

THE EU INTELLIGENCE, POLITICAL AND BUREAUCRATIC STAKEHOLDERS, PRIVATE INTELLIGENCE AGENCIES, HIERARCHIES AND SURVEILLANCE CRISIS

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Most of the current intelligence problems within the European Union, whether they relate to predicting surprise attacks, the politicization of intelligence, or questions of ethics and privacy, are old conundrums. However, it is hard to escape the feeling that closer attention to obvious lessons from the past would have assisted the intelligence sharing of these states in avoiding the Taliban, ISIS and other ethnic and sectarian group's attacks on civilian and military installations. Bureaucratic control of intelligence operations, government and private stakeholders, and ethnic and sectarian factors are the most important aspects of any intelligence infrastructure in a state, where these conflicting developments paralyze an intelligence agency. The case of EU is not so different from the fact that in some Eastern European states old bureaucratic and ideological infrastructure is in place. With the development and growth of digital communication and cyber technology in Britain and Europe, they face serious threats from insider within the government and private institutions as many terrorist and extremist groups have taken to cyberspace to train their young educated members in order to make access to sensitive government data.

The Paris terrorist attacks caused deep torment across Europe while intelligence agencies of all member states developed new counter terrorism measures to involve communities in decision making process. Insider threats remain a cyber risk to organizations in the region. Insiders who work in various state and private institutions in all European states have access to sensitive data and intelligence information; pose greater threat to the security of the state. They also pose serious threat to national critical infrastructure, nuclear installations and defense industry. British National Security Strategy for 2016-2021 has already warned that insiders are greater threat to the national security of the state:

The Europol and Eurojust have also failed to deliver properly. The EU intelligence agencies complain that the Europol policing organization is unable to deliver, particularly in the field of investigation. Moreover, Europol has also failed to demonstrate itself as a professional policing organization after the Paris, and Germany attacks. One of the most important tasks of an intelligence agency is to investigate and provide immediate warning of foreign and domestic terrorist attacks while security of a country is at threat. One reason behind these failures is that intelligence and law enforcement agencies operate in opposite directions in a complex legal environment. There is huge difference between these agencies over the perceptualisation of war against terrorism in Iraq, Syria and Afghanistan. The Europol and Eurojust are confused and don't know how to operate in collaboration with all EU intelligence agencies. Law enforcement and intelligence infrastructure of the EU Eastern partners has raised many question including insecurity and Russian political and military influence in this region.

Though, NATO is struggling to counter the Russian influence by sending more troops and funds to the region, it is too late to win the hearts and minds of the ruling elite of Ukraine, Georgia and Moldova who enjoy no security guarantee. Not going into an unnecessary philosophical argument, I just want to elucidate the fact that the most damaging intelligence failure in the EU member states is the lack of a professional security approach and intelligence sharing. The failure to intercept or identify terrorists before they carried out attacks against civilians, the counterterrorism approach of Brussels, Germany and French intelligence agencies remains in question. There are so many hindrances due to which the EU member states cannot move ahead with a single voice. The Speculations that the security assurance of all member states within the EU is mere a hyperbole as complaints of some Easter European allies about the Brussels attitude raised several questions. The Netherlands, Denmark, Moldova and Baltic states feel threatened. There recent complaints against the weak intelligence sharing mechanism are matter of great concern. The Nice and Munich attacks further exposed the EU counterterrorism approach, where political parties and civil society pointed to the incompetency of law enforcement agencies.

Professional intelligence and law enforcement approach is not something ready-made and available in markets; it is built by experts and policy makers. Since 2012, terrorists carried out more than nine deadly attacks, in which 249 civilians were killed. They used different tactics in their attacks to keep the law enforcement agencies affixed to their old operational mechanism. The issue of security sector reforms in France and Germany is often discussed in print and electronic media, but in reality, their zeal and resolve are revolving around old mechanism. More than 24 years ago, some intelligence reforms were introduced in France under the 1991 law, and intelligence surveillance was confined to the tapping of wireless telephone communications. After that initiative, in 2015, an intelligence act was adopted by the French government, but after the terror attacks in 2015 and 2016, the country's parliamentary investigation identified multiple failures of French intelligence.

On 21 January 2015, French Prime Minister Manuel Valls presented a package of immediate reforms to address the issue of radicalization and terrorism in his country, but unfortunately, the new counterterrorism measures did not prove effective to save the country. Because, the recent security measures against Muslim communities had weaken the roots of French intelligence agencies and the trust deficit further added to the country's pain.

In these new intelligence efforts, the government created the code of internal security within the intelligence act, which means to create the climate of trust between intelligence agencies and minority communities. The act stresses technical capabilities of the intelligence infrastructure to harmonies the range of tools that intelligence can use according to the regime applicable to judicial investigations. The failure of French intelligence before the 14 July 2016 terrorist attacks in Nice was mainly due to the lake of its coordination with law enforcement agencies to prevent the truck runner.

However, when the killings started, police and security agencies were unable to show a brisk reaction or intercept the truck immediately. All these attacks were carried out under the police and intelligence surveillance system, which means something, is going wrong under the carpet. Chief of the French domestic intelligence warned in June 2016 that terrorist attacks are inevitable. In these circumstances, French law makers had no option other than to call for a shake-up of intelligence infrastructure of the country.

A committee of lawmakers in a press conference regretted on the lack of coordination between the foreign and domestic intelligence agencies. "Our intelligence services failed" said lawmaker Georges French. German intelligence is not so different from the French spy agencies. The consecutive failure of German intelligence agencies to intercept the lone wolves and religiously motivated Muslim extremists before they translate their ferments and resentment into a violent action has raised important questions about its national security and counterterrorism approach. The lack of predictable security management in the region is the nucleation of debate today. In Moldova and Georgia, security crisis and political fragmentation give EU more pain.

Moldova's support for the EU integration is weak, while Georgia is also thinking on the same lines because their citizens still face the uneven visa regime within the EU member states. However, amidst this controversial engagement, German intelligence spied on France, created the clouds of surveillance on US and Britain, while Britain spied on Germany, which prompted distrust. On 06 November, 2013, BBC reported the head of German parliament's intelligence committee called for enquiries into alleged spying committed by the British embassy in Berlin. German intelligence agencies are looking at the US and UK through a hostile glass after the taping of Angela Merkel's personal telephone by NSA and UK's illegal surveillance operation in the country.

Britain's decision to leave the EU could have a significant impact on the Union's ability to help nations on its Eastern borders implement political and economic reform, or to respond to Russia's determined efforts to expand its sphere of influence. After the Paris, Brussels and Berlin terrorist attacks, the EU member states realized to establish a strong unified intelligence and security network, but things are not alike that we sensed as there were different priorities, resources and level of expertise within every state. Intelligence sharing among 28 member states is not an easy task as it seems, policy makers and secret services face numerous legal, technical and political obstacles. However, limited cooperation on security issues among all 28 states is a reminder that even after six decades of integration; the EU remains a weak project. Intelligence cooperation and adverse relationship between the EU and UK will not cease after the Brexit as the UK contributes a lot in the field of intelligence and law enforcement.

The UK has been a leading protagonist in shaping the nature of security cooperation under the auspices of the EU, as reflected in EU agencies and policy area. Chief of EU foreign policy struggled to start initiatives and setting up defense related research to reorganize the EU defense cooperation after Brexit. The UK decision to leave the EU provides an opportunity to the use the provisions of the EU's Lisbon Treaty to move forward on one hand, and the UK exit from the project will be a serious loss of capabilities for the EU, making closer cooperation among member states, on the other.

On 17 January 2017, Prime Minister Teresa May's speech enraged the entire European Union. She was critical of the EU attitude towards Britain. "The UK cannot possibly remain within the EU single market as staying in it would mean "not leaving the EU at all", Theresa May said. Her London speech and her subsequent visit to World Economic Forum in Davos raised several important questions including the UK intelligence and security cooperation with the EU. The development of intelligence cooperation on law enforcement level among the EU has been a test case for the member states credibility and willingness to deliver their secret assets to a common pool of strategic resources regardless of information security concerns and communication barriers.

There are several opinions that illustrate a clear picture of shallow security approach and mistrust in the field of security on law enforcement level within the European Union member states. Some understand that as the EU law is supreme, therefore, law making process in the UK has weakened, some view the present intelligence cooperation as an insincere and a reluctant engagement, while some understand that the exchange of professional and high quality intelligence information with low quality information of Eastern European states is no more a successful business. However, cooperation on countering terrorism has received shallow support amidst controversies and unwanted statements from some member states. This way of resentment and indignation further prompted social and political clefs in the project infrastructure when some member state expressed deep concern over the reluctant intelligence cooperation.

Intelligence sharing and cooperation on law enforcement level among EU member states is crucial to stability and peace. As movements of EU citizens across borders and volatile regions increase, and groups like Islamic State, domestic radicalized organization and lone wolves have taken roots, trans-border intelligence sharing can prevent any possible terrorist attack. The growing distrust, and dilapidating security situation in Britain and EU is matter of great concern where radicalized groups and lone wolves have established secret cell, recruit young people and carrying attacks against civilian and government installations.

Throughout the 1990s, intelligence cooperation among the EU member states has been very effective and can be seen from the Maastricht Treaty, the Amsterdam Treaty, the St. Petersburg task, and specifically altercation in Gulf, Afghanistan and Bosnia, which showed the European intelligence cooperation with the United States. Amidst this unfolding security crisis, the Lisbon Treaty indicates elucidates that national security is the prerogatives of all member states. In his research paper, Mr. Bjorn Fagersten suggests that uncertainty could be controlled through professional security measures:

“When national governments, and increasingly the European Union, make decision relating to security they do so under condition of uncertainty—who is the enemy, what course of action is most suitable and what long term effects can be envisioned, etc. In an age of hybrid war and threats, this uncertainty is bound to increase. One key element in countering hybrid threats is therefore to reduce the level of uncertainty. This can be facilitated by independent media, strong academia, civil society etc. But government have other means as well as they can employ intelligence agencies to reduce uncertainty in areas where other knowledge producing functions are insufficient”.

The issue of free movement across EU became matter of great concern when terrorists availed this opportunity, reaching France and Germany and killed hundreds innocent civilians. During the last six years, there were some legal developments in the United Kingdom dealing

with terrorism and radicalization. In October 2010, government published National Security Strategy, which identifies terrorism, and in July 2011, the contest strategy was also published due to the increase in terrorist incidents, and some developments in Asia and Africa. In 2012, Protection of Freedom Act 2012 repealed section 44, search and stop powers. Terrorism prevention and investigation act, communication data bill, justice and security bill, and the use of science and technology to counter terrorism were passed amidst the exponentially growing terror threat in the country. Despite all these legal efforts in countering terrorism on Britain's soil, some segments of society criticized the government efforts and termed it against minorities.

It is clear that intelligence and law enforcement in some European Union (EU) member states is characterized by variety, being the product of their specific history and culture. The majority of states still live in the cold war era, while awareness about national security, intelligence and law enforcement is limited in these states. Literacy rate in some Eastern European states is in shambles. In Central and Western Europe, some states introduced major reforms in the field of law enforcement and intelligence, but the way their intelligence agencies are operating is not professional due to their consecutive failure to tackle national security threats.

In majority of the EU member states, police and intelligence agencies do not know the actual background of those asylum seekers and immigrants who come from Asia, Africa and the Arab world. More than 90 percent immigrants arriving in EU claimed asylum on fake ID and documents. Terrorists and extremist elements who relinquish their groups come to EU, US and UK and claim asylum on fake ID, but the police and secret agencies are unable to recognize their true face. This inconsideration prompted terrorist attacks in various EU member states, in which innocent civilian and law enforcement personnel were killed. The inner pain of Europol can be realized from its low quality performance and achievement in the fields of intelligence collection and policing.

On 29 March 2017, British Prime Minister Theresa May triggered article 50 of the Lisbon Treaty. A letter invoking Article-50 of the Lisbon Treaty was hand-delivered to the President of the EU, Mr. Donald Tusk by the UK Ambassador to the European Union, but experts warned that the UK withdrawal from the project, the future of NATO can also become under threat. After the June 2016 vote for Brexit, the UK now feels the ramifications of its decision, and this decision may possibly cost the country. British Prime Minister also warned in her speech that Brexit can have consequences for her country, but threatened that if the EU leaders failed to reach a comprehensive agreement, cooperation on crime and security may prompt difficulties. In her letter, Theresa May told President of the EU Union:

“Today, therefore, I am writing to give effect to the democratic decision of the people of the United Kingdom. I hereby notify the European Council in accordance with article 50 (2) of the treaty on European Union of the United Kingdom's intention to withdraw from the European

Union. In addition, in accordance with the same article 50(2) as applies by article 106a of the Treaty Establishing the European Atomic Energy Community, I hereby notify the European Council of the United Kingdom's intention to withdraw from the European Atomic Energy Community. References in this letter to the European Union should therefore be taken to include a reference to the European Atomic Energy Community. This letter sets out the approach of Her Majesty's Government to the discussion we will have about the United Kingdom's departure from the European Union and about the deep and special partnership we hope to enjoy-as your closest friend and neighbor- with the European Union once we leave".

With the Brexit referendum in 2016, and the announcement of the British government to leave the EU, relations between Britain and the EU member states remained under strain due to some provoking statements of both the EU and the UK leadership appeared in newspapers. Prime Minister Teresa May had some irksome words against the attitude of the EU leaders, and warned that her government was preparing to crash out of the EU if could not negotiate a reasonable exit deal. However, the EU leaders warned the Britain cannot access the single market. In a highly anticipated address setting out 12 principles, Teresa May said that single market membership came at the cost of "accepting the four freedoms of goods, capital, services and people"-something which the EU leaders had been clear about since the UK's vote to leave the EU on 23 June 2016. "Being out of the EU but a member of the single market would mean complying with the EU's rules and regulations that implement those freedoms, without having a vote on what those rules and regulations are", Teresa May said.

Before the promulgation of the Treaty of Lisbon, the EU member states used framework decisions for making policing laws, while after the enforcement of Lisbon treaty, law is being made in the form of directives using decision making process. Britain and the EU member states were engaged in an intense debate over the fate of EU immigration as the graph of crime culminated, and an increasing number of incidents of terrorism, serious organized crime, and hate crime challenged the efforts of law enforcement agencies to tackle the deteriorating security situation in the country. Britain had voted to leave the EU because the project's performance has been very poor in the last few years. On 27 December 2016, Judy Dempsey noted in her Washington Post article: "Europe has been so weakened by the tumultuous events of 2016 that it is left unprepared to deal with the three big foreign policy challenges of 2017.....In 2016, the decision by the British to quit the European Union has robbed Europe of a member state that had a long tradition and experience in security, intelligence-gathering and defense".

In the EU, some states, such as Germany, Romania, Poland, France, civilian intelligence infrastructure tackle domestic and foreign threats, while some states have given to law enforcement agencies intelligence powers to fight against corruption and terrorism. This is not a new story because every state wants to involve intelligence in law enforcement operations, or in the policing. In majority Asian and African states, intelligence is fully involve in law

enforcement operations, and led the police in the fight against serious organized crime. The crisis of EU intelligence is irksome due to sectarian and ethnic divide. European intelligence agencies lack the confidence of political parties on their mass surveillance system.

In Germany, intelligence law does not allow Federal Intelligence Service (BND) to support police or involve in policing business, while in Estonia and Latvia, intelligence plays important role in policing communities. Targeted surveillance in all EU states is being conducted on different lines. Intelligence agencies of the member states use surveillance but also give importance to human intelligence. In Brussels, Denmark, Finland, France and Italy targeted surveillance of groups and individuals has strong roots in society. In Netherland, intelligence agencies do not violate the privacy of telephone according to the article 13 (2) of the country's constitution. AIVD focuses its signal intelligence on collection through interception communication. In Romania, secret agencies need to obtain approval of prosecutor general then authorization.

All these legal, political and administration restrictions indicate that terrorist organizations have established deep roots in the European Union, where they kill innocent civilians and members of law enforcement agencies. In fact, terrorist and extremist groups in Europe are well-resources and organized viz-a-vis the law enforcement agencies. From 2009-2013, there were 1010 failed, foiled or completed attacks carried out by these groups. From 2013 to 2017, terrorist and extremist organizations carried out dozens attacks against civilians and law enforcement personnel. To counter the activities of these groups, the EU member states adopted a series of guide lines to revive radicalization strategy.

The EU intelligence Centre (EU INTCEN) lacks professional analysis and only rely on publicly available information, which causes misunderstanding among all member states. National intelligence agencies of member states do not share their national secret with each other due their internal rivalries and personal policies of stakeholders. Many EU members do not spend enough on intelligence, do not want their interference in politics, and do not want to have an ultimate reliance on intelligence reports regarding national security issues. The issue of information leak and classified analysis is matter of great concern.

The debate about the UK policing and intelligence cooperation with the EU after Brexit is driven more by emotion than by rational analysis. The present strained relations of Britain with European nations and the way they treat each other indicates that cooperation on law enforcement level is cannot be continued. The question that Britain is an intelligence superpower is totally wrong and underwhelming. Intelligence community in Britain is deep professional and operational crisis, and unable to eradicate the roots of terrorism and extremism in the country. The UK intelligence relations have been bilateral but never been friendlier due to some complaints raised by successive British government that European intelligence agencies were incompetent, and their intelligence information has always been of low quality.

Notes:

1-The Guardian 06 March 2017

2-British National Security Strategy for 2016-2021

3-On 21 January 2015, French Prime Minister Manuel Valls presented a package of immediate reforms to address the issue of radicalization and terrorism in his country, the Guardian.

4-BBC 06 November 2013

5-The Guardian 05 July 2016

6-Daily Times, 07 February 2017

7-Telegraph, 23 December 2016, 17 January 2017, Prime Minister Teresa May's speech enraged the entire European Union. She was critical of the EU attitude towards Britain

8-Brexit: UK to Leave Single Market, BBC 17 January 2017-04-30Brexit: UK to leave single market

9-Quilliam's Report, 19 June 2016

10-The Independent 29 March 2017

11-The Guardian, 29 March 2017

12-Sky News, 17 January 2017

13-Washington Post 27 December 2016

14- Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU. Mapping Member States' legal frameworks, European Union Agency for Fundamental Rights, 2015

15-Ibid

16-BBC 16 June 2016