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Counterterrorism Fever in the V4 and Guidance for Poland

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Central Europe is less threatened by jihadist terrorism than Western Europe. Nonetheless, Slovakia and Hungary are currently rushing new counterterrorism legislative proposals. Their far-reaching character, presenting the respective security services and governments with new counterterrorism powers, should not only be regarded as a preventive measure developed in an age of an increased threat of terrorism in the EU but also as an expression of the authorities' desire to gain political capital from the fear of immigrants. Poland is preparing its own counterterrorism bill but should not copy the solutions adopted by its southern partners. At the same time, it should increase its efforts to reform the existing counterterrorism system so that it adequately responds to the threat level in the region.

The Threat of Terrorism in Central Europe. The terrorist threat among the Visegrad Group (V4) member states is lower than in Western Europe. The latest available Europol data from 2014 indicates zero failed, foiled or completed terrorist attacks in the Czech Republic, Hungary, Poland or Slovakia. Fifteen individuals were arrested for terrorism-related offences in these four countries, compared to the whole EU, which suffered 199 terrorist attacks in 2014 and saw 774 terrorism arrests. In the aftermath of the terrorist attack on the *Charlie Hebdo* magazine in January 2015 in Paris, Hungary decided to increase its terrorism threat level from the lowest to average. However, after the November 2015 Paris attacks the leaders of its Counterterrorism Centre (TEK), and parliamentary defence committee publicly spoke about the low terrorist threat level in the country, even though some attackers from the Paris cell might have included individuals who had travelled to Western Europe through Hungary masquerading as refugees. The National Security Analytical Centre (NBAC) in Slovakia, equivalent to Poland's Counterterrorism Centre (CAT), reached a similar conclusion. Nonetheless, in late 2015/early 2016, both the Hungarian and Slovak governments commenced a counterterrorism legislative offensive geared towards increasing government powers, responding to what it deems terrorist activity. Until recently, neither Slovakia nor Hungary—under the governments of Robert Fico and Viktor Orbán, respectively, and both in power for more than one term—had expressed a keen interest in the topic. They still do not have separate counterterrorism legislation and were not especially proactive in discussions on terrorism at the EU level.

Slovakia: More Power for the Security Services. On 21 December, the Slovak parliament passed a series of amendments to the penal code and 16 laws related to the police, special services and residence of foreigners, among others, and changed the constitution to extend the period of detention of a person suspected of terrorism from 48 to 96 hours. The security services now have new extraordinary privileges, including the right to close websites, engage in sting operations, obtain information about clients and employees of public institutions (through the civilian and military intelligence agency, with court approval) and for the police to arrest anyone at the scene of an attack. The amendments also increased the penalty for supporting and financing terrorist activities from 8 to 10 years in prison. They were passed thanks to votes from the ruling SMER-SD party of Prime Minister Fico and the Hungarian minority party Most-Híd and was opposed by right-wing parties and the president, Andrej Kiska, whose veto was overturned by parliament. The tougher laws are accompanied by a gradual increase in spending on public safety: of all the V4 countries, Slovakia spends the most, allocating 8% of public expenditures (compared to the EU average of 3.7%), nearly €900 million this year.

Hungary: More Power for the Government. Changes to anti-terrorist legislation were debated in Hungary, too. In mid-January, the MP of an opposition party revealed a draft amendment to the constitution (as well as to laws regarding the police, special services and national defence) that had been prepared by the Ministry of Defence. The amendment introduces a "terrorist threat" as a sixth kind of state of emergency that could be announced by the government without consulting parliament in case of a terrorist attack or the significant probability of one, although the proposal does not define what that would precisely mean. A state of terrorist threat could be in place for 60 days and an extension would require the consent of two-thirds of parliament. During that time, the government would be able to use 30 additional prerogatives that would be introduced by decree. The most important would include the possibility of using the army, controlling the Internet and mail, closing roads and railway routes, a prohibition on trade in energy materials and some consumer goods, and restricting ownership rights. The amendment can be adopted only by a two-thirds majority of parliament, which the ruling Fidesz–KDNP alliance lost in 2015. Therefore, the governing alliance may either go for small concessions to gain the support of the far-right Jobbik party or withdraw the draft and accuse the opposition of ignoring a terrorist threat.

A Geo- or Purely Political Motivation? Both Fico and Orbán openly claim that the new legislation is related to the series of spectacular terrorist attacks in Europe in 2015. Their actions are thus inspired by French plans to include a state of emergency in the constitution and to take away citizenship from people involved in terrorism. However, the situation of the V4 is different: unlike France, the Visegrad countries are not the main target of terrorist organisations from the Middle East and North Africa because structures supporting jihadists in the V4 countries is limited and only a few of their citizens have joined the Islamic State (a.k.a. ISIS, IS, ISIL) as foreign fighters in Syria. However, both leaders tie the threat of terrorism with migration from Syria, Afghanistan, Iraq and other countries immersed in conflicts. Although Slovakia and Hungary (after sealing their borders) are neither transit countries nor the main destination for migrants, Fico and Orbán oppose the current EU migration policy and call, among other things, for the abandonment of the mechanism for the relocation of migrants across the bloc. The new legislation can be interpreted as an attempt to counter the expected new wave of migration in the spring and the challenges related to it.

But the domestic context is equally important. The alleged increase in the threat to national security raised by politicians of the ruling parties and the public media they dominate has proved to be an effective instrument for mobilisation of public opinion and has brought the two parties an increase in support after dips caused by internal conflicts and corruption scandals. Fidesz has within six months regained significant confidence among voters, from 22% in July 2015 to 31% in January 2016. SMER–SD, likewise, in the March parliamentary elections is likely to repeat the results from 2012 when it won an absolute majority in parliament based on 44% support. A large part of the population agrees with the fears expressed by the prime ministers (70% of Slovaks say they are afraid of the refugees, 46% of Hungarians believe their country could be a target of terrorist attacks in the near future), a fact that both parties use not only to strengthen their position in the power structures of the state but also to intensify anti-Muslim and anti-immigration rhetoric. This is aimed to pick up votes from nationalist parties, Jobbik in Hungary and the Slovak National Party (SNS).

Recommendations for Poland. In the context of increased jihadist activity in Europe, different V4 countries should rightly audit their counterterrorism systems. The Polish counterterrorism bill could serve as a positive emanation of rational legislative actions, especially because its legislative track is different from the speed with which both Slovakia and Hungary recently introduced their legislative amendments. Poland's southern partners operated under pressure from news about the attacks in France and failed to take into account the threat level in Central Europe, which has not changed. The far-reaching character of the new or proposed legislation grants these governments extraordinary powers that could be beyond the checks potentially deployed by other institutions. This creates a temptation to use these new measures beyond countering the real threat of a terrorist attack. One can expect Fico and Orbán to continue their rhetoric as it benefits their political parties and diverts attention from other domestic issues.

Poland should not introduce a special terrorism-oriented state of emergency into its legislation. However, it is necessary to reform two levels of the Polish counterterrorism system. The first level, a strategic one, could see the Interministerial Team for Terrorist Threats replaced by a counterterrorism coordinator permanently based in the chancellery of the prime minister. The second level—operational—currently functions as a platform for the exchange of information within the CAT but does not coordinate the activities of the various services, bodies or institutions responsible for countering terrorism in Poland. The role of the ministry of interior and administration, which is simultaneously responsible for policymaking and policy implementation of Poland's counterterrorism policies, should also be addressed. Some of its tasks should be allocated to the coordinator, who, if based in the chancellery, could more successfully activate the involvement of other, non-security oriented ministries in the overall counterterrorism effort, and especially in its prevention phase.