**Conspicuous by Their Absence? The Member States in European Union Counter-Terrorism**

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**Abstract**

This article investigates member state influence on the making of EU counter-terrorism policy. Existing scholarship tends to emphasise the EU institutions, often leaving us with only partial accounts of significant developments. Crucially, member states have not been viewed as major drivers of change in EU counter-terrorism, despite their experience of attacks, policy expertise, and the domestic salience of the issue. To address this gap, I show how member states acted as policy entrepreneurs during EU Passenger Name Records (EU-PNR), on which final agreement was reached in 2016. Specifically, I demonstrate that the UK Home Office was a prominent, long-term actor in the development of the EU’s counter-terrorism policy and worked with the Commission to build an alliance in favour of EU-PNR. However, it was only with the ‘window of opportunity’ presented by jihadi terrorist attacks between 2015 and 2016 that members of the French government were finally able to pressure critical elements of the European Parliament into concluding the measure. Consequently, I make two contributions to the literature: firstly, I identify influential member states in EU counter-terrorism; and secondly, I elucidate the means through which they have achieved their objectives in this highly sensitive policy area.

Keywords: European integration; terrorism and counter-terrorism; human rights and civil liberties; Multiple Streams Framework; member states.

**Introduction**

Few security challenges have triggered such rapid, robust, and wide-ranging responses by the EU as terrorism inspired by Al Qaeda and Islamic State (IS). There are now many studies of EU counter-terrorism (Kaunert, 2007; 2010; Kaunert and Leonard, 2019; Ripoll Servent, 2013; 2015; Ripoll Servent and MacKenzie, 2012). However, these mostly emphasise the roles of the European Commission and European Parliament, leaving us with only partial accounts of significant developments. Crucially, the member states have not been viewed as important agents of change in EU counter-terrorism, despite their experience of attacks, policy expertise, and the domestic salience of the issue. This omission is further peculiar given that they are a vital component of the EU’s decision-making structures (Arregui and Perarnaud, 2022; Hosli et al., 2013; Kleine et al., 2022; Princen, 2012; Thomson et al., 2009).

To demonstrate how member states have been of significance in EU counter-terrorism policymaking, I offer an in-depth analysis of EU Passenger Name Records (EU-PNR) – a flagship response that was concluded in 2016. This case is pertinent because it occurred at a peak of public concern about terrorism, straddled both pre and post Treaty of Lisbon decision-making procedures, and involved the divisive issue of data retention. It is hence a high-stakes case in a controversial and sensitive policy area. Studies of the early stages of EU-PNR emphasised the roles of the Commission and US (Argomaniz, 2009a; Bellanova, 2012; Brouwer, 2009; Leonard, 2014; Pawlak, 2009), while more recent work has expressed concern about how PNR data are used for pre-emptive security (Bellanova and de Goede, 2022; Glouftsios and Leese, 2023). Yet, beyond initial inspiration and outside encouragement, the US did little to bring about EU-PNR. For its part, the Commission needs support from other quarters to induce change in the EU, including from the member states. So, who drove EU-PNR from within the EU and why? Although other actors played their parts, I show that two member states were central to developments.

The case study demonstrates that the UK Home Office was a prominent long-term player in EU counter-terrorism and worked with the Commission to build an alliance in favour of EU-PNR. Yet, it was only with the ‘window of opportunity’ presented by jihadi terrorist attacks between 2015 and 2016 that members of the French government were finally able to pressure critical elements of the European Parliament into agreement. This article is structured in three sections before concluding. Firstly, I explore literature concerned with EU policymaking and EU counter-terrorism, which highlights how member states are factored into scholarly work about other policy areas but neglected when it comes to counter-terrorism. Secondly, I outline the Multiple Streams Framework (MSF) and especially the concepts of policy entrepreneurship and ‘window of opportunity’ (Kingdon, 2003), along with some adjustments derived from Boassan and Wettestad (2014). Thirdly, I apply my analytical framework to explain the policy process of EU-PNR. Finally, the conclusion considers what this case tells us about key member states in EU counter-terrorism and their means of influence, as well touching on Brexit given the UK’s significance here.

1. **The Member States in EU Counter-Terrorism**

The member states are a crucial component of virtually all EU policymaking. However, they have rarely been studied as important actors when explaining outcomes pertinent to EU counter-terrorism. Reasons for this likely include the novelty of institutional roles since 2001 and the speed of change at EU level, even to the point of overload (Bossong, 2008).

There is a vast literature on EU policymaking (Arregui and Perarnaud, 2022; Hosli et al., 2013; Kleine et al., 2022; Princen, 2012; Thomson et al., 2009). Some scholars have focused their attention on specific institutions, whether the European Parliament (Costello, 2022), Commission (Thomson et al., 2022), or Council (Kostadinova, 2022). In many studies concerned with policy outcomes, the domestic politics of member states and their presence in the Council are deemed significant. For years, Europeanisation scholars have written of member state efforts to upload their preferences to the EU level (Connolly, 2008; Saurugger, 2014). More recently, those interested in European integration and ‘core state powers’ have done similarly, with German influence in the EU receiving greatest attention to date (Genschel and Jachtenfuchs, 2014; König and Trauner, 2021; Zaun and Ripoll Servent, 2021).

These stand in stark contrast to the EU counter-terrorism literature, which often emphasises the roles of the institutions. Kaunert (2007; 2010) demonstrated that the Commission acted as a supranational policy entrepreneur in bringing about the European Arrest Warrant, thereby thrusting the EU into ‘high politics’. The European Parliament has also received attention, from its expanded involvement in co-decision (Ripoll Servent, 2013; 2015) to the consent it has been required to give to international agreements since the Treaty of Lisbon (Monar, 2010; Ripoll Servent and MacKenzie, 2012). Regarding member states, D’Amato (2019) considers both Italian and French domestic responses to terrorism, without dwelling much on their roles in EU policy development. Several publications briefly mention member state positions on specific measures with little subsequent development (Baker-Beall and Mott, 2021; Monar, 2010; 2021; Rees, 2008). The author knows of only one systematic analysis of a member state’s preferences on a recent EU security measure, namely Ripoll Servent and MacKenzie’s (2017) study of why Germany switched from opposing to supporting EU-PNR. Crucially, member states have not been considered as drivers of policy change in EU counter-terrorism. Ultimately, in an area where both the EU institutions and member states are important, we need to develop a more systematic understanding of both sets of actors, as well as their interplay.

1. **Analytical Framework: Multiple Streams, Policy Entrepreneurship, and ‘Windows of Opportunity’**

I now outline a framework suitable for the purpose of showing how significant member states pushed EU-PNR from unlikely item to flagship counter-terrorism response over several years. My analysis draws on Kingdon’s (2003) MSF, specifically employing policy entrepreneurship and ‘windows of opportunity’, with some adjustments derived from Boassan and Wettestad (2014). These concepts allow us to identify and separate out the main actors, investigate their methods of influence, and show how unexpected events can be used to bring about policy change, for which they have established utility (Kaunert, 2007; 2010). After outlining my analytical framework, I tackle several important methodological issues.

The MSF starts with Cohen, March, and Olsen’s (1972) ‘garbage can’ model of organisations. Outcomes are ‘a function of the mix of garbage (problems, solutions, participants, and participants’ resources) in the can and how it is processed’ (Kingdon, 2003, p86). Derived from this, the MSF has five components: problems, policies, and politics (which form the three streams), as well as ‘windows of opportunity’ and policy entrepreneurs (Ackrill, Kay, and Zahariadas, 2013, p872). The problem stream relates to how issues come to be so, as well as which actors bring them to attention. The policy stream concerns how solutions to problems emerge. The politics stream pertains to how policymakers turn problems into solutions (Ripoll Servent and MacKenzie, 2017, p399). The three streams exist separately, but policy entrepreneurs – ‘energetic actors who work with others in and around policymaking venues to promote significant policy change’ (Mintrom and Luetjens, 2017, p1362) – try to couple them during ‘windows of opportunity’. Such windows open when there are ‘compelling problems or by events in the political stream’ (Zahariadis, 2007, pp.73-4).

*Policy Entrepreneurs and ‘Windows of Opportunity’*

Given the number of entry points in the EU, it is unsurprising that the policy entrepreneurship concept has proven popular when accounting for change, although the Commission is most frequently depicted in this role (Kaunert, 2007; 2010; Maltby, 2013). Yet, due to the number of actors and stages involved in EU policymaking, it seems unlikely that one player can carry a measure from start to finish. So, Kingdon (2003, p205) shows that entrepreneurs undertake both ‘softening up’ over long periods of time to build alliances and appear at ‘windows of opportunity’ as ‘propitious moments’ to push their pet proposals.

Separating out these roles, Boasson and Wettestad (2014, p404) differentiate between ‘tortoise’ and ‘carpe diem’ actors – the former committed to certain policy areas and their preferred responses, while the latter jump on bandwagons and come to the fore during ‘windows of opportunity’. ‘Tortoise’ entrepreneurs influence over the long-term. ‘Carpe diem’ entrepreneurs are opportunists that latch onto a relevant proposal in a bid to respond to an immediate problem, taking full advantage of ‘windows of opportunity’ (Boassan and Wettestad, 2014). Terrorist attacks are well-established as ‘windows of opportunity’; they fundamentally challenge governments and calls for swift and robust action often ensue (Kaunert, 2007; Ripoll Servent and MacKenzie, 2017). I thus separate my case study of EU-PNR into three phases: i) softening up; ii) rising up the agenda; and iii) decision-making during a ‘window of opportunity’.

Moving onto strategies employed by policy entrepreneurs, a sizeable literature exists (Kaunert, 2007; Kingdon, 2003; Mintrom, 2019; Mintrom and Luetjens, 2017). In the EU, the ‘tortoise’ entrepreneur has expertise in a specific policy area, making it more likely to be given a hearing. These actors lead by example and promote measures the value of which they can demonstrate over time. Their expertise and persistence enable the building of alliances within and between institutions. The UK Home Office played this role here, being especially important in the first phase of EU-PNR, where it looked to gradually gain support from other member states in the Council and Members of the European Parliament (MEPs). Yet, it also continued thereafter as a leading player in the alliance. For ‘carpe diem’ entrepreneurs in the EU, with an idea already floated and a favourable alliance under construction, they adopt more overt forms of pressure because they need swift victories. Thus, the strength with which members of the French government backed EU-PNR grew as terrorist attacks stacked up. They noticeably applied two forms of pressure on the Parliament, with this being the final site of contestation: one concerned with costs, specifically by lobbying and warning of national solutions; and the other with appropriate behaviour by calling out opposition as irresponsible and out of touch with citizens.These means overlap with the literature on the European Parliament, which has shown that MEPs are especially sensitive to member states during crises and perhaps even more so in ‘core state powers’ (Bressanelli and Chelotti, 2018; Ripoll Servent, 2013; 2015). Not only this, but it can be costly for MEPs to oppose national governments, with consequences ensuing for the institution, political parties, and individuals (Bressanelli and Chelotti, 2018).

Turning now to methodology, I conducted six semi-structured elite interviews on EU-PNR. These focused on the actors driving EU-PNR, the events that provided the circumstances for change, the players opposing it, and the main items of contestation. Interviews took place between January and September 2016. I spoke with four representatives of member states and two MEPs. These interviews were invaluable for detecting the positions of the significant players and for establishing what occurred when and why. Furthermore, this was a sensitive dossier for many players. Thus, information could not be obtained so effectively from other sources. I triangulated interviews with each other and official sources. To augment them, I drew on member state and EU documents and plenary debates that took place in the European Parliament.

1. **Member State Policy Entrepreneurship in the Case of EU-PNR**

Providing a brief timeline before progressing, discussions about an EU-PNR[[1]](#footnote-1) first occurred in 2003 (European Commission, 2003). The initial proposal wasa Framework Decision in November 2007 (used only in Justice and Home Affairs), which involved the member states and Commission. After the Treaty of Lisbon, EU-PNR was revived as a Directive in February 2011 and needed to pass through co-decision. It was finally agreed to by the European Parliament in April 2016.

How can we explain the outcome of EU-PNR? I show that it was the product of long-term influence by the ‘tortoise’entrepreneur, the UK Home Office, ‘softening up’ key partners in EU institutions. Expertise enabled it to lead by example and build alliances among member states and MEPs over several years. The UK’s main objective was to legalise intra-EU data transfers for its own security; without these, there was no point having EU-PNR (Interview with Diplomatic Source B, 14th January 2016; Interview with Diplomatic Source D, 6th September 2016). London had additional objectives, but it was more flexible on these.[[2]](#footnote-2) Returnee foreign fighters and the *Charlie Hebdo* incident in January 2015 raised the profile of EU-PNR, but it was only with the major terrorist attacks in Paris in November 2015 that a ‘window of opportunity’ for a decision on it properly presented itself (Bakowski and Voronova, 2015). The main ‘carpe diem’ actor, France, represented by Bernard Cazeneuve, the Interior Minister, and Manuel Valls, the Prime Minister, needed to respond to escalating jihadist attacks. They attempted to deflect blame and appear in control of the situation, selecting EU-PNR as an appropriate response due to its pedigree and relevance (Politico, 2016). France’s pressure on critical elements of the Parliament increased as attacks escalated: early on, French leaders primarily lobbied MEPs, but they later seriously threatened to fall back on a national system, as well as making regular statements calling for responsibility. As co-legislator with the Council and historically a site of contestation between security and civil liberties, the Parliament needed to be convinced of EU-PNR. The rapporteur, Timothy Kirkhope (European Conservatives and Reformists [ECR]), was supportive of EU-PNR from the beginning and worked with the British government and Council to echo the messages of the member states (European Parliament, 2016b). Throughout proceedings, the Commission preferred European over national solutions – its traditional concern (Burns, 2004).

1. *‘Softening Up’: The UK Takes the Lead in Promoting an Unpopular Measure (2003-2014)*

The UK frequently pressed for more action against terrorism at the EU level. The Labour government of Tony Blair took the initiative in Brussels after 2001 and, to a lesser extent, the Conservative-Liberal Democrat and Conservative leaderships continued.[[3]](#footnote-3) On PNR data, the Home Office started exploring its uses for border security (e-Borders) during the 1990s and set up a pilot scheme (Project Semaphore) that ran from 2004 (Border and Immigration Agency, 2008). Thus, the UK was the first EU member state to have a functioning PNR system – preceding others by several years. The UK was seen by interviewees as being ‘at the vanguard’ of EU-PNR, as well as having a ‘good story to tell’ on the security benefits provided by such data (Interview with Diplomatic Source B, 14th January 2016; Interview with MEP A, 13th January 2016). Together, we can see how the UK’s emphasis on combating terrorism and attempts to Europeanise its solutions justify its status as a ‘tortoise’ entrepreneur.

As early as the November 2007 EU-PNR Framework Decision proposal, the Commission was highlighting what it had learnt from the UK:

The EU has further been able to learn… from the experience of the UK from its pilot project. More specifically, the UK was able to report numerous arrests, identification of human trafficking networks and gaining of valuable intelligence in relation to terrorism in the two years of the operation of its pilot project. (European Commission, 2007, p2).

The Home Office and Commission were communicating frequently at the highest levels about PNR data (UK Parliament, 2007). Furthermore, British authorities were engaging with member state delegations and MEPs, offering invitations to visit its Joint Border Operations Centre, as well as providing presentations to ministerial and official audiences in Brussels, to demonstrate the usefulness of PNR data (UK Parliament, 2008, p2). Clearly, we can see that the Home Office was committed to leading by example and building alliances. Yet, the British government was dissatisfied with the Framework Decision proposal at that time; there was concern that it might end up more limited than e-Borders (UK Parliament 2008, pp.1-2).

Nevertheless, in 2009, a major challenge presented itself to the UK. Pilot Complaint 348/09/JLSE[[4]](#footnote-4) queried whether its collection of intra-EU PNR data breached the 1995 Data Protection Directive. Responding to this challenge, London committed to halting collection of internal EU data until the adoption of EU-PNR (House of Commons, 2010, Ev30-31). Given the number of flights and passengers travelling between the UK and rest of the EU, this opened a major security gap, and the Home Office worked for years to close it.

By the February 2011 Directive proposal, still only the UK had a functioning PNR system, while Belgium, Denmark, France, the Netherlands, and Sweden had enacted relevant legislation or were experimenting with these data (European Commission, 2011, p4). The proposal contained several examples of the security benefits of PNR data from the UK and other states (European Commission, 2011, p6). Intra-EU data was not included due to it being controversial, so the Home Office lobbied other member states, with Theresa May, then Home Secretary, fearing that its exclusion would mean not monitoring about seventy-five per cent of flights in the EU (Council of the European Union, 2011; The Guardian, 2011). Through its efforts, the Home Office brought on board seventeen other member states by April 2011, yet, those in opposition, such as Germany, held out due to data protection concerns (The Guardian, 2011). Still, German leaders recognised that most other member states had pledged to support the UK on EU-PNR and abstained in discussions (Ripoll Servent and MacKenzie, 2017, p402). Regardless of any remaining disagreement in the Council, the member states backed EU-PNR in 2012, meaning that it progressed to the Parliament.

Long convinced of the security benefits provided by PNR data, the Commission was concerned that, without an agreement at EU level, serious challenges would lie ahead: ‘up to 27 considerably diverging systems could be created. That would result in uneven levels of protection of personal data across the EU, security gaps, increased costs, and legal uncertainty for air carriers and passengers alike’ (European Commission, 2011, p4). To nudge the member states, the Commission helped fund the establishment of Passenger Information Units (PIUs), which gather and check PNR data, putting aside over €50 million for these in its 2012/2013 Action Grants, with projects expected to begin in 2014. Even previously sceptical member states, such as Austria and Hungary, accessed this funding (Bakowski and Voronova, 2015, p7). The Commission thereby allowed member states to experiment with the data, legitimised these schemes, and displaced the cost burden.

In the European Parliament, however, the LIBE committee[[5]](#footnote-5) rejected EU-PNR in 2013 due to necessity and proportionality concerns, demonstrating a significant gap between the institutions. The Socialists and Democrats (S&Ds), Alliance of Liberals and Democrats for Europe (ALDE), and Greens did not back the rapporteur (European Parliament, 2013).[[6]](#footnote-6) Some even considered EU-PNR dead and buried at this point, but LIBE merely succeeded in putting it on hold.

1. *Rising up the Agenda: Foreign Fighter Returnees and France Joins the Fight After Charlie Hebdo (2014-2015)*

EU-PNR was not discussed again during that parliamentary term, with the May 2014 European Parliament elections causing a further delay. Nevertheless, supportive actors did not give up; the Home Office continued its patient engagement with member states and MEPs. Noticeably, it tried to ‘educate’ MEPs and lobby its own, placed favourable evidence in front of the LIBE committee, and offered support to both the Luxembourg and Dutch presidencies (Interview with Diplomatic Source B, 14th January 2016; Interview with Diplomatic Source D, 6th September 2016; Interview with MEP B, 13th January 2016).[[7]](#footnote-7) Yet, with the emergence of IS, foreign fighters, and jihadi attacks, EU-PNR became the Council’s flagship response. Although momentum was already returning prior to the *Charlie Hebdo*[[8]](#footnote-8)incident in January 2015, this event was significant to unblock EU-PNR (Interviews with Diplomatic Sources, A, B, and C, 14th January 2016). Representatives of the French government, who acted as ‘carpe diem’ entrepreneurs, became more vocal from this point and started lobbying MEPs, with some success.

Gilles de Kerchove, then Counter-Terrorism Co-ordinator (CTC), claimed that foreign fighters became the EU’s top counter-terrorism priority from mid-2013, and those who went from the EU totalled about 5,000 by January 2015 (Bakowski and Puccio, 2015, p4). He was also among the first to connect EU-PNR to foreign fighters in recommendations from May 2013 (Council of the European Union, 2013). However, these efforts did not bear fruit, and momentum for EU-PNR only started to build again with the May 2014 terrorist attack by a returnee foreign fighter at the Jewish Museum in Brussels (EUobserver, 2014). In a special meeting of the European Council on 30th August 2014 to decide priorities for the next cycle, the Parliament was urged to finalise work on EU-PNR by the end of that year due to such concerns (European Council, 2014, p6).

The *Charlie Hebdo* attacks in January 2015 made the security situation seem serious and signalled the beginning of a sustained push by the Council, especially France. This event was presented as having ‘targeted the fundamental values and human rights that are at the heart of the European Union’, and EU-PNR was listed as the first necessary response (European Council, 2015). When questioned by the LIBE Committee soon afterwards, the CTC demonstrated that the big push was a strategic choice: ‘never let a serious crisis go to waste’ (Bakowski and Voronova, 2015, p3). Thereafter, French leaders reached out to the Parliament’s President, Martin Schultz, and pressed its own MEPs to support EU-PNR (Euobserver, 2015; Interview with Diplomatic Source C, 14th January 2016).

In February 2015, MEPs reluctantly committed to completing EU-PNR by the end of the year. In its resolution, the Parliament requested that a new data protection package be considered alongside EU-PNR (European Parliament, 2015a). MEPs called for a reduction of the data retention period to thirty days, wanted to limit the purpose to serious transnational crime, and opposed the inclusion of internal EU flights (European Parliament, 2015b). Later that month, Kirkhope presented his revised draft report, informing MEPs that the *Charlie Hebdo* attacks had hardened the Council’s position, that they were unlikely to make many compromises, and warned that member states would simply go their own ways if there was no EU-PNR (European Parliament, 2015b). He thus tried to block further objections and echoed member state threats that they would simply fall back on national systems to pressure MEPs into agreement (Politico, 2015a). Yet, some continued to hold out, questioning how the recent striking down of the Data Retention Directive by the Court of Justice of the European Union in 2014 would impact on EU-PNR (European Commission, 2015).

Despite many amendments being offered and continuing contestation into Spring 2015, the LIBE Committee backed Kirkhope’s revised report and to open negotiations with the Council in July 2015. Yet, the decision was not supported by many shadow rapporteurs, only a heterogenous set of MEPs (Council of the European Union, 2015a; Council of the European Union, 2015c). Trialogues involving the Council, Commission, and Parliament took place throughout the autumn – very little time to discuss this highly controversial proposal. Substantial efforts had been made by the UK and then France to build an EU-PNR alliance up to this point, yet victory in the battle with the Parliament remained far from assured. It took subsequent events and greater pressure from Paris above all to carry EU-PNR over the line.

1. *Decision-Making: The ‘Window of Opportunity’ Opens and France Ramps up the Pressure (2015-2016)*

The terrorist attacks in Paris in November 2015 by returnee foreign fighters killed over 100 people and injured hundreds more. Importantly, it opened the ‘window of opportunity’ to help move EU-PNR onto the decision-making agenda. The measure was once again presented as the Council’s flagship response (Council of the European Union, 2015b).The French government is considered to have ‘spearheaded the drive’ for EU-PNR from here (EurActiv, 2016) and used a range of entrepreneurial techniques against opposition MEPs: lobbying, warning of serious consequences, and chiding them for irresponsibility. France was now in a stronger position than the UK to lead on EU-PNR, with the latter’s situation further complicated by its internal debate on EU membership (Interview with Diplomatic Source A, 14th January 2016). A week after the November attacks, Cazeneuve went on the offensive in a JHA Council meeting, saying that: ‘[n]ot a single EU citizen will understand why the Parliament continues blocking this essential tool’ (The Parliament Magazine, 2015). France even seriously threatened to go ahead with its own PNR system at this stage, which would have taken the issue out of the hands of MEPs, created the worst-case scenario of many national systems, and made MEPs look out of touch. In response, Birgit Sippel, the S&D shadow rapporteur and a critic of EU-PNR, believed that ‘[t]he silent message is Parliament might be responsible for future attacks’ (Politico, 2015b).

Later in November, Kirkhope believed that ‘this [PNR] is now just about ready to roll’ (Politico, 2015b). The trialogues ended in December 2015, and a provisional deal was agreed between the institutions, with only final votes in the Council and Parliament then standing in the way. The latter got its way that new data protection legislation be simultaneously considered, had some success in limiting EU-PNR’s scope to include a list of specific offences, and new data protection elements were introduced. Yet, intra-EU flights were included on a voluntary basis, and the data retention period ended up being six months ‘unmasked’ and a further four and half years ‘masked out’ or anonymised. Still, ‘masked out’ data could be re-personalised for operational purposes. Much of this was consistent with the asymmetrical EU-US PNR agreement. The Luxembourg Presidency called the agreed text a ‘well-balanced compromise’ (Council of the European Union, 2015c). Despite this, Axel Voss, the EPP shadow rapporteur and a supporter of EU-PNR, said that ‘deep in their [ALDE and S&D MEPs] hearts, they don’t like it’ – that is, the measure altogether (Politico, 2015b). These continuing objections resulted in some MEPs mounting a rear-guard action in a bid to delay the vote in Parliament.

In early March 2016, the ECR group requested that EU-PNR be placed on the plenary agenda, but this was rejected by an alliance of S&Ds, ALDE, Greens, and others, thereby delaying the final vote. Echoing the member states, Voss criticised opposition MEPs for ‘taking EU citizens and their security hostage by playing political games. It is our responsibility to implement laws and to take action that can prevent terrorist attacks such as the one in Paris on 13 November’. Kirkhope also chimed in, stating that ‘[l]eft wing leaders in the European Parliament are once again playing games with a crucial counter-terrorism agreement on Passenger Name Records’ (The Parliament Magazine, 2016). However, those who rejected the vote accused the political right of playing ‘dirty games’, with Guy Verhofstadt (ALDE) not unproblematically calling for more Europe in internal security by requesting a European intelligence agency, a PNR Regulation (instead of a Directive), and mandatory information sharing in a single PIU (The Parliament Magazine, 2016).

Later in March 2016, another significant attack by returnee foreign fighters occurred in Brussels. The Council again called for the Parliament to ‘adopt the PNR Directive in April 2016 and implement it as a matter of urgency’ (Council of the European Union, 2016). In the French Parliament soon after, Valls stated: ‘[w]e are at war… I say in particular to the socialist and environmental groups in the European Parliament: everyone should assume their responsibilities. We have lost enough time on this issue’ (France24, 2016). Sure enough, in April, the vote on EU-PNR occurred alongside that on data protection. Two days before the vote, Valls visited Strasbourg to lobby S&D and ALDE MEPs and repeated his call for ‘responsibility’ (EurActiv, 2016). With France on a war footing after the terrorist attacks in November 2015, its government went on the offensive against opposition MEPs to force a decision on EU-PNR. The debate the day before the vote clearly demonstrates that the different types of pressure employed by Paris as main ‘carpe diem’ entrepreneur had deeply affected MEPs and hit the mark. Above all, we can see that many MEPs supportive of EU-PNR were echoing the member states by castigating those in opposition for their irresponsibility and for being out of touch with citizens – charges that were keenly felt.

Advocating for EU-PNR, Kirkhope said: ‘I think it will also give a message to our citizens that we really do care about them. We care about their security, we care about their privacy and, by doing it in a balanced way, I think we will restore some of the trust, which sometimes our institutions seem to have lost’. Noticeably, the need to be ‘serious and responsible’ was echoed several times by supportive MEPs in the ensuing discussion (European Parliament, 2016b). Given that many S&D, ALDE, and Green MEPs had previously opposed EU-PNR, the responses of their shadow rapporteurs to Kirkhope’s speech are illuminating, although some continued to be sceptical. Sippel remained opposed to mass data retention, a position she had consistently held. Sophia in ‘t Veld, representing ALDE and long-term critic of data retention measures said ‘[e]motions have been running high… And we have to confess that external pressure has been huge; the debate has often been completely fact-free, the lobby has been aggressive and sometimes immoral, and there have been many ad hominem attacks’. Jan-Philipp Albrecht of the Greens claimed EU-PNR to be merely a ‘symbolic gesture’, yet he highlighted the significance of the Paris and Brussels attacks (European Parliament, 2016b). In this febrile environment, the Parliament passed EU-PNR on 14th April 2016 by a significant margin of 461 to 179, with the data protection vote also affirmative (European Parliament, 2016a).

The Council approved EU-PNR. The efforts by London and Paris had paid off, and they were satisfied with the final deal. Almost all member states opted into providing intra-EU data, meaning that the UK’s primary objective was mostly achieved (European Parliament and Council of the European Union, 2016; European Union, 2020). May claimed that ‘[w]hen I first became Home Secretary [in 2010], I was told that there wasn’t a chance of Britain ever getting this deal… But I won agreement in the Council of Ministers in 2012 – and thanks to Timothy Kirkhope MEP and the hard work of my Home Office team – the final directive how now been agreed by the European Parliament and Council’ (Gov.uk, 2016). On behalf of the French government, Valls responded to the affirmative vote, stating that ‘France has worked with determination to allow this PNR Directive to be adopted’ (Euranet Plus, 2016).

**Conclusion: The Member States in EU Counter-Terrorism and Beyond**

This article contends through the crucial roles of the UK and France in the flagship and controversial case of EU-PNR that member states have been overlooked as key players in EU counter-terrorism. In EU-PNR, but also in the policy area of counter-terrorism more generally, the UK emerges as a major player, as does France. We can see above the long-term and patient approach the former took to ‘selling’ the measure to other member states and MEPs. That the UK had a good story to tell on PNR given the alleged security benefits of such data seems to have won over other actors. Similarly, events in France and Paris’ response to terrorist attacks, especially that in November 2015, provided the rationale and emotive arguments that helped push the deal with the reluctant European Parliament to its conclusion. The analytical differentiation between the ‘tortoise’ and ‘carpe diem’ entrepreneurs helped illuminate the UK’s and France’s different roles in EU-PNR, but also shows that this measure would not have succeeded without both players. This account does not negate the influence and roles of the EU institutions, instead adding in the crucial roles of member states.

Access to PNR data from the EU was so significant to UK policymakers that it was included in the Trade and Co-operation Agreement (EU and UK, 2020). However, with the UK’s exit from the EU, it is likely that the Union’s counter-terrorism policy will feel its absence due to a leadership deficit and loss of expertise. Other member states will need to step into the void and reshape EU policy, or concern about terrorism could drop down the agenda – something that may already be occurring.

The findings of this article demonstrate the need for further research. Firstly, we need to know more about the UK’s influence on additional aspects of the EU’s counter-terrorism policy, as well as other challenges, to identify the legacy of its involvement. Recent studies have shed light on the role of the UK in EU cyber-security policy, for instance (Wolff, Piquet, and Carrapico, 2022). Secondly, have any member states attempted to step into the void left by the UK, such as France? Thirdly, have other member states prioritised specific security challenges in the way the UK did terrorism? And how successful have they been in achieving their objectives? Fourthly, further study could be devoted to how member states have built support for their goals.

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**Interviews**

Interview with Diplomatic Source A, 14th January 2016

Interview with Diplomatic Source B, 14th January 2016

Interview with Diplomatic Source C, 14th January 2016

Interview with Diplomatic Source D, 6th September 2016

Interview with MEP A, 13th January 2016

Interview with MEP B, 13th January 2016

1. PNR are data, such as name, booking information, and travel itinerary, submitted to airlines by passengers when booking a flight. Today, many states gather the PNR data of passengers for security, with these being sent to responsible authorities by airlines, usually before a flight. [↑](#footnote-ref-1)
2. These included using PNR data for migration control; data being held for six years, three on an active database and three archived; and use for ‘intelligence-based targeting of individuals against patterns of behaviour’, or what could be described as ‘profiling’ (Council of the European Union, 2011; The Guardian, 2011). [↑](#footnote-ref-2)
3. Ripoll Servent (2015, pp.80-81) demonstrates how Charles Clarke, then UK Home Secretary, was influential in convincing the European Parliament to support the Data Retention Directive in late 2005. Baker-Beall and Mott (2021, p711) show how the EU Counter-Terrorism Strategy was ‘modelled on’ the UK’s. [↑](#footnote-ref-3)
4. The Pilot complaint system is a mechanism by which EU citizens can report improper application of EU law by member states to the Commission. [↑](#footnote-ref-4)
5. The European Parliament’s Civil Liberties, Justice, and Home Affairs Committee. [↑](#footnote-ref-5)
6. The European People’s Party (EPP) and ECR mostly supported EU-PNR throughout the policy process. [↑](#footnote-ref-6)
7. Luxembourg held the EU Presidency in the second half of 2015, and the Netherlands took over in the first half of 2016. [↑](#footnote-ref-7)
8. This attack was linked to Al Qaeda in the Arabian Peninsula. [↑](#footnote-ref-8)