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Delegations will find attached the partially declassified version of the above-mentioned document.



ANNEX

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 10 May 2004

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EXT 1 (28.10.2011)**

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NOTE

from : General Secretariat
to : Working Party on Terrorism/Article 36 Committee

Subject : Evaluation of National Anti-Terrorist Arrangements
Report about the Evaluation of Belgium

Delegations please find in Annex the report about the evaluation of Belgium.

Evaluation of National Anti-Terrorist Arrangements

**Report about
the Evaluation of Belgium
22 to 26 September 2003**

Brussels, 03 May 2004

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Summary of the report

1. Terrorism Situation

1.1 Introduction

The current terrorism situation in Belgium is relatively quiet, taking into account the large number of terrorist attacks all over the world in recent years.

However, since the 1970s more than 300 terrorist attacks have been recorded in Belgium, with more than sixty persons killed, a lot of casualties and major damages (not including minor acts of vandalism or sabotage).

1.2 Domestic Terrorism

Before the 1980s no recognisable terrorist groups of domestic origin were active on Belgian soil. Then a 'Groupe Inconnu Anarchiste' perpetrated three small-scale attacks with explosive devices contained in fire extinguishers. The next to surface was the 'Front Revolutionnaire d'Action Prolétarienne'. It perpetrated several attacks, mainly against American industrial companies and NATO linked organisations, and had some contacts with the French 'Action Directe'. Its members were subsequently arrested and convicted. The third Belgian group attacking similar targets was the 'Cellules Communistes Combattantes', which in 1984 and 1985 committed some 25 mayor terrorist attacks. It was a small, highly organised terrorist group, its four members were arrested in December 1985 and subsequently convicted. Meanwhile they have been released from prison.

Between 1998 and 2000, a small number of individuals acting under the war name 'Animal Liberation Front' carried out several incendiary device attacks against fast-food restaurants (e.g. McDonald's), as well as against industrial companies involved in the meat industry. Arrests were made and the most prolific activists were convicted and imprisoned.

1.3 International Terrorism

As mentioned above, before the 1980s only international terrorism attacks had been perpetrated in Belgium. Most of them were related to the Israeli-Palestinian situation or to problems in the former Yugoslavia.

More recently other ethnic groups have become active in Belgium. Though no terrorist attacks have been recorded in recent years logistical support activities were identified and investigations have led to several arrests and judicial investigations.

– Turkish / Kurdish Problems

– The PKK/KADEK's (400-500 sympathisers) main activities are racketeering their own people by so called 'revolutionary contribution', and focus on more rights for the Kurds and the liberation of Abdullah OCALAN.

– In September 1999, a 'safe-house' containing the complete archives of the Turkish extreme left group DHKP-C (100 sympathisers) was discovered by police at the Belgian coast.

– Arab / Islamic Problems

– At the end of the 1970s several terrorist attacks were carried out by the 'ABOU NIDAL' group, all directed against the Jewish community and linked to the Israeli-Palestinian situation.

– Algerian related terrorism made its appearance in Belgium in the 1990s. The first to emerge was the 'Groupe Islamique Armé', followed by the 'Groupe Salafiste pour la Prédication et le Combat', both having used Belgian territory principally as a logistics base (e.g. export of weapons in support of the Algerian resistance, trafficking in false and forged identity documents, collecting money through 'radical' mosques, and recruiting volunteers for the 'JIHAD'). Belgium has also been used as a hiding place for the terrorists that perpetrated a number of attacks in France in 1995. Investigations led in 1995 to the 'ZAOUI-network' and in 1998 to the 'BADACHE-MELOUK network', several arrests effectively ended those activities in Belgium.

- At the end of the 1990s and in the beginning of 2000, activities by or on behalf of the 'Al QAEDA network' were discovered, especially recruiting volunteers for the 'JIHAD' in Afghanistan, Pakistan, Bosnia and Chechnya, and, notably, falsification of identity documents. The individuals responsible for these activities were MAAROUFI TAREK and AMOR SLITI. Their network extended to several European countries, through which they had few difficulties in dispatching the assassins of Commander MASSOUD to Afghanistan, following their recruitment in Brussels via London.

- The same Al QAEDA network recruited Nizar TRABELSI (see footnote on page 30) to perpetrate terrorist attacks against a NATO airbase in Belgium and against the American Embassy in Paris. His trial is ongoing.

2. Structure of Authorities

2.1 General Structure

Being independent since 1830, the Kingdom of Belgium after four reforms has developed to a federal structure. Today and for the first time in its history article one of the Constitution declares: "Belgium is a federal State composing of communities and regions." It consists of about 10.260.000 inhabitants.

Belgium as a whole is departed into three regions:

Flanders in the northern part of Belgium with the biggest population group, which speak Dutch, followed by the Walloon in the south speaking French, and the capital Brussels with mostly French and Dutch speaking inhabitants. A little German speaking community lives in the east of Belgium. Moreover, beneath the Brussels capital, the country is divided into ten provinces and 589 communities.

2.2 Political and Security Structure

The overall political responsibility in Belgium lies with the prime Minister. To that end he chairs the Ministerial Committee for Intelligence and Security, composed of all Ministries involved in security aspects, which sets the general intelligence policy. The implementation of its decisions is supervised by the Intelligence and Security College, chaired by a representative of the Prime Minister and composed of all relevant security services.

To maintain public order, the Federal Public Service Home Affairs is competent among others for all aspects relating to the prevention of terrorism. To be aware of possible threats and duly react the Directorate General Crisis Centre permanently gathers all security related information, coordinates it with national and international partners, and initiates and coordinates the necessary security measures.

In an integrated police, about 38.000 policemen of Local Police Services and the Federal Police Service closely cooperate in all aspects of preventing and fighting crime, including terrorism.

The Counter-Terrorist Joint Group, under the authority of both the Ministers of Home Affairs and Justice, gathers and analyses terrorism related information and intelligence from all law enforcement and intelligence services and thus produces permanently updated threat assessments for the benefit of the services in charge.

The Minister of Justice is competent for the judicial investigations carried out under the command of the local prosecutors and the federal prosecutor. The criminal policy is determined by the Minister of Justice and the Board of the General Prosecutors. The Minister of Justice also supervises the Security of State which is the civil intelligence service.

As an independent authority under the external supervision of the Ministers of Justice and Finance the Cell for the Processing of Financial Information as the Belgian Financial Intelligence Unit collects and analyses financial information linked, inter alia to terrorism and starts the necessary measures in cases of freezing assets.

The Treasury, administration of the Federal Public Service Finance, is the competent authority designated by EC Regulations, for the administrative freezing of funds of terrorist groups and entities¹ and of Al Qaeda members² .

The Administration Customs and Excise above its general responsibility for controlling imports and exports is jointly competent with other law enforcement agencies in the fields of illicit trade in weapons and dual-use-goods to which end it has far reaching competencies and judicial powers.

3. Summary of the Evaluation

3.1 Belgium has made big efforts to ratify all international conventions on anti-terrorism and, on 19 December 2003, modified the penal code so as to include terrorism as an autonomous crime in compliance with the Council Framework Decision of 13 June 2002 on this matter. This law contains i.e. a specific mention of the offences of “terrorism”, “terrorist groups”, as well as a disposition on “financing of terrorism” including preparatory acts.

The Belgian system seems to work effectively, problems or claims reported are dealt with in the full version of the report (cf. Annex 3).

3.2 As examples for good practices are to be mentioned:

3.2.1 The Directorate General Crisis Centre which is the competent Belgian authority to handle a crisis, to manage the consequences and to inform the government and the public. It is also the central point for the rapid alert systems. A system to evaluate risks and adequate measures, depending on the level of threat, are defined individually for each crisis.

The DGCC is also the national contact point for international incidents, and therefore directly and closely communicates with other crises centres.

It is reacting fast and working efficiently in particular because of its composition of staff and liaison officers of all relevant law enforcement and intelligence services.

¹ Regulation EC 2580/2001

² Regulation EC 881/2002

3.2.2 National General Database of the Federal Police

Since a law for police information treatment makes the non-transmission of police information a criminal offence and thus provides for a permanently updated database, the National General Database and its organisational regulations are a powerful approach.

3.2.3 The Counter-Terrorist Joint Group

is the national body responsible for central threat assessments and the central analysis organ in the fight against terrorism. Its staff being composed of all competent services maintains close and permanent contacts to all relevant authorities. The cooperation works fast and produces reliable results and acknowledged reports.

3.2.4 Coordination by the Federal Prosecutor's Office

Within the authority for terrorism of the Federal Public Prosecutor's Office a new working method, the "case-related approach", implies in the framework of a concrete case that the police, the intelligence and security services and the GIA punctually meet, under command of a federal magistrate, with a view of splitting up the tasks.

Moreover, a weekly coordination meeting takes place between the three federal magistrates, officers of the federal police services as well as the local prosecutor in Brussels, all of them in charge of terrorism, where the ongoing "federal" investigations on terrorism are discussed and general information is exchanged.

3.3 Recommendations have been made especially concerning:

3.3.1 **NOT DECLASSIFIED**

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3.3.2 The role of The Counter-Terrorist Joint Group under the supervision of two Ministries Belgian authorities should reflect on the question whether working under the supervision of both Ministers (Home Affairs and Justice) might complicate the status of GIA or if an organisational subordination to only one body would facilitate its work.

3.3.3 The Security of State's and the federal police limited access to data
The Security of State and the police do not use a common database nor do they have reciprocal access to their databases.
The direct, permanent and complete access to information is the basis in order to create and maintain security. It should work on defined cooperation structures and grant the availability of the information needed. For the time being, it has not been settled by means of a protocol; both sides are working on it.

3.3.4 **NOT DECLASSIFIED**

3.3.5 The involvement of Customs and Excise
The involvement of Customs and Excise as refers to the coordination with the other national authorities involved in the fight against terrorism should be improved and, if appropriate, realised on a permanent basis.

3.4 EU and international level

3.4.1 The UN lists missing identification data

Though officially published the UN lists often are extremely vague because of the absence of several essential data for the identification of the listed persons.

3.4.2 The missing of an EU intelligence coordination body

The exploitation of operational intelligence and the cooperation among the intelligence services at EU level is considered rather insufficient by the Belgian Security of State.

Underlining the need to coordinate and support the cooperation in intelligence matters a special body on EU level is considered to be an appropriate tool. Created by the Club of Bern after 9/11, the Counter Terrorism Group, in order to provide the competent EU institutions with regular threat assessment and to exchange operational information on terrorism is proposed to establish a point of contact for the exchange of operational intelligence.

Legal Framework of the Evaluation

- 1.1 On 20 September 2001, the JHA-Council³ "in the light of the attacks in the United States of 11 September and following on from decisions taken since the Tampere European Council" among other measures instructed "the Article 36 Committee to work out an easier and swifter form of the evaluation mechanism defined in the Joint Action of 5 December 1997 establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime, in order to define a procedure for the peer assessment of national anti-terrorist arrangements on the basis of considerations of a legislative (...), administrative and technical nature."
- 1.2 The JHA-Council on 28 November 2002, approved a decision⁴ "establishing a mechanism for evaluating the legal systems and their implementation at national level in the fight against terrorism".
- 1.3 On 19/20 September 2002, the Article 36 Committee agreed on a questionnaire⁵ on peer assessment of national terrorist arrangements.
- 1.4 Based on the analysis of the answers of the Member States⁶ four evaluation fields have been identified⁷.
- 1.5 The Article 36 Committee⁸ at its meeting of 23/24 January 2003, agreed to the following proposal for the first evaluation:

³ doc 12156/01 JAI 99 of 25 September 2001

⁴ doc OJ L 349 of 24 December 2002

⁵ doc 11722/1/02 REV 1 ENFOPOL 113 CATS 52 COTER 44 of 23 September 2002

⁶ doc 5339/1/03 REV 1 ENFOPOL 2 of 14 March 2003

⁷ doc 5340/03 ENFOPOL 3 of 17 January 2003

⁸ doc 5838/03 ENFOPOL 8 of 5 February 2003

"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."

- 1.6 At its meeting of 24/25 March 2003, the Article 36 Committee agreed on an additional questionnaire⁹ on "the exchange of information relating to Islamic extremist terrorist groups and their activities between law enforcement and intelligence services and all other bodies". Military structure or intelligence excluding as not being subject to the evaluation.

⁹ doc 6337/2/03 REV 2 ENFOPOL 11 RESTREINT UE of 02 April 2003

Agenda of the Visit / Participants

1.1 The frame given by the different decisions and the answers¹⁰ of Belgium to both questionnaires led to a list of authorities to be met as well as items and structures to be discussed. This list has been discussed with the Belgium preparation team as the basis of the agenda of the visit.

1.2 The visit took place from 22 to 26 September 2003, the agenda was as follows:

Monday, 22 September 2003

- presentation of the programme of the visit
- introduction of the services to be met
- Government Coordination and Crisis Centre
- participants:

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¹⁰ attachment of 31 October 2002 to doc 11722/1/02 REV 1 ENFOPOL 113 CATS 52 COTER 44 and attachment of 09 May 2003 to doc 6337/2/03 REV 2 ENFOPOL 11 RESTREINT UE

Tuesday, 23 September 2003

- Ministry of Justice
- Federal Prosecutor
- State Security
- participants:

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Wednesday, 24 September 2003

- General Commissioner of the Federal Police
- Services of the Federal Police
- participants:

NOT DECLASSIFIED

NOT DECLASSIFIED

Thursday, 25 September 2003

- Ministry of Foreign Affairs
- Ministry of Finances, Administration of Treasury
- Cell for the Processing of Financial Information
(the Belgian Financial Intelligence Unit)
- Customs and Excise
- participants:

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Friday, 26 September 2003

- Aliens Office
- Counter-terrorist Task Force
- participants:

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1.3 The visit was professionally prepared and organised. The thorough preparation by the Belgian authorities and the agenda which covered all counter-terrorism related fields of public administration presented a complete and well balanced overview regarding the responsibilities and competencies as well as the structure of the fight against terrorism in Belgium.

All responsible authorities have been present with high ranking representatives being excellently informed. All presentations were provided in paper copies and electronically versions. The information given has been complete and instructive.

The agenda provided enough time for discussions about the responsibilities and the way the services operate. Questions on all matters were answered most open and transparent and thus helped to work out not only good practices but also problems.

1.4 Due to the open and cooperative discussions and contributions during all meetings the evaluation visit was not only effective but ran in a very pleasant atmosphere.

The evaluation team would like to thank the Belgian authorities for the perfect preparation, the close cooperation and the excellent realisation of the evaluation and, moreover, for the cordial hospitality.

Apart from high ranking representatives of the different Ministries, the Minister of Justice herself was present at the welcome reception in honour of the expert team, which deserves special recognition.

Full Version of the Report

1. Prime Minister

The overall political responsibility for the security in Belgium, including the fight against terrorism lies with the **Prime Minister**. To this end, he chairs the **Intelligence and Security Ministerial Committee**¹¹, which is composed of the **Minister of Home Affairs, Minister of Justice, Minister of Defence, Minister of Foreign Affairs, Minister of Mobility** and others, if appropriate. Meeting on an ad hoc basis several times a year it sets the general intelligence policy, determines the priorities of the **Security of State - SE (FPS Justice)** and the **General Service for Intelligence and Security of the Armed Forces - SGR (FPS Defence)**, coordinates their activities and defines the policy regarding the protection of sensitive information.

The **Intelligence and Security College**¹², meeting at least monthly, implements and supervises the coordinated execution of the decisions of the **Intelligence and Security Ministerial Committee** and coordinates the involved security services. It is chaired by a representative of the **Prime Minister** and comprises of the representatives of the **Ministries of Foreign and Home Affairs**, the Commissioner General of the **Federal Police**, the leading official of the **General Directorate Crisis Centre**, the **Administrator General of the Security of State**, a **General Prosecutor** and the **Federal Prosecutor**, the **General Service for Intelligence and Security of the Armed Forces**, the Chairman of the **National Security Authority**.

2. Home Affairs

Basically the **FPS Home Affairs**, consisting among other of the **Government Coordination and Crisis Centre, Security and Prevention Policy Department** and the **Aliens Office**, is responsible for maintaining public order and security, prevention of crime - including terrorism - as well as VISA-access to the Belgian territory and residence permissions.

¹¹ set up by Royal Decree of 21 June 1966

2.1 Directorate General Crisis Centre¹³ (DGCC)

When, after several major events in the 80's, the Belgian Government noted the lack of a permanent authority for the government as a whole, of a missing crisis management at national level, of a missing infrastructure and of coordination problems, the **Directorate General Crisis Centre** was created in 1986.

A crisis is defined as an event which by its nature or consequences

- threatens the vital interests of the country or the essential needs of the population,
- demands urgent decision-makings and
- requires a coordination between different departments and organisations, and is assessed by a 4-level scale.

To prevent such a crisis or react the DGCC has

- to insure a permanent activity to gather, analyse and diffuse information to the services in charge,
- to be involved in the planning, coordination and follow-up of the security measures during large-scale events,
- to organise the security of persons including VIP's and institutions,
- and, in case of a national crisis, to support the authorities in charge with personnel, infrastructure and emergency procedures.

Housed at the FPS HA and working on a 24 hours / 7 days basis, the DGCC mainly is composed of ministerial staff but assisted by liaison officers of all relevant security authorities, in order to have the information collected, checked, confirmed and analysed by the responsible security service, if needed by means of coordination meetings with all relevant parties¹⁴.

The DGCC then provides the information to the responsible authorities and decides upon resources to be deployed.

¹² set up by Royal Decree of 21 June 1996

¹³ set up by Royal Decree of 1988

¹⁴ Security of State, General Service for Intelligence and Security of the Armed Forces, Anti-Terrorist Joint Group, Federal Police

At the crises management level, the DGCC exchanges information with all relevant bodies: Security of State, Federal Police, Federal Prosecutor, Counter-Terrorist Joint Group, General Service for Intelligence and Security of the Armed Forces, FPS Foreign Affairs, Embassies and Liaison Officers, both own and foreign. The exchange is made on basis of mutual interests and personal contacts.

As an organ of reference for the management of emergencies, in the context of terrorist threats as well as terrorist acts, a coordination and evaluation mechanism is set up by the DGCC.

In case of a terrorist attack the DGCC's task is the coordination and preparation for a rapid response, to coordinate the prompt evaluation of the terrorist threat on the basis of intelligence provided by other services and thus manage this situation. To this end, the DGCC relays on the threat assessment of the responsible authorities in order to decide about preventive or protective security measures for possible and potential terrorist targets. When this analysis is conducted, it provides appropriate security measures.

The DGCC has no function in investigation and no relations with Europol.

Cooperation at national Level

The DGCC is the national Belgium authority

- to handle a crisis and to manage the consequences,
- to inform the government and the public.

The DGCC is also the central point for the rapid alert systems.

A system to evaluate risks and threats is in place and crises situations trigger standardised procedures depending on the level of threat.

Adequate measures are defined individually for each crisis.

The coordination seems to be highly developed and to function without basic problems.

Cooperation at EU Level

The DGCC supports the federal departments and services in the event of a crisis with a national impact, but is also the official contact point for international incidents, and therefore communicates with other crises centres. The DGCC is neither involved in the permanent exchange of information between law enforcement and intelligence services nor in the exchange of information concerning investigations at national or international level, its relevance on national and international level concerning the fight against terrorism concentrates on the reaction to terrorist threats or acts.

For crises or incidents of an international nature, the DGCC is the official contact point of the Belgium Federal Government. The management of crises of international origin is as such centralised within the DGCC, and, for that purpose, the **Commission for National Defence Matters** is integrated within the DGCC since January 2002.

The DGCC communicates and exchanges information with other crises centres e.g. with the **Crises Centre of the EU-Council** regarding security aspects for EU-meetings. In case of special high-risk events, as the European Summit, an ad hoc **Management Cell** of all bodies involved is set up to coordinate intelligence gathered by national and international services.

According to the various presentations and discussions the system works well and fulfils its requirements.

Best practices

The composition of its staff and the liaison officers (coming from all relevant security bodies), and the meetings of relevant organisations in case of a crisis, some on a regular and some on an ad hoc basis, create direct contacts with short information lines and thus are successful in order to save time, to produce reliable assessments and to provide the responsible authorities with adequate information and instructions.

2.2 Federal Police Service

The integration of the Gendarmerie, the Judicial Police and communal police as a result of the 2001 reorganisation of the Belgian police services created an integrated police with a personnel strength of some 38.000 policemen at a two-level system of

- the **Local Police Services** (196 zones) and
- the **Federal Police Service**.

The **Federal Police** has law enforcement competence but gathers police intelligence as well and is in charge of the carrying-out of special missions of the administrative and judicial police, as well as specialised support missions to the **Local Police Services** by providing national and international coordination, conceptual work, expertise and support.

Under the responsibility of both, the Minister of Home Affairs and the Minister of Justice, the Commissioner General **of Police** heads five **General Directions** (**Administrative and Judicial Police, Operational Support, Human Resources and Logistics**) and coordinates their work.

Terrorism matters have been assigned to the **General Directorate of the Judicial Police**¹⁵ which to that end gathers police intelligence in the judicial districts. Moreover, judicial investigations are carried out by specialised investigation teams under the supervision of the judicial authorities (both local and federal prosecutors), organised within 27 deconcentrated services, which are in charge in the area of public order as well as terrorism. During the special Belgian Council of Ministers¹⁶ on police and justice, it was decided that the workforce of the central service and of 4 deconcentrated services in four major cities would be considerably increased, in the framework of the fight against terrorism.

¹⁵ cf Royal Decree of 03 September 2000

¹⁶ 30/31 March 2004

Within the **General Directorate of the Judicial Police** the **Directorate Crime against Persons** contains a **Central Department Terrorism and Sects**, which is responsible for the permanent national and international coordination of terrorism related matters and the functional and strategic analysis of information provided by local and federal investigation units, and produces a monthly report.

The **Directorate of Fight against Economic and Financial Crime** is the national contact point for all matters regarding the financing of terrorism, closely cooperating with the **CTIF - CFI (FIU)**.

The **Directorate of Public Order Policing** (organised within the **General Direction of Administrative Police**) is in charge of operational measures (composed by DGCC) of administrative police, e.g. coordination on police level for administrative police (protection) and staff distribution.

As a special security measure it creates a list of groups deserving particular attention¹⁷ which is approved by the Minister of Home Affairs, and in consultation with the Security of State as the frame for information gathering operations carried out by the police. The federal police is not allowed to tap individuals' phones in the framework of administrative police or in the framework of a proactive judicial investigation.

The **General Directorate of Operational Support** provides for the technical and functional management of the **National General Database** where all relevant information is stored. The police at both levels (federal and local) share a unique database that currently contains administrative and criminal information. Internal coordination and exchange of information is also reinforced by “Information Crossroads” (Carrefour d’Information - CIA) set up at the districts level with representatives of the federal and the local polices.

¹⁷ cf Mission Fédérale/Federale Opdrachten - MFO 3 Book 2 of 14 June 2002

The **General Directorate of Operational Support** also is responsible for the transmission, collection and dissemination of police information (not intelligence) with an international nature and the exchange with other Member States, Third States, EUROPOL and INTERPOL.

Cooperation at national level

Police-Cooperation

As reported, the cooperation and the exchange of information amongst the both national police levels have developed successfully and without obstacles.

Best Practices

Because a law for police information treatment makes the non-trans-mission of police information to the National General Database a criminal offence, the National General Database and its organisational regulations are a powerful approach.

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Cooperation with Judicial Authorities

The cooperation with the judicial authorities (federal and local prosecutors) takes place in the context of the judicial procedures, on a daily working basis and, at the top level, in weekly meetings (Federal Prosecutors - Police Chiefs). The cooperation and the exchange of information works well, no obstacles have been reported.

Cooperation with the Security of State

The exchange of information with the Security of State is based on the general principle of cooperation between administrations. The cooperation deals with individual cases, basing on defined targets but also on ad hoc events or requests and works via direct confidential reports, contacts or notes through the Federal Prosecutors Office or the Counter-Terrorist Joint Group.

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A protocol for collaboration is in preparation that will cover all possibilities of cooperation.

Recommendation

The direct and permanent exchange of information between the Federal Police Service and the Security of State is the basis for cooperation in order to create and maintain security. It should work on defined direct cooperation structures. For the time being, it has not been settled by means of a protocol; both sides are working on it.

Cooperation with Counter-Terrorist Joint Group

Regarding threat assessment, the cooperation with the Counter-Terrorist Joint Group has been reported as successful and efficient.

Cooperation with customs

The heads of the federal police and of customs expressed their intention to sign a cooperation agreement, among others with a view to fight terrorism.

Cooperation at EU level

Internationally the police is represented in EU fora and cooperates with many mainly law enforcement agencies. No problems were mentioned.

2.3 Immigration Office

The Immigration Department controls immigration flows by applying the regulations of access and residence. Visa are issued after checking relevant information sources (Security of State and Federal Police) and databases (national, EU and UN lists and SIS).

No special problems concerning the fight against terrorism have been reported.

2.4 Counter-Terrorist Joint Group – GIA

The GIA was created in September 1984 but founded on a legal basis by way of Royal Decree of 17 October 1991, defining duties and organisation.

Under the authority of both the Ministers of Home Affairs and Justice, and being composed of staff detached from the Police Services, the Security of State, the General Service for Intelligence and Security of the Armed Forces and administrative personnel, the GIA is a permanent institution in charge of gathering information from the relevant services, analysing and assessing it for the purpose of taking administrative and judicial police measures with regards to terrorist threats or actions against Belgium or Belgian citizens or interests abroad. The information may be strategic as well as operational and could contain personal data.

The GIA participates in the weekly coordination meetings organised by the Federal Prosecutors Office.

Cooperation at National Level

The GIA is the national body responsible for central threat assessments and the central analysis organ in the fight against terrorism. Its staff is composed of all competent services.

The cooperation works fast and produces reliable results and acknowledged reports. Problems have been reported concerning the insufficient way of being provided with the information needed, nearly non-existing contacts with the Customs and Excise Service and a quite small cadre of personnel.

Recommendation

Belgian authorities should reflect on the question

- whether working under the supervision of both Ministers (Home Affairs and Justice) might complicate the status of GIA or whether an organisational subordination to only one body would facilitate its work,
- how to improve the providing of information to the GIA by all bodies involved,
- and whether the involvement of Customs and Excise should be improved and, if appropriate, realised on a permanent basis.

Cooperation at EU Level

For collecting information at the EU-level, the GIA is connected with counter-terrorism services of the other Member States in the Police Working Group on Terrorism by means of a secure network which allows the encrypted transmission of phone calls, faxes and data.

The GIA has a department dealing with intelligence concerning Middle East origin which produces threat assessments on Islamic terrorism on the basis of intelligence, collected through the participating services and through national and international closed and open sources. Moreover, foreign liaison officers in Belgium and Belgian liaison officers abroad directly provide the GIA with reports and analyses about political and terrorism situations.

This threat assessment is, if possible, checked with other Member States in due time or compared with similar analyses to avoid differences in the approach of the international terrorism situation.

According to the presentation as well as to the outcome of the discussions the GIA is regarded as an important partner to produce reliable threat assessments.

3. Justice

The Minister of Justice is competent for the judicial investigations carried out under the command of the local prosecutors and the federal prosecutor. The criminal policy is determined by the Minister of Justice and the Board of the General Prosecutors. The Minister of Justice also supervises the Security of State which is the civil intelligence service.

3.1 Office of the Federal Prosecutor (Parquet Fédéral)

The **Board of General Prosecutors** heads five regional **General Prosecutors Offices** with 27 **Public Prosecutors Offices**, and the **Office of the Federal Prosecutor**.

The **Office of the Federal Prosecutor**¹⁸, acting directly under the Minister of Justice, was established in response to various problems¹⁹ in the domain of justice and police, specifically pertaining to the coordination of legal proceedings in connection with criminal matters outside the jurisdiction of a specific judicial district or beyond national borders. Moreover, it was tasked with addressing the area of complex and specialised investigations.

Four essential functions have been attributed to the Federal Prosecutor's Office:

- to institute criminal proceedings for special criminal offences (including offences against State Security and offences committed with violence against persons or material interests by persons motivated by ideological or political reasons, achieved through the use of terror, intimidation or threats, and offences concerning different national jurisdictions or possessing an international dimension),

¹⁸ becoming operational on 21 May 2002

¹⁹ cf i.e. Parliamentary Investigation Commission Report of 14 October 1997

- to oversee, monitor and coordinate criminal proceedings (in order to exchange information, to conduct criminal proceedings in the most efficient way and to prevent or solve conflicts concerning competencies between judicial authorities by centralising criminal proceedings in a specific prosecutor's office, and moreover, extent the centralisation to an examining magistrate if appropriate to improve the exchange of information),
- to facilitate international cooperation (e.g. execution of mutual assistance requests, transferring judicial and practical information, accelerating transmission to appropriate authorities and coordinating their execution, as well as assistance in the coordination of investigations on an international level) and
- to supervise the judicial activities and functions of the Federal Police (to ensure that specialised judicial missions are executed in accordance with the directives of judicial authorities, oversee the functioning of the anti-corruption unit and preside and manage the organisation responsible for all functions associated with the information management system).

The Federal Prosecutor's Office can involve itself or commit to a case on its own initiative or on a request by an authority involved.

The Federal Public Prosecutor's Office plays a major role in the fight against terrorism.

Firstly, the federal prosecutor can institute the criminal proceedings himself for offences concerning terrorism. Secondly, the federal prosecutor must, when requested to do so by the Minister of Justice, make sure that the police services act in a coherent and coordinated way with regard to terrorism. Thirdly, the Federal Public Prosecutor's Office is involved in many political and international initiatives in the fight against terrorism.

Within the Federal Public Prosecutor's Office, three federal magistrates are in charge of following up the issue of terrorism.

In the period between 21 May 2002 and 31 August 2003, these magistrates have dealt with 337 general and specific information regarding terrorism, provided by the federal police, the intelligence and security services, the GIA, Interpol, Europol, the international legal institutions, the CTIF-CFI, the liaison officers, customs, Eurojust, the European Union, the FPS Justice, the FPS Home Affairs, the FPS Foreign Affairs. During the same time, the Federal Public Prosecutor's Office also carried out 42 investigations regarding terrorism. The vast majority of these investigations (at proactive and reactive level) are still going on²⁰.

According to the Law and a judicial guideline²¹, the Security of State is to provide the Federal Prosecutor and (via the Federal Prosecutor) the local prosecutor in charge with information indicating judicial breaches, once they are informed about a crime or an offence, even if it has not yet been committed. To that end, the Federal Prosecutor and the local prosecutors don't need a special security clearance to get access to the information because he have it by their functions.

The examining prosecutor or magistrate can ask the Security of State to assist with technical experts in judicial inquiries.

²⁰ The case that drew the most attention is the federal investigation against Mr. Trabelsi. More specifically, there were two cases annexed to request of the Federal Public Prosecutor's Office that related to the following cases:

The first case refers to the existence of an international network for the transfer of volunteers of radical Islamist movements into the Pakistan-Afghanistan area, wishing to settle there or to receive paramilitary training. This network used forged identity documents or visa; the murderers of Commander Massoud used such documents too. 12 persons were charged, among others, with criminal conspiracy, forgery and recruitment for a foreign army.

The second case refers to the preparation of suicide attacks against American interests in Belgium, relating to terrorist attacks such as those of 11 September 2001. This case also deals with the existence, on Belgian territory, of a logistic network in preparation of that project. 13 persons were charged, among others, with attempting to blow up a building, criminal conspiracy, forgery and membership of a private militia.

The verdict pronounced on 30 September 2003 by the Court in Brussels, largely followed the claims of the Federal Public Prosecutor's Office and declared that the aforementioned charges were grounded. By pronouncing prison sentences ranging from 4 to 10 years and declaring guilty 18 of the 23 accused persons, the court gave a quite severe judgment. The accused lodged an appeal against the judgement.

²¹ Col 13/99

Before the creation of the Office of the Federal Prosecutor the national magistrates set up a Task Force Terrorism, which met once a month and gathered the various services involved in the fight against terrorism. The objective was to develop a better mutual exchange of information as well as to put the national magistrates in a better position regarding information, so that they could properly fulfil their mission of coordination.

Best Practices

Since the Federal Public Prosecutor's Office was set up, terrorism comes under the authority of that office and the federal prosecutor is in a position to institute himself the criminal proceedings in that regard. In that area, a working method that is more in line with this new reality was developed within the Federal Public Prosecutor's office, what has led to a "case-related approach". Such an approach implies, in the framework of a concrete case, that the police, the intelligence and security services and the GIA punctually meet around the table, under command of a federal magistrate, with a view of splitting up the tasks.

Moreover, a weekly coordination meeting takes place between the three federal magistrates in charge of terrorism, the police officers of the federal police services, which are specialised in the approach of terrorism as well as the local prosecutor in Brussels in charge of terrorism. At this meeting, the ongoing "federal" investigations on terrorism are discussed (update on the investigation, specific problems, expected evolutions in the investigation...) and general information is exchanged (meetings, working groups, seminars, reports, threat analyses...). This is naturally beneficial to the cooperation and to the exchange of information. The weekly coordination meeting also represents the perfect forum to exchange views on international cooperation on terrorism and on problems that could arise in that regard. If required, the Federal Public Prosecutor's Office can also play an arbitration role.

Cooperation at National Level

Cooperation with the Police Services

The cooperation between the Police and the judicial authorities takes place in the context of the judicial procedures, on daily bases and, at the top level, in weekly meetings (Federal Prosecutors - Police Chiefs).

Problems have not been reported.

Cooperation with the Security of State

The relationship between the Security of State and the Judicial Authorities is considered essential, since a substantial part of the enquiries carried out by the Security of State leads to judicial processes.

Moreover, the coordination role of the Federal Prosecutor, regulated by the aforementioned confidential protocol, is a very important factor due to his possibility to appoint intelligence officers as technical experts in judicial investigations. This grants access for the Security of State to information during the respective judicial investigations and allows an effective ad hoc exchange of information, also towards the special judicial file.

Cooperation on EU-Level

The judicial cooperation on EU and international level follows the channels of the International Conventions and EU instruments in which the Federal Prosecutor holds a substantial coordination role.

No problems have been reported.

3.2 Security of State (Sûreté de l'Etat - SE)

The Security of State, the civil security and intelligence service, is an autonomous service placed directly under the authority of the Minister of Justice.

The competencies of the Security of State are in the 1998 Act on Intelligence and Security Services defined as research, analysis and exploitation of intelligence concerning all activities (espionage, terrorism, extremism, proliferation, harmful sectarian organisations, criminal organisations, interference) threatening e.g. the interior and exterior security of the State, its scientific and economic potential, the continued existence of the democratic and constitutional order and the international relationships. Moreover, the Security of State is responsible for security assessments and the protection of public figures on Belgian soil (which in most of the Member States is the task of a law enforcement body).

The Security of State has a general competence in matters of terrorism, including the fight against the financing of terrorism, and an ad hoc unit dealing with Islamic extremist terrorism.

The Security of State has no legal possibility to carry out interception of telephone communication.

The Security of State has no direct access to police data, for example the National General Database.

Cooperation at National Level

The Security of State gathers intelligence via its own channels. It participates in the coordination bodies (DGCC, GIA) and, in case of a crisis, attends coordination meetings. On the national level the Security of State cooperates with the Federal Prosecutor, the Federal Police and other organisations. The cooperation is limited by source protection and the stage of intelligence operations.

The joint presentation and the discussions with most of the partners did not indicate communication problems.

Cooperation with the Federal Prosecutor

The relation and cooperation with the judicial authorities (prosecutors and magistrates) is laid down in an official guideline. The information given to the prosecutors is often used to launch an investigation. Moreover, Security of State experts can be appointed in investigations as technical experts, which is seen as a basis for an ad hoc information exchange.

The exchange of information with the Federal Police regarding the fight against terrorism usually deals with individual cases.

To avoid conflicting operations between the Federal Police and the Security of State general targets are discussed and activities coordinated in ad hoc meetings of representatives of the Federal and the local Prosecutor, the Security of State, the GIA and the Federal Police.

Judicial authorities and in particular the Federal Prosecutor are involved as experts in the creation of guidelines concerning the Security of State and, moreover, the Federal Prosecutor is the central point for coordination and judicial information exchange with the police.

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Cooperation at EU Level

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Moreover it participates in the (non operational) exchange of information with the EU and other international bodies (Working Party on Terrorism - TWP, NATO Office of Security - NOS).

4. Finance

4.1 Cell for the Processing of Financial Information

The **Cell for the Processing of Financial Information - CTIF-CFI** (the Belgian **Financial Intelligence Unit - FIU**) is an independent administrative body under the external supervision of the Ministers of Finance and Justice that collects and analyses financial information linked, inter alia, to terrorism, from the financial institutions and individuals that are subject to the anti-money laundering legislation²². It collects additional information from e.g. the police services and the administrative services of the State. If there is serious indication for an investigation and prosecution the file is sent to the responsible judicial authority (68 transmissions to date; 25 of them either led to a conviction or are pending a judicial decision and 23 of these transmissions are currently under investigation, 20 other transmissions have been shelved). The FIU can oppose execution of transactions for two working days.

²² law of 11 January 1993

4.2 Treasury Department

Once the EU and UN lists are published and communicated via a mailing system, the banks ran checks and report a hit to the CTIF-CFI (procedure above) and to the Treasury Department, which check data with the police, the prosecutors and the Security of State to confirm the identity of the account holder. If the hit is confirmed, the account is frozen.

Since 9/11, 178 accounts have been subject to such administrative freezing; for the time being investigation have led to 9 cases with relatively small sums being blocked, most of the files still were open.

Cooperation at National Level

The exchange of information with counter terrorism services (Security of State and Federal Police) is effective in providing a multidisciplinary approach to the investigations; no obstacles or hindrances were identified; the cooperation between the services involved is reported to be good.

Cooperation at EU-Level

Principally the same applies to the cooperation at EU-Level.

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4.3 Administration of Customs and Excise

The **Administration of Customs and Excise (Administration des douanes et accises)** is involved in the implementation of measures for the "protection of society and for safety" in order to prevent and combat in particular terrorism through "closer cooperation between police forces, customs authorities and other competent authorities in the Member States, both directly and through ... Europol²³."

Customs and Excise bears the prime responsibility for the control of goods, mainly at the entry into the community territory. Given that dangerous goods may be imported for terrorist attacks or merchandise can be used as means to finance terrorist organisations the Belgian Customs and Excise has the power to investigate and prosecute offences related to customs and excise matters.

Illicit traffic in weapons²⁴, dual-use-goods²⁵, ammunition, explosive materials, dangerous and toxic waste, nuclear material, or material or equipment intended for the manufacture of atomic, biological and/or chemical weapons (prohibited goods) and mutual administrative assistance concerning these goods is normally dealt with by customs and excise specialised investigation branches in cooperation with other law enforcement agencies.

To fulfil its tasks Customs and Excise has far reaching competencies for controls (visitation, house searches and sampling) and for settlement (settle, recover and prosecute all Customs and Excise infringements without intervention of public prosecutor). Sometimes Customs law has priority over criminal law, e.g. in case of weapon smuggling the prosecutor can not prosecute before the customs investigation is closed or another decision has been taken.

To control and improve the flow of information Customs and Excise is working on the Belgian initiatives "paperless customs" and "electronic customs".

²³ cf TEU, Title VI, Article 29

²⁴ Belgian Law of 1992 on the importation, exportation and transit of weapons

²⁵ Belgian Law of 1962 on the exportation and importation of dual-use-goods

The creation of an own "Intelligence Group" within the Customs and Excise is considered to define risk parameters linked to terrorism.

Nevertheless the capacity of investigation in terms of human resources is reported to be very limited.

Customs and Excise are focusing cooperation on the direct bilateral exchange of information with partners in the United States based on the **Container Security Initiative** (CSI).

Cooperation at National Level

Customs and Excise reported about a lot of electronically available information and their efforts to further develop their databases and computer applications.

Customs and Excise reported not to be involved in the fight against terrorism, their efforts are not noticed by the other organisations. The information gathered is not generally exchanged with any other administration or services, except in rare individual cases.

With most of the administration Customs and Excise sees its cooperation as a one way street with no feedback on results.

Customs and Excise does not have any protocol or MoU with any counterpart.

The Council of Belgian Ministers (see footnote 16 on page 23) noted that Customs and Excise has to play its overall role in the integrated management of the external borders of the EU. Its role in the International Ship and Port Facility matters has to be decided on by the Council of Ministers and an in depth study is to be made on its role in the fight against the different forms of terrorism.

Recommendation

According to Customs and Excise report, coordination and cooperation with other law enforcement (such as the Federal Police) and intelligence (Security of State, in particular referring to non-proliferation, catch-all-clause, list of foreign critical companies, risk analysis and "Customs and Excise Intelligence Group") bodies should be checked and, if appropriate, be improved to encourage the inter-link between databases of different services, in particular, to make available the information held by the Customs and Excise to other services and to minimise the risk of collision of investigations with other services.

Cooperation on EU-Level

Customs and Excise coordinates its own activities on national level but could also coordinate international requests and address other parts of the administration. The poor role in coordinating is mirrored in the exchange of information. Europol is seen as an important channel and the Analyse Work Files are recognised as important tools which should be used more.

5. Foreign Affairs

The **FPS Foreign Affairs** task is to determine the Belgium policy on terrorism by coordination with the other relevant FPSs so as to establish a national position in the various international fora (EU, CoE, UN). It is involved in the movements of persons (Visa, passports, travel advices), and through its overseas diplomatic missions it can offer assistance to victims of terrorism abroad, make representations to encourage the fight against terrorism and report on all aspects of international terrorism.

On 19 December 2003, the law relating to terrorist offences was adopted implementing the Framework Decision on Combating Terrorism²⁶.

²⁶ doc OJ L 164 of 22 June 2002

Cooperation at National Level

FPS Foreign Affairs coordinates the Belgian policy towards EU (COTER, Clearing house) and international fora and takes care that Belgium implements international instruments. This demands close cooperation with different parts of the administration like FPS Home Affairs, Finance and Justice.

It applies also for the cooperation regarding the various lists in order to reduce their uncertainties and to improve the available information.

To that end the exchange with police and judicial authorities is seen as important in order to identify persons and to get evidence to be able to seize assets.

The system is reported to work well, no problems have been identified.

Expert Team

- 1.1 According to the Council Decision of 28 November 2002 the Presidency presented a list of national experts²⁷ designated by Member States to take part in the evaluation.
- 1.2 The assignment of these experts to Member States and the order of the evaluation visits was presented to the Article 36 Committee at its meeting of 23 June 2003²⁸.
- 1.3 Subsequently the team for the evaluation of Belgium was composed of

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- 1.4 According to the decision the Article 36 Committee took at its meeting of 19 and 20 February 2003²⁹, to involve Europol's expertise in the evaluation exercise, the evaluation team was assisted by

²⁷ doc 7717/03 COR 1 (en) LIMITE ENFOPOL 20 of 26 March 2003

²⁸ doc 10239/1/03 REV 1 LIMITE ENFOPOL 49 of 04 August 2003

²⁹ doc 7239/03 CATS 17 COMIX 150 of 10 March 2003

- 1.5 The expert team has been provided in advance with all necessary documents.
- 1.6 This report has been drafted in cooperation of the expert team members
- in line with the conclusions of 20 September 2001 in which the JHA-Council emphasised "the important role of the Security and Intelligence services in the fight against terrorism" and that the "cooperation between the police services, including Europol, and the intelligence services will have to be strengthened",
 - within the frame of the remit of the evaluation as laid down in the decision of the Article 36 Committee,
 - on the basis of the documents mentioned above, particularly the Belgium answers to both questionnaires,
 - on the basis of the presentations and additional documents given during the visit on site and as result of the discussions.

The evaluation team focused on cooperation and coordination aspects and the exchange of information between bodies on all national and EU levels. Belgium's legal framework was part of the discussion as far as it was necessary to understand organisational arrangements. Especially the implementation of the EU-Framework Decision on Combating Terrorism, but also the legal framework concerning cooperation between organisations, the flow of information and the participation of the Security of State in judicial investigations were points of interest.