



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 21 May 2007

9666/07

**JAI 253
ECOFIN 205
TRANS 168
RELEX 358
ECO 71
PESC 602
COTER 43
COSDP 412
PROCIV 77
ENER 141
ATO 73
DATAPROTECT 19
TELECOM 69**

"I" ITEM NOTE

from : General Secretariat of the Council
to : COREPER/Council/European Council

Subject : Implementation of the Strategy and Action Plan to Combat Terrorism

1. This report responds to the European Council's request for a report every six months on the implementation of the Action Plan to combat terrorism adopted in June 2004 and revised most recently in March 2007. The report summarizes progress since December 2006 and the state of play regarding ratification of the conventions and implementation of the legislative acts regarded as having priority, the details of which are set out in ADD 1.

2. In December 2005 the European Council adopted the European Counter-Terrorism Strategy, which has provided the framework for EU activity in this field. The strategic commitment of the Union is to combat terrorism globally while respecting human rights, and make Europe safer, allowing its citizens to live in an area of freedom, security and justice. The Strategy groups all actions under four headings - PREVENT, PROTECT, PURSUE, RESPOND. The Revised Action Plan follows this pattern with the objective of setting out clearly what the EU is trying to achieve and the means by which it intends to do so. The report covers progress against individual actions within this same framework.

INTRODUCTION

3. To combat terrorism effectively all Member States must ensure all relevant national services coordinate their activities and operate on the basis of sufficient capabilities. In December 2005 the European Council approved an analysis of the evaluation of national counter-terrorism arrangements. Good practices were highlighted and recommendations issued. In the course of 2006 Member States reported to the Council on implementation of the recommendations. Many positive changes in Member States have been noted, including changes in legislation. The final implementation report was presented to the Council in March 2007. Based upon good results of the first round of evaluations, the Presidency and the Council Secretariat proposed to hold a second round dealing with a more specific topic. The Member States agreed to launch the next exercise focusing on preparedness and consequence management.
4. Cooperation, including fight against terrorism, between the EU and its external partners has also continued . Number of meetings has been held, including the US, Russia, Israel and Canada during the first semester 2007. For example the EU-US informal JHA senior level meeting took place in January in Berlin, EU-US Ministerial Troika on JHA was held in April in Berlin, EU-US Summit took place in Washington, EU-Russia Permanent Partnership Council on Freedom, Security and Justice was held in Moscow, EU-Israel subcommittee on 'Justice and legal matters' was held in Brussels and a Troika meeting with Canada took place in Berlin. Among main issues discussed were radicalization and recruitment, judicial and police cooperation, critical infrastructure protection, data protection and a respect for human rights and international law in fight against terrorism.

5. EU Counter-Terrorism Strategy invited the Council, the Commission and the European Parliament to hold once per Presidency a high-level political dialogue on counter-terrorism in order to enhance coordination among these three institutions. During the German Presidency the second high level meeting took place in May.
6. In recent years it has become increasingly apparent that decision-making in the field of police cooperation and judicial cooperation in criminal matters is hampered by a variety of institutional deficiencies which must be addressed. The efficiency of decision-making is reduced by the need for unanimity, which is increasingly difficult to secure in a Union of 27 or more Member States. The process is slow and uncertain, as has perhaps most clearly been seen in the case of the proposed Framework Decision on the European Evidence Warrant and the proposed decision on cross-border police cooperation. Deficiencies remain also in the implementation of adopted measures. Following a failure of the European Constitutional Treaty ratification, the German Presidency held, on the occasion of the 50th anniversary of signing the Treaties of Rome, an informal meeting of heads of states or governments in Berlin. As a result a declaration has been issued committing Member States to place the European Union on renewed common basis before the European Parliament elections in 2009.
7. In the Hague Programme, the European Council expressed its conviction that an innovative concept for the cross-border exchange of criminal information is needed to strengthen the Area of Freedom, Security and Justice in the European Union. Accordingly, it adopted the principle of availability aiming to enable law enforcement officers from any Member State to obtain the information they may need to discharge their tasks from any other Member State. The existing Prüm Treaty, originally signed by 7 Member States in 2005, presented a major step in this direction. It was designed to intensify cross-border police cooperation, especially, in the fight against terrorism, cross-border crime and illegal migration. Under the German Presidency the Council has agreed on the integration of the third pillar parts of the Prüm Treaty relating to police and judicial cooperation in criminal matters into the EU legal framework, with the exception of the provisions relating to cross-border police intervention in the event of imminent danger. The Council Decision integrating these provisions is expected to be adopted soon.

PREVENT

8. The first objective of the Counter-Terrorism Strategy is to prevent people from turning to terrorism by tackling the factors or root causes which can lead to radicalization and recruitment, in Europe and internationally. To attain this objective, in December 2005 the Council adopted a Strategy and an Action Plan to counter radicalization and recruitment.
9. In December 2006 the Council took note of a report reviewing the Radicalization and Recruitment Strategy. Some points in the Radicalization and Recruitment Action Plan have been revised on the basis of new insights and a number of points have been added. Council approved the revised Radicalization and Recruitment Action Plan in February 2007.
10. The internet has been identified as a key vector for the spread of terrorist propaganda and recruitment. Germany has launched an initiative ('Check the Web') to tackle terrorist incitement on the Internet. In May 2007, an information portal was launched at Europol serving as a technical platform for information exchange among Member States. The establishment of this information portal facilitates cooperation between the Member States in monitoring and evaluating Islamist terrorist websites. In addition, regular expert meetings are being held dealing with the analysis of jihadist activities on the Internet and the technical aspects of Internet monitoring. The German Presidency would like to summarize the results of these meetings in a handbook.
11. A number of conferences, seminars focusing on various aspects of radicalization and recruitment have been organized by the Presidency, Commission, Member States and Europol. The Commission is for example assessing whether the provision relating to incitement to terrorism under the Framework Decision on Combating Terrorism requires amendment.
12. Commission has published number of calls for proposals for projects dealing with violent radicalization including an intercultural dialogue. Radicalization is at the centre of political dialogue with third countries. Police training has been provided at regional level (by CEPOL to Balkans and Mediterranean countries).

13. The Commission has set up an expert group on violent radicalization and it intends to present a report on the state of play of research in the field within the next few months. The Commission has also commissioned studies on the triggers for radicalization among youths, narratives used by extremists, and the methods through which terrorists find new recruits.
14. A resolution on information exchange on the expulsion of third country nationals due to behavior related to terrorist activity or inciting violence and racial hatred was adopted by the Council in April 2007.
15. A Media Communication Strategy, approved by the Council in July 2006, has been revised and the Implementation report will be presented to the Council soon. The Strategy aims to challenge inaccurate depictions of EU policies and to undermine terrorist propaganda which distorts conflicts around the world as a supposed proof of a clash between the West and Islam. Improved communication should contribute to countering efforts aimed at radicalization and recruitment. With this regard, the Commission is preparing a conference on the role of media in countering violent radicalization to take place in the coming months.
16. In external relations, the EU has continued to engage international partners on radicalization and recruitment. Sharing experiences and best practice is an important part of tackling this global phenomenon. Examples of this work can be found in Euromed, Western Balkans and ASEM context or with Morocco and Algeria. The EU assistance to these countries consists of capacity building assistance in the fields of good governance and the rule of law thus addressing factors contributing to the support for terrorism. The EU has also worked to reinforce the international consensus on the respect for human rights in the fight against terrorism. This is a fundamental requirement to prevent further radicalization. The EU has equally continued its efforts to address the international conflicts which facilitate radicalization and recruitment into terrorism.

PROTECT

17. The second objective of the Counter-Terrorism Strategy is to protect citizens and infrastructure and reduce our vulnerability to attack, including through improved security of borders, transport and critical infrastructure.
18. A Regulation on the establishment, operation and use of the second generation Schengen Information System (SIS II) was adopted in December 2006. With regard to the Decision on SIS II there is still one pending parliamentary reservation. In October 2006 the Council welcomed the transitional proposal to integrate the new Member States in SIS 1+. As the project (SISone4all) is running as scheduled, the abolition of border checks (land and sea borders) is envisaged by the end of 2007 and the abolition of air borders by March 2008. The Commission has confirmed that the SIS II project should be finalised by December 2008.
19. A political compromise has been reached between the Council and the European Parliament on the Proposal for a Regulation on the Visa Information System (VIS). The related proposal for a Council Decision concerning access to the VIS by designated authorities and Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences is expected to be adopted soon.
20. Following the conclusion of the EU-US Interim Agreement on the processing and transfer of passenger name record (PNR) data by air carriers to the US department of Homeland Security in October last year, the Commission is currently undertaking an impact assessment of the need for an EU passenger name record system. The outcome of the ongoing consultation, which includes all relevant operators and the national data protection authorities, will be evaluated by the Commission with the aim of submitting a proposal in the second half of 2007.

21. Following extensive consultations with Member States, industry and other stakeholders, the Commission issued in December 2006 the first elements of the European programme on critical infrastructure protection (EPCIP) policy package, i.e. Communication on EPCIP, Proposal for a Directive of the Council on the identification and designation of European Critical Infrastructure and the assessment of the need to improve their protection.

The Communication on EPCIP lays down the general framework for work in the area and consists, inter alia, of measures designed to facilitate the implementation of EPCIP including an EPCIP action plan and the Critical Infrastructure Warning Information Network (CIWIN).

The Directive identifies 11 critical infrastructure sectors. Moreover, it proposes a common procedure for the identification and designation of European Critical Infrastructure (ECI) by developing cross-cutting criteria, which will apply to all concerned sectors. According to the proposal, the owners/operators of ECI are obliged to establish Security Plans and to designate Security Liaison Officers.

The sector-specific criteria for the designation of ECI are to be described in sector-specific communications of which the first one, issued in February 2007, deals with criteria for ECIs in the transport and energy sector.

As a first reaction to the above communication on EPCIP and the proposal for a draft directive, the Council adopted conclusions on the European programme for critical infrastructure protection in April 2007.

22. The Commission has included provisions on security-related research in its proposal for the 7th Research Framework Program (2007-2013). The program was approved by the Council in December 2006. The budget earmarked for security-related research amounts to € 1400 million.

PURSUE

23. The third objective of the European strategy against terrorism is to pursue and investigate terrorists across our borders as well as globally; to impede planning, travel and communications; to disrupt support networks; to cut off funding and access to attack materials, and to bring terrorists to justice.

Terrorist financing

24. Progress has continued in transposing the nine FATF Special Recommendations into EU law with a view to finalise main instruments in the course of 2007. On 7 November 2006 the Council adopted the *Regulation on information on the payer accompanying transfers of funds* following a first-reading agreement with the European Parliament. The Regulation, which implements FATF Special Recommendation VII, entered into force on 1 January 2007. Agreement has been reached on the *Payments Services Directive* implementing FATF Special Recommendation VI on alternative remittances with a view to its adoption in 2007.
25. The Commission envisages to issue a report on the implementation (deadline for transposition was 15 March 2007) of the *Framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Property* by the end of 2007.
The Council is about to adopt the Council Decision on cooperation between Asset Recovery Offices.
26. The Legislative framework is more or less completed and the focus needs to be now on operational cooperation such as the exchange of information (financial intelligence) and on strengthening financial investigations as a tool for detecting and disrupting terrorist networks. The project, initiated by the Commission and EUROPOL, aiming at developing common minimum training standards in financial investigations has continued. The Commission is considering to provide co-funding to the project under the financial specific programme "Prevention of and Fight against Crime".

27. Development of the European network of *Financial Intelligence Units* is still incomplete. All Member States need to be connected operationally and FIUs need to use the platform in order to establish the FIU.NET as a viable EU wide network. The Commission has established an informal FIU Platform to discuss obstacles with implementing the 3rd AML/CTF Directive and to ensure a uniform implementation. The Commission has also started to evaluate the implementation by EU Member States of the Council Decision of 17 October 2000 concerning arrangements for cooperation between FIUs. A report is expected in coming months. Following this evaluation, consideration could be given to look at the role of the FIU and other relevant national bodies in the fight against terrorism. This could cover an inventory of international standards (FATF, Egmont Group) and existing instruments for cooperation at the EU level, followed by an analysis of legal and other obstacles for sharing information between FIUs and law enforcement and intelligence services. Peer evaluation of national counter-terrorism arrangements taken in last two years has given a good overview of Member states' structures and measures in place.
28. There has not been much progress on the abuse of the non-profit sector by terrorist financiers. At the current stage of discussions it appears that there are significant differences between practices in the Member States allowing limited scope for comprehensive EU level legislation in this area. However, while implementing their own rules individually according to the FATF criteria, Member States could continue to explore further the scope for a common EU approach to certain aspects of reducing NPO vulnerabilities to terrorist infiltration. The five principles, decided by the JHA Council in December 2005, could function as a general guideline for this. Building on the Communication of November 2005 [COM (2005) 620], the Commission is setting up a Contact Group to encourage further EU level dialogue between the Commission and interested parties from the public and the non-profit sector with a view to reducing NPO vulnerabilities to financial criminal abuse, including terrorist financing.

29. The independent study of national and EU compliance with the nine FATF Special Recommendations has recently been published on the Commission's website. The results could be used to refine and amend the EU Strategy to combat terrorist financing (2004) and to bring it into line with current trends.
30. The Counter-Terrorism Coordinator has been requested to report every six months on the implementation of the strategy against terrorist financing. This more detailed report will be presented to COREPER in July.

Operational cooperation

31. All three Protocols amending the tasks of Europol have entered into force. This will substantially improve Europol's work as, for example, it allows Europol officers' participation in Member States' joint investigation teams. The Second protocol also established the possibility of Europol requesting individual Member States to initiate investigations and contributed to significant improvements in Europol's operational work. Member States have continued discussions on converting the Europol Convention into a Council Decision.
32. Two terrorism related Joint Customs Operations have recently taken place. One operation targeted commodities within identified risk areas, namely arms, ammunition and explosives. The focus was directed at combating illegal firearms transported by lorries crossing the Eastern external border of the EU and in particular from the Western Balkans. Another operation targeted goods associated with terrorism, such as Radiological Dispersal Devices or their components, weapons and explosives transported by land traffic crossing the Eastern EU land frontier in commercial road vehicles. Reports from both exercises assessing the lessons learned are being examined.
33. SitCen continued to provide the Council and the Commission with regular analyses of developments in relation to the terrorist threat. Joint analyses with Europol have also been presented.

Legislative agenda

34. The Framework Decision on simplifying exchange of information and intelligence between law enforcement authorities was adopted in December 2006.
35. The discussions on the Framework Decision on taking into account convictions in the course of new criminal proceedings have been difficult, but a general approach was reached by the Council in December 2006.
36. According to The Hague Programme the Framework decision on the European Evidence Warrant should have been adopted by the Council at the end of 2005. The Council reached a political agreement in June 2006. However, several parliamentary scrutiny reservations remain, so that the text will probably not be formally adopted by the end of 2007. The issue of parliamentary reservations from some Member States is continuing to slow down the adoption of instruments in the Third Pillar.
37. Discussions about the Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters are continuing. A general approach is expected to be reached by the end of the year.
38. The draft Framework Decision on organisation and content of the exchange of information extracted from criminal records between Member States is still under discussion in the Council and the European Parliament with a view to reaching a political agreement in June 2007.
39. In the Hague Programme (item 3.3) the European Council called for the adoption of a Framework Decision on certain procedural rights in criminal proceedings by the end of 2005. Discussions have continued on this draft decision with a view to reaching and agreement in June 2007.

International cooperation

40. To reinforce transatlantic cooperation in the fight against terrorism and other trans-national organised crime, Eurojust concluded a cooperation agreement with the US Department of Justice which entered into force in January 2007. An American public prosecutor has been stationed as a liaison officer at Eurojust.
41. Counter-terrorism meetings were held in the framework of ASEAN, ARF, ASEM, and EUROMED. In line with UNSCR 1373 (2001) the EU has continued offering technical assistance to a great number of countries so as to enhance their capacity to counter terrorism. Special cooperation and assistance programmes in the area of counter-terrorism have been launched in Morocco and Algeria. In bilateral and multilateral meetings, the EU continues to raise the issue of ratification and full implementation of the (now) 16 counter-terrorism UN Conventions and Protocols. The EU has also continued its diplomatic efforts to achieve an international consensus on a Comprehensive Convention on International terrorism. The EU's support for the Jakarta Centre for Law Enforcement (JCLEC) has yielded practical results and assistance to the African Union Counter-Terrorism Centre in Algiers is under consideration.
42. Under the new financial perspectives (2007-2013) funds have been identified for assistance by the Union to help third countries to prepare and implement crisis and emergency management initiatives. Under the Civil protection Financial Instrument around € 190 million is expected to be available for civil protection prevention, preparedness and response inside and outside the EU. Under the Stability instrument additional funds have been set aside that could be used to support counter-terrorism capacity-building initiatives in other areas. The total financial envelope for the Stability Instrument for the period 2007-2013 is € 2.062 million.

RESPOND

43. The fourth priority of the EU's Counter-Terrorism strategy is to prepare ourselves, in the spirit of solidarity, to manage and minimize the consequences of a terrorist attack, by improving capabilities to deal with the aftermath, the coordination of the response, and the needs of victims.
44. The Council adopted, in March 2007, the Decision establishing a Civil Protection Financial Instrument. The Instrument mainly provides for improved preparedness through networking, exercises, mobilisation of EU-expertise and joint training of team-leaders and assessment-coordination experts. It also concerns the prevention of disasters by actions for the accident-awareness and self-protection of populations and by enhancing the development and inter-linkage of early warning systems. The Commission is expected to issue, in autumn 2007, a communication on such systems.
45. Progress is also being made on the proposal for a revision of the Decision of 2001 establishing a Community Civil Protection Mechanism, which contains a system for mutual assistance and coordination in the response to disasters. The present revision aims at making the Mechanism more robust especially by the "modular approach" which will enhance interoperability among EU teams. The revision also aims at making the Monitoring and Information Centre more proactive, mainly in the areas of assessment of the situation and of the provision of transport for civil protection interventions. Care is also taken of the immediate sharing medical resources in case of disasters such as CBRN attacks.
46. The Commission has announced it is preparing proposals on bio-security and preparedness against bioterrorist attacks. Two conferences with participation by Member States and the private sector have been organized in preparation for a green paper scheduled for the first half of 2007.

47. Following the adoption of the Manual on EU emergency and crisis coordination in June 2006, work on the identification of national contact point for the coordination of all emergency and crisis situations has been taken forward under the current and the previous Presidency. Moreover, Portugal organized an expert seminar in April 2007 on best practices emerging from multi- and bilateral cooperation. Based on this work, the manual will be amended accordingly.

ESDP

48. Work continued on the Headline Goal 2010, where the terrorist threat was included in all relevant scenarios in 2005 in the framework of the definition of military requirements leading to the elaboration of the Progress Catalogue 2007. Required military capabilities include Command and Control, Intelligence, Survivability, Readiness, Deployability, Force and Mission Protection, and CBRN Defence. The database of military capabilities will continue to be expanded on a voluntary basis by Member States to indicate assets that might be used in responding to disasters outside the EU. The key military tasks to be investigated include preventive measures such as Embargo Operations, Secure Lines of Communications, Fight against the Proliferation of WMD, and protective/reactive measures such as Consequence Management.
49. Helping citizens in an emergency situation requires rapid and effective delivery of assistance. Military means may be essential to complement civilian capabilities. Detailed procedures concerning military owned and military chartered transportation have been developed with the Member States, the Commission (MIC/ECHO), and the EU Coordination Centers in Athens and Eindhoven. The framework for military support to EU disaster response will be revised in the light of experience gained.

50. Work is also ongoing within the European Defence Agency, notably in the field of the Integrated Development Team (IDT) "Protect", currently dealing with CBRN and maritime surveillance. Concerning CBRN, work is ongoing on supporting the development of capabilities in the field of protection against Improvised Explosive Devices with a CBRN payload. Policy, doctrine and training standards are being developed together with proposals for new technologies to detect and counter this specific threat. In parallel, work was also launched on Biological Defence in order to define a general architecture for ESDP operations. This includes proposals for the development of new assets, especially concerning Detection, Identification and Monitoring capabilities. In the area of Maritime Surveillance, the European Defence Agency is working on solutions to establish a coherent European common maritime picture, taking account of the interface with European security and border control. A new generation of assets, especially unmanned systems with appropriate sensors, are being studied in order to develop a global surveillance capability.
