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**COMPARATIVE ANALYSIS ON EU AND ASEAN COUNTER-TERRORISM  
EFFORTS**

Faculty of Social Sciences of Charles University

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**Title:** Comparative Analysis on EU and ASEAN counter-terrorism efforts

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**Abstract:** In the past decade, the political world has seen a shift on the global institutions strategies on the fight against terrorism. The aftermath of the 9/11 launched an unprecedented fear over terrorist organizations and demanded immediate actions from global leaders. In this scenario, the cooperation among global institutions became necessary in order to formulate political strategies for counter-terrorism actions. Therefore, this research explores how the EU and ASEAN formulate their policies in the fight against terrorism with a main focus on the comparative analysis between these two organizations. The thesis will aim to analyze the legal and the organizational structure in order to understand the main gaps and the developments that EU and ASEAN acquired by their counter-terrorism measures. Structurally, first some historical background on terrorism and on the agenda of the institutions will be provided in order to give some basic knowledge on the matter. Second, the author will describe the efforts fulfilled by the counter-terrorism agenda and finally, a comparative analysis will be conducted for a broader understanding of the policies to fight terrorist groups.

**Keywords:** Counter-terrorism; European Union; The Association of Southeast Asian Nations; Fight against terrorism.

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## List of Abbreviations

ASEAN	Association of the Southeast Asian Nations
CA	Comparative Analysis
EU	European Union
FARC	Revolutionary Armed Forces of Colombia
ISIS	Islamic State of Iraq and the Levant
US	United States of America
CSDP	Common Security and Defense Policy
NATO	North Atlantic Treaty Organization
ADMM	ASEAN Defense Ministers Meeting
EUROPOL	European Police Office
FRONTEX	External Borders Agency
ADJACT	Declaration on Joint Action to Counter Terrorism
MLAT	Mutual Legal Assistance in Criminal Matters
ACCT	Counter-terrorism treaties
AMMTC	Ministerial Meeting on Transnational Crime
ARF	ASEAN Regional Forum
ASEANAPOL	ASEAN Chiefs of Police
SITCEN	European Joint Situation Centre
EEAS	European External Action Service
PNR	Passenger Name Record - PNR
JHA	The Justice and Home Affairs
TREVI	Terrorism, Radicalism, Extr. and Int. Violence

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# Introduction

In the past decade, the political world has seen a shift on the global institutions strategies on the fight against terrorism. The aftermath of the 9/11 launched an unprecedented fear over terrorist organizations and demanded immediate actions from global leaders. In this scenario, the cooperation among global institutions became necessary in order to formulate political strategies for counter-terrorism actions. Therefore, this research explores how the EU and ASEAN formulate their policies in the fight against terrorism with a main focus on the comparative analysis between these two organizations.

The thesis will aim to analyze the legal and the organizational structure in order to understand the main gaps and the developments that EU and ASEAN acquired by their counter-terrorism measures. Structurally, first some historical background on terrorism and on the agenda of the institutions will be provided in order to give some basic knowledge on the matter. Second, the author plans to compare the efforts taken by EU and ASEAN considering their organizational structure, policy agenda and goals fulfilled in order to build the comparative analysis on the successes and failures of each organization to formulate the conclusion.

Hence, it needs to be noted that the comparative analyzes is a tricky area of study once both organizations have different backgrounds and development concepts that are based to face their regional realities and necessities. It is important to keep in mind that there is no right or wrong method or policy when comparing the institutions. But instead, looking at their own regional realities what has been done and fulfilled to fight terrorism, and in this matter, what was achieved as a successful operation or what in the counter-terrorism agenda needs to be improved, and if the organizations itself can learn from the other's best practices.

Aiming to provide an institutional analysis on the counter-terrorism the following research will focus on the efforts done by the European Union (EU) and the ones done by the Association of the Southeast Asian Nations (ASEAN). By comparing their performances, it will be possible to indicate the main achievements and failures on the efforts to fight terrorism. The EU and ASEAN will be contrasted in terms of their institutional framework, the actors involved in the policy-making process, the legal measures to settle a cooperation and the main policies fulfilled by both organizations, identifying the successes and failures.

For the EU, the counter-terrorism measures should be an effort present in every Member-State, considering the interdependence and the free movement of people, ideas and goods between the members (*The European Union Counter-Terrorism Strategies*. 2005, pp.

1). Attacks damage the security feeling among the population and will hurt, therefore, one of the main values on democratic countries: freedom, and that is one of the basis on why should the Member-States align their efforts. The EU work on the four pillars basis in order to fight terrorism: prevent, protect, pursue and respond. Although these pillars are made for the Member-States, this strategy entails the participation on national (States) and regional (EU) and international actors (ASEAN, for this study).

Furthermore, ASEAN is a conglomerate of heterogeneous countries with a strategic position to the sea. This geographical area increases the importance of this region on the fight against terrorism once the coastal States share responsibilities to prevent attacks and to protect citizens (Cabalza, C. *Can ASEAN work together to fight terrorism?* 2017, pp. 5). Differently from the EU, the Southeast Asia community has to fight not only the increase on terrorist attacks but also the socioeconomically issues, the political corruption and the insurgence of militant groups that question the ability of ASEAN to fight regional terrorism and cooperate internationally.

In order to identify the main gaps in terms of institutional framework, the author will construct a bridge between the institutional structure and policy agenda, analyzing the regional needs and how the policy-makers formulate the agenda, with the fulfilled and not fulfilled policies. Only then it will be possible to identify the gaps and the areas of improvement for each organization. Moreover, the power asymmetry and national interests that makes this research relevant in order to recognize these gaps and construct possible solutions to help reinforce the alignment on counter-terrorism measure in EU and ASEAN countries and their cooperation. For a research focus, there are three research questions that will be answered by the end of the study:

1. What are the counter-terrorism policies adopted by the EU and ASEAN on their strategies and which are the mechanisms adopted by each institution?
2. How ASEAN and EU institutionalize their counter-terrorism strategy and which actors are involved in the decision-making?
3. Why are the gaps emerging and persisting?

The institutions have the same goal of eradicating any faction that can conduct a violent attack in their region. Finally, this research was chosen in order to contribute to the evaluation on the ongoing counter-terrorism policies that EU and ASEAN elaborate and to which extend their cooperation is efficient in the fight against terrorist organizations. By the analysis of all the material and the documentation on EU and ASEAN counter-terrorism efforts the author

plans to provide a view on the developments of the policies by indicating their gaps and successes corresponding to their regional needs.

## Methodology

The "Global War on Terrorism" has initiated a new perspective on how states act on the fight of a common and international goal (counter-terrorism strategies) in order to strengthen the effectiveness of supranational policies against terrorism (Beyer, C. Anna. *Counter-terrorism and the international power relations - The EU, ASEAN and hegemonic Global Governance*. 2010, pp 7). This thesis involves a comparative analysis on the efforts on counter-terrorism agenda on the EU and ASEAN. Therefore, certain steps will be taken in order to establish a coherent set of ideas and arguments to compare the performance on counter-terrorism policies present in the EU and ASEAN.

The reason why the choice of EU and ASEAN as the focus actors is based on their regional influence and power over common policies for the Member States. The European Union since 9/11 has been facing an increase demand on security strategies to fight the terrorist attacks and, therefore, it is fundamental to study their plans and actions on counter-terrorism measures. For this reason, the author chose this institution in order to understand the methods that are chosen in the bloc as a response to the security demands.

On the other hand, ASEAN presents itself with similar goals and strategies as the EU, but emerged in a different context of both international relations and the countries internal issues. Hence, the idea of comparing two institutions with the goal of fight terrorism but emerged in completely different regional dilemmas, called for the authors curiosity and presented as a challenge of study for this thesis.

The idea to construct a comparative analysis on the structure of both organizations comparing the main differences and approaches used by the leaders of these institutions and in the end conclude if their cooperation in the field of counter-terrorism is effective or not by the organizational features and political agenda is relevant in order to establish some main parameters of comparison to understand the achievements and improvements of counter-terrorism methods.

The analysis will be based on the strategic agenda of the two compared actors: the European Union (EU) and the Association of the Southeast Asian Nations (ASEAN). The

comparative analysis was chosen aiming the comparison of the efforts that the organizations put on the counter-terrorism agenda. A comparative analysis assigns the reader different perspectives on the strategies that are used by different actors, in this case EU and ASEAN, on the same issue. What is called the "lens of comparisons" it is an applicable mechanism of dimensions that will challenge the traditional understanding of an issue.

The material that these "lens" usually uses to illuminate the facts are existing documents, data and historical background allowing the comparative analysis to take place. Thus, an analysis of this kind should fulfill this framework by bringing two different elements with one common issue and present the perspectives that differentiate when dealing with the common subject, allowing the reader to see through the comparison lens.

Focusing on the area of political sciences, where international relations is studied, the comparative analysis (CA) is commonly used in order to study political systems, organizations and their processes through local, regional, national or international lens. This method of research is based on information collected from political phenomena reports of real-life events. In contrast with for instance, other methods of political science studies that are based on mainly ideological and theoretical materials, whereas the "comparative research aims to develop greater political understandings through a scientifically constrained methodology, often referred to as one of the three largest subfields of political science. It is a field of study that was referred to as 'the greatest intellectual achievement' by Edward A. Freeman" (Stafford, Alexander. *Comparative Analysis Within Political Science*. 2013, pp.1).

The comparative analysis can be used as a methodology for a broad political issue either by one object of analysis or more. In this study, the author chose two objects of analysis (EU and ASEAN) to apply this method by collecting data from official websites, articles and existing academic studies on this matter to establish the hypothesis and compare the findings. In this research, the intention is to fulfill the comparative analysis on the counter-terrorism strategy used by the EU and ASEAN.

By doing so, the aim is to design a schedule of success and improvements on the agenda of both organizations granting different approaches on their cooperation and in their policy making. In order to answer the research question, a study on the existing data from official web pages of EU and ASEAN, also from academics who have studied this field before and the literature available for counter-terrorism studies will be collected in order to enrich the research and fulfill the comparative analysis on the selected theme.

By conducting the study with this collection of data by these means the differences and the similarities will be analyzed to understand the relationships between the two organizations.

In this way, the author will be able to separate the variables (independent ones) for each object and assess the connection or not between the organization and its variables creating the hypothesis for the study (Landman, T. *Why Compare Countries?* 2008, pp. 3). By doing so, this empirical analysis can be by the theoretical ideas and by the collection of the existing studies create a reasonable result and maybe establish a new perspective on improvements and achievements of the matter.

The thesis will frame a background on terrorism in order to introduce the reader the main concepts of this issue, when the meaning was created and how it changed to what it is understood today. Nevertheless, it will be discussed the structure of EU and ASEAN, how they are organized, the legal procedures and actors involved in the decision-making process. In this way, it will be possible to fulfil the comparative analysis once one has the mechanisms of the elements to be compared. Furthermore, the analysis on the counter-terrorism agenda on EU and ASEAN is important once is the main issue discussed on this research. To have a comparison of the efforts on the matter by the organizations will allow the creation on the different perspectives and the fulfillment of the methodology chosen for this research, with the final conclusion of the study based on the findings.

Moreover, the choice for the two institutions can be explained in order to deduct the chances for a selection bias, which are more common on a single-country analysis. It can occur less when there are more objects being analyzed once it compares institutions and processes in different countries and this brings a broader scope of observations to avoid the selection bias, that can "reduce the risk of this invalidity causing phenomena" (Lim, T. *Doing Comparative Politics: An Introduction to Approaches and Issues*. 2010, pp. 3). The results of a comparative analysis of a multinational institution are valuable both domestically and also internationally, once comparisons between multinational institutions and their processes can increase the global "validity and transferability, which is harder to happen when there is only one country" (Keman, H. *Comparative Research Methods*. 2011, pp.55).

The CA of multiple subjects also contributes to the creation of maps and organizational charts to help identify policies and decisions which conducts to a further understanding of the similarities and differences between the analyzed objects. The comparison between two processes and institutions allow the author to "isolate a specific national variant that can contribute to the mapping of similarities and differences of the focused objects" (Hopkin, J. *The Comparative Method*. 2010, pp. 287). By the study of institutions and processes of different objects by an empirical framework the author is able to infer without ambiguity and

the presence of more cases offers a broader base of variables for the researcher's hypothesis. (Lim, T. *Doing Comparative Politics: An Introduction to Approaches and Issues*. 2010, pp. 5).

*"It should also be noted that all countries, to differing degrees, are functioning in an interdependent globalized environment. Because of immigration, economic and political interdependence, the study of an institutions and/or processes within a single country inevitably gives a reduction in the transferability of the findings. This is because the findings at least are only as applicably transferable as their counterparts are functionally equivalent. It also somewhat fails to account for transnational trends".*

Franzese, R. *Multicausality, Context-Conditionally, and Endogeneity*. 2007, pp. 30

The comparative analysis method that the author chose for this study is, therefore, as shown above an instrument that allows the research to lower the chances for the selection bias, encourage global transferability, to support on variable deduction and to be recognized as an empirical study. Finally, the changes in the global order that terrorist actions have caused either by questioning the security measures elaborated so far, or the cooperation between states has called for the importance of this study for future policy-makers. The great focus on counter-terrorism measures that are now made for the international actors calls for an evaluation on the effectiveness of the responsibility of these institutions and authorities on their counter-terrorism efforts.

# Theoretical Framework

## Theories on Regional Integration

In order to give the study a verisimilitude on the arguments that were built on the counter-terrorism efforts inside the EU and ASEAN, the author needs to present a solid theoretical framework on integration theories to sustain future argumentations on the matter. This theoretical framework will present differentiated integration theories compared to traditional ones to support this study. The classic integration theories will focus on a more explanatory way in order to compare it with the differentiated ones. Therefore, the reader will understand that different perspective theories are needed to enrich the analysis but some elements of the classical ones should also be incorporated to the analysis.

## Intergovernmentalism

The intergovernmentalism theory can be studied through liberal or realistic lenses, but for this study a broader explanatory view will be presented and compared to differentiated theories on integration. "In intergovernmentalism theory, national governments are the dominant actors that decide on European integration (Leuffen et al., 2012, pp. 38)". In the liberal string the preferences are articulated by domestic interest groups (Cini. 2016, pp. 76), while on the realist side the thought is on the government's national autonomy (Leuffen et al., 2012, pp. 46; Schimmelfennig; Rittberger. 2006, pp. 81).

The motivation for integration comes from international interdependence, that results on the idea that states seek for interdependence to maximize their utility (Moravcsik; Katzenstein. 1998, pp. 60 and Leuffen et al., 2012, pp. 43).

*"[...] intergovernmentalism explains differentiated integration by differences in interdependence and cooperation problems, state preferences, bargaining power, domestic ratification constraints, and – in the case of RI – autonomy costs and benefits."*

Leuffen et al., 2012, pp. 54

In this view, the state is willing to delegate their competences to a regional level (EU or ASEAN) only if their own preferences and interdependence level meets with the other members. On the contrary, the state will not delegate its competencies to regional power if other member states do not converge with the interdependence and cooperation among each

other (Leuffen et al., 2012, pp. 60). However, there is a new intergovernmentalism that describes the differentiated one as a “distinct phase [...] [that is due to] transformations in Europe’s political, economy, changes in preference formation and the decline of the permissive consensus” (Bickerton et al., 2015, pp. 703).

On the other hand, the intergovernmentalism theory fails to explain why in some cases the exclusion threat from an integration idea and the negative externalities does not bring incentives to push other states for an integrated system (Dyson. 2010, pp. 18). Moreover, it does not present an explanation on factors that influence the form of differentiated integration that results in the bargain with other national preferences. However, intergovernmentalism does provide the author with fundamental arguments for explaining integration principals on domestic lenses.

### Supranationalism and Neo-Functionalism

For this theory, the transnational and supranational organizations on a integration process are crucial for supranationalism (Stone Sweet; Sandholtz, 1997, pp. 297; Leuffen et al., 2012, pp.62). Following their main argument former integration projects have created a base for future ones highlighting the gaps and improvements of political and structural goals (Jensen. 2016, pp. 57; Leuffen et al., 2012, pp. 65). The gaps are known as the functional spillover that is if a negative externality of the integration in one sector generates an integration need in another sector (Leuffen et al., 2012, pp. 70). For instance, if a supranational actor of the EU or ASEAN recognized a functional spillover they will start to lobby other integration projects (institutional spillover).

Hence, the supranationalism expects that a transnational relationship and other integration demands the actors will be able to help further integration (Leuffen et al., 2012, pp. 82). "An important precondition for this conjecture is that the respective supranational actor needs to have the capacity for this in this specific policy field" (Moravcsik. 1999, pp. 267; Leuffen et al., 2012, pp. 80). But there are still some shortcomings from these theory like the inability to explain why some policy areas the flexibility is growing or why cooperation is done outside an institutional structure and resolved by supranational actors (Dyson. 2010, pp. 18). Still, this theory tries to explain the relevant role of supranational actors at the integration process and shows to need to evaluate the relevance of transnational actors considering each integration process.

## Social Constructivism

This theory will depend on how actors view the interdependence and integration process based on ideas. Therefore, the need for integration from states will emerge only from the appropriateness, intersubjective ideas from the policy field (Rosamond. 2016, pp. 87; Leuffen et al., 2012, pp. 85 and pp. 91).

*"If national values or well-known instrumental ideas of the states are contested by European integration, these may be resisted by some states and the integration process results in differentiated integration".*

Leuffen et al., 2012, pp. 99

Even if the social constructivism lacks on explaining which ideas will lead to a differentiation theory, it also brings to light that ideas, identities and values are relevant to the national level. And since the ideas are different for each policy and its field the social constructivism, therefore, should be analyzed on the policy level (Leuffen et al., 2012, pp. 91).

## Differentiated integration theory

To be able to explain the differentiated integration theory one needs to first define what an integration process is. For the EU, for example, it is "a process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities towards a new and larger center, whose institutions possess or demand jurisdiction over preexisting national states" (Haas. 1961, pp. 366-367). Therefore, an integration is another name for cooperation between the member states.

The differentiated integration theory assumes that there is no equality on the integration process, where some policies are integrated but others are based on mainly cooperation among states. Like the concepts of "Europe a la Carte" or European Union (Tekin. 2012, pp. 237-238; Balzacq; Hadfield. 2012, pp. 544). Differentiated integration theory will create the concept that the system (EU or ASEAN) is "the level of centralization and territorial extension [...] varies by function". Hence, the three categories that measure differentiated integration are "the level of centralization, the functional scope and the territorial extension" (Leuffen et al., 2012, pp. 1).

Hence, the EU or ASEAN would be an integrated political system there would exist a maximum level of centralization to all policy areas. But the policy fields differ from one another in terms of integration, and that is the reason why EU and ASEAN integration also have a different integration level across their policy fields.

# Chapter 1

1.1: Terrorism – historical approach, development, domestic and international, profile of terrorists, organizations in the EU and ASEAN and the consequences for these regions.

## 1.1.1: Overview on Terrorism

But what is it terrorism? The word, according to Frederic Lemieux (professor in Georgetown University) does not express an ideology, instead is a tactic or a strategy used to achieve some a specific goal (Lemieux, Frederic. *The Conversation*. 201, pp.3). Considering the main mechanism used for this strategy is violence in order to spread fear and impose their power over powerful states. The pillar for their acts can be the belief in some religious sect that would justify their methods or also in some political inspiration like the FARC in Colombia (communist organization) that was for years using drug trafficking with terrorism tactics to intimidate the government and the population (Lemieux, Frederic. *The Conversation*. 201, pp.3). In the case of the nowadays terrorist group ISIS (Islamic State of Iraq and the Levant) their aim is the creation of a caliphate (Islamic State) and the destruction of any non-Islamic believer.

The organized and structured terrorist groups known nowadays, emerged in the 19th century with the anarchists who had the believe that the government should be vanished and the society would self-regulate itself or the nihilist groups who had the belief that any behavior could be justified once there was no morality nor meaning in the world (Nester, R. William. *Terrorism and Counter-terrorism*. 2017, pp 80). The term became globally a common expression linked with the violence that are done against civilians by factions of extremists Islamic in countries of the European Union and the United States. It gained its popularity after the attacks on the World Trade Center in New York, in 2001 assumed by an Islamic extremist group Al Qaeda.

The aftermath, generated a new global order pushing nations worldwide on the fight against terrorism, becoming number one issue on the international agenda (Nester, R. William. *Terrorism and Counter-terrorism*. 2017, pp 83). Yet, Yasser Arafat, a former Palestinian political leader said that "The difference between the revolutionary and the terrorist lies in the reason for which each fight. For whoever stands by a just cause and fights for the freedom and

liberation of his land cannot possibly be called a terrorist". Furthermore, the US defines terrorism as "the use or threatened use of violence for political purposes to create a state of fear that will aid in extorting, coercing, intimidating, or otherwise causing individuals and groups to alter their behavior." The majority would agree that terrorism targets civilians and as Lenin would claim "its purpose is to inspire terror".

Finally, it can be said that terrorism is the use of violence by a group of people who aims civilians trying to achieve a political goal. In this way, international terrorism happens when two or more nations are targeted by or supporters of a terrorist faction. They might differ with their motivation and/or tactics chosen in their attacks ((Nester, R. William. *Terrorism and Counter-terrorism*. 2017, pp 84). Differently from other criminal groups, who use terror to blackmail money from their victims, a terrorist group use terror in order to create an imbalance in a society's belief and to destroy political and economic systems. This group can be motivated either ideologically, religiously or politically aiming independence or the start of a revolution.

The interesting fact is that terrorism can mean a group using terror to destabilize a country or individuals that are employed by states in order to launch attacks in other nations - US, Soviet Union, Israel or Iraq, among many have already trained and supplied groups to command an attack in other countries (Nester, R. William. *Terrorism and Counter-terrorism*. 2017, pp 86). When discussion terrorism it is important to state the difference between international and domestic. According to the United States Code Title 18: Crimes and Criminal Procedure, international terrorism is defined as a violent attack that endanger human life and violates the criminal laws occurring outside the territory of jurisdiction (in this case, of the United States). While a domestic terrorism is an act that follows the same violent principles, but it occurs inside the jurisdiction territory of the US. Both acts include planning and training for the attacks.

Although, it is an explanation provided by the US law, it can be applied broadly to other nations. One example, was the 9/11 attack when the terrorists were foreigners who acted inside the US. But they planned and trained for the attack outside the territory, therefore, they could have been prosecuted internationally, however, the US army decided to make their justice in their own parameters (Tabman, Michael. *International vs Domestic Terrorism*. 2013, pp. 3).

### 1.1.2: Terrorism in Southeast Asia

Southeast Asian countries has always been stage for indigenous Islamic rebel groups. These organizations used to be sort of weak in their connections with other movements, operation only in their own state and focusing on internal matters, like promoting the Islamic law (Sharia) and fighting for independence from the local government. Each country on the region has its own groups and activities. For example, the Philippines has an ongoing violent Muslim separatist movement, that dates back in 1898 when Americans occupied the southern part of the country followed by the Spanish War (Bruce Vaughn. *Terrorism in Southeast Asia - CRS Report for Congress*. 2017, pp. 8). Yet the activities and scenarios of operations have been shifting to a more isolated Muslim majority parts of the Philippines.

Considering the events of the 9/11, majority of the Western world perceived the Southeast Asian countries as a "second front" in the eradication of Islamic terrorist attacks. This happens once with the development of groups such as Al Qaeda in the region threatens the status quo of the countries by the idea of the formation of an independent Islamic state, especially where there is a majority of Muslims. This is a threat once it would start controlling areas politically establishing a supranational Islamic state in parts of Indonesia, Malaysia, Singapore, Philippines and Thailand, by carrying out violent attacks against Western institutions (Bruce Vaughn. *Terrorism in Southeast Asia - CRS Report for Congress*. 2017, pp. 10). Moreover, the importance of this Southeast region for the fight against terrorism is due to the use of it from Al Qaeda to create groups and finance them in their global activities.

The challenge for the security authorities in Southeast Asia would be then, to fight terrorism with the perspective of their influence on the majority of Muslim communities inside the countries and the impact that a counter-terrorism agenda could have in these groups. Country wise, the majority of the terrorist attacks happened within the territory of Malaysia and Indonesia. Many will argue that Southeast Asia is the "key recruitment area for the ISIS"(Lee Hsien Loong, Singapore Prime Minister). One of the greatest challenges for Southeast Asian countries is the Islamic religion that is spread around the nations and therefore, used by ISIS combatants in order to promote their ideology in those territories. However, it is known that more European Muslims have joined the ISIS than in Southeast Asia (Liow, Joseph. *The United States and Regional Security in Southeast Asia after the Cold War*. 2017, pp. 80)

But terrorism is not something new for these countries. Since the anti-colonial movements terrorism was a weapon used by many groups as their tactic to fight colonials. It was after the 9/11 that the region been through more incidents connected to the Al-Qaeda

organization like the Bali bombings in October 2002 or the Marriott Hotel in Jakarta in August 2003. Since then the spread of terrorist groups and their attacks has been quick and popular in the region, once the misleading propaganda on how ISIS is invisible and the need for a caliphate has played an effective role in those countries (Liow, Joseph. *The United States and Regional Security in Southeast Asia after the Cold War*. 2017, pp. 85).

There are no exact numbers of Southeast Asians in Iraq and Syria, but it is known to be around 700 to 800, with a majority of Indonesians followed by Malaysians and Filipinos, with an interesting presence of 40% being woman and children following their men in order to support the fight and build the Islamic State. However, there is no declared interest in the Southeast Asia by the ISIS, they are defended only by individuals and extremist groups that have their values in their own movements (Liow, Joseph. *The United States and Regional Security in Southeast Asia after the Cold War*. 2017, pp. 90)

### 1.1.3: Terrorism in EU countries

The idea of fighting terrorism inside the EU started before September 11 in the year of 1970, with the creation of the European Political Cooperation (EPC). This cooperation between the member states had the aim of fighting the increase of the terrorist attacks conducted by the "indigenous Western Europeans" and also Middle Eastern groups. For the perspective of the EU member states, the existing international policies to fight terrorism were not enough. Therefore, apart from the domestic effort to combat the finance on terrorism the EU started the first steps into the counter-terrorism policies by legal and operational levels (Bures, Oldrich. "*EU Counterterrorism Policy: a Paper Tiger?*". 2007, pp. 2).

After the 9/11 attacks in the US soil the European Union has built diverse mechanisms to act against terrorist attacks in regional level. The EU Council created the Plan of Action that included important measures for counter-terrorism plan like the European Arrest Warrant, the strengthening of Europol and Eurojust and the focus on a common terrorism idea (Bures, Oldrich. "*EU Counterterrorism Policy: A Paper Tiger?*". 2007, pp. 1).

The 2004 in Madrid, where around 100 people were killed on a terrorist attack the EU policy makers started to think of the role that the organization should play in order to strengthen the cooperation to fight terrorism. Having in mind the easiness of moving across borders and the structural operation of Al-Qaeda, with multiple cells activities across the world, it is a challenging task to make up a strategic policy for counter-terrorism measures. Moreover, establishing security strategies in the continent and preventing international terrorism is not the

only challenges that the EU faces (Keohane, Daniel. *The EU Counter-Terrorism*. 2017, pp. 9). Other issues such as operations in Sudan and Congo to avoid a failing state and, therefore, limiting the possibility of rebel groups and potential terrorist organizations is also part of the wider security agenda in the EU.

Yet, it was the Madrid attacks that alarmed EU officials for the need to have an integrated system of information to avoid scenarios where certain government might have some important information on a potential threat without sharing it with the other Member States. One good example of such a hypothesis would be the event in 2003 when the Italian police arrested Mohamed Daki for recruiting terrorists in Milan to fight against Americans in Iraq (Keohane, Daniel. *The EU Counter-Terrorism*. 2017, pp. 12). However, before these events the Germans back in 2001 already suspected on Daki and his possible connections with terrorist organizations. Therefore, the exchange of data and information on people and their movement around Europe is so relevant for the understanding of the counter-terrorism agenda.

These developments provided the idea that the EU should indeed make efforts to propose a counter-terrorism agenda in order to establish measurements and strategies to combat groups and terrorists. It has some limitations like being able to connect different interests from Member States nor being in charge of the prosecution of the terrorist. As it will be described later national authorities are mainly in charge of the counter-terrorism work rather than EU officials (Keohane, Daniel. *The EU Counter-Terrorism*. 2017, pp. 18). Another challenge from the EU and the counter-terrorism agenda would be that this issue involves a multiple number of stakeholders in all levels that must be coordinated together with the efforts for fighting terrorism. Apart from the challenges, the EU officials are aware of the challenges that should be improved in order to achieve their counter-terrorism agenda.

Furthermore, it is important to note that differently from the American approach, European usually are not motivated by the "war on terror" value defending that it might be over military. The EU worries more on the eventual attacks on their regional boundaries and criticize the US government for focusing too much on short term policies of eradicating terrorism instead of planning a long-term policy that would aim a political change among the militants of Islamic terrorism (Keohane, Daniel. *The EU Counter-Terrorism*. 2017, pp. 21). That is the reason why EU tries to understand terrorist groups by the structures that sustain them and by the motivations that attracts so many other fighters, aiming in a long term these political changes instead of using coercive power as the only mechanism of prevention.

## 1.2: EU and ASEAN – historical approach, development, economic, political, social and security structure.

The urge for a final cooperation to put an end on the emerge of wars during 1945 to 1959 opened space for a new negotiation arena for the European countries. So, in 1950, the European Coal and Steel Community was founded as the first institution with the aim to unite the countries in the old continent in order to secure them economically and politically avoiding the outcome of another war. Also during this time, in 1957 the European Economic Community or the Common Market was created in the middle of the iron curtain, dividing Europe between the West and East during the Cold War.

Furthermore, during the 60's the economic cooperation starts to strengthen and the trade begin to be liberalized by the EU countries. But it was during the 70's with the energy crisis (Arab-Israeli war) and the end of dictatorships in Europe (Franco - Spain and Salazar - Portugal) that the Parliament begin to send funds for the infrastructure of poorer countries and starts its influence in those regions, with the first possibility to vote for the Parliament in 1979. With the fall of Berlin Wall Europe begins to fully integrate achieving in 1993 a Single Market Place (free movement of goods, services, people and money).

The European Union has been through different challenges throughout the years, having policies on environmental issues or security matters. Since 2001 the idea of counter-terrorism is launched and the urge for mechanisms and tools to fight the War on Terror becomes one of the tops issues on the EU agenda, especially after many attacks conducted in the European solo, such as in London or Madrid. Nevertheless, the European Union also strikes to deal with the economic crisis that hit many countries generating great amounts of debts to the Union; climate change concerns, new security agenda, caused by the annexation of Crimea and the increase of religious extremism in the Middle East and the continuous increase on the immigration flow.

Finally, the major player for the EU security strategies is the Common Security and Defense Policy (CSDP). It is the domain of the security and defense policy in the EU within the jurisdiction of the European Union, so regardless the partnership between a Member-State to NATO, the CSDP, under the EU, has the responsibility to protect all members of the institution.

The Association of Southeast Asian Nations (ASEAN) was found in 1967 in Bangkok, Thailand, with a Declaration establishing partnership between Indonesia, Malaysia, Philippines, Singapore and Thailand. Later on, with Vietnam, Cambodia, Brunei, Lao and

Myanmar forming what is nowadays the ASEAN. Their main goals are to establish economic, social and security ties promoting regional cooperation on economic, social and cultural development and to promote regional security ties among its nations.

Furthermore, considering the security issues in the region the members of ASEAN formed a political and security cooperation called the ASEAN Political-Security Community (APSC) that has its main target to guarantee that the Member-States have peace and security against any form of possible attack (Association of Southeast Asian Nations):

*"The members of the Community pledge to rely exclusively on peaceful processes in the settlement of intra-regional differences and regard their security as fundamentally linked to one another and bound by geographic location, common vision and objectives. It has the following components: political development; shaping and sharing of norms; conflict prevention; conflict resolution; post-conflict peace building; and implementing mechanisms".*

Finally, in 2017 ASEAN gathered the Defense Minister of the Member-States for the ADMM (ASEAN Defense Ministers Meeting) that has its main focus on violence, extremism and transnational terrorism. Their goal was to identify which tools would strengthen the counter-terrorism strategies between in the ASEAN community. As it will be analyzed further, the ADMM is the highest and primary meeting for the discussion on security issues, for the promotion of peace and strategies to fight terrorism.

### 1.3: Counter-terrorism in EU agenda – how it became an agenda issue for EU security strategies.

The idea of developing counter-terrorism measures was created during the 1970's with an operational and a legal part. Legally, the European Community (EC) chose a strategy that would ensure that the international counter-terrorism mechanisms would be still applied in the region and also by the end of the 1979 the member states have agreed on the Dublin Agreement that would guarantee that the European Convention on the Suppression of Terrorism (ECST) would be ensured among all member states (Bures, Oldrich. "*EU Counterterrorism Policy: a Paper Tiger?*". 2007, pp. 3).

Operationally, as it will be soon described, there was the creation of the TREVI Group in 1976 as a space for discussions and cooperation on police and intelligence issues. In this forum, the ministers of the member states (justice and interior) would exchange information on intelligence, documents of analyzed threats, terrorist groups and strategies to ease the arrest of members. With the later increase on the attacks during the 1980's the TREVI Group strengthen their cooperation within the EC in order to have a heavier control over the borders and movement of people.

The European Union agenda on counter-terrorism has been improving over the years and it is important to show how the adoption of the counter-terrorism measures was after the 9/11 and what is the framework and pillars that the European Union base its policies and strategies to fight terrorism in the region. It was then, in 2005 that the EU Council adopted the counter-terrorism strategy to fight globally and regionally. Followed by the attacks in Madrid the EU signed a declaration on combating terrorism and its measures establish in a nutshell the coordination for the counter-terrorism, they are the following:

- ❑ Coordinating the work of the Council in combating terrorism;
- ❑ Presenting policy recommendations and proposing priority areas for action to the Council, based on threat analysis and reports produced by the EU Intelligence Analysis Centre and Europol;
- ❑ Closely monitoring the implementation of the EU counter-terrorism strategy;
- ❑ Maintaining an overview of all the instruments at the European Union's disposal, to regularly report to the Council and effectively follow up Council decisions;

- ❑ Coordinating with the relevant preparatory bodies of the Council, the Commission and the EEAS and sharing information with them on his activities;
- ❑ Ensuring the EU plays an active role in the fight against terrorism;
- ❑ Improving communication between the EU and third countries in this area.

Mainly, the counter-terrorism strategy relies on four pillars of policy making: prevent, protect, pursue and respond. Therefore, it focused on strategies that reinforce cooperation with developing countries and international organizations. The main focus on the pillars is the prevention. This is the key policy for the EU Members in order to combat the radicalization and the recruitment to join extremist groups inside Europe.

The attacks on the US soil on September 11th marked a new era for security strategies for countries around the world. After the tragedy states and regional organizations started to think of the need to change their security agenda into a counter-terrorism mechanism. However, the case of the European Union, fighting terrorism only became a strategic agenda after the attacks were conducted in the European soil (Madrid and London), after that, the new security agenda and cooperation among countries became realistic (Den Boer, Monica. *11 September and the Challenge of Global Terrorism to the EU and as a Security Actor*". 2002, pp. 18).

In 2001, there was the first agenda elaborated on the fight against terrorism. It was EU's first multi-dimensional Action Plan that focused on counter-terrorism strategies. It has over sixty mechanisms that would be updated during the Council meetings, including civil aviation security, police and judicial cooperation, external action and terrorism financing (EU Council; *Anti-Terrorism Roadmap*. 2001, pp.1). This result marked the first counter-terrorism policy with a framework for decentralized policies, becoming the tool for coordination of goals, deadlines and implementation of counter-terrorism strategies (Den Boer, Monica. *11 September and the Challenge of Global Terrorism to the EU and as a Security Actor*". 2002, pp. 20).

The protection pillar focuses on guaranteeing that all citizens are protected and have the infrastructure that is needed to reduce attacks and to assure that Europeans are not vulnerable to any possible attack. It includes the security on borders, improving security on transportation and reducing the vulnerability of any infrastructure. In this matter, in 2016 the EU adopted a new rule that regulates by authorities keeping all passenger's information (Passenger Name Record - PNR) in a system among countries to guarantee that the central

European authorities have all the information they need to combat terrorists to enter the EU countries (European Council on Counter-Terrorism).

Moreover, the pursue focuses on the EU strategy to be always ahead of the terrorist's planning and organizing, to finally bring them to a fair sentence. They also adopted in 2015 norms in order to prevent money laundering and financing terrorist organizations. Finally, respond and the last pillar of the counter-terrorism strategies aims to manage and minimize the consequences of a terrorist attacks, done by developing mechanisms to coordinate the victims needs (European Council on Counter-Terrorism).

These are the key points that the authorities in the EU follow in order to gain a better result to fight terrorists in the region. Following the Council policy-making, there is an urge on engaging external actors to become EU's partners in the terrorism combat. There is worry that the EU needs to operate on a global scale and bring their counter-terrorism strategies to other countries, especially the neighbors and developing countries (February 2015). Considering the focus on ASEAN, the European Union based its counter-terrorism agenda with the developing countries with political dialogues, cooperation agreements and expertise assistance for the security strategy in those countries.

However, the constant attacks that have been taking place in European cities, like Paris (2015) or Barcelona in (2017) have pushed the European Council to constantly update its strategies and aims on the counter-terrorism fight. For instance, the Council adopted in 2017 a new firearm control in which includes tools that make it stricter the acquisition and possession of firearms (European Council on Counter-Terrorism), or the reinforcement of national borders in order to collect a stronger data base on European immigration control to keep track on a possible organization, terrorist training or meeting.

Furthermore, in January 2016 the European Counter-Terrorism Center was created by the JHA Council, which is a platform for all Member-States to increase their information and data on terrorism, in order to increase the cooperation between the national level to monitor and investigate any terrorist fighter, trafficking or arms and financing, and combating the propaganda of terrorist groups online. The institutionalization of the counter-terrorism strategies served as a "watchdog" to monitor the implementation of the Brussels agreement on national levels. According to the Article 36 on the agreement there is a Committee, formed by a team of expertise, that is established with the role to measure the effectiveness of the national counter-terrorism strategies and offer recommendations on the matter. Nevertheless, it was recorded as a poor implementation result of the strategies national wise.

As a consequence, by the Madrid attacks in 2004, the European Council measures have not been implemented on national levels. In truth, by the end of 2004 nine of the EU Member-States have not fully acquired the structure for counter-terrorism measures (Den Boer, Monica. *11 September and the Challenge of Global Terrorism to the EU and as a Security Actor*". 2002, pp. 22). The number of deaths on the Madrid attacks raised an urgent awareness on political authorities for the need to focus on the institutionalization on the fight against terror attacks. Moreover, it was the attack on the Spanish capital that influenced the EU agreement on security issues to aim specifically terrorism.

As a matter of fact, it is defended that it was only after Madrid that counter-terrorism became a real issue and a strategy itself on the security agenda on the European Union, having a deeper influence on the EU decision-making process than the 9/11 itself (Den Boer, Monica. *11 September and the Challenge of Global Terrorism to the EU and as a Security Actor*". 2002, pp. 24). As a result, the attacks led to significant changes on the perspective of the strategies that needed to guide the EU and its Member-States. Thus, by the end of 2005 the Union adopted a Counter-Terrorism Strategy, formulated by the Justice and Home Affairs (JHA Council) as an attempt to aim specifically on the fight against terror.

Nowadays, the agenda has shifted its focus on almost exclusively Al Qaeda to the danger of regional terrorism that it is built on the radicalization process of the terrorism recruitment of European nationals. Yet others will argue that the role of Member-States is essential for the EU counter-terrorism agenda to be effective. National level policies are the pillar for the counter-terrorism mechanisms to work, but the EU has its aim focused on "cooperation and coordination instead of integration and harmonization" (Argomaniz, Javier. *Post-9/11 institutionalization of European Union counter-terrorism: emergence, acceleration and inertia*. 2009, pp. 155).

Accordingly, the author argues that the problem was the national level decisions that were crucial to the institutionalization process of the counter-terrorism agenda. For instance, after Madrid the rejection of the proposals for the European expertise, the use of very weak and soft legislation or the rejection of the national authorities to use Passarella in 2006 are some of the examples that illustrates that the need for integration of policies is essential for future counter-terrorism decisions (Argomaniz, Javier. *Post-9/11 institutionalization of European Union counter-terrorism: emergence, acceleration and inertia*. 2009, pp. 157).

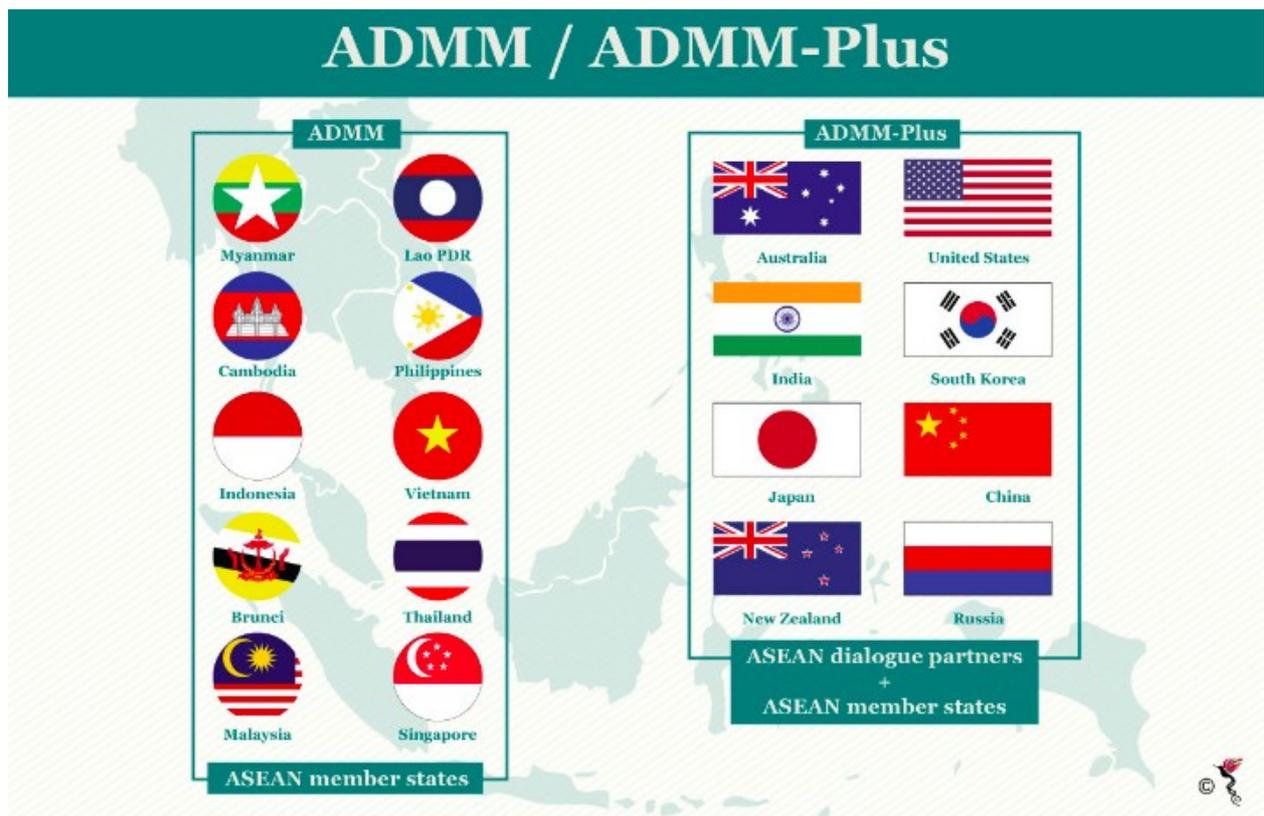
#### 1.4: Counter-terrorism in ASEAN agenda – how it became an agenda issue for ASEAN security strategies.

The counter-terrorism strategies in ASEAN Member-States begin before the events on the 9/11. In 1997, the Association adopted the Declaration on Transnational Crimes and, in 1999, the ASEAN Action Plan to Combat Transnational Crime as an implementation to the first agreement. However, the attacks on the US soil pushed the region to cooperate on the urge to fight terrorist groups and related crimes. The cooperation among the regional countries, became real in 2001 when the ASEAN Declaration on Joint Action to Counter-Terrorism was signed by ten Member-States, in Brunei.

The agreement followed the combat on terrorism according to the United Nations principles and laws, stating that the "cooperative efforts in this regard should consider joint practical counter-terrorism measures in line with specific circumstances in the region and in each member country" (Association of Southeast Asian Nations; Counter-Terrorism Agenda). The matter on terrorism has been mainly focused on regional combat than international one. The attacks in Bali, Indonesia and Philippines called for immediate national and regional act on counter-terrorism strategies.

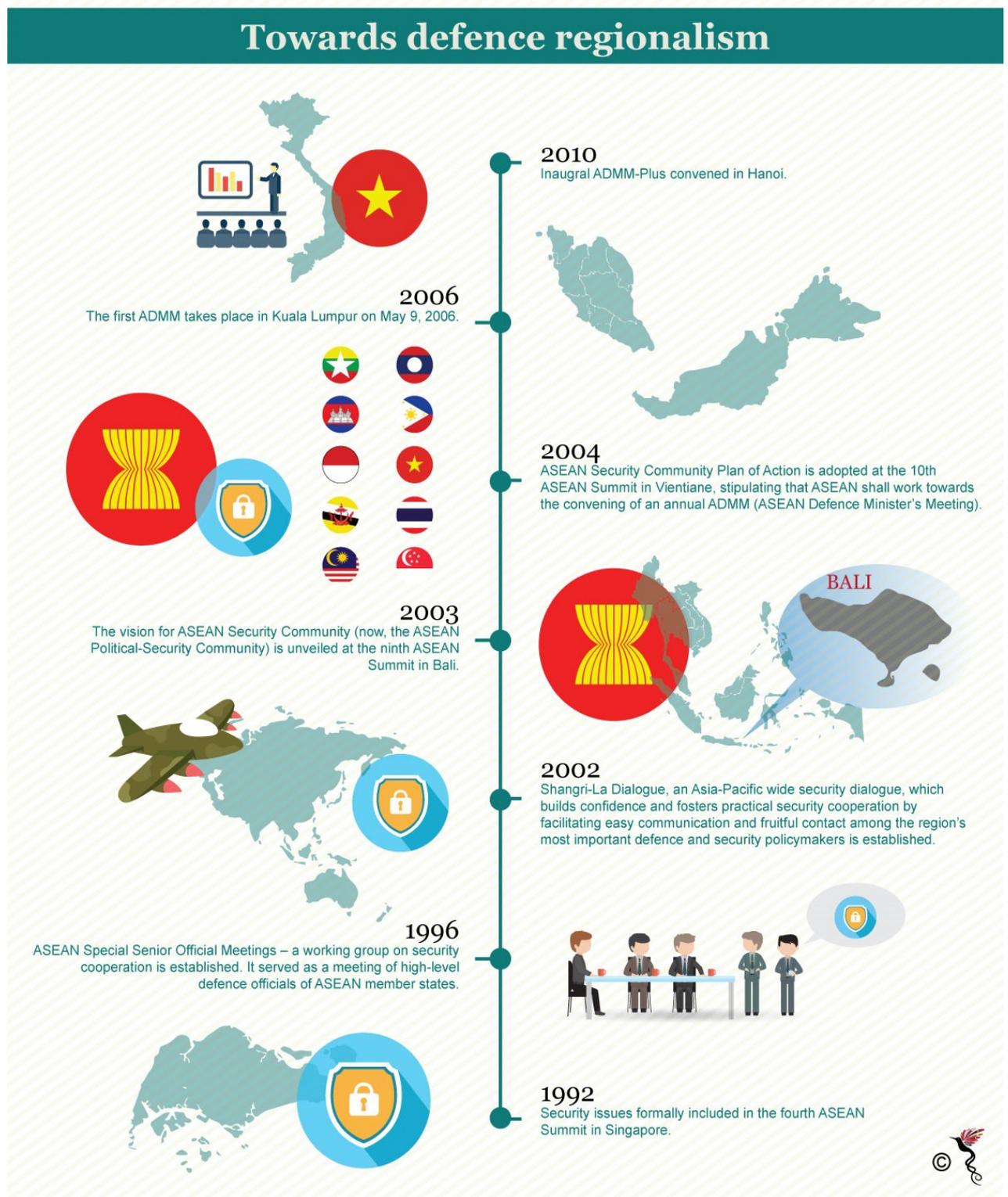
The main institution that coordinates the terrorist fight strategies is the ADMM, which stands for the Meeting between the Defense Ministers of the Member-States, having the objective of cooperation, transparency and strategies for the security issues in the region. Together with the ADMM, there is the ADMM-PLUS, which is a broader security community that operates with the ASEAN organization. Following there is the main countries that holds the membership for these institutions:

Table 1: ADMM and ADMM-PLUS Member



Source: <https://www.theaseanpost.com/article/asean-approach-counter-terrorism>

**Table 2: ADMM and ADMM-PLUS Development**



**Source:** <https://www.theaseanpost.com/article/asean-approach-counter-terrorism>

In accordance to the "Concept Paper for the Establishment of an ADMM", there are four main goals for the cooperation: the promotion of a regional dialogue on peace and security; the guidance of officials on the defense security issues in ASEAN and between its partners; to

encourage trust and to support the creation of the ASEAN Security Community (ASEAN Political Security Community, nowadays). However, the ADMMs security agenda nowadays, focuses on humanitarian assistance, disaster relief, peacekeeping operations and defense industry. They have set a roadmap for the priorities and to follow up the defense and security agenda.

Therefore, the organization fulfilled joint military trainings, workshops and operating processes that build a structure on the cooperation for emergency situations (Shahriman Lockman, Senior analyst on the Institute of Strategic and International Studies in Malaysia). Furthermore, according to the transnational security issues ASEAN must seek for cooperation among states so it can handle the growth of extremist groups and terrorism. The two institutions are valuable options in order to address the issues and also to transform the dialogue into a real policy.

*“The ADMM-Plus is more readily able put the decisions into practical effect, particularly if it involves military assets. Transnational security issues have always been one of the key issues addressed in the ADMM and ADMM Plus process. Witness the proposal and decisions made with regard to counter-terrorism in the Philippines”.*

Shahriman Lockman - Senior analyst on the Institute of Strategic and International Studies in Malaysia

There are still gaps between the partnerships in which delays process or make it more complicated to be fulfilled, like Members which aren't able to cooperate militarily wise or those who are mostly focused on their national security structure. Notwithstanding, some improvements in the region has been made moved by the discussions and cooperation among the Members (Shahriman Lockman, Senior analyst on the Institute of Strategic and International Studies in Malaysia).

According to the latest ASEAN Convention on Counter-Terrorism (ACCT) the member states agreed to the Article II "Criminal Acts of Terrorism" must convey to all offences that were previously defined by other international treaties, like the ones below:

1. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;

2. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;
3. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted in New York on 14 December 1973;
4. International Convention Against the Taking of Hostages, adopted in New York on 17 December 1979;
5. Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 26 October 1979.

Moreover, it is possible to note that the Convention clearly states by the Article IV, that above any regional policy the domestic sovereignty shall prevail.

*"Nothing in this Convention entitles a Party to undertake, in the territory of another Party, the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other Party by its domestic laws".*

The main idea behind the convention is to state the areas of cooperation on counter-terrorism measures. By respecting each domestic law the member states should cooperate on the exchange of information, to create mechanisms, although is not clear through which tools, to prevent the finance and the facilitation between terrorist's groups and to strengthening border control. However, even if pursued as a plan for counter-terrorism measures, there is no specified mechanisms for capacity building and technical cooperation. In the end, there are more tools for natural disasters management, once being the most suffered region for natural disasters, then efforts on fighting terrorism.

# Chapter 2

2.1: EU Counter-terrorism efforts – structure of the area, actors involved, legal procedures, and if it is connected to other areas of the organizations.

To understand the modern period of the European counter-terrorism framework, one must go back during 1975, when the Terrorism, Radicalism, Extremism and International Violence group was created also called TREVI group. The organization was formed by police authorities to exchange information and to assist on terrorism issues on international crimes. Their plans were then approved by the Ministers of Justice and Home Affairs on the European Economic Community.

TREVI was substituted in 1992 by the Maastricht Third Pillar on immigration and asylum policy and legal cooperation. Besides that, the integrated Europe created other arrangements to fight terrorism such as the Police Working Group on Terrorism and the Counter Terrorist Group. The following year, the TREVI Group and other European organizations on judicial, customs and immigration, became one new framework: Title VI of the Treaty of European Union; it was focused on the measures over the consequences of a free movement of people in the EU (Casale, David. *Defense Against Terrorism Review - EU Institutional and Legal Counter-terrorism Framework*. 2008, pp. 7).

Further, Maastricht Treaty was responsible for the creation of a European Police Office (Europol). Only in 1997 that there was a counter-terrorism group in the organization. The 9/11 event raised awareness on the need for stronger and more cooperative operations among the member states. But EU found itself on another fight: the resistance that member states had for a common security measure to surpass its sovereignty; however, the counter-terrorism measures became since then, number one priority in EU's agenda.

Followed the Madrid (2004) and London (2005) terrorist attacks, that the EU started to urge for a different strategy on the area (especially, moving from a domestic perspective into a integrated Europe measures). The new agenda had to be concerned on the new forms of actions that the organizations were taking for the tragic events - use of bigger weapons, decentralized groups, worldwide networks and exploitation of religion for criminal matters (Casale, David. *Defense Against Terrorism Review - EU Institutional and Legal Counter-terrorism Framework*. 2008, pp. 9). Therefore, after the 9/11 member states adopted different strategies for counter-terrorism measures, like the adoption of the EU Action Plan to Fight Terrorism and a "road map" for its implementation.

One relevant legal procedure that was implemented as a response to terrorism actions was the Council Framework Decision on Terrorism, which aimed for "harmonizing the legislations of member states". The EU Action Plan, focus on a joint investigation team of police and magistrates from European countries, a continuously exchange of information, a expertise team on anti-terrorism within Europol and a cooperation between Europol and US government. The EU plan establishes strategic objectives to fight and prevent terrorism:

- ❑ To deepen the international consensus and enhance international efforts to combat terrorism (supporting the role of the UN, especially the work of the Terrorism Prevention Branch of the United Nations Office of Drugs and Crime);
- ❑ To reduce the access of terrorists to financial and other economic sources;
- ❑ To maximize capacity within EU bodies and Member States to detect, investigate and prosecute terrorists and prevent terrorist attacks;
- ❑ To protect the security of international transport and ensure effective systems of border control; Enhance the capability of the European Union and of Member States to deal with the consequences of terrorist attacks;
- ❑ Address the factors which contribute to support for, and recruitment into, terrorism (identifying factors which contribute to recruitment to terrorism and exploring extreme religious and political beliefs which support terrorism);
- ❑ Target actions under EU external relations towards priority Third Countries where counterterrorist capacity or commitment to combat terrorism needs to be enhanced (including the provisions of effective counter-terrorist clauses in agreements with Third Countries).

After the London attack in 2005, the Ministry of Interior of Member States adopted a series of mechanisms as an urgent call, the European Arrest Warrant, strengthening of Schengen and visa system, stronger biometric details on passports, combat terrorism financing, prevent recruitment and radicalization and stronger controls on trade and transport. Moreover, on the same year the adoption of the European Union Counter-Terrorism Strategy: protect, prevent, pursue and respond; aiming a closer integration between member states and international actors, as explained before.

Operation-wise, one of the successful achievements has been the strengthening of the Europol role and the foundation of the Eurojust, the External Borders Agency (FRONTEX)

and the establishment of a Coordinator for the EU counter-terrorism center. Legally-wise the most relevant and important decision was the European Arrest Warrant, that changed old mechanisms of national extradition and the European Evidence Warrant, that created a standard form warrant for objects and documents in cross-border issues (Casale, David. *Defence Against Terrorism Review - EU Institutional and Legal Counter-terrorism Framework*. 2008, pp. 13).

Institutionally, the ones which are relevant for counter-terrorism measures are the European Commission, Europol and Eurojust, which play an enormous role at a legislative level (Commission) and at operational level (Europol and Eurojust). Other actors involved in the strategies for counter-terrorism are the European Counter-Terrorism Coordinator, the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) and the European Joint Situation Centre (Sit Cen).

One of the challenges for a research, is that FRONTEX has a small agenda on counter-terrorism, or the institution of a coordinator is very recently or there is little data available for other actors involved. So, to calculate the achievements is very challenging. However, the European Commission is an active actor on counter-terrorism policies. They are the main institution to propose a new legislative mechanism (European Arrest Warrant), although, they face multiple criticism on their coherence and political agenda and the surpassing of the issues of Justice and Home Affairs (JHA), which does not allow the Commission to act efficiently (Casale, David. *Defense Against Terrorism Review - EU Institutional and Legal Counter-terrorism Framework*. 2008, pp. 13).

On the European Police Office, or Europol, was founded in 1992 as an international organization that has as a goal the cooperation between law enforcement agencies of the EU member states to fight terrorism and other crimes (drug trafficking, human traffic, money launder and child pornography). Their priority is a crime that involves two or more member states and their main activity is the collection of data and information for their operational level. It gathers intelligence and information to combat terrorism, using their Counter-Terrorism Unit and Counter-Terrorism Task Force, which collects data from a possible suspect and records it in the Analytical Work File information on terrorists by the member states).

Moreover, Europol include also other forms of data - legislation on counter-terrorism, and a glossary of terrorist groups - and it established specific programs for the Counter-Terrorism Task Force. Europol, together with the Counter-Terrorism Task Force, has reached good results in its counter-terrorist strategies (Casale, David. *Defense Against Terrorism Review - EU Institutional and Legal Counter-terrorism Framework*. 2008, pp. 15). One of the most relevant is the production of threat assessments on terrorist groups and cells in EU

members states and a constantly updated overview of counter-terrorism policies and legislation in Europe.

Notwithstanding, “the impact of Europol’s strategies, including counter-terrorism operations, in terms of criminal investigations and arrests is at present difficult to estimate, not only because of the relatively recent establishment of Europol and its Counter-Terrorism Task Force, but also because Europol is very protective of the organization’s assistance in investigative activities”. But as for any institution, Europol also deals with some challenges that decrease their effective development. “Europol’s main problem is the imperfect flow of information from national intelligence services”. By that is understood that Europol is able to fulfil the activities only if the officials from the member states provide them with the important and necessary information (Casale, David. *Defense Against Terrorism Review - EU Institutional and Legal Counter-terrorism Framework*. 2008, pp. 13).

The exchange of information can also be challenging, once the member states are not extremely open to share their expertise with Europol, which effects on an efficient European cooperation and the Police Officers are limited to work with the information that is provided. This can be analyzed as a mistrust on Europol work since “intelligence collectors are concerned about the security of their sources and their methods of collecting information. They fear that if these are uncovered access to future information will be jeopardized”.

The Eurojust is a network of national judicial authorities of the EU member states established in 2002 with core goals:

- ❑ To improve cooperation between national authorities in the investigation and prosecution of serious crime, particularly when it is organized, involving two or more Member States;
- ❑ To stimulate and improve coordination of investigations and prosecutions in Member States, taking into account any request emanating from a competent national authority and any information provided by anybody competent by virtue of provisions adopted within the framework of the treaties;
- ❑ To provide expertise to Member States and the Council (through the formulation of recommendations for changes of law to improve the legal framework in the fight against organized cross-border crime).

The member states appoint a representative which is usually a lawyer a judge or a prosecutor. Each Member State appoints at Eurojust a representative or “National Member”

(usually a judge or prosecutor). In fact, Eurojust can be described as a team of senior lawyers, magistrates, prosecutors, judges and other legal experts seconded from every EU country, forming a network of national law officials. After the 9/11 the goals for Eurojust were adjusted and it was proposed that:

*"Each Member State should designate a National Correspondent for terrorism. In accordance with its national law, each Member State shall ensure that this National Correspondent has access to all relevant information concerning and resulting from criminal proceedings conducted under the responsibility of its judicial authorities".*

The activities designed for the Eurojust to fight terrorism can be divided into these stages:

1. Organization of National Correspondents at national level (and access to information);
2. Transmission of information;
3. Eurojust methods of processing the information;
4. Assistance and feedback from Eurojust to Member States.

However, the real execution of activities is still in the preparatory period, which enables the exchange of information between the National Correspondents and National Members and can encounter some challenges such as:

- Organization of National Correspondents at a national level, all Member States have designated a National Correspondent, most of whom are prosecutors;
- Matter of access: collection of all relevant information according to the Council Decision;
- This information is not accessible for all National Correspondents, once there is a lack of norms for access and data collection from member states, only if there is a special request in some specific case from one member state to another;
- The National Correspondents are usually dependent on operational authorities for information;
- Investigating judges may constitute a problem in some Member States. Because of the secrecy of investigation, these judges are fully independent, and they are free to decide not to communicate relevant information to the National Correspondent.

One of the proposed resolutions for these cases of asymmetry on information is to have a central prosecutor for terrorism, and others will be investigating other issues. Therefore, all the information can be collected not in a centralized way. In 2005 there was a Decision on “the exchange of information and cooperation concerning terrorist offences” that was an attempt to make a resolution for those issues, stated above. Accordingly, the member states have the obligation to guarantee that:

*“information (...) concerning prosecutions or convictions for terrorist offences which affect or may affect two or more Member States (...) is transmitted to Eurojust and to Europol” (article 2) and made “available as soon as possible to the authorities of other interested Member States, taking account of the need not to jeopardies (article 6)”.*

Therefore, the information is passed to Eurojust, but this process has yet no clear structure in order to establish a clear feedback and assistance to the national office. Also, because Eurojust needs to analyze the information received. However, the organization has no save connection with member states and no technical and intelligence to analyze the information. Hence, a closer integration with Europol would be a possible way out of these limitations. Finally, Eurojust has no clear definition on how it should cooperate and give advice to member states, contrary to what it should be "center of expertise" (Casale, David. *Defense Against Terrorism Review - EU Institutional and Legal Counter-terrorism Framework*. 2008, pp. 20).

As a consequence, for the terrorist attacks, EU has been dealing with some legal aspects of the subject. The challenges are how to address legally the definition of terrorism and what conditions should be analyzed in the matter. The problem of identifying a standard definition of terrorism is due to the historical background of European counter-terrorism for each member state. EU documents and legislation have mentioned terrorism without a juridical definition. It was after 9/11, that the Framework Decision on Combating Terrorism filled this gap, with a definition of terrorism into EU legislation.

The Decision defines terrorism, "differentiating it from common or ordinary crimes, focusing on the intent pursued by the criminal act". It differs from the original, because the ultimate goal for a terrorist action is political. The Article 1 of the Framework Decision, marks terrorist actions as “offences under national law, which, given their nature and context, may seriously damage a country or an international organization where committed with the aim of:

1. Seriously intimidating a population;

2. Unduly compelling a Government or international organization to perform or abstain from performing any act;
3. Seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or international organization.”

Further, the Decision also has three points for terrorist actions: Article 2 defines "offences relating to a terrorist group, emphasizing the necessity of punishing whoever participates in a terrorist group (by supporting, funding, or contributing to the activities of the group)"; Article 3 "describes offences linked to terrorist activities, namely acts preparatory to terrorist acts, such as extortion or forgery of documents" and Article 4 "calls upon Member States to take measures also against further activities, such as initiating, aiding and abetting, and attempting terrorist offences". Even with some criticism, such as the interpretations that one can have when reading these articles on defining terrorism, is a remarkable step to establish a common definition of terrorism for all member states (Casale, David. *Defense Against Terrorism Review - EU Institutional and Legal Counter-terrorism Framework*. 2008, pp. 21).

On the European Arrest Warrant, is possible to say that it represents, as the European Council suggests, "the cornerstone of the EU judicial cooperation, for efficiency in security, justice and freedom". Although, there are some implications on the agreement such as:

*"A national judicial authority can issue a request for the arrest and the return (namely, a European Arrest Warrant) valid throughout the EU for a person accused of a serious criminal offence (punished with a penalty of at least 10 years imprisonment)<sup>54</sup> or for a person sentenced to at least 4 months imprisonment. Consequently, the requested person has to be arrested and surrendered without delay to the requesting Member State. For the offences listed in the Framework Decision, The EAW has not abolished the 'dual criminality principle', according to which, traditionally, extradition can be denied if the offence in question is not a criminal offence in the executing country".*

As seen so far, the main aim of the European Union is coordination. However, to successfully achieve its policy plans a structured institutional counter-terrorism framework needs to be organized, once there are in the present too many actors, with little assignments and sometimes overlapping primary tasks by the amount of institutions part of it, as a result the process for decision making is complex and takes longer. Therefore, for the EU to be able to

coordinate actions on member states it has to first coordinate high levels of its management and institutions.

The incoherent processes on counter-terrorism can, hence, weaken the efforts to combat terrorism. One solution could be to strengthen the role of the counter-terrorism coordinator, once so far, he cannot propose legislations to the EU legislative authorities, nor ask for meetings of national justice or foreign ministers to plan an anti-terrorism agenda. Reinforcing his powers will give him the actual role of coordination, which would bring more efficiency to the counter-terrorism planning (Casale, David. *Defense Against Terrorism Review - EU Institutional and Legal Counter-terrorism Framework*. 2008, pp. 21).

Further, the European Arrest Warrant have changed the traditional system of extradition with a more efficient procedure that involves national judicial not political authorities. However, this change brought concerns on human rights, meaning that the EU may seek to accomplish its policies on preventing and fighting terrorism but complying with the fundamental rights. The institutional framework on ASEAN depend on their highest defense cooperative tool, ADMM and ADMM-PLUS, which primary objective is to promote trust and transparency, as discussed before in this study. The "Concept Paper for the Establishment of an ADMM", states four main targets for the dialogue: promotion of regional peace and security, to provide guidance to senior officials on defense security within ASEAN and between ASEAN and its dialogue partners, encouraging mutual trust and confidence and supporting the establishment of the ASEAN Security Community (now the ASEAN Political-Security Community).

The ADMM security agenda nowadays, focuses on a humanitarian and disaster assistance, peace-keeping operations and industry defense. The institution has set a road map for three years that will highlight the priorities in the agenda, conducting workshops, military exercises and producing documents for standardizing operations and procedures for multilateral cooperation. Closer to this goal, the ADMM-PLUS aims five specific goals: humanitarian assistance and disaster relief, medicine, maritime security, peacekeeping and counter-terrorism; which are planned by working groups called the Experts Working Groups (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp.1).

These two actors have a restricted membership which allows them to play a significant role in the region (Shahriman Lockman, Senior Analyst of the Institute of Strategic and International Studies Malaysia). Moreover, the ADMM-PLUS seems to be more able to put into actions its decisions, specially on military assets and transnational security, which is the

main argument adopted by the organization. Further, the Treaty on Mutual Legal Assistance in Criminal Matters to strengthen the effectiveness of legislative procedures is also one relevant agreement for ASEAN counter-terrorism efforts.

Zooming into the development of institutionalized counter-terrorism, ASEAN started its framework after the 9/11 once before that event terrorism would be one of the categories in "transnational crime". This approach shows a traditional view on terrorism as a crime which would be managed by law enforcement agencies. At the operational floor, it is known that there were overlaps on terrorism and other areas of transnational crime, like money laundering, trafficking of drugs and people, or piracy.

Hence, in 1997 the ASEAN Declaration on Transnational Crimes was signed to combat transnational crimes by an "ASEAN way" of decision making and by non-binding norms. But, even with their efforts and information on terrorism and transnational crimes the progress was done only after the consequences of the 9/11, that put terrorism on national and regional agenda. So, in 2001 the Declaration on Joint Action to Counter Terrorism (ADJACT) was adopted and it included practical tools for reviewing and strengthening domestic mechanisms for counter-terrorism. Moreover, it considered some international conventions on terrorism in order to integrate it with the ASEAN mechanisms, strengthening intelligence on terrorists and terrorist groups and building capacity forces in the region (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp.5).

Further is important to notice that ASEAN member states are also enhancing counter-terrorism efforts among bilateral agreements over transnational ones. For instance, in 2002 Indonesia, Malaysia and Philippines signed a counter-terrorism agreement to strengthen borders, share information on passengers and on intelligence and information. Many other members have established other agreements on law enforcement and intelligence sharing to combat terrorism.

Notwithstanding, the ASEAN Treaty on Mutual Legal Assistance in Criminal Matters (MLAT) is created in order to enhance effectiveness on law enforcement between members through cooperation and legal assistance for crimes. The General Provision of the ACCT (counter-terrorism treaties) states that:

*"The Parties shall adopt such measures as may be necessary, including, where appropriate, national legislation, to ensure that offences covered in Article II of this Convention, especially when it is intended to intimidate a population, or to compel a government or an international*

*organization to do or to abstain from doing any act, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature".*

Legally, this provision points that the fact that states should include on their national counter-terrorism legislation, has space for different interpretations. Moreover, it establishes a common understanding to put apart the nature of those crimes, such as religion, politics or ideology motivation. The ACCT has been seen as "a significant milestone in ASEAN counter-terrorism cooperation with much potential in the areas of information-sharing and capacity-building". As argued by ASEAN Secretariat "the ACCT is a significant achievement of ASEAN counter-terrorism efforts as it serves as a framework for regional cooperation to counter, prevent, and suppress terrorism and deepen counterterrorism cooperation" (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp.10).

Finally, in 2009 that ASEAN adopted the Comprehensive Plan of Action on Counter-Terrorism that was the structure for the action plan "to counter, prevent and suppress terrorism, terrorist organizations and their associations, to disrupt their support networks and impede their plan of terror acts, and to bring them to justice", which had to follow these demands to be accomplished:

*"adherence to relevant United Nations Security Council resolutions and international counter-terrorism instruments; the implementation of the relevant existing regional legal frameworks, instruments and agreements; the establishment of institutionalized mechanisms for the exchange of information and intelligence for surveillance, tracking and interdiction of suspected terrorist groups and their activities; and the efforts to address the root causes of terrorism through various societal changes".*

Tan, Seng.

ASEAN has shown a great deal of actions and efforts to make it work their counter-terrorism policies and institutional structure. But the improvements are detailed once there is not much of the institutional structure nor legal procedures that would endure the unification of all the member states; instead, it promotes bilateral cooperation weakening the cooperation proposal of ASEAN to fight terrorism.

2.2: ASEAN Counter-terrorism efforts - structure of the area, actors involved, legal procedures involved, the policy and if it is connected to other areas of the organizations.

The 9/11 marked a time when ASEAN Member-States approached terrorism as a crime that should be under the law enforcement agencies to take care of. Operational wise, there are other issues that overlap terrorism and other crimes such as money laundering and human and drug trafficking. The acknowledgement of these issues, shows the importance of security measures in the Southeast Asia region demanding a necessarily approach of ASEAN Members on effective results to combat the crimes. Although, the ASEAN governments view terrorism as part of other criminal activities that can be avoided by coercive force, as the only mechanism for counter-terrorism strategies (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp. 20).

As cited before, it was only with the events of 9/11 that terrorism became a relevant issue on the agenda for security strategies in ASEAN. According to one of the coordinators of ASEAN cooperation on combating transnational crime and terrorism in the ASEAN Secretariat, there are some points of the Joint Declaration for Action to Counter-Terrorism, that are worth analyzing it:

*"Whilst it may sound normative to ASEAN outsiders, the declaration's preamble signifies a Southeast Asian united front on the issue of terrorism. The first point is indeed a universal principle, but it also underscores concerns over what some Southeast Asian Muslims perceived to be a camouflaged war on Islam. The second recognizes that despite the fact that global war on terrorism is an American-led agenda, it is also a regional issue as it has significant ramifications for ASEAN. But the third clearly signifies a denunciation of the Bush Administration's unilateralism and its widely-criticized doctrine of preemptive strike. In this regard, ASEAN asserts that the fight against terrorism must be guided by [the] multilateralism principle as set forth in the United Nations (UN) Charter. This explains the centrality of the UN multilateral framework on counterterrorism – known as the universal anti-terrorism instruments (UATIs) – as primary reference for intra as well as extra-regional cooperation on counter-terrorism".*

Being so, the ASEAN states adopted measures that would strengthen their domestic tools for combating terrorism by researching on international mechanisms as an information exchange on terrorist organizations and integrating these knowledge with ASEAN structures. Furthermore, the Joint Communique of the Third ASEAN Ministerial Meeting on Transnational Crime, published in 2001 some of the efforts to have an effective result on security issues, especially terrorism in the region. But in 2002 that the ASEAN Ministerial Meeting, issued a structure specifically for terrorism adopting the Work Program to Implement the ASEAN Plan of Action to Combat Transnational Crime ('Work Program' - originally signed in June 1999). The agenda presents strategies (legal agencies and institutional frameworks) to combat terrorism within the Member States (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp. 20).

Although, ASEAN has its regional plan for counter-terrorism, the members have also bilateral and multilateral cooperation agreements amongst each other. For instance, in 2002 the countries of Indonesia, Malaysia and Philippines signed a counter-terrorism deal that would enhance the border controls, share the airline information on passengers, share information and adopt some standardized procedures for searching and rescue needs (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp. 20). Other several countries in the region also signed cooperation agreements besides the ASEAN framework, focusing on law enforcement and intelligence agencies, supported by external factors such as the EU or the US.

In terms of legal procedures, there is the Treaty on Mutual Legal Assistance in Crime Matters (MLAT), which aims to reinforce the law enforcement agencies in the member states on ASEAN and on the prosecution agencies through cooperation and legal assistance procedures, focused on counter-terrorism. These efforts contributed to the creation of the ACCT, in 2007, which stands for the counter-terrorism treaties with some obligations imposed to Member States (Article IX) such as:

*"The Parties shall adopt such measures as may be necessary, including, where appropriate, national legislation, to ensure that offences covered in Article II of this Convention, especially when it is intended to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act, are under no circumstances justifiable by considerations of*

*a political, philosophical, ideological, racial, ethnic, religious or other similar nature".*

This legal mechanism at the same time that it allows to exclude the motive behind the crime (political, religious or ideological), which is important once with the ethnic, racial, religious and ideological diversity in the region any criminal act can become politicized. But it also allows that the Member States interpret the counter-terrorism legislation by their own domestic understanding. The treaty respects the sovereignty of each Member State, identifying that the cooperation should happen "in conformity with their respective domestic laws" (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp. 20).

The ACCT is considered an important step in the counter-terrorism efforts for the ASEAN group, being a tool that allows joint actions through cooperation, legal procedures and structural framework for the countries to find the most effective measures to combat terrorism. Therefore, the counter-terrorism strategies in this region can be considered as a conjunction of multilateral agreements that are complements to the domestic efforts, being those efforts an attempt to overcome the national limitations to fight transnational terrorism.

On the other hand, even though the efforts are a step towards good results many governments, like Indonesia and Singapore, have moved towards a non-militaristic, law enforcement method to fight the crime, while Malaysia and Thailand have shown a more coercive and militaristic response to terrorism actions. The explanation for the different methods within the region can be explained by the historical background of these nations. The way that Malaysia deal with the armed communist conflicts and how Thailand has acted in the separatist insurgency in the Malay-Muslim area have shaped their domestic choice of the use for force to combat crimes.

Finally, it is possible to analyze that on one side ASEAN's countries have managed to cooperate among themselves to develop counter-terrorism strategies, but on the other side, each government has shown preference to adopt their own domestic mechanism to combat terrorism, choosing different legislative procedures and coercive or not responses to crimes. To understand this gap between the regional cooperation and domestic policy to combat terrorism can be understood by the development of the ASEAN community (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp. 20).

This regional and domestic framework can be explained by the "ASEAN Way" of their structure. This means that the development of a regional community hasn't been soft when

dealing with state's sovereignty and bringing them to the regional level. Therefore, many Member States will first prioritize their domestic interest and usually in the expense of the regional community, making the ASEAN Way a "modus operandi" power and the regional legislation as a weak mechanism of community strategies.

Although, ASEAN compared to the EU has no powerful legislation its countries can rely on the informal language between the community, like consultation and consensus-building, in order to make a way for communication amongst each other and with external actors. Hence, the know-how on the limits of ASEAN is needed in order to operate their strategies in the most effective way, as defended by the former Secretary General of ASEAN, Rodolfo Severino:

*"ASEAN's supreme achievements have been in the political and security areas. By building confidence and dispelling mutual suspicion between members through frequent meetings and other cooperative activities, ASEAN has made Southeast Asia's impressive economic growth possible. (...) Some observers may be disappointed by ASEAN's failure to 'resolve' legal sovereignty and jurisdictional disputes involving member states, but they forget that ASEAN is not an adjudicating body and was never meant to function as such".*

Moreover, for an understanding that there are many internal and external factors that influence a regional organization, even the European Union with a centralized approach with the Europol (the EU's law enforcement agency) and Frontex (the EU's external borders management agency), have been dealing with some issues as lack of cooperation within the Member States, like in the case with the refugee flow in the continent that has generated greater discordance among the states (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp. 20).

Finally, ASEAN and its sovereignty states should be understood with a wider political view on the context on the region when it comes to measuring the counter-terrorism efforts. The organization is seen as a softer user of legal mechanisms with counter-terrorism measure before the ACCT became a powerful tool in 2013. However, the development on ASEAN cooperation between the Member States shown that the organization has reached some successful policies in counter-terrorism when assisting weaker members to deal with terrorist crimes by building a legal and operational framework to engage them into transnational cooperation for counter-terrorism measures.

It is noted that the domestic structures are a limitation for ASEAN to fully act as a regional facilitator. Regardless, these limits should be understood as socio-political structures that are part of the ASEAN framework to achieve their common goals and the regional cooperation together with international actors such as the EU. Therefore, the counter-terrorism efforts of ASEAN can be seen as the "norm internalization" not as a legal structure to overcome the challenges of national and transnational terrorist actions.

## Chapter 3

3.1. Comparative Analysis Efforts - main policies on counter-terrorism, successful goals achieved by the counter-terrorism efforts and areas of improvement for a more effective result on the counter-terrorism fight.

After understanding the legal structure, actors involved and the institutional framework of both EU and ASEAN is important to analyze some of the policies that were formulated by the institutions and how successful there were in achieving their goals. In the European Union, the counter-terrorism strategy is based on four pillars: prevent, protect, pursue and respond. Some policies are continuously formulated but others have been already fulfilled. The Passenger Name Record Directive (PNR) was formulated in 2015 which aims the collection of systematic data and retention of airline passenger's personal data (hotels, dates and itineraries). This allows the EU authorities to track and keep all information of people's transit between member states creating a "big brother" between countries.

Another policy formulated is the Prevention of Radicalization and Recruitment of European citizens by terrorist organizations, in 2015. The proposal of the European Parliament was that a list of jihadists or any other terrorist would be done and confirms the need for a common definition of foreign fighters and ensuring that they would be put into trial. Further, the Parliament adopted in 2016 a mechanism on a Common Security and Defense Policy calling for a preventive tool for de-radicalization program. The role of the Commission would be to find extremist content online and promote a judicial cooperation between the systems (with Eurojust) to fight radicalization and terrorism on member states. Also in 2016, Europol was given more powers under which it could act more effectively on counter-terrorism measures. Moreover, a proposal for combating terrorism set in 2015 criminalizes any pre-act

on terrorism, such as training and travelling for terrorist purposes (International Center for Counter-Terrorism).

Terrorist attacks are expected by EU authorities to increase in the continent in the next years, due to return of foreign fighters from Syria and Iraq. Also, the diversification that terrorists are using to plan their attacks, such as weapons and soldiers, makes it more challenging for officials to improve counter-terrorism measures in the European Union. A new research by the Civil Liberties, Justice and Home Affairs Committee of the European Parliament, and produced by PwC and the International Centre for Counter-Terrorism – The Hague (ICCT), produce an analysis on the coherence and effectiveness in which the European Union counter-terrorism policy is planned. further

By mapping the EU policies on counter-terrorism the research shows that there are many specific issues that are overlapping the counter-terrorism ideas and especially lacking the strategic guide of a general policy strategy. The study enhances the "cross-border" view on terrorism threat, that gives an urgent perspective for the EU member states to work in a more integrative way, after reviewing seven member states (Belgium, Bulgaria, France, Germany, the Netherlands, Slovakia and Spain) and offering 22 policy consultations for improvements on counter-terrorism strategies (International Center for Counter-Terrorism).

One of the improvements suggested is the data exchange, police and judicial cooperation and border controls. Even if EU mechanisms are ready for data exchange and the cooperation between police and judicial, the interviewers still would prefer to use their bilateral contacts for cooperation. Further, there are three actions that could be done to improve counter-terrorism policy. First, a better quality on the structure of the responsible driving the EU counter-terrorism agenda, by mapping the actors and their responsibilities, to avoid having no structured agenda and without a leader to focus the work.

Second, the need for a also more structure future plan to better foresee the changes and challenges of the counter-terrorism policy making. And finally, a better monitoring and evaluation of the consequences of the policies if there is a need for improving the quality on effectiveness and legitimacy. The process needs to be more transparent involving citizens and stakeholders to the actual process of formulation, implementation and evaluation of the counter-terrorism strategies.

ASEAN, on the other hand, leaves the management of its transnational crimes to the law enforcement agencies, but as seen in the operational floor there is also an overlapping of other issues over counter-terrorism strategies, such as money laundering and trafficking of people and drugs. ASEAN member states are reluctant in fully accept transnational crime as a

counter-terrorism issue as well, rather each member adopted a practical measure to review and strengthen their domestic tools to combat terrorism. Although, transnationally, is harder to establish a stronger cooperation between the countries, the Declaration on Joint Action to Counter-Terrorism strategies was established in 2001 and seeks the following policies:

- ❑ Review and strengthen national mechanisms to combat terrorism,
- ❑ Call for the early signing/ratification of or accession to all relevant anti-terrorist conventions, including the International Convention for the Suppression of the Financing of Terrorism;
- ❑ Deepen cooperation among ASEAN's front-line law enforcement agencies in combating terrorism and sharing "best practices";
- ❑ Study relevant international conventions on terrorism with the view to integrating them with ASEAN mechanisms on combating international terrorism;
- ❑ Enhance information/intelligence exchange to facilitate the flow of information, in particular, on terrorists and terrorist organizations, their movement and funding, and any other information needed to protect lives, property and the security of all modes of travel;
- ❑ Strengthen existing cooperation and coordination between the ASEAN Ministerial Meeting on Transnational Crime (AMMTC) and other relevant ASEAN bodies in countering, preventing and suppressing all forms of terrorist acts. Particular attention would be paid to finding ways to combat terrorist organizations, support infrastructure and funding and bringing the perpetrators to justice;
- ❑ Develop regional capacity building programs to enhance existing capabilities of ASEAN member countries to investigate, detect, monitor and report on terrorist acts;
- ❑ Discuss and explore practical ideas and initiatives to increase ASEAN's role in and involvement with the international community including extra-regional partners within existing frameworks such as the ASEAN + 3 (China, Japan and the RoK), the ASEAN Dialogue Partners and the ASEAN Regional Forum (ARF), to make the fight against terrorism a truly regional and global endeavor; and
- ❑ Strengthen cooperation at the bilateral, regional and international levels in combating terrorism in a comprehensive manner and affirm that at the international level the United Nations should play a major role in this regard.

These measures have been incorporated in the Terrorism Component of the Work Program to Implement the ASEAN Plan of Action to Combat Transnational Crime, and it is based on six key strategies: information exchange; cooperation in legal matters; cooperation in law enforcement matters; institutional capacity building; training; and extra-regional cooperation. Moreover, the training programs and projects of ASEAN includes "psychological operation/psychological warfare courses for law enforcement authorities and on intelligence procuring. Courses on bomb/explosive detection, post-blast investigation, airport security and passport/document security and inspection are also planned" (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp. 20).

Even though, the cooperation seems to work better on bilateral levels in Southeast Asia, there is still some reluctance for trying a transnational order. For example, in 2002 the Annual Conference of ASEAN Chiefs of Police (ASEANAPOL) called for a cooperation among states to fight terrorism. The Chief Police of ASEAN committed to develop a capacity building activities in order to make sure that the members of ASEANAPOL are capable to effectively monitor and share information for their counter-terrorism strategies. Further, in 2003 ASEAN police and law enforcement established that for each member an anti-terrorism task force shall be done, in order to strengthen the cooperation on counter-terrorism measures and to collaborate after any attack, by means of identifying leaders, pursuing suspects searching evidence and treating the victims (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp. 20).

But this attempts of structuring a regional cooperation on counter-terrorism for ASEAN member states versus the reluctance of states sovereignty to accept a standard strategy is maintaining what is called "ASEAN Way". This is an ongoing challenge that ASEAN authorities have to build a community and a common feeling between states. Therefore, the tendency of ASEAN members to prioritize their domestic interest in the expense of the regional community, shows that so far this "ASEAN Way" is maintained and most likely to prevail in the future.

Even if ASEAN lacks a stronger legal structure like the EU, its member states have then relied on diversified and informal codes (consultation and consensus building) to lead their bilateral relations with other sovereignties. As noted by Rodolfo Severino, former Secretary General of ASEAN:

*"ASEAN's supreme achievements have been in the political and security areas. By building confidence and dispelling mutual suspicion between members through frequent meetings and other cooperative activities, ASEAN has made Southeast Asia's*

*impressive economic growth possible. ... Some observers may be disappointed by ASEAN's failure to 'resolve' legal sovereignty and jurisdictional disputes involving member states, but they forget that ASEAN is not an adjudicating body and was never meant to function as such.<sup>96</sup> The same qualifications hold for ASEAN's approach to counter-terrorism".*

Rodolfo Severino, former Secretary General of ASEAN

In addition, even the more centralized approach by the EU through Europol (law enforcement agency) and Frontex (external borders management agency), has its critiques for issues such as a lack of commitment and cooperation from member states. Mistakes that were exposed by the attacks in Brussels and Paris (ISIS connected). In the case of Southeast Asian countries, the political conflicts have been dividing the region towards the counter-terrorism mechanisms adopted. ASEAN counter-terrorism efforts should be seen in a broader political approach, which domestic counter-terrorism policies are enmeshed with their own political agenda.

ASEAN is mostly seen as a softer power when it comes to counter-terrorism, with its softer laws before the ACCT in 2013. However, the regional organization has been helping weaker members to deal with issues of security by constructing their legal and operational structure and engaging into the international system. This "ASEAN Way" has been, yet, able to construct an intra-regional cooperation, respecting the member's sovereignty and engaging with the international actors. The regional counter-terrorism strategies are, though seen more as a 'norm internalization', than forging mandatory legal procedures, in order to overcome the national efforts against the transnational threats (Tan, Seng. *ASEAN and the development of counter-terrorism law and policy in Southeast Asia*. 2017, pp. 20).

# Conclusions

Counter-terrorism has become one of the main, if not the most relevant subject for international security. Global organizations are fighting for the most efficient results they can get from their security policies to win the battle against terrorist groups. The measurement of success is calculated by the number of terrorists and groups that the authorities are able to imprison and shut down. However, the challenge is continuously, once there is no central power for terrorism and instead, they organized and plan their actions divided into decentralized groups around Europe and Asia.

During this study, the author tried to answer the three following questions in order to construct an analytical narrative over counter-terrorism efforts inside the EU and ASEAN. The questions were:

1. What are the counter-terrorism policies adopted by the EU and ASEAN on their strategies and which are the mechanisms adopted by each institution?
2. How ASEAN and EU institutionalize their counter-terrorism strategy, what is the legal procedure behind the policies and which actors are involved in the decision-making?
3. Why are the gaps emerging and persisting?

The European Union (EU) and The Association of Southeast Asian Nations (ASEAN) have been constructing their institutional framework in order to fight terrorism. They started in different periods of time and for diversified reasons. But it is possible to say that the events of 9/11 launched a global structure that would focus almost exclusively on counter-terrorism measures. Furthermore, although these organizations try to find some common policies for a stronger cooperation in the fight against terrorism, they tend to focus their efforts much more in their regional structures. Not only regionally, but domestically, the member states from EU and ASEAN also have the challenge to fight groups in their own territory.

The main control and institutional mechanisms that the regional organizations found to cease terrorism and fight radical groups is based on the control of people movement around the member states, controlling who comes in and out and sickening the methods of security

between states. For this instrument, the organizations have built stronger groups to be responsible inside the organization for the counter-terrorism measures and policies. They have also strengthening the relationship among security and controlling mechanisms inside the organization in order to have a horizontal structure connecting more actors and institutions for strengthening the collection of data and safety methods.

As discussed in this study, these factors - regional and domestic framework - contribute for the understanding of the challenges that the institutions like EU and ASEAN encounter for the formulation of their policies. Notwithstanding, the structures that these organizations are working on is extremely relevant for an efficient result on their counter-terrorism efforts. The comparative analysis, therefore, was formulated in order to highlight the importance of a institutional framework for the success of any policy-making. The actors chosen to be involved in the matter, how the legal procedures facilitate or cooperate with the positive results on counter-terrorism measures and how efficient is the institutional structure itself, are the keys for a successful result on counter-terrorism policies.

Being said so, the EU and ASEAN have both achieved relevant results on their counter-terrorism efforts. However, is always necessary that these organizations keep focusing on ways to substantially improve their work in order to achieve the most efficient result on their policies to fight terrorist groups. On one hand, even if they have created mechanisms and tools that have been acting on security and safety of their member states there are still gaps to be covered by the decision - making politicians, on the other hand. For instance, the individual domestic issues and regional structures in which each organization is emerged plays a important role in this gap persistency.

There are so many other issues on a regional level, like drug control, human trafficking and other domestic issues that are still being resolved or included in counter-terrorism measures, which creates a certain blur in the policy and decision making by the actors in the institutions. Moreover, last years that the counter-terrorism became a strategy to be taken into account to fight the terrorist groups and organizations. Therefore, it is still something new that it is being constructed on a regional level so it will take some time to adjust into the organizations and conquer its own space. Plus, a regional institutional can work once domestic interests are align to other member states, otherwise, a policy or security strategy cannot be completed if the actors are not aligned in expectations and priorities.

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