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ANNEX

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Brussels, 24 May 2005

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NOTE

From: General Secretariat
To: Working Party on Terrorism

Subject : Evaluation of National Anti-Terrorist Arrangements
Report about Poland, 13-17 December 2004

Evaluation of Poland, 13-17 December 2004

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1. Crime/Terrorism Situation

Poland regards new global challenges in the 21st century stemming from tensions and instabilities provoked by international terrorism and the proliferation of weapons of mass destruction as well as unpredictable policies of authoritarian regimes and "failed states". Subsequently, changes in security environment essentially consist in a shift of emphasis away from the classical risks like armed invasions, towards unconventional risks and asymmetric threats originating from hardly identifiable non-state entities.

In particular the unprecedented scale and intensity of terrorism defines the new threat, endangering the security of citizens, facilities and services essential to the effective governance of States.

1.1 Domestic Terrorism

Currently there are no situations in Poland which could be taken into consideration in the context of domestic terrorism. However, in compliance with the Internal Security Agency statutory objectives extremist circles are being monitored, which could potentially pose threat to the security. Consolidation of extremist left-wing circles and persons with Arabic background mainly with reference to the ability of financial support of extremist behaviour seems to be the most alarming phenomenon.

1.2 International Terrorism

For the past years, Poland has not been endangered with terrorist attacks. However, the perception as a representative of the western world as well as the military and political involvement in Iraq has resulted in a changed assessment of the threat posed by terrorist groups.

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At present, the Internal Security Agency is not aware of any information indicating an imminent threat of international terrorist attacks in Poland.

2. Structure of Authorities

2.1 General Situation

The Parliamentary system in Poland has a long tradition. The first Sejm¹, held in the second half of the 15. century, although its power was partly limited, for a long period gave the country a certain stability. A constitution was passed in 1791, the first written one in Europe and the second world wide after the United States of America.

After a period of foreign rules, since 1990, when Lech WALESZA, the former speaker of the SOLIDARNOSC UNION was elected President, since 1991 with the free elections for the Sejm and the Senate, and with the passing of a new constitution in 1997, Poland went back to democracy.

¹ Imperial Diet / Lower House of the Polish Parliament;

In 1991, Poland became member of the Council of Europe.

Poland nowadays is governed by means of a mixed parliamentary and cabinet system. The Power is divided between the legislative authority (exercised by the Sejm, the Senate and, to a certain extent, the Constitutional Tribunal), the executive authority (President, Prime Minister, Council of Ministers) and the judicial authority (independent judicial system with general, administrative and military courts).

Poland has sixteen Voivodships² and nearly 40 Million inhabitants.

2.2 Political and Security Structure

In Poland, the **Internal Security Agency**, the **Police**, the **General Inspector of Financial Information**, the **Border Guard** and the **Customs and Excise Service** (as well as the **Foreign Intelligence Agency** for abroad) gather information which could indicate the possibility of committing a crime.

On the level of the agencies and services, the **Coordination Team on Operational Aspects of Combating Political Terrorism** the **Government Intelligence Community** and the **Task Group for Crisis Management**, on ministerial level the **Committee for Intelligence Services** and the **Interministerial Centre for Combating Organised Crime and International Terrorism** are competent in the field of coordination.

The **Public Prosecutor's Office** explained its competence to supervise the legality of the agencies' and services' actions in accordance with the Polish Constitution and laws. As far as the Internal Security Agency is concerned, the Prosecution Office confirmed its responsibility to cover even the early preliminary phase of gathering intelligence against terrorism and espionage before starting investigations.

² Polish administrative provinces;

In 2004, the Polish Penal Code was amended and the definition and offence of the terrorist character was introduced.

3. Conclusions

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Within the Police there is the Central Bureau of Investigation of the General Headquarters which supervises and coordinates operational and investigative activities in the field of terrorism.

In permanent contacts with their partner services in other Member States, both services obtain analytical and operational information from other Member States and the competent European Union working groups.

Other agencies deal with the fight against terrorism in the fields of their competencies too, but mostly play auxiliary roles.

Within the existing system terrorism related information is passed to the Internal Security Agency or to the Police. Other competent authorities are informed immediately. Further actions are being consulted on the forum of coordination groups, where a decision is made, which service could most efficiently make use of the data and, as a result, should take the leading role in this case. Thus the most skilled and experienced service is the one that acts.

According to the overall impression of the expert team the variety of bodies on the political as well as on the agencies level with at least partly overlapping competencies require serious coordination efforts.

For Poland the overlapping of competencies is not a problem as such, but the coordination of various activities (such as decisions on objectives, long-term strategies and proposals for legal changes) is of basic importance. Thus the mechanism of coordination is based on a common understanding between the respective services, and to this end ongoing consultations are conducted.

For the time being Poland has not been forced to prove the functioning of its system on a real case of international terrorism.

3.1 Good Practices

3.1.1 Internal Security Agency as Intelligence and Investigation Service

The responsibility of the Internal Security Agency, dealing with the preliminary collection of intelligence as well as running the investigations up to the prosecution of cases of terrorism, using the same executive powers and being armed as the Police, is appropriate to avoid breaches of information flow and seems an effective tool to deal with international terrorism.

3.1.2 FIU Consolidating UN, EU and other Lists

The FIU consolidates the lists drawn up in the framework of the United Nations, the European Union and other fora. These lists are transmitted to the financial institutions in Poland and form the basis for the obligatory freezing of assets.

This implies that the financial institutions are confronted with a single, authentic list and do not have to consult several documents drawn up by the United Nations, the European Union and other fora.

3.2 Recommendations

3.2.1 Staff Exchange Program

Several Member States reported about excellent experiences with programs of systematically staff exchange between different services as a tool to enhance mutual understanding of tasks, problems and solutions of the different bodies and thus improve all kinds of cooperation.

Poland provides many common trainings and programs for officers of different services to learn about the tasks and methods, legal acts and procedures concerning other services and public administration at various stages of their education.

Following the recommendation of the Interim Report on the Evaluation of National Anti-Terrorist Arrangements³, Polish authorities are recommended to reflect whether these common trainings should be taken as a good first step to facilitate a program of the exchange of staff at national level.

3.2.2 Internal Security Agency's Access to National Databases

One recommendation of the Interim Report is the access of the national security service to the national security related databases.

Due to the fact, that in Poland every service and agency runs its own database, Polish authorities are recommended to reflect about a legal possibility to give the Internal Security Agency access to those databases.

³ doc. 14306/3/04 REV 3 ENFOPOL 155 of 23 November 2004,

3.2.3 Police's Access to National Databases

The Police didn't face serious problems which could make the circulation of information difficult, but the speed of exchange of information was reported as sometimes being rather slow.

Moreover, the Police reported that better access to the data bases of other national services would be useful, particularly since receiving information often lasts too long, compared to the dynamics of the conducted activities.

Polish authorities are recommended to deal with this problem to find a legal base to grant the Police access to the databases of other national bodies as far as needed.

3.3 EU / International Level

3.3.1 Speeding up International FIU-Cooperation

Poland argued that it is possible to improve the speed of information exchange regarding the fact that sometimes the requested information comes too late.

In terms of financial intelligence following improvements could be done:

- speeding up works on FIU.NET,
- creating effective coordination on the EU level, maybe creating the EU FIU.