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TEXTE EN

COMMUNICATION DE LA COMMISSION
INTENSIFIER LA LUTTE CONTRE LE TERRORISME

Communication de M. FRATTINI

Cette question est susceptible d'être inscrite à l'ordre du jour de la 1807^{ème} réunion de la Commission le mardi 6 novembre 2007.

Destinataires : Membres de la Commission
MM. FAULL, GASPAR, Mme QUINTIN, MM. ZOUREK, COLASANTI,
HOLMQUIST, LANDABURU, MADELIN, Mme DAY, MM. RUETE,
PETITE

NOTE DU SECRETARIAT GENERAL

PREPARATION DU DOCUMENT

Direction générale responsable

JLS Justice, Liberté et Sécurité

Services consultés

pour accord

BEPA	Bureau des conseillers de la politique européenne	: Avis favorable
EAC	Education et Culture	: Avis favorable
ENTR	Entreprises et industrie	: Avis favorable (cf./2)
INFSO	Société de l'information et médias	: Avis favorable (cf./2)
MARKT	Marché intérieur et services	: Avis favorable
RELEX	Relations extérieures	: Avis favorable (cf./2)
SANCO	Santé et protection des consommateurs	: Avis favorable
SG	Secrétariat général	: Avis favorable (cf./2)
TREN	Energie et Transports	: Avis favorable

pour avis

SJ Service juridique : Avis favorable (cf./2)

Langue originale : EN

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MEMORANDUM TO THE COMMISSION

The current "chapeau" communication provides for a summary of all actions planned to be adopted at the 6 November meeting of the College. It is intended to set the scene and describe the context within which the measures included in the "counter-terrorism package" are proposed. In addition, it is intended to give an overview of the different strands of policy on which the Commission has been working over the past years, in order to demonstrate its commitment to implement the EU Counter Terrorism Strategy adopted in December 2005.

The package of measures proposed includes:

- **Dealing with those who support terrorism.** An amendment to the Framework Decision on combating terrorism¹ is proposed in order to criminalise incitement to terrorism, the training of terrorists, and recruitment to terrorism – including when such actions take place over the internet.
- **Practical action to stem the use of explosives.** This includes rapid alert systems on lost and stolen explosives and suspicious transactions, a network of experts on bomb-disposal and de-activation, and the vetting of personnel involved in the explosives industry. Co-operation between the public and private sectors is crucial.
- **Establishing a European system for the exchange of Passenger Name Records ("PNR").** Member States must collect these records, process them and, where appropriate, exchange them with others. Passenger Name Records are important because past experience shows that many terrorist plots involve travel between the EU and a third country at some stage.
- The second **Report on the implementation of the Framework Decision on combating terrorism.** The report demonstrates that Member States still need to act more decisively to put the regime adopted in 2002 into their law to support the work of their police forces, prosecutors and judges. Otherwise law enforcement officials are operating without legal certainty or practical guidance.

The communication is also intended to demonstrate the relationships between the different strands of policy development which are proposed.

¹ OJ L 164, p.3, 22.6.2002

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COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION

Stepping up the fight against terrorism

COMMUNICATION FROM THE COMMISSION

Stepping up the fight against terrorism

I. The threat

Terrorism today is international in nature. Terrorist groups can be scattered in different countries and work across traditional country borders, exploiting the great potential of communications technologies such as the internet and mobile telephony for their own malicious purposes. This threat poses a significant challenge to the European Union and its Member States. Europol and Eurojust can – and should – play a role in addressing this threat, but cooperation between the Member States and their national services is crucial. Such cooperation has improved enormously in the last years as a result of the shared common threat.

Terrorists will strike whenever, wherever and with whatever they think they will have the most impact. Today chemical, biological, radiological and nuclear weapons exist. Apart from nuclear material, these are relatively inexpensive and traditional military machinery is largely ineffective to counter them.

We cannot be complacent. The behaviour of the inhabitants of our cities where terrorists have struck in recent years is an example for us all. By remaining resilient they are continuing to enjoy and uphold the fundamental rights on which our societies are based while knowing that radical elements might be plotting an attack. We have to find a balance between being aware of this risk, taking adequate and proportionate measures to prevent it from materialising, and not letting it overwhelm our daily lives. Causing disruptions to society is a key aim of terrorists.

II. The context of EU action: key measures

The European Union supports the Member States in facing the global threat. Protecting our citizens can succeed only by acting together to deal with this common concern. We should not expect to feel secure without taking some responsibility for providing security.

Europe has therefore been a producer of security and can, and should, continue to do more. We cannot take our values and our way of life for granted – they are a delicate fabric that has to be continuously safeguarded. Terrorism must be fought in full respect of fundamental rights. Terrorists threaten our fundamental rights. The Commission is fully committed to protecting and promoting fundamental rights. Within their scope, we should develop necessary and lawful security measures.

Across the EU we must unite against terrorism. We must work in solidarity. Terrorism threatens us all - our security, way of life and ideals. We need a common response to a shared challenge.

Terrorist threats should mostly be addressed at national level – even in the knowledge that the current threat is mostly international. Work at EU level complements these efforts and is built around prevention, protection, prosecution and responding if an attack occurs. These four elements form the core of the EU Counter terrorism strategy, which was adopted first in 2001

and updated most recently in December 2005. The Action Plan to implement on the strategy was updated last in the spring of 2007.

Since terrorism is a global phenomenon, the EU also cooperates closely with partner countries and international organisations regarding counter-terrorism legislation, law enforcement and judicial cooperation. The fight against terrorism in its various facets is a standing agenda item in Justice and Home Affairs Ministerial meetings with strategic partners and in other fora such as the UN and the G8. This cooperation has notably resulted in agreements with the United States and Canada on the transfer of Passenger Name Record data allowing to better identify terrorism threats to security, while ensuring protection of personal data. The EU is a major provider of technical assistance to third countries world wide helping them to implement the UN Security Council Resolution 1373 (2001).

The EU Counter Terrorism Strategy defines the way in which the EU can contribute to the fight against terrorism. Key measures identified in the Strategy include:

- Stopping violent radicalisation;
- Protecting our critical infrastructure;
- Improving the exchange of information between national authorities;
- Reacting to non conventional threats;
- Improving the detection of threats;
- Depriving terrorists of financial resources;
- Supporting victims;
- Research and technological development.

1. VIOLENT RADICALISATION

Understanding the motivations behind terrorist activity is a key part of prevention. The Commission is in the process of developing a policy on identifying and addressing the factors contributing to violent radicalisation¹. Research into this complex area is important and the Commission funds studies, conferences, and projects to share experience and better understand the issue. For example studies on the factors triggering violent radicalisation, the ideologies of radicals and the recruiting methods used to mobilise support for terrorism have been commissioned this year. All these activities takes place within the context of the specific EU Anti-radicalisation Strategy and Action Plan. The Strategy recalls that "The Commission supports this through channelling its policies effectively, including through the investment of funds for research, the organisation of conferences, support for education and inter-cultural engagement, and monitoring at the pan-EU level".

¹ See for example the September 2005 Communication COM(2005)313.

2. CRITICAL INFRASTRUCTURE PROTECTION

Protecting our critical infrastructure, such as our roads, railways, bridges, information and communication infrastructures and power stations, is crucial. Such infrastructure is highly interdependent within the EU and globally: the level of security of any individual State depends on the security provided by others.

The EU adds value by establishing minimum standards for security and eliminating, as far as possible, weak links and vulnerabilities². Action at EU level supports Member States, while respecting the principle of subsidiarity. Ultimately it is the responsibility of each Member State to manage arrangements for the protection of critical infrastructures within their national borders.

A proposal for a general policy framework on Critical Infrastructure Protection is being discussed in Council and the Commission is hopeful that results will be achieved soon. This should allow us to focus on the assets and sectors that need greater attention.

On the particular issue of the security of urban transport, the Commission will invite Member States, authorities and operators alike, to create a robust system of practical cooperation encompassing the entire Community. Within the broader Critical Infrastructure Protection framework of expert groups, an Urban Transport Security Expert Working Group will be set up which will organise the technical work. The background to this particular action can be found in the Annex to this Communication.

3. EXCHANGE OF INFORMATION

Exchange of information – in compliance with fundamental rights including data protection – is essential. The PNR proposal which is part of this package demonstrates it. Much has been done by the Commission. Telecom and internet service providers now have to retain their data, as a consequence of the Data Retention Directive. The principle of availability has made its first step with the Prüm Treaty: soon, all Member States' databases on fingerprints, DNA and vehicle registration will be accessible to the authorities of other Member States.

The Commission plans to fund activities aimed at making this work or making it work better. Agreement has been reached to give law enforcement authorities access to the Visa Information System (VIS) once it becomes operational. Access to the VIS will allow police and other law enforcement authorities, as well as Europol, to consult data in the Visa Information System. It will store data on up to 70 million people concerning visas for visits to, or transit through, the Schengen Area. These data will include the applicants' photograph and their ten fingerprints. The VIS will become the largest ten finger print system in the world.

All these developments need to be underpinned by a robust framework on data protection. The Council is expected to satisfactorily conclude its discussions on the Commission's proposed Framework Decision in this respect by the end of this year.

² The Commission adopted on 12 December 2006 a Communication on a European Programme for Critical Infrastructure Protection (EPCIP) COM(2006) 786 final and a proposal for a Directive on the identification and designation of European Critical Infrastructure and the assessment of the need to improve their protection COM(2006) 787 final.

4. CHEMICAL, BIOLOGICAL, RADIOLOGICAL AND NUCLEAR ("CBRN") WEAPONS

Although explosives are the weapons most frequently used by terrorists, it is also essential that we stop terrorists from having access to CBRN weapons. Some of these have the capacity to infect thousands of people, contaminate soil, buildings and transport assets, destroy agriculture and infect animal populations and affect the food supply chain. A green paper on bio-preparedness was adopted in July 2007.

Workshops with practitioners on law enforcement, health and science are being held to develop a guide to best practices on preparedness and response. The challenge is to bring together authorities active in many different fields: customs, police, the military, bio-industry, health communities, academic institutions and bio-research institutes. The Commission is also gathering expertise in the radiological and nuclear field. The fear of dirty bombs and nuclear terrorism continues to trouble our society and those responsible for its protection. Terrorists and other criminals have already shown an interest in this. Today's interconnected economies and societies not only provide the basis for global development and cooperation, they also facilitate the illicit trafficking of radioactive and nuclear materials. The Commission intends to submit a package of policy proposals on CBRN in early 2009.

5. DETECTION TECHNOLOGIES

Sound, tested, accessible, affordable and mutually recognised detection technologies are an indispensable asset in counter-terrorism work. New technologies should not just be the preserve of the terrorists. Detection tools play a crucial role in the work of security authorities. Working with the private sector is crucial and the Commission is facilitating this. A green paper on detection technologies was published in 2006, and the responses are in the process of being analysed. Detection issues also feature prominently in the EU Action Plan on Explosives, adopted as part of the current package.

6. DEPRIVING TERRORISTS OF FINANCIAL RESOURCES

Efforts have to be maintained, strengthened to deprive terrorists of financial resources. By now, EC legislation is in place, but increasingly there is a need to address broader non-legislative actions, such as transparency measures, to ensure that EU Member States have the tools to fight terrorist financing. The Commission is continuing to work with Member States to improve ways of freezing and confiscating terrorist assets and crime related proceeds, as well as to establish common minimum training standards for financial investigators, and is promoting efficient cooperation among Financial Intelligence Units at EU level.

7. VICTIMS OF TERRORISM

The Commission is committed to promoting solidarity with, and assistance to, victims of terrorism.

The Commission provides financial assistance³ to organisations which represent victims' interests. It has financed innovative and cross-border projects with the aim of helping victims get their lives back to the way they were before the terrorist attack - as much as possible.

8. RESEARCH AND TECHNOLOGICAL DEVELOPMENT

In 2004 the Commission launched a three-year "Preparatory Action for Security Research (PASR)" in the field of Security Research. With three annual budgets of € 15 million, the Preparatory Action was a first step towards a new Security theme in the 7th RTD Framework Programme (FP7).

Under PASR, 39 projects⁴ have been funded. Building on PASR, the 7th RTD Framework Programme (FP7, 2007-2013) saw a substantial increase of the budget for Security Research to 1,4 Billion € including covering topics such as the detection of explosives, the protection against CBRN terrorism, crisis management and the protection of critical infrastructure.

In parallel, a European Security Research and Innovation Forum (ESRIF) has been created⁵. ESRIF will build on the work already done by the Group of Personalities⁶ and the European Security Research Advisory Board (ESRAB)⁷.

The objective of the ESRIF is to support civil security policy-making with the appropriate technology and knowledge base by establishing a mid- and long-term Joint Security Research Agenda that will involve all European stakeholders from both the supply and the demand sides. This agenda should contain a research roadmap based on the future needs of the public and private end-users and the state-of-the-art security technologies.

The Joint Security Research Agenda will aim to be the reference document for security research programming for the next coming years, at national, regional and industrial level, taking into account the research that will be carried out at European level as decided in the 7th RTD Framework Programme. The Commission will ensure that the necessary links will be

³ Council Decision of 12 February 2007 establishing for the period 2007 to 2013, as part of the General Programme on Fundamental Rights and Justice, the Specific Programme 'Criminal Justice'.

⁴ A description of the 39 PASR research projects, including final and intermediate results, can be found on: http://ec.europa.eu/enterprise/security/articles/article_2007-02-23_en.htm

⁵ The creation of ESRIF was announced in the Commission Communication on a public - private dialogue in the field of European security research and innovation (COM(2007)511 final) of 11.9.2007.

⁶ The 'Group of Personalities' (GoP) was set up in 2003. In its final report (Research for a Secure Europe: Report of the Group of Personalities in the field of Security Research, 15 March 2004, http://ec.europa.eu/enterprise/security/doc/gop_en.pdf), the GoP recommended the launch of a security research theme in FP7 with a minimum threshold of € 1 billion per annum as well as the creation of the 'European Security Research Advisory Board' (ESRAB).

⁷ The ESRAB Board was created by Commission Decision [2005/516/EC](#) on 22 April 2005 and published its final report on 22 September 2006. It recommends that multidisciplinary mission-oriented research should be undertaken. It should combine end-users and suppliers in project definition and execution. The report identified a number of areas, including security of infrastructures, to stimulate innovation and improve the use of research in procured products and services. Finally, the ESRAB report also suggested 'the creation of a European Security Board (the later ESRIF), to foster greater dialogue and a shared view of European security needs. The board should bring together, in a non-bureaucratic manner, authoritative senior representatives from the public and private communities to jointly develop a strategic security agenda and act as a possible reference body for the implementation of existing programmes and initiatives'.

established between the different counter-terrorism activities and the appropriate ESRIF Working Groups.

III. A new package of proposals: stepping up the fight against terrorism

The different elements of the package all respond to clear calls for action by the Commission – mostly from the European Council or JHA Council meetings. The measures proposed are the result of carefully prepared work involving extensive consultations with stakeholders, including member States representatives, NGOs and other public and private bodies. The recent foiled attacks in Germany, Denmark and Austria serve to remind us all that the terrorist threat is unfortunately still real and that further measures are required. In addition to implementing the EU Counter-terrorism strategy, the measures envisaged also contribute to the implementation of the general United Nations Global Counter-terrorism strategy, as adopted by the General Assembly in September 2006.

This security package aims to improve the security of Europe and face the terrorist threat by:

- **Dealing with those who support terrorism.** The dissemination of terrorist propaganda, training of terrorists, financing of terrorism, circulation of information on bomb-making and explosives and public provocations to commit terrorist offences are crimes and punishable by imprisonment. The European Arrest and Evidence Warrants have to be used to the full for this purpose.
- **Practical action to stem the use of explosives.** This includes rapid alert systems on lost and stolen explosives and suspicious transactions, a network of experts on bomb-disposal and de-activation, and the vetting of personnel involved in the explosives industry. Co-operation between the public and private sectors is crucial.
- **Establishing a European system for the exchange of Passenger Name Records ("PNR").** Member States must collect these records, process them and, where appropriate, exchange them with others. PNR has been associated mostly with negotiations outside the EU in particular the United States. The Union is at least as much a potential target as the United States. Passenger Name Records are important because past experience shows that many terrorist plots involve travel between the EU and a third country at some stage.
- The Commission is also adopting its **report on the implementation of the present Framework Decision on terrorism.** Member States need to act more decisively to put the regime adopted in 2002 into their law to support the work of their police forces, prosecutors and judges. Otherwise law enforcement officials are operating without legal certainty or practical guidance.

Conclusion:

We must continue to work at EU level to counter the threat of terrorism, while also duly developing the external dimension of this policy. There is no choice but to do so due to the international and cross border nature of the threat and common interests across the EU as a result of successful EU development. The EU adds value by supporting Member States and addressing cross border issues. It is the Member States which are ultimately responsible for protecting their citizens. Security policy must be transparent. It must both seek to protect EU citizens and go hand in hand with respecting fundamental rights. Terrorism is a multifaceted

and complex challenge. Work at EU level therefore seeks to address all aspects of the challenge - prevention, protection, prosecution and responding if an attack occurs. The current package demonstrates the European Commission's commitment to continue addressing these challenges and puts another building block in place to strengthen our defences against terrorism.

ANNEX: Tackling Urban Transport Security

In reply to the call by EU Heads of State and Government⁸, the Commission has assessed how the European Community can best contribute towards securing European urban transport⁹ from terrorist attacks.

Currently, security for urban transport is provided by transport operators, and local and national authorities. Whereas European measures are in place for aviation, maritime transport and international transport of goods, no comparable measures exist for urban transport. In addition, whereas aviation and maritime transport measures can build on rules established in international organisations, neither international organisations nor rules exist for urban passenger transport.

Urban transport is highly complex, involving numerous transport providers, local service industries and millions of daily passengers. It is easily accessible, with multiple stops and interchanges. In terms of security, there is generally no passenger screening and little, if any, access control. In addition, there is a wide variation in terms of threat assessment and vulnerability of different transportation modes. The result of this complexity means that a "one size fits all" approach to security is not appropriate.

Improving security in urban transport systems, whilst maintaining a full and unrestricted service, is extremely challenging. With very few exceptions, the equipment and infrastructure supporting urban transport were not originally selected or constructed with security considerations in mind. To reach improved security levels for European urban transport systems, a close cooperation between Member States and all the national authorities and operators involved is necessary at a European level. To facilitate such cooperation, the Commission will set up an Urban Transport Security Expert Working Group. This will enable an exchange of best practice and lessons learnt – positive and negative – in four key areas: *organisational measures; surveillance and detection; more resilient equipment and installations; and incident management*. In the longer term, this could lead to commonly agreed security criteria and benchmarks, allowing authorities and operators to carry out self-assessments and to develop security plans.

The Commission invites each Member State to nominate a national Focal Point who will facilitate the work of the Urban Transport Security Expert Working Group, ensuring its clarity of purpose and the consistency of national contributions, as well as monitoring progress. The Focal Point should be a representative of the Member State's appropriate transport security authority.

Member States, authorities and operators alike are encouraged to introduce and test new security concepts, technologies and hardware and software solutions. All the lessons learnt can be of greater benefit to the Community if they are shared through the Urban Transport Security Expert Working Group and a European technology ledger or through on-the-job learning initiatives as a result of cooperation between operators. In addition, the Commission will establish a permanent list of on-going publicly-financed research and development

⁸ The Council of the European Union – Declaration on combating terrorism of 29 March 2004 (Document 07906/04)

⁹ Defined as collective passenger land transport carried out by buses, surface and underground trains and trams ('light railways')

projects in this area, encouraging a special emphasis on human factors and new technologies. Representatives will be encouraged to get involved and identify, where appropriate, new security-related research needs.

Finally, the Commission will encourage incorporating an adequate security dimension to urban transport projects seeking EU-funding.