

**T.C.**  
**TURKISH-GERMAN UNIVERSITY**  
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**EUROPE AND INTERNATIONAL AFFAIRS DEPARTMENT**

**WHO IS A TERRORIST – A STUDY OF HOW THE  
EUROPEAN UNION DETERMINES TERRORISTS AND  
TERRORIST GROUPS**

**MASTER'S THESIS**

**Merve ÖZGENÇ**

**ADVISOR**

**Ralf KANITZ**

**ISTANBUL, March 2022**

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## **PREFACE**

Unfortunately, people continue to die in many parts of the world because of terror or war. I have been following related news closely since my childhood. The strategies of developed and powerful countries for counter-terrorism attracted my attention as time passed because powerful countries have the power to force many countries to implement their strategy. In this direction, powerful countries and organizations have the ability to stop terrorism if they want. The EU is one of these influential organizations. I wondered how the organization, which has 28 (-1) members, could make a policy of terrorism while even the only one country has difficulties making individual terrorist policies. First of all, everything starts with defining terrorism. Therefore, I wondered about the EU's process of defining terrorism. This thesis is the result of my curiosity.

I would like to thank my Turkish-German University's master professors who taught us EU values. I thank my supervisor Ralf Kanitz, who always guided me with his patience, kindness, and constructive criticism. I thank my uncle, who always supported me in my education life. I would like to thank Mr. Güler, who patiently read and commented on each of my chapters.

# TABLE OF CONTENT

<b>PREFACE</b> .....	<b>iv</b>
<b>TABLE OF CONTENT</b> .....	<b>v</b>
<b>ABBREVIATIONS</b> .....	<b>iii</b>
<b>ÖZET</b> .....	<b>iv</b>
<b>ABSTRACT</b> .....	<b>v</b>
<b>INTRODUCTION</b> .....	<b>vi</b>
<b>CHAPTER 1: RELATIONSHIP BETWEEN LAW AND POLITIC</b> ..	<b>1</b>
1.1. WHAT IS TERRORISM?.....	3
1.2. DIFFICULTY OF DEFINING TERRORISM.....	6
<b>CHAPTER 2: EU’S POLICY ON TERRORISM</b> .....	<b>9</b>
2.1. BEFORE 9/11 .....	10
2.2. AFTER 9/11 .....	14
<b>CHAPTER 3: HOW THE EUROPEAN UNION DETERMINES TERRORISTS AND TERRORIST GROUPS</b> .....	<b>20</b>
3.1. THE USA’S EFFECT ON THE EU.....	21
3.2. INTERNATIONAL ORGANIZATIONS ’ EFFECT ON THE EU.....	26
3.3. NGO’S EFFECT ON THE EU.....	27
3.4. EU'S PROCESS ON DECIDING WHO IS TERRORIST.....	29
<b>CHAPTER IV: CONCLUSION</b> .....	<b>34</b>
<b>REFERENCES</b> .....	<b>37</b>
<b>ABOUT THE AUTHOR</b> .....	<b>41</b>

## **ABBREVIATIONS**

EU: European Union

NATO: The North Atlantic Treaty Organization

NGO: Non-Government Organizations

UN: United Nations

USA: United States of America

## ÖZET

Who is a Terrorist – A Study of How the European Union Determines Terrorists and Terrorist Groups

23.01.2022

İnternetin erişim gücü, sınırların ortadan kalkması, uçakların dünyada her yere ulaşım sağlayabilmesi, ticaretin her yere mümkün olması gibi gelişmeler ile birlikte dünyanın herhangi bir yerinde gerçekleşen terör eylemi diğer ülkeleri de etkilemektedir. Terör örgütleri ise mevcut sistemi bozarak daha çok dikkat çekmeyi hedefler. Böylece savundukları her ne ise tüm dünyada duyulabilecektir. Fakat birçok masum insanın ölümüne sebep olurlar çünkü kullanılan metodlar kanlı ve canicedir. Her terör eyleminin ise arkasında bir siyasi sebep yatar. Her ne kadar dini, ırksal, ya da başka bir sebepmiş gibi görünse de sonuçta bir devletten istekte bulunur. Bu istek ise genelde yönetimde söz sahibi olmayı, bir devletin sınırları içerisinde yer alan topraklardan parça isteyerek kendi bağımsızlıklarını istemelerini, yönetimde gücünü artırmayı veya yönetime geçmeyi hedefler. Bu sebeple terör kesinlikle politik ve uluslararası bir konudur.

Terörün önlenbilmesi için öncelikle tanım sorunun ele alınması gerekmektedir. Bu çalışmada terörizmin tanımlanması sorunu Avrupa Birliği düzeyinde ele alınmıştır. Tezin hipotezi devletlerin kendi çıkarları doğrultusunda örgütlerin terör örgütü olup olmadığına karar vermesi üzerinedir. Hipotezin cevabına ulaşılabilmesi için hukuk ve siyaset ilişkisi, terörün tanım problemi, Avrupa Birliği'nin terörle mücadele politikaları hukuki boyutta düzenlemeleri ve Avrupa Birliği'nin terör örgütleri hususundaki karar verme süreçleri incelenmiştir. Süreç hukuki ve siyasi perspektiften ele alınmıştır. Avrupa Birliği'nin terör örgütleri hakkında karar alırken yalnız olmadığı sonucuna ulaşılırken aynı zamanda sadece çıkarların değil ihtiyaçların da öncelendiği bulgusuna varılmıştır.

Anahtar kelimeler: Terör, Terörizm, Hukuk, Siyaset, Avrupa Birliği

## **ABSTRACT**

Who is a Terrorist – A Study of How the European Union Determines Terrorists and Terrorist Groups

23.01.2022

Along with developments such as the access power of the internet, the disappearance of borders, the ability of planes to fly anywhere in the world, the possibility of trade everywhere, the terrorist attacks in any part of the world also affect other countries. Terrorist organizations, on the other hand, aim to attract more attention by disrupting the existing system. So, whatever their goal or ideology for will be heard worldwide. But they cause the death of many innocent people because the methods used are bloody and murderous. There is a political reason behind every terrorist attack. Although it may seem like a religious, racial, or other reason, in the end, it requests something from the state/authority. This request generally aims to have a voice in the administration/government, demand their independence with having land which lands are within another state's borders, increase their power in the administration/government, or take over the administration. For this reason, terrorism is a strictly political and international issue. To prevent terrorism, the definition problem must be addressed first. In this study, the problem of defining terrorism is discussed at the level of the European Union. The thesis hypothesis is that states decide whether the organizations are terrorist organizations in line with their interests. To answer the hypothesis, the relationship between law and politics, the definition problem of terrorism, the legal regulations of the European Union's counter-terrorism policies, and the decision-making processes of the European Union on terrorist organizations have been examined. The process is discussed from law and political perspective. It has been concluded that the European Union is not alone in making decisions about terrorist organizations. At the same time, it has been found that not only interests but also needs are prioritized.

Keywords: Terror, Terrorism, Law, Politic, European Union

## **INTRODUCTION**

Defining terrorism is difficult because terrorism is a contested concept. Political, legal, and social signs are often diverging. As a result, one man's terrorist is another man's freedom fighter. On the other hand, terrorism has been linked to delegitimization and criminalization, which is one big issue that decision-makers hesitate for significant results. All points create chaos because there are many types of terrorism with different forms and manifestations. Thereby meaning of terrorism has been changing for more than 200 years of its existence.

Basically, there are three steps to prevent terrorism at international terrorism: standard definition, agreement, and mutual aid. Reaching a common definition of terrorism is vital for bilateral and international relations at the state level. Unless common purpose, it is impossible to make an agreement. At the international level, the agreement allows states to help each other at the point of ending terrorism. Otherwise, terror groups may get support from other states or civil groups.

In reality, the process is different. Many countries have made various definitions and followed particular ways. For this reason, they have declared some organizations as terrorist organizations or freedom fighters according to their political interests. Governments have constituted their terror lists. These lists are updated periodically, and they impose certain sanctions on those in the list. Creating a terrorist list is an integral part of the fight against terrorism. For example, lists of designated terrorist organizations mean that if an organization is on such a list, it's considered a criminal organization with a wide range of consequences—the fields from freezing the organization's assets to possible arrests of its membership. Even so, for being successful, this precautions international consensus is essential. Terrorism always takes advantage of the contradictions of global politics and the conflicts between governments and legal gaps.

As can be seen, the most crucial point is how states define these groups. I hypothesize that governments decide on a group/person according to their political interests; after that, they make their law. In this regard, I studied to understand how



countries recognize the groups/person, under which circumstances, how they create/reform law on the decisions because the priority of states has always been their interests.

The study area of this thesis has been chosen European Union the shed light on these fundamental arguments. As the impact of terrorist groups on Europe and the ideology of terrorist groups differentiates, the definition of terrorism changes, and it is tempting to research this situation. Europe's institutions, which are exemplary to the world with democracy and legal structure, attract attention from Europe's attitude to terrorism.

The literature focuses on terrorism about infringement of human rights, preventing finance of terrorism, freedom, and security. In this thesis, I would like to highlight the law, political perspectives, and how the EU decides who is a terrorist.

To investigate this hypothesis, the relationship between law and politics was explained in the first chapter. Various definitions of terrorism were given, and its connection with politics was mentioned. The difficulties of defining terrorism were discussed. In the second chapter, the anti-terrorism policies of the European Union were explained. 9/11 is a turning point for the fight against terrorism worldwide. After explaining the effects on the European Union, the union's policies before 9/11 and after 9/11 are explained. The last chapter, it is explained how the European Union evaluates the organizations. In the evaluation process, the factors affecting the EU were also discussed.

## **CHAPTER 1: RELATIONSHIP BETWEEN LAW AND POLITIC**

According to Aristotle, “Man is by nature a political animal.” People have needed each other throughout their lives. It is necessary to have certainty and solidarity that they cannot achieve their development on their own. People try to gain the best version of good in their lives, and even areas we call cities to have political structures. Because people can share, live, build rules, criticize good, evil, justice, and injustice, help each other. All means that looking for a political partner (Abbate 2016, p. 54).

In another perception, politics is the capability to make the right decision. Since the beginning of man, people have always lived in society, not by one by one. Living in a community means that everything is related to making a decision. Should someone lead the society, who should be, how much should he/she say, who should be in power, who should be in a weak position, who should befriend, how people can reach a goal of being a good person the good so on. Politic is all above the society, conflict, cooperation, solving problems, finding solutions, and making decisions. Politic has four subheadings. Politics as the art of government, politic as public affairs, politics as compromise and consensus, politics as power, and the distribution of resources (Heywood 2007, p. 3-5). With a similar viewpoint, Danziger defines policy in his much-cited paragraph: “*Politics is the exercise of power. Politics is the determination of who gets what, when and how. Politics is the public allocation of things that are valued. Politics is the resolution of conflict. Politics is the competition among individuals and groups pursuing their interests.*” (Danziger 2007, p. 5).

After seeing the definitions of the policy listed above, it should not be forgotten that the subject of politics has been a limited number of “free/urban people” until the modern age. As a matter of fact, politics is about the “polis.” The polis, on the other hand, is nothing but the city-state. Therefore, women, slaves, and other powerless classes were excluded, and non-urban people were excluded in the policymaking process. In addition, policymakers and decision-makers dealt with the problems of the polis or the center and expected the people around to solve their problems. Education, craft, agriculture, etc., problems were mainly solved by the local people's efforts. In this respect, politics did not

encompass all sides until the modern age. When the modern state was born, politics did not leave where it did not reach its hand.

A similar historical explanation can be made for the concept of law. Since ancient times, people have set rules to regulate the society in which they live. Every culture has created both written and unwritten rules inspired by their traditions. While tribal communities adhered to familial rules, empires established a legal order that encompassed the whole country. With the formation of the modern state, a single legal text has been created that binds everyone living within the country's borders. Regardless, none of these processes are policy-free. Ultimately, those who made the norms, customs, and legal texts were the people at the center of the policy, namely the decision-makers.

Law can be made by person, groups, parties, authorities, and so on, but who has the power to manage country/kingdom/government/group. It means that law is the action of who can make law on a general basis. In this regard, the law is made by the persons' perspectives and behaviors, but the main difficulty is same perspective/behavior is valid for one, and for the other is not. So, the law process carries about the personality of the lawmaker (Kelsen 1957, p. 209-210). Consequently, it has to be kept in mind that the language of the law is always obscure and can be construed for other meanings. Depends on the behavior of the legislator (Kelsen 1957, p. 217). In this regard, the meaning of the rule is: *"a rule prescribed by the sovereign of a society to his subjects, either in order to lay an obligation upon them of doing or omitting certain things, under the communication of punishment; or to leave them at liberty to act or not in other things just as they think proper, and to secure to them, in this respect, the full enjoyment of their rights."* (Burlamaqui 2006, p. 89).

Considering Burlamaqui's definition, it is seen that no phrase can be regarded as independent of the state and politics. Because the regulation and especially the implementation of the rules of law depends on sovereign power. The sovereign power in the modern age is embodied in the modern state. The modern state is, above all: *"organized institutional machinery for making and carrying out political decisions and for enforcing the laws and rules of the government"* (Danziger 2007, p. 119).

Politics will always exist unless people all share the same ideology and the same interests. Politics cannot stay away from the man. Powerful government/authority needs to have followers to save its continuity. In this regard, it needs to be legal and logical base

and easy way is to be a state of law. The authority, which is very political, implements criminal laws produced before to protect itself when society opposes the authority. Here, it legitimizes the process by arguing that it is done to restore individual security and social order. Therefore, it can be argued that law is unpredictable and personal. So, it is a kind of circle in politics, and law cannot be separated; both have been legitimating each other. (Akman 2006, p. 27-39). However, it should be emphasized that a policy-centered approach is going to be followed in the thesis.

### **1.1. WHAT IS TERRORISM?**

Terrorism has had a high effect on the people throughout history. But modern terror started in France to react to authority during the French Revolution by Jacobins (Hoffman 2006, p. 3). The hard methods performed by the rulers against injustice and inequality in French Revolution, the struggle of the proletariat with the bourgeoisie in the industrial revolution, the struggle of the natives against the occupying forces in the colonial period, the actions of ethnic groups excluded in the age of the emergence of nation-states, discrimination that minorities claim to live in within the state, political violence creates appearances (Taylor 2002, p. 8). Since the revolution, it appears to have evolved into many forms. In this regard, terrorism is defined in various ways by many researchers.

This situation became more challenging in the 21st century. The time is called globalization which people use the internet; there is no restriction to fly, work, and live anywhere. Globalization gives opportunity to humanity for development, but on the other hand, terrorism can get political communication over the World (Martin 2017, p. 27) with big acts. In this regard, by considering the forms of terrorism, we can reach several definitions.

Here are a few meanings of terrorism: According to Hoffman, who is most authoritative in terrorism literature, terrorism briefly is *Revolutionary or antigovernment activity* (Hoffman 2006, p. 3). According to American scientist Gus Martin from California State University: “*Contribute to illegitimate force by targeting innocent people to achieve a political goal*” (Martin 2017, p. 32). According to the EU, which is the main subject of the study, defines terrorism as: “*If a person or a group target to 3 concepts: 1)*

*seriously intimidating a population, 2) unduly compelling a government or an international organization to perform abstain from performing any act 3) seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organization* (European Union, 2021).

Based on all definitions and historical processes is shown that there are common points, such as creating fear in the citizens, using illegal tools, using illegal methods, and last but not least changing what is wanted by the political target. Besides common points, there are some characteristics approaches like: against to be of the government and do what needed to change the government, terrorist create problems for show citizens who like the government, how the government is not enough and need to be changed, take attention for who doesn't like policy and get interests by the politic way and also make them follow to their side (Martin 2017, p. 35-37).

Many people have died due to terrorism throughout history. Destructions have occurred in states and established systems. People were scared, and the states made extra efforts to stop terrorism. After the definition of terrorism, it is necessary to know briefly why it exists and what causes prepare the base for the formation of terrorism:

Sociologically, throughout history, powerful groups mistreated weak groups. We see the same behavior among states at the international level. Since the West and powerful states dominate the science language, we always speak with the concepts of the stronger side. When there is something undesirable in powerful countries that is beyond their control, it is called terrorism. Still, despite the thousands of foreign soldiers in the eastern and weaker countries, they cannot declare these foreign soldiers as terrorists. On the individual level, not being free, not having good life conditions like others, discrimination, and being a second-class citizen are the fundamental reasons for terrorism. As a result, weak groups chose terrorism as a strategy to defend themselves. Psychologically, terrorists see themselves as elite pioneers protecting the rights of the weak. In this way, it is crucial to participate individually and be a part of this group. Even if the goals are too difficult to achieve after a while, it becomes vital to be on the way to attaining that goal as part of that group (Martin 2017, p. 74-78).

As can be seen, terrorists seek to base their thoughts on rational and conscientious reasons. After they set their goals in certain patterns, they plan how they will achieve them. The plan is various and can change because it depends on the conditions of time,

the requirements of the terrorist organization, such as capabilities and ideology. These varieties also led to the diversification of terrorism. In this regard, briefly, terrorism is divided into four categories:

State terrorism: States try to stop those who oppose the state authority. The primary purpose is to maintain authority.

Counter-state terrorism: It is the most common form of terrorism. Revolutionary-level changes in the state are demanded and divided into two. The first is the change of the existing system and the regime, and the second is the effort of the state to reconstruct a state by completely separating a piece of land.

Domestic terrorism: It is done within the country, with the citizens of that country, and with the potential of that country. The absolute absence of international states or individuals is a distinguishing criterion.

International terrorism: If the actions are taken concern many countries, and if the other countries sponsor factors such as sources, objectives, and education, this confirms the existence of international terrorism (Aydınalp 2016, p. 66-77).

There are many types of terrorism, but the most common type is contemporary international terrorism in the 21<sup>st</sup> century. Because there are no borders for communication, travel, and technology worldwide, it was easy to define and find terrorists before that century because it was simple. But now, the internet is applicable everywhere, so the movement doesn't need to stick in a center/country, and it doesn't have to strong hierarchical structure it is everywhere and also doesn't need to have an authority to manage. Only thoughts become important (Hoffman 2006, p. 39).

Media is a significant advantage for terrorists. Because it is easier to watch news and videos everywhere, it is easier to use and effortless. Plus, it changes people's ideas and puts pressure on the government primarily it is mostly a common use to achieve goals (Hoffman 2006, p. 183). With these all opportunities, it is very simple to create fear above people in different countries.

*“A method of combat in which the victims serve as the symbolic target. Violent actors are able to produce a chronic state of fear by using violence outside the realms of normative behavior. This produces an audience beyond the immediate victim and results in a change of public attitudes and actions”* (Schmid 1983, p. 35). For creating fear in the people, media is a tool, and attacks play a crucial role. As a result, most people, even

walking on the street from another country, become a target for terrorists. After the terrorist attack, the press does it as a significant title new that can follow all people on the internet and creates big fear. Because when civilian people die, it makes bigger fear, when foreign people die, it makes sense to all world, so terrorists get more attention by making these attacks to civilians. It helps terrorist organizations become famous and well-known, meaning they gain strength (Hoffman 2006, p. 64).

## **1.2. DIFFICULTY OF DEFINING TERRORISM**

It is always so difficult to reach a generally accepted definition term of terrorism. Politicians, experts, policymakers, every country or institute has a different approach, statement, and perspective. These differences are included with the political perceptions. Actors' aims are different from one another. Plus, the meaning, actions, or reactions have changed over time because of different conditions. This situation makes people perceive that some of them accepted the groups as terrorist groups and some of them freedom fighters. Therefore, there is no certain definition of terrorism for different reasons yet.

Another difficulty in defining terrorism is, it is often confused with closely related concepts. Is it even possible to find a difference between the term terror and terrorism, which come from the same roots? Do guerilla warfare and terrorism mean the same thing? What distinguishes any crime from the terrorist activity?

Terror derives from the French "terrere," which means intimidation. Any act of violence can be considered as terrorist activity. Terrorism, however, is based on an ideological dimension as well as a systematic and sustained understanding, as the -ism suffix at the end indicates. (Aydın 2009, p. 31-33).

As for the differences between guerilla warfare and terrorism, it is not easy to distinguish between them. Often the two phenomena can be intertwined, or the group flying the rebel flag may see itself as a guerilla fighter, while the state may label them as terrorists. Thornton's "performance is symbolic" approach will help distinguish these two concepts from each other. A terrorist seeks propaganda in his deed, and his main aim is not to root out institutions and root out members of the state. However, in guerilla warfare, the aim is to destroy institutions or the state directly, if necessary, through armed conflict (Baseren 2000, p. 5-6).

Terrorism is a kind of communication that includes a political message (Şahin 2014, p. 14). Any criminal person wants no one to see the crime, but a person who commits a terrorist act intends to make it known by everyone (Başeren 2000, p. 4). Guilty person crimes for personal aims, passion, or anger unless political aim. However, terrorist takes action versus state/government/decision taken by the authority. In this way, it wants to implement the idea of intimidating and scaring society, which is its primary goal. In this regard, terrorism has always been related to a political side.

As we read below, actually, there are a few categories to distinguish terrorism acts. But the main idea is on the political base. The background is related to the own interest. It is very deeply acceptable that the definition of terrorism is all related to power. We are very stuck to the use of powerful area language and stand side to side. If the power says this is terrorism, then it is accepted by all countries. For example, when something undesirable happens in powerful countries beyond their control, it is called terrorism. Or, when a terrorist attack occurs in the enemy's country of the powerful country, then that attack is not called a terrorist attack. Also, terrorists are declared as freedom fighters. In this parallel, weak countries cannot declare foreign soldiers as terrorists despite the thousands of foreign soldiers in weak countries. Because while a strong country sends soldiers to a weak country, it legitimizes the situation both in the international community and in that weak country with discourses such as bringing democracy to the land. This creates a legal base for the person who has the power for have to avenge. International and national explanations are made for those who follow the situation (Matusitz 2015, p. 9-10). Then powerful country obtains one's political aim on that and uses natural resources, such as precious stones and petrol in the weak countries.

In this regard, some countries define a group as a terrorist, and some countries define the same people as a freedom fighter. Here are a few examples of how it is hard to explain: The conflicts in many African countries during the colonial period reveal the above claims. While the attacks against the Western powers were evaluated as terrorist attacks in terms of Western perspective, they were evaluated as the "struggle for freedom" by the critical or local authorities. Similarly, the attacks against the Soviet Union in Afghanistan were seen as terrorism by some and perceived as a struggle for freedom by others. This example has reached a completely different dimension with the policies followed by the USA after 9/11. As a matter of fact, the USA declared a "global war



against terrorism” after 9/11, thus legitimizing its intervention in Iraq and Afghanistan. According to Noam Chomsky and critical security school theorists, this attitude of the USA was directly seen as terrorism.

All these examples show that the factor of power and terror is an asymmetrical approach for both sides, creating an international injustice. As a result of that, terrorism becomes a global injustice symbol in minds.

Additionally, it is also quite challenging to determine who the perpetrator of terrorism is. Until the “lone wolf” attackers emerged, it was thought that accomplices would be needed to carry out a terrorist act. The widespread use of mass media made it easier to provide the necessary materials to carry out terrorist activities. Thus, the aggressors needed nothing but their ideology to carry out their actions. However, it is a matter of debate whether other people with the same ideological views are responsible for such acts of terrorism. The common belief is that terrorist attacks happen by a terrorist, and a terrorist is a member of a terrorist organization; this belief also complicates the perpetrator problem. On the other hand, legal rules designed to prevent terrorist activities are expanded against human rights and individual freedoms. As stated, Neocleous’s that even a man who doesn’t accord “safety standards” can be perceived as a threat to get on a plane, or a woman’s walking on a public bicycle track can be considered within the scope of the “The Prevention of Terrorism Act” (Neocleous 2014, p. 9-10). One of the aims of the thesis is to show how political interests use these uncertainties. If a certain definition of terrorism independent of political interests could be reached; many terrorists can be justiciable, make many people away from attending to the dangerous groups, no fear on civil people, good work on state instructions (when attack happen, many state works can be stopped or can work but without development), the state can be developed itself (Kaya 2009, p.17).

## **CHAPTER 2: EU'S POLICY ON TERRORISM**

International organizations are structures formed by many countries coming together for specific goals. Countries are very powerful organizations in terms of their abilities and capabilities; when they establish an organization, it turns into an even more robust structure. When we compare the decisions taken by individual countries with those taken by international organizations, we see those decisions taken by international organizations are implemented on a more robust and larger piece of land. We know that its impact is worldwide. Therefore, it is the most crucial factor for defining terrorism to develop progress internationally.

As we mentioned before, terrorism poses a global threat. For this reason, we need international actors to stop terrorism. With its 27 members, the EU has a robust structure as a worldwide decision-making mechanism. For this reason, I have included the EU in my thesis. However, before moving on to the efforts of the EU on terrorism, it is necessary to mention why it was established and how it progressed with a single paragraph.

Many French and German people lost their lives because of three-time wars between 1870-1945. Destructions happened, there had been a continuing economic decline, and the dominance of the regimes has removed the atmosphere of peace from Europe. To make progress and live in peace, the foundation of the EU was started at in 1950 with the Schuman Plan. The European Coal and Steel Community was established with six countries from the European Region in 1951. The European Economic Community was established in 1957. The European Atomic Energy Community was established in 1958. It was decided to unite these three separate groups under the Fusion Treaty and the European Community in 1965. The Customs Union was created in 1968. In the 1980s, the number of members reached 12. The Single European Act came into force, and all communities had an extensive change in 1987. The Maastricht Treaty, also known as the Treaty of European Union, was signed in 1993 to adapt to the changing dynamics with the fall of the Berlin Wall. This treaty covered the European Communities, Common Foreign Security Policy, Justice, and Home Affairs. The number of member states of the EU reached 28 in 2013, but after that, with Britain's exit from the Union in 2020, the number of members decreased to 27. As can be seen, the EU was established

to develop in every sense and become economically more robust. For this reason, while terrorist attacks happen within the borders of the EU, it prevents the development of the Union; attacks also create fear in people and undermine trust in the Union. In this regard, we will understand what the EU did to counter-terrorism.

Everything starts with a definition. The EU Parliament proposed a description in 1997 that: Terrorism is a crime aimed at changing the political, economic, and social structures in states where the rule of law prevails through threat or force. However, this definition has changed drastically after the September 11 attacks, which was criticized for not focusing on the nature of the actions or even for ignoring it (Şahin 2014, p. 16-17). Trying to define terrorism or conceptualizing shows us that the EU has been working on terrorism for many years, especially on money laundering systems, border crossings, stop to drug traffics, etc. But 9/11 attack was hugely damaging for the security system, economy, and democracy. After the attack, many laws came into force, and measures have been taken to prevent terrorism. For that reason, the efforts of the EU were divided in two: Before 9/11 and After 9/11.

## **2.1. BEFORE 9/11**

The necessity of international cooperation to prevent the terrorist threat, which is becoming more and more global, has now been accepted by all the states. Although there is no consensus on a specific method of preventing it, states have agreed to help each other. In fact, since ancient times, states did some agreements to prevent crimes and catch criminals. For example, in the Kadesh treaty, which is the oldest known treaty in history, Egypt and the country of Hatti promised to extradite the criminals to each other. In the modern period, similar cases had been noted in the past more often—for instance, the king of France III. Napoleon got attacked in Belgium, Belgium made a radical change in the national law and ensured the extradition of guilty. This event noted the international legal literature as the “Belgian Rule.” This rule, generally between two states until the 20<sup>th</sup> century, was discussed at the League of Nations at the international organization level. Moreover, it is also important because it directly deals with an event described as “terrorism.” After the attack against Alexandre I, king of Yugoslavia, and the French Minister in Marseille, two countries offered to discuss the League of Nations’ issues. The

“Convention on the Prevention and Punishment of Terrorism” was accepted by 24 countries in 1937. However, the contract could not be implemented due to the outbreak of World War II. It also went down in history as an essential step taken at the level of international organizations (Tezcan 1988, p. 21-23).

Until the first half of the twentieth century, European countries continued their internal and external wars. World War I happened from 1914-1918, and World War II occurred in 1939-1945. National Socialist regime was the popular. There was also civil war and revolutions. Ideological approaches were very different: The meaning of terrorism is vast and very diverse from today. There were dictators who were against their public and used violence against people; it was very different to explain legal and illegal approaches and even genocidal cases. Mussolini, Hitler, Lenin, and Stalin were heads of the state and role models for Greece, Spain, Yugoslavia, and Romania. Administrators in the management mechanisms of the state have monopolized ideologically, moved away from democracy by using military force, and inflicted violence on citizens. Violence was an essential part of the state’s political understanding. Poland was occupied, and Jews holocaust happened. The brutal tactics and strategies used in this chaos constituted methods of today’s terrorism to a certain extent (Hagenloh 2015, p. 159-173). According to some, what happened during these periods was described as state terrorism. For this reason, terrorism studies gained a very different dimension for this period.

Additively, it shouldn’t be forgotten that countries such as Italy, Britain, France, Spain were colonialist countries. Terrorist incidents that emerged in Europe in the twentieth century, the states over which these states had dominion also faced the problem of terrorism. This means that they may have progressed by taking lessons from the problems of these countries for their domestic administrations.

At least but not last is NATO. After the Second World War, the Western World wanted to protect itself from the war. For this reason, NATO was established in 1949. Twelve states were the first to sign NATO, and then the number of members increased. All EU members (except Finland) are also a member of NATO today. In the case of an armed attack on any NATO members, it is among the NATO policies to respond as an individual or all members use weapons for support. In this respect, a stance is taken against terrorism, including the EU (İğdeler 2015, p. 52).

Terror makes stop the development of the economy, stabilization, fundamental human rights, and democracy. EU was aiming to increase its economic circumstance. But before going to have economic prosperity, terrorism had to stop, and the subject was handled within the union's framework. The EU has a total of 28 (-1) member states. Some of these member states had terrorism problems within their borders and outside the borders. The EU benefited from these countries' terrorism experiences, or new experiences were developed until the 9/11 attack. With these experiences, certain steps and precautionary policies have been taken. Briefly, the countries with their terrorism problems are as follows: Germany -Red Army Fraction, Britain -Irish Republican Army, Spain -Euskadi Ta Askatasuna, Italy -Red Brigades, France -National Liberation Front of Corsica, Greece -Revolutionary Organization 17 November, Holland -Hofstad Group (Asan 2007, p. 33). In this regard, the EU started operationally and politically own counter-terrorism by TREVI (Terrorism-Racism-Violence-International) in 1970. It was the first time that EU members' police forces communicated with each other, and communication continued in Maastricht and Amsterdam Treaties.

The first notable initiative to counter-terrorism in Europe was the European Convention on the Suppression of Terrorism, which entered into force in 1977 by the Council of Europe. With this convention, crimes that can be included in the scope of terrorism have been determined. These are hijacking, acts against civil aviation, security, actions against internationally protected persons, kidnapping, hostage-taking, using firearms or bombs, and those who decide to commit or support these crimes. Terrorism couldn't be defined with this convention; however, it can be said that the activities that can be considered terrorist acts are tried to be determined (İğdeler 2015, p. 130-131).

After TREVI, the European Convention on the Suppression of Terrorism, and while trying to establish Europol, the next big step was Schengen Agreement in 1985. The main aim was to integrate geographically and politically. The treaty abolished borders, making it easier to travel to other member states without visas. It facilitated trade with other member countries and enabled working abroad. This agreement had advantages, disadvantages, and many purposes. It can briefly be summarized as relevant to the thesis subject as follows. It aimed to ensure political unification and political integration of the EU countries. From a counter-terrorism perspective, this situation increased the control-audit between countries. When a person declared guilty in one of

the members of an EU country goes to another EU country, the process could continue as judiciary and security, especially for drug trafficking, smugglers, and terrorism. But it also facilitated communication with other country citizens, as it abolished borders. Members of terrorist organizations can easily communicate with their members in member countries and quickly make their action plans and terror training. At the same time, they have increased the number of people they can sell to while easily carrying their drug and smugglers sales across borders to improve the organization's financial power or support by weapons. Focusing on the advantages and disadvantages, the Schengen Agreement is still considered a step in the fight against terrorism in terms of its purpose.

The security issue was again brought up on the Maastricht Treaty's agenda. There were ongoing works and debates over the agreement's content for years, signed in 1992. This treaty took steps to ensure economic and monetary union, common foreign and security policy issues, and cooperation in justice and internal affairs. All the problems in the Maastricht Treaty were finalized in 1997 with the Amsterdam Treaty. The most concrete result of these agreements has been Europol. Europol was established after 21 years (in 1991) of TREVI to stop drug trafficking and international crime by the legal basis of the Maastricht Treaty debates.

After Europol was founded, it started to work immediately, and in this context, Europol Drug Unit was established in 1993. It began to get operations in 1994—agreements of the convention for establishing Europol under Article K3 of the Maastricht Treaty in 1995. Europol was legally established and worked for safer Europe and general tasks for drug and international organized crimes until 2001. And after that Counter-Terrorism Task Force was based at Europol in 2001 (Europol, 2021).

At the Tampere European Council summit in 1999. The articles in the Amsterdam Treaty were discussed at the summit more broadly and profoundly. In this context, security and justice were some of the subjects. Methods and practical arrangements were discussed. Decisions were taken to prevent crimes, the inability of criminals to find a place to hide, the communication of the Union about security, fight against crime, make research groups on organized crime.

## 2.2. AFTER 9/11

Skyjack method seems old but still keeps attention in the modern world. One of the tragic skyjack terror act happened on 9/11/2001. The attack occurred on three different destinations by Al-Kaida in 2001. One target was the twin towers (both), the other was Pentagon. Twin towers and Pentagon were strategic symbols of security and economy. America was a known symbol of superpower, but 2977 people were died from all over the world. Many people were scared for months; some became ill after the attack; America used all forces to get people out of the rubble. It was the most significant terrorist attack in the world. That showed a gap in security; it was not an internal situation. It was an international situation that made sense to many countries and stayed on the agenda. After September 11 attacks, U. S. President George W. Bush said that: *“Our war on terror begins with Al-Qaida, but it doesn’t end there. It will not end until every terrorist group of global reach has been found, stopped and defeated”* (Tilly 2004, p. 5). In this regard, everything has been changed from that moment. Because America is a superpower and started working very hard to stop Al-Kaida worldwide. American forces went to Afghanistan to finish Al-Kaida while fighting, other countries -which close relationship with America- and organizations took new measures by law to stop terrorism.

The EU has a close relationship with the USA, and the case was international; therefore, the process to prevent terrorism started immediately. Also, NATO and the UN were working with the USA very close in that case. Thus, the impact has been growing, and decisions are taken broadly. For this reason, under this title, the effects of NATO and UN, which are among the international actors, on the Union after 9/11 will be briefly mentioned while explicitly addressing the new regulations of the Union. Concerning, conclusion and plan of the action of the extraordinary European Council Meeting on 21 September 2001 related with the EU on terrorism after 9/11. *“The plan was established under four headings: Solidarity and cooperation with the United States, European policy in combating terrorism, The Union’s involvement in the world, and world economic prospects.”* (Serin, 2005).

After the 9/11 attack, an extraordinary meeting happened on 21 September 2001. It was accepted by the EU that terrorism is a big challenging issue, needed to combat against it; it is a priority of the EU. On 27 December 2001, a very important and

comprehensive decisions framework was made in the EU in terms of preventing terrorism. On September 28, 2001, the United Nations Security Council also took measures to stop terrorism, especially in economic terms. It was decided that the EU must also take measures to cover the UN's decisions. In addition, it has been decided to have a closer relationship with the member states regarding the prevention of terrorism. In this process, it was tried to decide whether the terrorist, terrorist organizations, and the actions that took place were terrorist acts. Clearer technical categories have been defined. It has also been decided to review the persons on the terrorist list every 6 months. It was decided to stop the economic assets of the people on the terrorist list (European Union, 2001).

Within the EU institutions, the EU parliament has uniquely made legal base preparations to prevent terrorism actively since 1992, especially on the definition. On the other hand, 9/11 accelerated the process even more. In this regard, Article 29 emphasizes freedom, safety, and justice. It requires member states to punish terrorists or acts of terrorism in their domestic laws for more significant progress in the fight against terrorism. It is also recalled at point 46 of the Action Plan of the Council. With these developments and needs, the framework decision has been prepared. In the framework decision Article 31-e- TEU goes deeper to bring the criminal laws of member states closer together. In this regard, the framework decision is cornerstone for the fight against terrorism in the EU, in order to define terrorism, to catch and punish terrorists, to strengthen the communication between member states, and to have the same legal rules for punishment. The framework decision aimed to be successful in the definition of terrorism in the international sense. The framework decision created three different categories of terrorism. The first is terrorist crimes, the second is crimes related to a terrorist organization, and the third is crimes related to terrorist activities. In addition, helping to create a terrorist crime is also subject to punishment. In the framework decision, these 3 categories were dealt with deeply and the definitions were determined. The intention is very important in terrorism and it took its place in all studies after the 9/11 process. In this context, the framework has produced a truly unique study by focusing on decision incitement, complicity, and attempt. However, when the subject came out of the theory and into practice, the definitions of these three concepts were expected to be made by the member states in their domestic laws. This situation extended the implementation of the framework decision over a long period (Dumitriu, 2004).



Directive (EU) 2017/541 of the European Parliament and of the Council was held on 15 March 2017. With this directive, the topics covered in the framework were further deepened and 43 items were created. The directive has been broadened to cover the framework and has been put into practice instead of the framework. With these articles, broader measures were taken to prevent terrorism. There are clear references to internet access bans for the prevention of terrorism, which events and behaviors are terrorist acts, internal communications of member states to prevent terrorist acts, and Eurojust. In addition, very importantly, the support for the way followed regarding the victims of terrorism discussed (European Union, 2017).

Europol took new measures to protect against terrorism. As Counter-Terrorism Task Force, it was established in 2001. Europol secure information exchange tool was established in 2002. Cooperation Agreement signed with the USA in 2002. Europol has increased the number of its employees and liaison offices to continue its work quickly, making Europe safer with a significant effect. Furthermore, it also started to have publications such as Organized Crime Threat Assessment, EU Terrorism Situation, and Trend Report. It created a security application, and the application name is Secure Information Exchange Network Application. After all work, Europol became a European Agency in 2010, and a multi-annual policy cycle was established to be more effective in the same year. European Union Police Chiefs Convention happened in 2011. EU needed to take action about cyber security at that time because of worldwide internet connections, and for this reason, European Cybercrime Centre opened in 2013. Also, Europol continued to own development for opening new liaison officers and reach 200 office centers in 2015. European Counter Terrorism Center was established in 2016. European Migrant Smuggling Center found in the same year. In the following years, the number of employees increased even more and reached more than 1000. Europol's official name was changed to European Union Agency for Law Enforcement Cooperation in 2017 (Europol, 2021).

Unit about the Judicial Cooperation was talked about firstly in 1999 at the Tampere European Council Summit for safer Europe and support each other about freedom, security, and justice. In this context, the subject was also discussed in the following years. Primarily, after the 9/11 attack, it was understood more clearly that terrorism poses a threat inside and outside the border. Efforts have been accelerated to

establish Eurojust, the EU Agency for Criminal Justice Cooperation. It was officially established in 2002 (Eurojust, 2021). It aims to work together in counter-serious cross-border crime. One of its founding aims is to stop terrorism. Eurojust has members from outside the Union as well as from the Union. This situation makes Eurojust more equipped, enables it to reach broader people, and makes it more effective. Many experts within Eurojust share their own experiences on terrorism and identify common legal and operational challenges. It ensures the get caught of terrorists. Its procedures and lead cases related to terrorism. It deals with foreign terrorist fighter problems, gathers the evidence, and tries to protect victims. In this way, victims do not feel alone and feel safe. It accelerates the judicial process in the fight against terrorism.

As mentioned earlier, EU members are also members of other unions. NATO and the UN are one of them. The steps taken here are also crucial for the EU. In this respect, it would be helpful to mention what the UN did briefly. The current number of UN members is 193. Some of its members are African and Arab countries. This situation shows that it faced severe terrorist problems much earlier. As a result of these terror problems, meetings were held, and decisions were taken. However, it has not faced a terrorism problem that caused the death of almost 3000 people before. After the attack of 9/11, the UN took concrete steps to include the previous decisions to be more effective. First of these is the establishment of the Counter-Terrorism Committee in 2001. The committee is based on foreign terrorist fighters, information, and communications technologies, countering violent extremism and terrorist narratives, legal issues, law enforcement, countering the financing of terrorism, integrating gender into counter-terrorism, human rights, border security, and arms trafficking. As a result of the Committee, with resolutions number 1373 and 1368, the UN member states were responsible for preventing terrorist acts. Such as preventing aid to terrorist organizations, preventing the abuse of refugee rights by terrorists, preventing the accessibility of some weapons by terrorists, and preventing money that goes to terrorist organizations by banking (UN, 2021).

The UN has continued its work on terrorism for many years. Committee meetings were held. In the end, the UN general assembly took the decision: *“More recently, as a response to the September 11 terrorist action, the Sixth Committee of the United Nations General Assembly attempted to formulate a comprehensive general definition of*

*terrorism. Article 2 of the Draft Comprehensive Convention on International Terrorism reads: (1) Any person commits an offense within the meaning of this Convention, if that person, by any means, unlawfully and intentionally causes: (a) Death or serious bodily injury to any person; or (b) Serious damage to public or private property, including a place of public use, a state or government facility, a public transportation system, an infrastructure facility or the environment; or (c) Damage to property, places, facilities or systems referred to in paragraph 1(b) of this article, resulting from or likely to result in major economic loss, when the purpose of the conduct, by its nature or context, is to intimidate a population or to compel a government or an international organization to do or abstain from doing any act.19” (Obeid, 1997). As can be seen, making the definition of terrorism, it has been emphasized which actions, how they pose a threat and what they aim for. The EU has also been affected to a certain extent by these regulations because the EU commission works closely with the UN, third countries, and G8.*

Each EU member state has a legal system consisting of morals and traditions. This situation creates diversity within the EU. However, there was a need for legal rules that would be appropriate to prevent different concepts and be applied everywhere within the borders of the Union. For this reason, there is an EU law created by the EU member states altogether. It aims to bring to own legal orders of states to the same base and be enforced everywhere in the Union. In this regard, each EU member state has a different history of terrorism, and a common approach is needed to counter terrorism. A step was taken for this purpose in 2001. Commission of the European Communities has recommended Proposal for Council Framework Decision. The general principles previously determined in the European Convention on the Suppression of Terrorism in 1977 have been further deepened. Issues that will enable more apparent distinctions regarding whether the actions are terrorist attacks or extraordinary (but not terror) acts are emphasized. The intent was discussed and decided that it is an essential factor to specify terrorism. Precise data was prepared that EU member states can enforce their domestic laws. While measures were taken against terrorism within the union, a commitment was made to prevent terrorist acts outside the union. It has been decided that it is necessary to ensure coordination with non-member countries and stay close in common foreign and security policy. In this regard, the first action plan happened in 2001. EU has taken decisions that will include the efforts of other countries by addressing the issue with a more holistic perspective. Such as Police

and judicial cooperation, bilateral relations with third countries and regions, air transport security, economic and financial measures, emergency preparedness, exchanging information in Europol, particular specialist anti-terrorist group in Europol, coordination between Europol and USA, co-ordination about the border controls and migration issues (European Commission, 2021).

On the other hand, members of the EU have impacted the EU's decisions regarding terrorism. The most important of these countries is Germany. Germany has an enormous migration population in the EU. After 9/11, it was confirmed that terrorists stayed/lived in Germany for a while. So, the country was responsible for its migration policy on the law, and it is changed (Miko & Froehlich, 2004, p. III). That means it also affected the EU because, legally, countries are not completely independent from each other. Germany has adopted two counter-terrorism packages aimed at terrorists living in the country. One of them related to living in the country or came to earn money from abroad. Supervision of the movement of religious groups and associations was allowed. Terrorists of a foreign country would also be judged in the court in Germany. The coming of terrorists from another country into Germany has been more difficult. Security measures have been increased at the borders and airports. The other package aims to increase the budget of counter-terrorism units, such as intelligence and law enforcement (Miko & Froehlich 2004, p. 4). While advancing these processes, Germany was in close relations with both the EU and the USA.

After the 9/11 process, the EU changed the laws within itself and expected the member states to implement these changes into their domestic laws. Especially in terms of security, we see that communication and interaction with both member and non-member states are given great importance. In this regard, Europol and Eurojust are of great importance. In the next chapter, the relationship between these processes and politics will be examined and focused on the interests of states.

## **CHAPTER 3: HOW THE EUROPEAN UNION DETERMINES TERRORISTS AND TERRORIST GROUPS**

Terrorism questions: Why is it desirable to disrupt stability in a country? Why are so many people wanted to be killed? Why is it wanted to make people suffer? Why are soldiers killed? Why do people need terrorism? Why do we even do not have a common terrorism definition?

Why terrorism? Terrorism is a war tactic that harms people. To briefly touch on the reason for the existence of terrorism there are three reasons. Ideological reasons come first, such as imperialism, neo-colonialism, and Zionism. In addition, the international revolutionary conflict against imperialism has also led to terrorism. Another reason is that when the protested issue is turned into a terrorist act, it is more recognized worldwide. Because the media and people give more importance to this, protesters can also take advantage of this situation to make their voices heard more. Second reason is the different perspectives against international terrorism. For example, Western governments do not like terrorism within their territory because they adopted democracy, but terrorism generally targets the West. On the other hand, non-West countries generally have anti-colonial movements; people see who the West calls terrorists as national leaders or heroes. All these differences of interests are the basis for the formation of terrorism (Martin 2017, p. 204-209). The other reason is, there were/are many terrorist groups around the world which looks like to have a religion reason but the fact that all have politic reasons. Such as wanted to have own land, own government, own rules, own national education system et cetera (Hoffman 2006, p. 82).

We have previously emphasized that terrorism is an international threat, and international agreements must stop it. EU works for it. The EU acts together with various organizations and countries while making legal arrangements to stop terrorism. In this direction, we see that the EU mostly cooperated with the USA due to the 9/11 processes, cooperated with international organizations, and was affected by NGOs. In this title, organizations that impact the EU and whose decisions the EU cares about to stop terrorism will be examined by political approach. To have a better perspective on the

subject, the effects of the USA, international organizations, and NGOs will be explained, and necessary examples will be given.

### **3.1. THE USA'S EFFECT ON THE EU**

There is different point of view that countries need terrorist organizations. Powerful states support terrorism in line with their interests to occupy the lands of other countries. Those who wish to be strong and those who want to be rulers in weak countries use terrorist organizations as a tool. Because sending soldiers and equipment to everywhere can be a problem and costly. Instead, it is cheaper to support terrorism. States don't get in a war by using own soldiers and never say obviously they are in the war. Because it doesn't look like a war. They don't declare, have changed the weapons, the way that they fight besides having a legal base on such as providing peace in the area that which not including in their land. When this situation arises, it is easy to refuse and avoid punishment. In this regard, terrorists become a good option in the area for sending less people from the country to coordinate terrorist organization, but having many people to help in stranger land by terrorist groups. In fact, it is a foreign policy strategy that powerful states use in the abroad (Hoffman 2006, p. 258). For those reasons, today we have seen that states give support to terrorist groups. As an example, U.S. State Department declared officially that they have been sponsoring to six countries' terrorist groups (Hoffman 2006, p. 263).

There are four ways to support terrorism. To offer moral support by giving political support, normalizing the situation, and legalizing it. Providing technical support such as logistic support and providing event-specific support. Single instant approval or a series of events can be supported depending on the situation. But the supporter acts selectively. Active participation can also be achieved by providing assistance support in operations. What is mentioned here is to provide continuous support for the terrorist organization (Martin 2017, p. 129). Countries provide one or more of these forms of support to the terrorist organization according to their interests and possibilities.

Another perspective on why states need terrorist organizations is that powerful states want to have more power on the border of the country and outside, such as executive power, legislation power, gas, gold, food, or anything. They use people's fear of terror to

achieve these goals and become more powerful. As an example, for this situation The USA is an imperial power. Terrorism is the only way to maintain its imperialism in 21 centuries. American military and political power landed the territory of many countries using terrorism as an excuse, such as Iraq, Afghanistan and Syria. To prevent terrorism, it gained strength in the administration with its military power in those lands. It also cooperated with many countries to stop terrorism. Especially the countries' security organizations with which it cooperates have established close connections. They have received the data of information of the citizens of the country. They have become dominant in the country's internal security policies. The USA has built the same relationship with the Europol. Thus, the EU compromised its freedom by acting in line with the policies of the USA (Paye 2009, p. 16).

After the 9/11 process, the USA started to take legal measures within the scope of the fight against terrorism. The first was the Patriot Act. This act examines the perpetrator's purpose of the terrorist crime, not the acts presumed to be terrorists. It harms the government from an anti-government perspective, it is understood as terrorism because it has a political purpose. Here, two issues stand out. First, it is impossible to measure the purpose concretely, and therefore it can be claimed that the aim of innocent people is also bad. Indeed, research has confirmed the claim. It has been revealed that many foreigners associated with terrorism while being detained were innocent. Another issue is that it has been possible to put society under pressure by associating every action and protest against the government by using terrorism. Again, in connection with the issue, aid to associations and foundations was also blocked. Because it could not be distinguished whether the investor invested in violence or aided a peaceful place. Patriot Act also caused legal inequalities. On November 13, 2001, a military court was established under Bush's leadership. Foreigners suspected of terrorism would be judged in this court. By foreigners, it means those who originally came from complex and poor countries, such as Arabs, Muslims, and South Asia. Checks were also made at the entrance and exit to the country, and people from these countries were not allowed to get in the country. This situation was an accusation that would put the country's citizens in difficulty when they wanted to go both to their own country and to another country because they experienced such an accusation in USA. This accusation destroys the person's credibility and is a security threat in other countries. In addition, unlimited

incarceration of these people with the Patriot Act is allowed. It even gives the authority to denationalize these people, which came from Arab, Muslim, or South Asian countries, living in the land of citizenship. The executive branch greatly influenced the people with this law and seriously strengthened its powers. It created fear by constantly talking about a timeless and placeless struggle against terrorism and even making the right to control each other directly through applications. It even allowed the telephone and other technical devices to be tapped without a legal order. Their freedoms were curtailed. Citizens, especially foreign ones, felt unsecured. As a very clear example, America sent its soldiers to other countries for end terrorism and ensure security. But even here, it is possible to see difference in the political point of view. Prisoners captured in Afghanistan as part of the fight against terrorism were told that the Geneva conventions could not be applied. It was said that the reason was that the prisoners were not regular army soldiers, came from a structure that did not know a command, and did not wear uniforms. However, while these were being discussed, it was recorded that the American soldiers did not wear uniforms either (Paye 2009, p. 23-59).

After explaining the terrorist process through the USA, it would be helpful to explain the impact of the USA on EU members through a few examples which especially have terror experiences. Such as Germany, Italy, Britain and France.

It would be helpful to look at Britain's historical terror laws and the process after 9/11. It is possible to describe the evolution of terrorism laws for Britain as follows. Between 1973 and 1996, there were eight anti-terrorism laws in total. Those laws were updated in 2000, even covered by tiny details. In this case, even the smallest act such as protest could be called a terrorist act. After the 9/11 attacks, Britain made a law update again. It passed the crime and security law on December 14, 2001. In this law, it is observed that the USA influenced Britain. Because, after the 9/11 process, the USA keeps a foreigner accused of terrorism in detention indefinitely. Britain followed the same path. In particular, foreigners seemed as terrorist suspects. As we mentioned before, terrorism is a purely political approach. In Britain, the decision about the terrorists is left to the conclusion of the interior ministers. Since the minister already has a political identity, we observe that the executive power comes before the legislative power. The case becomes even more of a political situation. In addition, as in the USA, people in Britain do not have the right to choose their lawyers after being arrested. State-appointed a lawyer



becomes responsible for the case. When there are special situations based on the case, the judge does not want the lawyer to hear them. As a result of that the lawyer becomes dismissed (Paye 2009, p. 76-79).

After 9/11 Germany and U.S. worked close to prevent possible terrorist attacks. In that time, Germany helped to America including with military area although it was banned caused of World War II but they used the way of Article 5 of NATO's. On the other hand, Chancellor Gerhard Schroeder was leading to country and he got legitimation from government and parliament for send soldier to Afghanistan. After 9/11 Germany has changed own security policy by using law. After all it searched for weak law process which help terrorist to get in Germany and then all have been changed by the government under law. In addition, membership in the organization and financial support cause punishment (Miko & Froehich 2004, p. 8).

In Belgium, there was the classic accusation procedure. According to 322-325 of the penal code, assassinations, murders, attacks, hijacking, etc., which are among the articles, were related to terrorism. Also, in the 29 July 1934 law private militias were prohibited. It was later updated and changed on August 5, 1992 and further elaborated. In these details, behaviors that try to act like the army and act like the police were prohibited. Thus, it became clear what the intentions of the people were. Because when you become a member of an organization, you are acting consciously. If the organization is armed and plans activities such as assassination, kidnapping, hijacking, etc., the organization members, one by one, are also responsible for these actions (Paye 2009, p. 85-86).

France with the law dated September 9, 1986, we see that terrorism can be determined objectively and subjectively with two separate articles. By objective, there are 39 different categories in total. These categories cover that can be taken to disrupt public order. Subjective, on the other hand, focuses on a person's intention. As mentioned earlier, terrorism is a political phenomenon, and the government was declared a terrorist according to what it thinks of the perpetrator's intention. On July 22, 1996, the law is updated on aiding crime, gangs, etc. With the regulation dated November 15, 2001, new provisions were added on fund, asset management and membership to the organization (Paye 2009, p. 87-89).

Italy still has not repealed the rules from the Mussolini's period while defining terrorism. By making the necessary updates in its law, it has made changes to cover the

problems that arise in the modern period. Thus, it synthesized the old and the new. In this direction, Italy declares those who use violence to dictatorship over other people as terrorists. Those who try to undermine the authority of the state by using violence are declared terrorists. In order for all of this to happen, it punishes the people who organize it. It also punishes people who are members of the organization. In addition, one's intention is also important. The Cossiga law was promulgated on February 6, 1986. With this law, the police have been given the authority to arrest people who have committed or are about to commit terrorist crimes such as political conspiracy (Paye 2009, p.92-96).

There are various policy changes and legal processes made after the terrorist acts. However, it should not be forgotten that states have actually prepared themselves for these situations much earlier and the necessary draft studies have been made beforehand. When an act needs to be implemented occurs, they base these laws on them and make them usable and legalized with various revisions. So far, we have explained in this part clearly how EU members and USA made law through the 9/11 terrorist act. In fact, to give a different example from the 9/11 process, the Madrid and London processes can be mentioned. In Europe, the terrorist attack that killed 192 people in Madrid in 2004 and the terrorist attack that killed 52 people in London in 2005 created a great panic. After the terrorist acts, measures were taken and the EU Counter Terrorism Strategy was created. In 2010, The EU Internal Security in Action was created. In 2015, The European Agenda on European Security was created. More inclusive measures have been taken, together with its internal and external dimensions, in order to provide better security. In 2017, Directive on Combating Terrorism was adopted. Definitions related to terrorism have been studied. They wanted to better accelerate international work by harmonizing definitions at EU level. Thus, cooperation will be easier and information sharing with institutions such as Europol and Eurojust will be facilitated (Yazgan 2021, p. 1025-1027).

So far, we explained that the USA is a powerful state, and it wants to preserve its position through terrorism. We learned that while ensuring security worldwide, it also strengthens its position and influences other countries. We have seen that there are EU members among the countries that have been affected by it, and they have made changes to cover their domestic laws as well. At the same time, we saw that EU institutions such as Europol and Eurojust, were also affected by this situation and progressed in close

relations with the USA to stop terrorism. As a result of this information, we have learned that the USA impacts the EU's decision-making process.

### **3.2. INTERNATIONAL ORGANIZATIONS'S EFFECT ON THE EU**

Since establishment of UN, countries show tense to terrorism who has a problem with. The subject has been taken as a debate on Schengen, Maastricht and Ghent Agreements. League of Nations signed first agreement about to prevent, punish and establishment of international criminal court for terrorism in 1937. Even agreements were not put into effect in those times, the agreements were taken seriously when UN established in 1945. Agreements stay on the agenda still because of globalization terror issues (Özdemir 2006, p. 53). So, we can say that UN starts and make decisions on groups, after that, countries or other organizations walk the same way and EU is one of them. But further it is not addicted completely. Especially UN, who has 197 country members. In this regard UN is the biggest international organization, decision making and most powerful organization in the worldwide. But briefly, there is no general definition at the UN level, unless there are categories. For this reason, before the EU, UN has a big effect on the legislation.

On the other hand, the Organization of African Union States, the Commonwealth of Independent States, the Organization of the Islamic Conference and NATO are the groups that define terrorism at the international level (Şahin 2014, p. 15-16). NATO defines terrorism as the unlawful use or threat of use of force against life or property with the intent to intimidate or compel governments or societies to achieve political, religious or ideological goals (Kaya 2009, p. 19).

International organizations are also helpful for countries to protect their interests and strengthen their diplomatic relations. Because some countries may illegally negotiate with terrorist groups for their interests, it is a risk to have a good relationship with other countries. For example, Türkiye doesn't develop a good relationship with a country cooperating with the PKK terrorist organization. Generally, countries do not want their relations to deteriorate with other countries or international actors. For these countries to maintain good relations with both terrorist groups and other countries, it would be easier for them to decide on declaration through international organizations. For this reason,

they act easily in the decision-making mechanisms in international organizations compared to individually defining or declaring whether the organization is a terrorist organization or not.

### **3.3. NGO'S EFFECT ON THE EU**

Along with the concept of democracy, we see that the public also actively participates in the policy-making process. In particular, the concept of globalization, technology, and governance, along with democracy, have made the public feel much closer to politics. Apart from the state, other organs have also been strengthened. NGOs also played an active role in this process. In addition to influencing policy-making processes, it also helps the state at the level of reaching different groups.

Civil society refers to citizens who have come together with their consent, to act independently from the intervention the state or central national power. Access was provided with the help of NGOs in areas that the state could not reach due to the workload. At the same time, they have undertaken the auditing process of policies to a certain extent. In order for the process to progress, open and accessible channels of participation, trust, accountability and transparency, and independence should be implemented both at the state status and at the NGO level. In this direction, NGOs have undertaken the tasks of determining the needs of the society and conveying them to the political authorities, assisting the departments where policy will be developed, directing and ensuring the implementation of policies according to the dynamics of the society where necessary, and supervising the implementation of policies when appropriate (Bulut, Akın & Kahraman 2017, p. 23-38).

NGOs can make many voices through social media. It can bring an act to the agenda, protest, boycott, organize various campaigns and organize the society against the act. In this way, the agenda setting list can also take an important place. And even it becomes lobbying against the government. As a result of these activities, one of the EU institutions can be reached. The information held by the NGO is shared with the relevant places and in this case, the NGO can also play the role of an expert. Also, civil activists have a similar influence as NGOs.

Here is an example under this heading. After the terrorist acts in London and Madrid, it was decided to store the information of citizens by the EU. However, this decision was later overturned by civil activists who defending human rights. The subject was later reworked by the European Parliament, NGOs and internet providers. At the end of the work, Briefing for Members of the European Parliament on Data Retention was published (Liedlbauer, 2021). The case showed us NGOs play a role for politicization the cases. At least they have started a public debate on it.

The persons concerned have right to participate in the government in democratic states. This situation gave the people the power to control the state and even to limit their abilities in some cases. The most important of these are basic human rights. For example, the right to life, the right to security, the right to freedom, the right to associate and organize. Terrorism poses a great threat to democracy and human rights. For this reason, more repressive methods are sometimes used in the fight against terrorism. The point that should not be forgotten is, the public has power to react or prevent these oppressive methods. The methods lead to the emergence of oppressive states and dictatorial governments over time. To avoid this situation, counter-terrorism measures must be limited and well-defined. It must only be aimed at terrorists. Otherwise, it will be thought that the state is trying to increase its political power by taking advantage of the crisis. It has been observed that when the state increased its power by taking advantage of the situation, the people were more involved in crime. For example, Italy's Anti-Terrorist Law in 1980 gave the police the right to take action against people who did not actually commit crimes but who have the potential to commit crimes in the future. Afterwards, it is observed that the crime rate increased. Counter-terrorism measures must be credible and reliable because it will provide both a counter-terrorism competence and the protection of civil liberties. If the state takes drastic measures and violates the fundamental rights of individuals, it loses both its legitimacy and the support of the people. EU continues to work to protect human rights in the ECHR. According to the ECHR, a terrorist who has been caught should be protected in case of proof of violation of his fundamental rights. However, this clearly shows that the ECHR is equipped to protect terrorists (Beşe 2002, p. 114-153).

The relationship of NGOs with terrorism is a very complex issue. Naturally, it doesn't seem possible to find open sources on their relationship with terrorism. However,

in practice, there are some cases where terrorist organizations present themselves as civil organizations in order to receive certain economic, ideological and social support. Terrorist organizations are versus against a power with legitimate armed force, such as the state, go towards civilianization to combat it. This allows them to hide. For example, the leader of the PKK, Abdullah Öcalan, openly advocated that the activities of the terrorist organization must proceed with non-governmental organizations. He argued that when progress was made with civil society, a certain amount of administration, municipal and security affairs could be delegated to terrorist organization (Öcalan 2015, p. 114).

NGOs are very influential in the decision-making mechanisms of the state. They have the power to bring up an issue that seems to be lacking or disturbed by society. They ensure that action is taken by putting pressure on the authorized institutions of the state for these issues. There are strong NGOs and civil activists within the EU as well. Terrorism, on the other hand, sometimes enters into NGOs or opens NGOs themselves. Because by becoming civilian, it gains an advantage over the state. At this point, NGOs sometimes pose a disadvantage to preventing terrorism. Because they think that the steps taken by the state to stop terrorism are contrary to human rights, they try to prevent it. However, they may also prevent state terrorism from occurring. It is challenging to decide on this issue.

### **3.4. EU'S PROCESS ON DECIDING WHO IS TERRORIST**

After all, everything starts with the politic. If sovereignty has power, has capability to give reaction for emergency situations on the legal base, has been a problem solver; means that the person is able to run the country even maybe run the world. Analysis of the case is, terrorism happened, law process changed to country's own interest and sovereignty continued (Miko & Froehich 2004, p. 5). In this regard, states are the major element for sovereignty but also governments are the key element. Because government lead the state. For leading a state, policy is the tool. Policy has many areas such as security, law, education, health and so on. So how does the EU's legal process work for making law especially on the terror basis?

Politics means first deciding on a subject and then making a legal regulation. On the other hand, EU law generally means the law of treaties and communities. National

constitutions are not the basis of the powers and assets of EU law. The founding treaties form the basis of the EU, as the primary source such as Paris Treaty, Schuman Plan. If there are issues in the domestic laws of the EU member states that do not comply with the EU law, these laws are expected to change. EU law takes precedence, but there is no sanction.

The secondary source is the law of decisions. It is the law created by the decisions taken by the EU main institutions within the framework of the powers permitted by the founding treaties and by the purposes of these treaties. The sources of EU law are determined as follows: *“European Communities and the founding treaties of the European Union and treaties with non-member states. Legal acts of communities and community institutions. European Community Court decisions, general principles, and practices, doctrines.”* EU couldn't provide political and legal integrity in foreign relations and defense. For this reason, it is difficult to make a definition of terrorism and a policy on terrorism that the EU fully agreed on. (Aydın 2008, p. 209-246).

Terrorism threatens the whole world on an international basis. To stop terrorism, it is necessary to take action globally. The EU is one of the most vital unions with 27 member states, in this direction. There is no clear definition yet, but there is a combination and general description of the EU. Such as descriptive approach, individual approach and intention. Descriptive approach focusses on the acts such as murder, hijacking, or bomb. The individual approach focuses on actions, about the person's perception for planning the acts. Both approaches are built on terrorism defined by the EU (İğdelir 2015, p. 134). And the most critical fact is intention. It comes to the fore in the EU's fight against terrorism. It is the act that is accused in classical criminal law, but in terrorism, the intent is blamed. For this reason, while deciding on the organization/person, the person's intention is tried to be determined.

Terrorism studies has been continuing for safer Europe. People have right to live in safe EU area. Therefore, security is provided by article 5. For this reason, member states appear to be making progress, whether individually or within the community (Elgar 2013, p. 67). In this respect with all 28 (-1) member countries have a common agreement process on the EU law. After common agreement, every member country responsible to make progress on their law process. But only 7 countries made national law process yet. These countries are: Britain, France, Germany, Spain, Portuguese, Greece and Italy. It

shows us that the EU members still work for own capabilities not for the Union capabilities. Such as legal base and making decision on terrorism. Therefore, the Union doesn't have basic particular skeleton about the preventing terrorism (Monar 2007, p. 309).

On the other hand, researches show that every country has different perspectives; depends of how it got exposed by terrorism in the EU such as experience and interests. According to those, they prioritize their terror policies. As an example, Britain had bad experiences because of IRA in the past. But others such as Denmark didn't have the same experience. Therefore, while Britain was making very deep provision against terrorism, Denmark was not (Monar 2007, p. 301). From this perspective, countries are free to describe meaning of terrorism according to own criminal law. In this regard punishment and deterrence can be change. It makes sense that every country has different definitions or policies by own.

Defining terrorism differently in each member state has sometimes been a problem, especially for the terror list decided to be prepared by the EU after 9/11 act. It is helpful to explain briefly.

One of the most important initiatives taken by the EU after the 9/11 process was to publish a list of people involved in terrorist activities within the framework of additional measures to implement the UN security council decision. This list is essential for identifying the perpetrators of terrorist activities inside and outside the EU. The EU determines individuals or groups on the list; however, groups, individuals, and organizations determined by the UN Security Council may also take part. The situation emphasizes once again that the EU is in communication with other organizations while making decisions and that the UN is an essential part in the decision-making processes. The list is updated every six months. This list enables terrorists to identify and take measures to stop terrorist activities. In this direction, the authorized institutions can contact the security forces and the judiciary. As a measure, their financial assets can be frozen for those on the list. The list was last updated on 19 July 2021. According to this update, the names of 14 people and the names of 21 groups and entities are on the list (European Union, 2022). However, including a person's name in this list by mistake removes their right to object and causes them to be subject to sanctions. For example, a terrorist carried out several transactions using an EU citizen's name, fake identity, etc. In



cases where the terrorist himself is not busted; the EU citizen may face direct accusations. Accordingly, all assets may be confiscated of the citizen, and he may take to prison. The person has no right of appeal against this decision taken against himself. The file that formed the basis of this decision is confidential. Requests from the defense are told that the information is personal and that this secrecy is necessary for the intelligence services. This situation also paves the way for countries' authorities to act arbitrarily (Paye 2009, p. 84).

Although the states have determined the main title on whether an event/person is terrorism/terrorist or not, they are independent of each other in their domestic laws. For this reason, while an incident in one EU country is compatible with terrorism and is punished, the result may be different in another EU country.

An example case is Fehriye Erdal. She is DHKP-C member and murderer of Özdemir Sabancı in 1996. After assassination plan, she escaped to Belgium and taken into custody in 1999 in there. When she got judged Belgium authorities decided to judge her on guilts in Belgium not in Türkiye. In this case authorities decided that there is not a terrorist judged because Belgium has different defining than Türkiye with the technical points such as semi-automatic weapon is not enough proof for terrorist action, it must be fully automatic weapon (İğdeler 2015, p. 135).

Another example is Roj TV case happened in Denmark. Türkiye argued that PKK is accepted by the EU as a terrorist organization on the list. But Denmark allowed PKK's TV channel opened and continued to broadcasts in the country. In this point, Türkiye argued that the tv channel must be closed because there was propaganda of the group even France and Germany closed the TV channel with the same reason. But Denmark judge authorities decided that there is no need to close the channel according to own rules and didn't close it. Only the channel needed to penalty because it sponsored by terrorist organization and did propaganda. The case brings many questions to minds (İğdeler 2015, p. 136).

Currently, it is accepted that there are two dominant powers and ideologies in the world, America and Russia. Terrorism is also affected by the decisions of politic ideologies. This situation can be explained with a clear example. José Maria Sison, the founder of the Communist Party of the Philippines, lived in the Netherlands from 1988 to 2003 without any problem. During this period, he benefited from the social aid of the

Netherlands. Sison's name was declared by American Foreign Asset Audit Office as a terrorist on 12 August 2003. After that, he sanctioned, his assets were frozen, social aids were stopped in Netherlands. Sison's name was added to the EU council list. As seen in the example of Sison, since it represents the opposing force, legal arrangements were made in the EU in line with the request of the USA. Sison's life, which he continued for 15 years, was reversed in the Netherlands, and his name was added to the list of terror. This case shows that terrorism serves the interests of countries and the interests of international politics (Paye 2009, p. 83).

In this section, we have learned about the legal resources of the EU. In line with these sources, we have learned how it follows the member's process of defining terrorism and that the member states are free to make their law. We observed the process of preparing a terrorist list, one of the best initiatives of the EU after the 9/11 act, its advantages and disadvantages.

## CHAPTER IV: CONCLUSION

21<sup>st</sup> century, terrorism threatens the whole world on an international basis. When a terrorist act occurs, citizens of many countries are affected by this act. Crime and threats to security have become global. For example, first hijacked happened in 1968 by Popular Front for the Liberation of Palestine and after it raised all over the world. The case became classical method of terrorism. On the other hand, internet gives a big opportunity to reach people. Terror groups use this advantage for making statements, making fear on the people, taking videos by opening a website, twitter accounts, Facebook groups, telegram groups and et cetera (Hoffman 2006, p. 63). For this reason, it is imperative to take action internationally. International organizations have great importance for international measures to be taken. The EU is one of the international organizations with its member states and strong structure. To take measures, first of all, it is necessary to agree on the definition of terrorism. Then, policy and necessary laws should be made.

As we mentioned in the first chapter, the connection between politics and law must be well understood to take the necessary precautions. Law and politics cannot be separated from each other. They take a political case in line with their interests and needs and then complete the legal process. This is the way to go about terrorism.

Terrorism tries to reach its own goals, and it is the way that goes on politics because it stands against the state and wants to have rights, which are arguable by terrorists, from state. Terrorism certainly has political targets and political motivations (Hoffman 2006, p. 40). While some organizations are declared as terrorist organizations according to the interest and needs of the countries, others are declared as peace fighters. Countries act in line with their interests and needs. It is also challenging to find an agreed definition of terrorism, as interests and needs differ from country to country. There is another reason why the concept of terrorism does not have a common definition at the global level: certain labeling acts as terrorism includes the sensitivity of taking an ideological and political side and condemning the actors (Kaya 2009, p. 14). There are many examples that acts seen as a terrorist act or guerilla acts depends on which side you are in, and generally semantic based. An act happens in the Western world, generally calls as a terrorist attack, but an act that happens in the Arab world is generally calls as a

guerilla attack. As Bruce Hoffman gave many examples and also see on the news (Hoffman 2006, p. 28).

There are some discriminations by different ideas. However, some gaps have been left in legal perspectives and definitions. So, hegemonic authorities can use those gaps for own interests; although studies to define terrorism are very old and studies still continuous. Besides having definition studies, it is very important that authorities or actors, needs to highlight those definitions at the international level. In this regard, the first definition at the international level was made at the third unification of criminal law conference in Brussels 1930: The deliberate use of methods that may pose a public danger, manifested as the expression of political or social opinions, or acts of terrorism that constitute crimes against bodily integrity or against private persons or states property will be punished (Şahin 2014, p. 15).

The EU is one of the most influential international organizations in the world. For this reason, the EU's attitude towards terrorism and its counter terrorism policies are essential. In the thesis, we examined the policies of the EU. The EU has tried to define terrorism with its categorization. It has regulated various legal sanctions made laws and policies. However, there is no apparent sanction for implementing the decisions taken at the EU level in the domestic laws of the member states. Each member state may take the measures it seems necessary to protect its fundamental interests regarding its security. Member states are not obliged to share information that would endanger their security. Their core interests are always at the forefront (Aydm 2008, p. 209-246).

After the 9/11 terrorist attack, the EU heads of state and government held a council summit meeting in Brussels on September 21, 2001. The attack was evaluated at the meeting, and the policy on how the EU should progress was determined. An action plan has also been prepared for the fight against terrorism. At this summit, it was decided that the EU should support the USA. In addition, it has seen the USA sending troops to Afghanistan and Iraq within the scope of the fight against terrorism as legal based on the UN Security Council resolution. It should also be noted that in terms of a global struggle, the EU has given great importance to the fight against terrorism under the leadership of the UN. A general framework of the EU's counter-terrorism strategy was determined at this summit. One of the most important of these strategies was the preparation of the lists of terrorist organizations and those who support terrorist organizations by the Council of

Ministers of Interior. The communication of intelligence of the member states on terrorism will be increased. As we mentioned before, all kinds of information will be shared with Europol and Eurojust, and action will be taken. In addition, Europol and Eurojust will continue to work closely with the USA (Özcan & Yardımcı 2005).

After 9/11, the EU started to prepare a list of terrorists to identify terrorists and apply more apparent sanctions. This list is updated every six months. In the thesis, it is explained which criteria the EU pays attention to while preparing this list. While the EU is preparing its terrorist list, it certainly does not carry out the process independently. International organizations such as the UN heavily influenced, it is influenced by the USA and also by NGOs. National administrators have a say in the preparation of the list. Decisions made are not audited and cannot be objected to. Those on the terrorist list face a massive overfilling of financial assets and economic resources.

At the beginning of this thesis, I hypothesized that countries declared terrorist organizations according to their interests. I wanted to learn on the EU if my hypothesis was valid. As a result of research, I realized that while talking about interests, it is more correct to speak about needs simultaneously. That is to say, a political approach is exhibited, and legal regulations are made in line with interests and needs. The process in the EU is based on a more complex system than was thought at the beginning of the thesis. The EU does not take decisions alone while determining for its interests or needs (such as legal rules that need to be regulated, opening new institutes for the counter terrorism, or making security policies) about terrorist organizations. In addition to the effectiveness of the methods used by organizations in their attacks (such as armed actin, materials used, death of people, fear in people), international organizations, NGOs, and the USA have significant influence. In other words, the EU does not take decisions alone regarding terrorism. Moreover, member states differ in implementing the EU's decisions. The domestic law of each member state is different. All member's experiences with terrorism are different. While some members have very technical and detailed legal regulations, some members have not taken measures. This allows its members to make different decisions. These differences create an atmosphere that can serve the interests or needs of countries.

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