitarian Forum, "Programme 2022". Retrieved 27 April 2022, https://humanitarian.forum.europa.eu/programme_en.

solutions are emerging, and the EU's awareness is increasing. However, a significant burden remains on humanitarian organisations to deliver aid in the context of counter-terrorism measures.

Conclusion: The EU Walks a Tightrope regarding its External Action Coherence

This paper examined the extent to which the dynamics between EU humanitarian aid and counter-terrorism policies contribute to the effective achievement of their objectives. It finds that these dynamics are partially consistent for counter-terrorism policy objectives and inconsistent for humanitarian aid objectives. However, neither policy makes the other more effective, on the contrary: the effectiveness of humanitarian aid is hampered by counter-terrorism policy. While some complementarities, particularly in favour of the counter-terrorism policy, exist on important objectives, the significant contradictory effects of counter-terrorism policy on humanitarian aid constrain the effectiveness of this dynamic. Finally, the policies are forced to co-exist, and their interactions can be characterized as a challenged co-existence. Indeed, a measure taken to make one policy more effective will not necessarily be effective for the other. These dynamics show a kind of inconsistency of the EU in its external action. Indeed, the catalytic antagonisms formed by the humanitarian principles seem to make it impossible to achieve full coherence. Even if the EU cannot achieve coherence, the Commission has recently made many efforts to reduce the negative effects of counter-terrorism policy on the EU's humanitarian aid policy.

The following actions can be taken to reduce the inconsistencies created by the dynamics of these two policies to meet the challenges of co-existence:

- (1)** Continue to advocate for a generalisation of the exemption in counter-terrorism restrictive measures as well as for the simplification of the requirements for humanitarians to facilitate compliance and understanding.
- (2)** Increase funding for projects promoting international humanitarian law in areas prone to violent extremism and terrorism and where humanitarians are operating.
- (3)** As a donor, ensure that reasonable and feasible conditionalities are imposed on humanitarian operators funded by DG ECHO and do not create 'no-go zone' clauses.
- (4)** Establish a monthly institutional meeting between DG FISMA, DG ECHO, the CTC and relevant units in the EEAS to assess and monitor the impact of different policies on the ground.
- (5)** Create a research group where actors such as banks, key companies and humanitarians meet and explore ways to improve their cooperation and raise awareness on humanitarian exemptions and derogations.
- (6)** Create additional capacity for EU Delegations to transfer money to humanitarians in situations where the international banking system is prevented from money transfers and promote more dialogue between DG ECHO field experts and Delegations in crisis situations.
- (7)** Create a multilingual interactive mobile application of a world map for humanitarians that includes all existing EU, US and UN sanctions, inspired by the Syria guide and sanctions map. This should include not only simplified information but also allow for quicker contact with relevant DG ECHO staff in case of further questions.
- (8)** Engage more with civil society and religious actors to anchor the fight against terrorism at the right level of action, building on what DG ECHO has been able to do.

The analysis of this paper and the recommendations derived from it are nevertheless limited by the data available to the author and the elements that the interviewees were willing to transmit. Moreover, while the military approach to the fight against terrorism seems to have its limits and sanctions are additional elements for other military actions, the EU seems to see the integrated approach as a new way to fight terrorism.¹⁶⁸ Thus, it would be interesting for future research to analyse the role of the integrated approach in the politicisation of humanitarian aid in the context of the fight against terrorism.

¹⁶⁸ Quinty de Nobel, "Addressing Contemporary Terrorism: The EU's Integrated Approach to Conflict and Crises as an Alternative to the War on Terror", Master's Thesis (Bruges: College of Europe, 2020).

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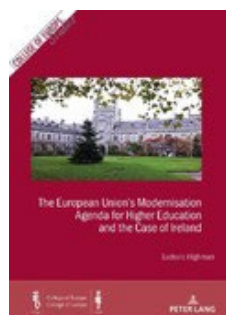
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