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THE EUROPEAN UNION**

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COVER NOTE

From : Presidency and Counter Terrorism Coordinator

To : Working Party on Terrorism

No. prev. doc. : 12168/3/05 REV 3 ENFOPOL 109

Subject : Follow-up report on the implementation of recommendations by the Council of the EU on counter-terrorism measures in the Member States - Executive Summary

Delegations find in Annex the Executive Summary of the follow-up report on the implementation of recommendations by the Council of the EU on counter-terrorism measures in the Member States.

The Working Party on Terrorism is requested to approve the document and forward it to the Article 36 Committee in view of its transmission to COREPER/Council for notation.

Please note that the summary of the national contributions is contained in document 6998/07 ENFOPOL 34 RESTREINT UE.

Follow-up report on the implementation of recommendations by the Council of the EU on counter-terrorism measures in the Member States

Executive Summary

The follow-up report on the implementation of recommendations by the Council on the counter-terrorism measures in the Member States :

- describes the origin bases and the method of the implementation procedure,
- presents the main findings and conclusions of the implementation exercise,
- forwards some suggestions on the follow-up of the evaluations independent from an orientation on the second round.

A detailed analysis of the replies of Member States is provided as a restraint document.

As a conclusion it is to be highlighted that the peer evaluation has contributed in a significant way to the reform of counter-terrorism arrangements in the Member States.

I. Peer evaluation procedure and follow-up

- A. 1)** The JHA Council launched an assessment of national anti-terrorist arrangements, a peer evaluation, on the basis of considerations of a legislative, administrative and technical nature on 20 September 2001.

As part of this, on 24 January 2003 the first evaluation was agreed as follows:

"To assess the exchange of information in all domains relating to terrorist activities between law enforcement and intelligence services and all other bodies dealing with various aspects of terrorism, including the coordination among those services and between these services and their counterparts in the other Member States on how best to exploit this information. The evaluation should mainly focus on information and coordination concerning Islamic extremist terrorist groups and their activities."

Subsequently Member States replied to a questionnaire and evaluation visits were carried out by teams of experts of Member States, Commission, Europol and the Council Secretariat.

- 2) On 1-2 December 2005 the final report on the evaluation of national anti-terrorist arrangements was adopted by the JHA Council (cf. doc.12168/3/05 REV 3 ENFOPOL 109).

In the report on page 16 it was stated that :

"Improvement of national arrangements to combat terrorism remains the priority and should take place in light of the recommendations of this final report as well as of the recommendations in the respective country reports. In order to maximise the benefit of the peer evaluation process, each Member State will therefore be asked to report back on the improvements it has made to its national counter-terrorism arrangements, and in particular on how they have responded to the recommendations of the relevant country report and, where appropriate, the recommendations of the final report.

This reporting shall be done on a systematic basis to allow the Terrorism Working Group to consider and discuss progress at its meetings over the course of 2006 and early 2007.

This will provide an opportunity for Member States to provide a full account of action taken at national level. Once all Member States have reported on their efforts a follow-up evaluation round could be considered if appropriate."

- 3) From January to October 2006 delegations reported in writing and presented their reports at the meetings of the TWG. Romania and Bulgaria participated in the process. The restraint document comprises an analysis of replies to the general recommendations as well as to the country-specific ones. The replies given by delegations have not been checked *in situ* by the Council Secretariat.
- 4) Participants in the evaluation process, and in particular the Council Secretariat, stress the positive attitude of Member States in replying to the various questionnaires and reporting to the group as well as in organizing the visits.

The attention and the active support given by the Counter-Terrorism Coordinator to the exercise have largely contributed to its impact and relevance.

- B. The peer evaluation resulted in 16 general recommendations to the Member States which are listed in Annex 1 to the Annex. Moreover, specific country recommendations were drawn up.

27 Member States were invited to implement all the general recommendations. Out of the total of 432 (27 X 16) recommendations, 421 have been implemented or are being implemented .

11 recommendations were considered by Member States as not relevant. With regard to the appointment of a terrorist coordinator and inter-agency cooperation the existing structures or cooperation systems in Member States were considered to be sufficient. A number of countries have indicated that in their case the use of intelligence in court is not appropriate. In some Member States there is a clear distinction between police forces and intelligence services; they have different structures and legal competences. In a practical sense this means that the information gathered by the intelligence services has to be sent to the police so that it may acquire a legal status that allows it to be used in the court of law. This apparently difficult process has become very simple thanks to close cooperation and coordination between the police forces and intelligence services in the field of counter-terrorism.

Annex 2 to the Annex shows the implementation of the general recommendations by the Member States.

II. Results

A. Key judgements

- Over 95 % of the recommendations have been implemented in the Member States.
- Each Member State has improved their national structures by following the same recommendations. A particularly proactive approach was taken by the new Member States.
- In some cases the weight of an "EU recommendation" was decisive to drive forward some bureaucratic and legal procedures.
- As a result of each Member State developing in the same direction the EU's collective capacity in this area has been strengthened.

B. General recommendations

The recommendations are divided into three parts as follows:

- **'Core' recommendations at Member State level**

The setting up of a national structure in the Member States, with the objective of defining a national counter terrorism strategy and policy, was one of the priorities in the Member States. Such a centralized and unified strategy allows the Member States to have a better internal coordination with a clear definition of competences and objectives for each ministry and agency.

The appointment of a counter terrorism co-ordinator or equivalent coordination mechanism was one of the recommendations which resulted in the most significant changes. Several countries took these into consideration and appointed a high level authority to fulfil this task, creating central coordination departments or extending the legal competences of the already existing coordinating structures.

With regard to ensuring a stronger inter-agency cooperation, some Member States established technical committees or central coordination and analysis units bringing together and facilitating the exchange of information of all the authorities involved in the fight against terrorism.

- **Other significant recommendations at Member States' level**

Concerning the improvement of the use of intelligence as evidence in Court, some countries introduced new legislation or amended the existing one.

As regards crisis management, Member States report having developed national centres, contingency plans and crisis management arrangements. This should permit a more rapid and coordinated response in case of a terrorist attack.

Other recommendations have proven more difficult to implement. This was the case, for example, with the recommendations regarding access to databases and legal bases for a range of investigative techniques. Nevertheless, all Member States made progress concerning these recommendations, mostly by putting in place legislation that allows closer cooperation and information sharing between police forces and intelligence services. This legal progress has even triggered constitutional change.

- **Recommendations for action at EU level**

The peer evaluation recommended closer cooperation between the Member States and some European structures like Europol, Eurojust, SitCen, CPTF or CEPOL. This closer cooperation has resulted in the improvement of the bilateral information exchange with Europol, and in more frequent contributions to the SitCen strategic reports. These recommendations were fully implemented.

C. Specific recommendations

In addition to the general recommendations the peer review contained specific recommendations with respect to individual Member States. Out of the total number of 79 specific recommendations, 65 have been implemented or are under implementation. These specific recommendations suggested mostly legal modifications and sometimes changes to the competences of services in the Member State. Some recommendations were reported as not being suitable or relevant in view of national circumstances.

III. Follow-up

In implementing the peer review, it is recommended that Member States pay particular attention to:

- Recommendation 2: coordinating mechanisms,
- Recommendation 7: access to databases,
- Recommendation 11: legal base for a range of investigative techniques, and
- Recommendation 13: crisis management.

Moreover, Member States are requested to update the Council Secretariat at the end of 2007 on changes in counter-terrorism arrangements.

RECOMMENDATIONS

- R 1** Political coordination
- R 2** Counter-terrorism coordinator
- R 3** Coordination of prosecutions
- R 4** Inter-agency cooperation
- R 5** All-sources threat assessments
- R 6** Information collection and exchange
- R 7** Access to databases
- R 8** Police training
- R 9** Border control
- R 10** Use of intelligence as evidence
- R 11** Providing the legal basis for a range of investigative techniques
- R 12** Secure communications systems and security clearance
- R 13** Crisis management
- R 14** Working with Europol and Eurojust
- R 15** Working with the Situation Center
- R 16** Working with the European Police College, CEPOL, and the Chiefs of Police Task Force

Recom	REC 1		REC 2		REC 3		REC 4		REC 5		REC 6		REC 7		REC 8		REC 9		REC 10		REC 11		REC 12		REC 13		REC 14		REC 15		REC 16		
	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP	IMP	UND IMP			
France	X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		
Spain	X		X		X		X		X		X		X	X	X		X		X		X		X		X		X		X		X		
Portugal	X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		
Belgium	X		X		X		X		X		X		X	X	X		X		X	X	X		X		X		X		X		X		
Greece	X		X		X		X		X		X		X	X	X		X		X		X		X		X		X		X		X		
Denmark	X		X		X		X		X		X		X		X	X	X		X		X		X		X		X		X		X		
Ireland	X		X	X	X		X		X		X		X		X		X	X	X	X		X		X		X		X		X		X	
Germany	X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		
Luxembourg	X		X	X	X		X		X		X		X		X		X		X		X	X	X		X		X		X		X		
Austria	X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		
Netherlands	X		X		X		X		X		X		X	X	X		X		X		X	X	X		X		X		X		X		
Sweden	X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		
Finland	X		X	X	X		X		X		X		X		X		X		X		X		X		X		X		X		X		
United Kingdom	X		X		X	X	X		X		X		X		X		X		X		X		X		X		X		X		X		
Italy	X		X	X	X		X		X		X		X		X		X		X		X		X		X		X		X		X		
Hungary	X		X		X	X	X		X		X		X		X		X	X	X		X	X	X		X		X		X		X		
Cyprus	X		X		X		X		X		X		X	X	X		X		X		X	X	X		X		X		X		X		
Czech Republic	X		X		X	X	X		X		X		X		X		X		X		X	X	X		X		X		X		X		
Poland	X		X		X	X	X		X		X		X	X	X		X		X		X	X	X		X		X		X		X		
Slovenia	X		X		X		X		X		X		X	X	X		X		X		X	X	X		X		X		X		X		
Estonia	X		X		X	X	X		X		X		X		X		X		X		X	X	X		X		X		X		X		
Lithuania	X		X		X		X		X		X		X	X	X		X		X		X		X		X		X		X		X		
Slovakia	X		X	X	X		X		X		X		X	X	X		X		X		X	X	X		X		X		X		X		
Malta	X		X		X	X	X		X		X		X		X		X		X		X		X		X		X		X		X		
Latvia	X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		
Bulgaria	X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		
Romania	X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		X		
TOTAL	27	0	22	1	24	2	26	2	26	1	24	2	21	8	23	4	20	3	18	3	20	5	25	3	20	7	27	0	27	0	27	0	