



HOUSE OF LORDS

Unrevised transcript of evidence taken before
The Select Committee on the European Union
Home Affairs (Sub-Committee F)
Inquiry on
EU INTERNAL SECURITY STRATEGY

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Questions 1 - 39

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Witnesses: Cecilia Malmström

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Members present

Lord Hannay of Chiswick (Chairman)
Baroness Eccles of Moulton
Lord Richard

Examination of Witnesses

Witnesses: **Cecilia Malmström**, Home Affairs Commissioner.

Q1 The Chairman: Commissioner Malmström, we are grateful to you for allowing us to come and seek your views. They are central to the inquiry on which we have just embarked into the internal security strategy. A verbatim transcript will be taken of the evidence. This will be put on our parliamentary website and in due course it will be published as part of our report. A few days after our return to the UK, we will send your officials a copy of the transcript to check it for accuracy, and perhaps you could advise us of any corrections as quickly as possible. If, after the evidence session, there is anything you want to clarify or amplify, or there are any additional points, please do not hesitate to submit supplementary evidence to us in writing.

Do you want us to introduce ourselves or are the name plates enough?

Cecilia Malmström: I can see the name plates, but perhaps you want to introduce yourselves. We have met before, but I have not met Baroness Eccles or Lord Richard.

Baroness Eccles of Moulton: I am Diana Eccles. I am a Member of the House of Lords and a member of this European Union Sub-Committee.

Lord Richard: My name is Ivor Richard. I am a Member of the House of Lords and a member of this Sub-Committee. I am familiar with the old building, but this is a new one.

Cecilia Malmström: You were a Commissioner, am I right, for social affairs? Was that its name at the time as well, or was it called employment?

Lord Richard: Many years ago, yes. I was employment Commissioner when we had even more unemployment than we do today.

The Chairman: I am David Hannay. You and I met at dinner in London. I was the Permanent Representative here in the 1980s and I am the Chair of this European Union Sub-Committee. Our special adviser is Stephen Hawker, whom I think you also met at that dinner.

Cecilia Malmström: We met in London.

Q2 The Chairman: And Michael Collon is the Clerk of the Committee, whom you also met. Is there anything you would like to say before we plunge into the questions?

Cecilia Malmström: No, just that it is an honour to be here. It is my first time, and giving evidence to the House of Lords is a bit mythical for me. I look forward to it very much and hope that I can be of help and assistance to the work of the Committee.

Q3 The Chairman: Thank you very much. I will start with two general questions. What do you regard as the key short-term issues in the internal security strategy that you have identified in your document? What do you think is achievable? What are your priorities for the short and medium term? Could you perhaps say a word about how you see what seems to be the inherent tension between achieving greater internal security and respecting the human rights of individuals? This seems to come up in a wide range of the issues covered in your document. If you could say something about that and about your general priorities, that would get us started very well.

Cecilia Malmström: The internal security strategy aims to define a few limited but common threats that we are facing. Of course, member states are ultimately responsible for their own security but there are issues where there is clear and added value in co-operation. I have identified five of those areas: organised crime; cybercrime; terrorism; borders; and catastrophes, whether human made or natural disasters. We try to identify a few concrete

aspects where we can bring bigger security to address this - for instance, going for the money in the organised crime issue. The aim is to produce concrete proposals to increasingly go after the money in the European Union and confiscate the profits of international criminals who move freely over Europe today. We also propose a European PNR system and we will work on anti-radicalisation measures, not monitored from Brussels, to create a platform for the exchange of views and ideas about what is being done there. When it comes to disasters, we want to decide how we can implement the solidarity clause provided for in the Lisbon Treaty in a much better way. It is a new clause but, now that we have it, how can we make sure, if a member state suffers from a catastrophe and wants and needs help, that help is given to it in the most efficient way and the member state in question does not have to call on all member states? How can we channel it in a better way? These are a few examples. I am very aware of the importance of fundamental rights and I do not see it as a trade-off. High security in the European Union can come only with a very strong safeguarding of individual rights and data protection. All the proposals we make will have to be thought through when it comes to proportionality, subsidiarity and data protection. This has always been important to me in my political life. Of course it is a sensitive issue and one is always subject to criticism, but it is not a trade-off and everything has to be there in the whole package when we deal with a person.

Q4 The Chairman: And the European Parliament, presumably, will have some quite strong views on that.

Cecilia Malmström: The European Parliament has very strong views, which is good. It is very involved. As I see it, if we give greater transparency to the proposals it will force the Council and Commission to really motivate our proposals along with the questions of the national Parliaments. It is a very good thing that it is involved. After the entry into force of Lisbon, all three institutions are learning how to deal with each other and to work closely

right from the beginning of a proposal and not come in late. If the Parliament is involved at an early stage, informed and listened to, we can work in a constructive way. This is a lesson I have learned from the TFTP, which started on my first day at work as a new Commissioner in February.

Q5 The Chairman: We hope to play a role in that co-operation, too, because national Parliaments will be involved in an area where national responsibilities are still very strong. Therefore we have to work in two different directions – towards our own Government and also towards the European institutions. That is why this is, for us, a particularly important area to be taken up in this early post-Lisbon study.

Cecilia Malmström: Yes, I am aware of that. We have made an effort in the internal security strategy to make only proposals - I am aware that they can be questioned – where the Commission side can motivate. This is where European joint action can be of added value because, of course, security is a matter of responsibility for member states. However, as the threats are across border, we need to have responses across border as well.

Q6 Lord Richard: I think that you have partly answered the question that I was going to ask about the apparent conflict between Article 4 of the TEU and Articles 72 and 73 of the TFEU. As I understand it, Article 4 was put in, perhaps, at the UK's insistence – I do not know the internal details but one hears rumours to that effect – and says that national security remains the sole responsibility of each member state. Then Article 73 allows like-minded member states to carry out enhanced co-operation and co-ordination in the development of national security. How big a role do you think the Commission can play in the Article 73 actions?

Cecilia Malmström: I totally agree with you that national security is the responsibility of member states. However, Articles 67 to 76 also state that it is the EU's responsibility to make sure that we have an area of justice, security and freedom and a shared competence.

The Commission can only reinforce what the member states do. For instance, we have defined in the Lisbon treaty Euro-crimes where there is an interest to work together. I see my responsibility very much as proposing actions where we can really add value because the threat or the security issue cannot be addressed solely on a national basis. However, I am very aware of member states' responsibility and that is why I said earlier that we try to motivate carefully, from a subsidiarity and proportionality view, everything that we are proposing.

Q7 Baroness Eccles of Moulton: If we could move on to relationships. The first part of my question is about internal organisational relationships, and the second part is about external relationships. First, how will the new strategy – the internal security strategy – interrelate with the existing European security strategy, the ESS, which has been running for about seven or eight years? This is quite important because that has been doing, presumably, quite a lot of the work that the new strategy is aimed at doing. So there is clearly a relationship there that needs sorting. As I understand it, the newly-created High Representative for Foreign Affairs and Security policy is in charge of a certain chunk of what is going to be the responsibility of the strategy we are discussing. How is that going to be sorted?

Cecilia Malmström: When this strategy was elaborated many people in the Commission were involved. It is not, of course, only my responsibility. I had a very close co-operation with Lady Ashton because, as you rightly say, the threats are not exclusively internal nor external but interlinked. That is why we need to have an external dimension with the internal and the other way around. She and her cabinet have been very active in elaborating this, as has, for instance, Mrs Kristalina Georgieva, who works with disasters. She is in charge of the MIC, the monitoring of catastrophes system. Many are involved, which is how it should be, and so we will have a security working group within the Commission and the

responsible parties in COSI – the committee on internal security – will monitor, follow-up and carry out the more day-to-day handling of the strategy. We see very open borders in that regard because we cannot operate in isolation from each other.

Q8 Baroness Eccles of Moulton: You mentioned Commissioner Georgieva is also involved in the disaster aspects, so the communications between the three departments will be seamless, one hopes.

Cecilia Malmström: Ideally, in the best of worlds. The Commission is a bureaucracy in many ways – Lord Richard will know this – but it has improved. It is very determined to tear down some of these walls and to work much more horizontally across borders. I am not saying it will be easy and that it will happen tomorrow, but that is definitely our intention.

Q9 Baroness Eccles of Moulton: The other communication aspect which is so important is the bilateral element between the member states and countries such as the United States, Russia, China and India. They will relate as far as the EU is concerned to a different body from previously. Will that be easy to achieve, or will they be a little confused?

Cecilia Malmström: Obviously, the US is our most important partner in this and the two Ministers concerned, Eric Holder and Janet Napolitano, have bilateral meetings. They are very much engaged in cybercrime, migration and so on. So we have natural counterparts in that respect. It is not so liberated with Russia, even if I also meet its Justice and Interior Ministers regularly. We are keen to make sure that European Union values and fundamental rights are present. For that reason, it is easier for us to work with the United States. However, those other countries will also be involved in such issues. That will be elaborated on but it is very much in the hands of the Council how we move on from this.

Q10 The Chairman: How will you and your department ensure that you have a proper level of expertise in the European External Action Service posts in the countries that are really important, such as the United States? Will some of your officials be seconded to the

EEAS, or will you find in the EEAS people with sufficient technical and legal knowledge to be able to handle some of these complex issues and have them in Washington, Moscow and so on?

Cecilia Malmström: This is also an issue that I am discussing with Lady Ashton. Of course everything is still being set up and so it is still a very early phase. Ideally we would have – at least in our most important missions – JLS experts so that we can work on this in a very coherent way.

Q11 Lord Richard: Can I ask a more specific question about SitCen, which at the moment has a particular mandate? There were some occasions in the past – particularly in January 2005 – when SitCen’s mandate was extended to include the domestic or internal threat gleaned from information provided by the member states’ intelligence agencies. So there was a slight widening there. Do you see that widening continuing? Do you think it ought to continue and that SitCen should have responsibility for both external and internal affairs?

Cecilia Malmström: I know that Lady Ashton is now looking at this aspect very closely and we discussed it the other day. SitCen is excellent but we need to have it more co-ordinated with the other agencies and with what the rest of the European Union is doing. There is a lot of information at Frontex and Europol, for instance, and we need to co-ordinate the work much better. I am discussing this with Lady Ashton and she shares my view. I have also visited SitCen to discuss how we can increase our co-operation. We have discussed cargo security – the Dubai parcel, for instance – and how we can better make use of our joint analyses and share information to the extent that it feels it can share it. SitCen is very well situated to do that.

Q12 Lord Richard: It sounds from what you say as though you think an extension of SitCen's mandate would be helpful, and obviously steps are being taken in that direction. It sounds as though negotiations are joined on that issue.

Cecilia Malmström: We are still in very early times on that. The situation of SitCen and its mandate is being looked at. It is a priority for Lady Ashton and we have had dialogue on it, but no decisions have been made. SitCen is a good institution. It is generally trusted by member states but it is dependent on the information that it gets from them. We all know that intelligence is the most sensitive thing we can share with each other. We are not building up a European intelligence centre, but sometimes it might be valuable to share some of the assessments when it comes to threats.

Q13 Lord Richard: On the face of it, do you think that it would be a good idea to enlarge SitCen's mandate?

Cecilia Malmström: I think that SitCen is probably the best institution or body to have this mandate, yes.

Q14 The Chairman: This may sound rather ignorant but I remember that in the past the Commission had its own situation centre as well as the one in the Council. Is that now in the process of merging - or has it been merged - with the Council one?

Cecilia Malmström: We do not have an old situation centre like that in the Commission. With the new Lisbon treaty and the solidarity clause and so on, it would make sense to join and share the analyses to a much better standard, not to build up a parallel thing, because we are dealing with very sensitive information. When there is a catastrophe or a threat or something like that it is important that we share the same assessment. If we want to assist each other if there is an attack or a natural disaster, for instance – information should not be shared by too many different bodies; rather it should be pooled.

Q15 The Chairman: Could we move on to talk a little about the interface between your department and the counterterrorism co-ordinator? How does that fit into the new strategic framework? Where does the co-ordinator really belong in it, and will his powers be enhanced? One of your five sections is dealing with counterterrorism. What role will the co-ordinator play in all that?

Cecilia Malmström: The mandate of the co-ordinator is set by the Council, so the Commission cannot influence that, but we have had, and still have, a very good and open discussion with Mr de Kerchove, the counterterrorism co-ordinator. He has been very helpful and has had a lot of input into the internal security strategy. We have regular contact to ensure that we all speak with the same voice and go in the same direction. He will continue to play an important role in co-ordinating the member states. I do not see any new role for him. His role is to continue with what he is doing and to make sure that we all work together.

The Chairman: We will come back to this question of the multiplicity of bodies that exist in this area when we talk about COSI and the handling of cyber crime. Perhaps we can come back to that at that stage.

Q16 Baroness Eccles of Moulton: Can I ask about the increasingly serious threat of cyberattacks on infrastructure and how the strategy will take account of this and be prepared for the extremely complicated and difficult matter of dealing with it, particularly when it has global pretensions?

Cecilia Malmström: It does and therefore we should focus not only on European co-operation but also co-operation with the Americans. This is one of the issues that we will discuss with our American counterparts tomorrow and the day after. As you say, cybercrime is a growing problem, comprising everything from the stealing of bank accounts and identity theft to attacks on whole states, as we saw in Estonia and Georgia. It is likely to

grow in importance and will affect the lives of ordinary people a lot. Just after the summer, we proposed an updating of the cyber directive to increase the penalties, widen the definition of the crime and criminalise the so-called botnets—this malicious software which can destroy whole industries, companies, departments and ministries. We also want to enlarge the competences of ENISA, which is the European Union's cyber agency. We have also proposed in the internal security strategy that all member states should set up CERTs alert centres open 24 hours a day which member states can contact for information, and to share the expertise that we have at the cyber centre, probably through Europol. Of course, everybody is overwhelmed by the magnitude of these problems and there are no easy solutions but if we can at least pool our resources a little and the knowledge that we have and try to educate each other and to prepare and to prevent these attacks, we shall move a little way forward. But, as I said, we shall start co-operation with the Americans on this.

Q17 Baroness Eccles of Moulton: Presumably, there would not be a huge cost attached to pooling information and co-operating with people. It would not involve employing a great many more people and setting up new centres.

Cecilia Malmström: No, I do not see that it would involve cost. It is more a case of sharing experiences, alerts and ways to act preventively, finding ways to work better with the private sector, identifying this at an early stage on the internet and finding out how we can work with the security strategies in the private sector to a much greater extent. So it is more about gathering the information that we have, or do not have, than building up new, gigantic structures.

Q18 Baroness Eccles of Moulton: And, of course, a lot of the information that will need to be shared has itself a high security label.

Cecilia Malmström: Some of it will, yes.

Q19 The Chairman: One question that occurred to us on reading your communication was that the case for the Union doing more on cybercrime—this is not so much cyberattacks as cybercrime—seems to be very well articulated and justified but there seems to be rather a plethora of bodies that might be involved in this. How do you see them fitting together? In our recent report on cyberattacks, we suggested—although we were not covering cybercrime as such—that ENISA’s mandate ought to be enlarged to include that, but you also have Europol, which I think is very keen to have a greater capacity on this, and you mentioned also a cybercrime centre being set up at some stage, so that is rather a lot of bodies as well as the SitCen, which is rather important in respect of exchanging information and intelligence. Do you think there is a bit of a risk that there will be slightly too many people involved and that it will be rather difficult to get a properly focused effort if there are quite so many bodies involved? Alternatively, do you see some way of defining a bit more clearly who does what?

Cecilia Malmström: The cybercrime centre would, as I see it, be set up at Europol and build on what already exists in Europol. I am not talking of having a new big agency but of pooling a few resources there, working closely with member states. Europol already has some capacity and some knowledge on this and it will be natural to build on that and not create anything new. ENISA—the European Network and Information Security Agency—in Greece also works with other issues relating to the internet that have nothing to do with crime, so I think that it can be beefed up a little bit. But if we want to focus on the crime issue, it would be more natural to put it under Europol because we want to increase co-operation but do not want, as you say, to create many new structures.

Q20 The Chairman: That certainly seems to make good sense, but I wonder whether resources will be a problem in all this because there are not huge amounts of resources available. The other question is the issue of countries setting up CERTs. When we did our

report we were very clear that the Commission's ambition that every member state should have a CERT was entirely laudable but did not take sufficient account of those member states that had gone well beyond that, like our own. We have quite a few CERTs but our Government do not see any case for a single national CERT. We certainly were not convinced of the case for that. I am not sure that that plurality of approaches comes through very clearly in the Commission communication but you might like to comment on that.

Cecilia Malmström: We do not want to design one European model of a national CERT. It is more a case of making sure that member states are prepared for this. Some are very well prepared for this, like your own, others are very hesitant and fumbling a little bit over how to deal with this. But I think all member states want to set up some sort of mechanism. Where it is placed or how it is organised is not so important for the Commission, but some sort of contact point should exist to which citizens of a country can turn and where the European Union can seek a counterpart with which to co-operate. Exactly how they are organised and under whom they are organised is not really important to us. We do not want to set up new bodies but build on existing institutions and encourage member states to set up this competence. They will need to do this because this is something that will increase in all member states.

Q21 Lord Richard: Can I come to something perhaps a bit more specific, which is counterterrorism? Reading the Commission communication, there is quite a lot in there about increased co-operation between the countries—with the Commission taking an active part in it—and, indeed, promoting the creation of an EU radicalisation awareness network. You also say in the communication that, “Security policies, especially those of prevention, must take a broad approach ... Cooperation should therefore be sought with other sectors like schools, universities and other educational institutions, in order to prevent young people from turning to crime”. That sounds admirable, but are you actually going to do it?

Cecilia Malmström: No, the Commission is not going to do that because member states are much better fitted to do it and it comes under their competences. Many member states, including the one I come from and the one you come from, have already developed methods, mostly on a local level, to identify young men—it is mostly young men—who are vulnerable to extremist propaganda and who run the risk of being dragged into violent extremist networks. Those methods involve local communities, sometimes religious communities, schools, universities and social workers. I have met people from many countries who work with these methods, and researchers, who have told me that this must be done on a local or regional level as circumstances vary so much between countries, but that there is a need to meet with other people to compare methods, best practice, or even bad practice on what you should not be doing, and to have a network of exchanging ideas. But, of course, the Commission cannot deradicalise people; that is not our intention at all. Our intention is to gather together people who work with this issue and to give them a platform to share their experiences.

Q22 Lord Richard: But you would be responsible, I hope, for setting up the network.

Cecilia Malmström: It would be the relevant people who run the network who would provide the means for people to meet, for example, a room, provide some money to enable them to meet and perhaps some information to hand out and coffee. The facilities will be there and there will be someone responsible for the administration but the network will be a matter for the people working on the ground.

Lord Richard: And you would lubricate it.

Q23 The Chairman: This is another of those areas, a little bit like the cyber area, where it is quite important to bring in local authorities and local initiatives and not just rely on central government input in these things, which may, after all not always be absolutely ideal. Again, with the cyber case, the evidence that we took when we were doing our report

showed that Government in our country was not doing enough to enlist the active involvement of the private sector and of individuals, some of whom were extremely talented, in both these areas that we are talking about.

Cecilia Malmström: Exactly, it would not be member states' Ministers or high-level persons coming in but, typically, those who work on a local level, to identify these vulnerable young people, and older people too, and to share their experiences. I met with Charles Farr who works on this issue for the Prime Minister in the UK. He said that his experiences had taught him how we should not tackle this and how we should tackle it. He said that some methods were not a good idea as they frightened people away and stigmatised them but that there were better ways to tackle the issue. I have talked to Swedish, Dutch, German and Danish people who have a lot of experience of working with this issue and they think that it is helpful to share their experience with each other. That could be done on a very down to earth level, perhaps by organising a conference, which could be attended by Ministers, to get a summary of these best practices.

Q24 The Chairman: I notice that your list does not include any southern European countries. Does that mean that there is a southern European problem with this issue? That is an unfair way to put it, but does it mean that they are further back on the learning curve on this issue and, if so, how will you try to influence them because you hear quite bad stories about hostility in countries such as Greece, for example?

Cecilia Malmström: Yes, I have not discussed this particular item with my Greek colleagues although I have discussed it with my Spanish colleagues. Spain has a lot of experience of this matter due to its sad history on this. These were the Ministers that I met recently to discuss this, so that is why I mentioned it. I do not think there is a very clear north-south divide but some countries clearly have less experience in this area and could really benefit from sharing the experience of other countries in order to address this locally.

Q25 Baroness Eccles of Moulton: This is a continuation to move the discussion on to other counterterrorism initiatives, such as money laundering, fraudulent activities et cetera. Could the same sort of relatively low-key but effective early detection of these unattractive practices that have counterterrorism implications be carried out in the private sector through co-operation with non-government organisations? Could this be a useful way of getting hold of some of these activities in their infancy before they make a big contribution to terrorism?

Cecilia Malmström: Yes, I think that that engagement is an important way of working. We have a financial coalition working on a lot of different initiatives. We know that money does travel across borders and we need to address this. I have also been given the task by the European Parliament and the Council to look at the possibilities of setting up a TFTP mechanism on European soil to extract bank data connected with, for example, suspected preparation of terrorist acts. We are looking at that now, and it will then be up to the Council to decide whether it is willing to go in this direction. We are looking at the tools that already exist to tackle money laundering and moving money over borders, to see how they are used, whether there are any problems in implementing them and whether they need to be refined. We will come back possibly next year with proposals on that.

Q26 Baroness Eccles of Moulton: Of course, there is a data protection aspect to this. Again, it is a balance.

Cecilia Malmström: Absolutely. It is a very important balance. That also came up when we discussed the TFTP agreement. Many member states, individuals and Members of the European Parliament felt that it was better to extract the data of European citizens on European ground rather than send them over in bulk to the US. Even if it is important to track money and individuals who plan to do horrible things to our citizens, the vast majority of people are not criminal and we should protect their data and integrity.

Baroness Eccles of Moulton: Particularly lately, one realises how vulnerable these are.

Cecilia Malmström: Yes, very vulnerable.

Q27 Lord Richard: Perhaps I can turn to COSI for a moment. I have three points. First, it has only met five times. Secondly, when one looks at the number of existing European groups, such as CTG, COTER, TWG, CP931—I have no idea what that is—and the Article 36 Committee, there seem to be an awful lot. Is there not a case for rationalising them? If there is, what is the strength of the case and would it be accepted? I understand that there is trench warfare between the groups; there are a few too many. Thirdly, does COSI have a role in the implementation of the solidarity clause, which requires member states to provide mutual assistance in cases of natural or man-made disasters as well as of terrorist attacks?

Cecilia Malmström: Yes, as you said, COSI has met only a few times. It, too, is a product of the new treaty. All new products of the treaty will take time to find a role. It is difficult for me to judge, because these are Council co-operation bodies. I do not know what some of the group names that you mentioned mean; I have only heard of them. It is not possible for the Commission to steer how the Council works and what working groups it has; that is entirely its way of organising itself. COSI clearly has a role in our internal security strategy, and might also have one under the solidarity clause. We are looking at how this would be monitored and set up. I imagine that COSI could have a role as well.

Q28 Lord Richard: Do you think that, as a commissioner, you could at some stage propose to members of the Council that rationalisation is required in this area?

Cecilia Malmström: Members of the Council are sensitive to the Commission trying to steer how they work.

Q29 Lord Richard: I totally understand that. On the other hand, it seems that something needs to be done. Nobody else is going to do it, so it is obviously a matter for the Commission. It is part of its function.

Cecilia Malmström: It is really not our task to tell the Council how to organise itself.

Lord Richard: Nudge it.

Q30 The Chairman: Well, we might say something—who knows? On that point, have you attended a meeting of COSI? Have you any intention of briefing members and exchanging views? It is a high-level group with an important role in advising Governments on how to respond to your strategy. Would it be useful to have a more direct relationship? I am not suggesting that you attend their meetings, but perhaps you could meet them and talk things through from time to time.

Cecilia Malmström: I have never been invited to a COSI meeting: but, as you said, it is a new body that has had only a few meetings. I will be happy to attend if they invite me. It could be useful to have a discussion once the internal security strategy is adopted or endorsed by the Council. I am open to the idea of attending its meetings, but so far I have not done so.

Q31 The Chairman: Perhaps we could we move to a couple of other issues. There has been some trouble over terrorists listed under UN resolutions, and the way in which the EU operates the system. Is the system okay now or does it need reform? Is there any risk of you getting into a clash with the obligations imposed on every member state by the UN if you have difficulties implementing them?

Cecilia Malmström: The current system of listing is under the Common Foreign and Security Policy, so it is the responsibility of Baroness Ashton. Under the Lisbon Treaty, Article 75 enables the freezing of funds to combat terrorism. That would allow us to look at this and see whether there are any gaps, or if a new approach is needed to mitigate criticism from international bodies. We have established a working group of experts from member states to discuss the freezing of assets. We will consider a legislative framework, depending on the recommendations of the working group.

Q32 The Chairman: Presumably it is important that the two bodies—the European Union and the UN—do not at any stage get at cross purposes, because that would present important conflicts of interest for the member states, who are required under international law to do what the Security Council says but may run into difficulties. I gather that the cases that came to the European Court of Justice have been resolved in the short term, but in the longer term is it not important to have a more seamless approach to these things?

Cecilia Malmström: It is, but it is also important to protect individuals and European values from abuse. As you said, there have been cases where people have found their assets totally frozen because they were on a list and it was very difficult for them to get off it even when they were apparently innocent. These things might need to be looked at.

Q33 Lord Richard: Can I come to RABITs? Is that part of your empire? Tell me how you see it working, because this is a first for you. I understand that you have about 175 border specialists from 24 member states. Some of them are armed and they have to try to police a very long border. How do you see this working?

Cecilia Malmström: As you say, sir, this is the first time ever that these specialists have been deployed. They have been operating for three years and this is the first time they have been used. The Greek Government asked the Commission for help because the land border between Greece and Turkey around the city of Orestiada was under great pressure and the Greek authorities could not deal with the situation. Between 200 and 400 people a day kept coming in. This led to a great deal of pressure being put on the Greek authorities, and the humanitarian situation became very complicated because those people needed to be fed and sheltered. They did not have the facilities, so they asked the Commission for help. Frontex, which is the administrator for this, was very quick to react. Indeed, almost all member states as well as Norway have sent policemen, interpreters and customs administrators to the area. I was there just two or three days after they first arrived in order to talk to them.

They are there not only to help monitor the situation on the border, but also to help the Greek authorities deal with the people who do come over. My impression is that they are doing a very professional job. They are there to provide support and help, and of course they follow European legislation. We face a problem right now in that the mission has been prolonged, but it is a short-term issue. They have to help the Greek authorities to build up their own capacity over time, and that is complicated.

Q34 The Chairman: What sort of role are the Turkish Government playing in this? Presumably a lot of these people are staying illegally in Turkey as well. Are the Turkish Government co-operating with Frontex and the RABIT operation to the maximum possible degree?

Cecilia Malmström: Yes, it is much better now than it was at the beginning. What complicates matters is that for many years we have tried to reach an agreement with Turkey on re-admissions. Negotiations have been going on for eight years. In May we concluded a provisional agreement with the Turks, but now that is pending because of differences mainly between Greece and Turkey on the phrasing for borders and the issues related to that. We do not have the agreement in place, although of course it would have been very helpful if it were.

In the beginning the Turks were a bit sceptical about the operation, but the Frontex people, the Commission and other individuals from member states have been keen to try to involve them. The Turks are now much more co-operative, and the pressures at the border have indeed diminished, even if people are still getting across.

Q35 The Chairman: What are the prospects for a full agreement with Turkey?

Cecilia Malmström: It is very much part of the complicated history between Athens and Ankara. The agreement cannot solve all the border issues, but we will have to find the right wording and phrases to cover the concept of borders that both parties can agree on. We

are committed to trying to find those and we are trying to be helpful. However, this has been going on for quite some time. I hope that we can achieve an agreement independently of what has happened with the RABIT operation because the land border between those two countries is much longer than just this area.

Q36 Lord Richard: Can I just follow up with one more question on RABITs? Do you see it as a permanent operation? Is there going to be a body of inspectors and soldiers set up under the general direction of Brussels? Is it a permanent force or an ad hoc thing depending on whether a member state asks for assistance?

Cecilia Malmström: It cannot be a long-term thing because a RABIT operation depends on the willingness of member countries to send their staff. They have just decided to prolong until 1 March, but it has been made clear all the time that this is a temporary issue and the staff are there to provide support during this emergency and to help the Greek authorities to build up their own capacity.

An operation has been going on for many years in the area known as Poseidon. This is also important and many member states take part. The European Union, if that is what you implied, does not have a border guard in itself. Although some member states have proposed it, it is not on the agenda for the moment. I do not think we have sufficient political support to do that in the short term.

Q37 The Chairman: Yes. Perhaps I could ask one more question that I overlooked about the European arrest warrant. It is not the primary responsibility of our Committee to work on that; another Sub-Committee deals with legal and constitutional issues. However, from the point of view of counterterrorism, is it your impression that the European arrest warrant has been a useful tool for the counterterrorist policies of the member states?

Cecilia Malmström: It has been a useful tool. I have just looked up the statistics. My colleague Viviane Reding is responsible for this area and provided me with some statistics. In

the past four years, 52,923 warrants have been issued and 11,328 have been executed. However, we do not have any statistics—I will see if I can look them up and provide you with them—to show what proportion were related to terrorist activity. I do not have that information.

Q38 The Chairman: It would be very useful if you could. We are considering whether the EAW is an integral part of counterterrorism policy in the EU. Any statistics that throw some light on that would be welcome. There is a well known case in Britain of the 7/7 bomber who went to Italy and was sent straight back under an EAW. That was a perfect example of its usefulness. It would help us a lot if we could take a more scientific approach, rather than always quoting one case that happens to fit exactly into a particular category.

Cecilia Malmström: Yes, I think that all member states can quote one example that has been in the media. For the moment, I do not have that statistic, but I will be happy to look into it and see if we can provide the Committee with more facts. It would be helpful to see the figures not only for terrorism but for other types of crime, too. We will look at whether it is feasible to get them.¹

Q39 Baroness Eccles of Moulton: I have one last question on road accidents. They do not fit very well with our definition of security. We would be interested to know your views on their inclusion in the strategy.

Cecilia Malmström: They are not in my strategy. They were in the Council's proposal in February. Road accidents are very important, and of course it is important to fight them, but in defining the five most urgent cross-border threats, I felt that they did not really fit.

Baroness Eccles of Moulton: They are a bit of an anomaly.

Cecilia Malmström: Yes.

¹ The Commissioner's office subsequently informed the Committee that they did not have access to such statistics. See Q 101, post.

The Chairman: Thank you very much for being so generous with your time. I know that you are just about to go off to the States.

Cecilia Malmström: I leave tomorrow morning, so I have oceans of time.

The Chairman: Thank you very much for seeing us in this way; it has been extremely valuable. It has got us off to an excellent start in our understanding of the strategy. We will see a lot of other people in the next two or three months and will then produce a report that I hope will be of use to you as well as to our own Parliament.

Cecilia Malmström: I am sure it will; I am looking forward to it. Thank you for inviting me to speak to the Committee. I hope I have been of assistance.