



**COUNCIL OF
THE EUROPEAN UNION**

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COVER NOTE

from : Javier Conde, Permanent Representative of the Kingdom of Spain
date of receipt : 14 March 2002
to : Javier Solana, Secretary-General of the Council of the European Union

Subject : Initiative of the Kingdom of Spain with a view to adopting a Council Decision on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with Article 4 of Council Common Position 2001/931/CFSP

Sir,

Under Articles 30, 31 and 34(2)(c) of the Treaty on European Union, I enclose an initiative of the Kingdom of Spain pursuant to Article 4 of Council Common Position 2001/931/CFSP of 27 December 2001.

The aim of this initiative is to increase mutual assistance in preventing and combating terrorist acts through police and judicial cooperation with regard to persons, groups and entities listed in the Annex to the Common Position.

We should be very grateful if, in accordance with Article 17 of the Council's Rules of Procedure, this initiative were submitted to Coreper as an item in part II of its agenda, for publication in the Official Journal and forwarding to the European Parliament for its Opinion.

(Complimentary close).

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 30, 31 and 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Spain,

Having regard to the Opinion of the European Parliament,

Whereas:

- (1) At its extraordinary meeting on 21 September 2001, the European Council stated that terrorism is a real challenge to the world and to Europe and that the fight against terrorism will be a priority objective of the European Union.
- (2) On 28 September 2001, the United Nations Security Council adopted Resolution 1373(2001) laying down wide-ranging strategies to combat terrorism and in particular for the fight against the financing of terrorism.
- (3) On 8 October 2001, the Council of the European Union reaffirmed the determination of the European Union and its Member States to play their full part, in a coordinated manner, in the global coalition against terrorism, under the aegis of the United Nations.
- (4) On 19 October 2001, the European Council stated that it is determined to combat terrorism in every form throughout the world and that it will continue its efforts to strengthen the coalition of the international community to combat terrorism in every shape and form, for example by increased cooperation between the operational services responsible for combating terrorism: Europol, Eurojust, the intelligence services, police forces and courts.

- (5) The European Union should take additional measures to implement United Nations Security Council Resolution 1373(2001).
- (6) Article 4 of Council Common Position 2001/931/CFSP on the application of specific measures to combat terrorism provides that Member States shall, through police and judicial cooperation in criminal matters, within the framework of Title VI of the Treaty on European Union, afford each other the widest possible assistance in preventing and combating terrorist acts.
- (7) This Council Decision is the first step towards the adoption of specific measures concerning persons, groups and entities referred to in Article 4 of Common Position 2001/931/CFSP,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of this Decision:

- (a) "the listed persons, groups or entities" means the persons, groups or entities listed in the Annex to Council Common Position 2001/931/CFSP on the application of specific measures to combat terrorism;
- (b) "terrorist offences" means the offences referred to in Articles 1 to 3 of the Framework Decision on combating terrorism;
- (c) "Europol Convention" means the Convention of 26 July 1995 on the establishment of a European Police Office;
- (d) "Eurojust Decision" means the Council Decision setting up Eurojust with a view to reinforcing the fight against serious crime.

Article 2

1. Each Member State shall designate a contact point within its police services, which will have access to and collect the information concerning and resulting from criminal investigations conducted by its law enforcement authorities with respect to terrorist offences involving any of the listed persons, groups or entities.
2. The information shall include, as a minimum, and provided they are known, the following data:
 - (a) data which identify the person, group or entity,
 - (b) acts under investigation and their specific circumstances,
 - (c) links with other cases,
 - (d) the use of communications technologies,
 - (e) the threat posed by the possession of weapons of mass destruction.
3. Each Member State shall ensure that the information referred to above, collected by the contact point, is communicated to Europol, in accordance with the provisions of the Europol Convention, with a view to its processing pursuant to Article 10, and particularly Article 10(6), of that Convention.

Article 3

1. Each Member State shall designate a contact point within its judiciary, which will have access to and collect the information concerning and resulting from criminal proceedings conducted under the responsibility of its judicial authorities, with regard to terrorist offences involving any of the listed persons, groups or entities. The contact point shall be the Eurojust national correspondent for terrorism matters in those Member States in which such a contact point has been designated.

2. The information shall include, as a minimum, and provided they are known, the following data:
 - (a) data which identify the person, group or entity,
 - (b) acts under investigation and their specific circumstances,
 - (c) links with other cases,
 - (d) mutual legal assistance requests, including letters rogatory, which may have been made by or to another Member State, as well as the results of these.

3. Each Member State shall ensure that the information referred to above, collected by the contact point, is communicated to Eurojust, in accordance with the provisions of the Eurojust Decision, to enable it to carry out its tasks.

Article 4

Member States shall fully exploit the possibilities and advantages of the joint investigation teams, in order to investigate and prosecute terrorist offences involving any of the listed persons, groups or entities.

Article 5

Member States shall ensure that information communicated by them to Europol and Eurojust, pursuant to Articles 1 and 2, can be exchanged between Europol and Eurojust pursuant to an agreement on cooperation which may be signed between these two bodies, in accordance with the Europol Convention and the Eurojust Decision.

Article 6

Each Member State shall take the necessary measures to ensure that requests from other Member States for mutual legal assistance and recognition and enforcement of judgments in connection with terrorist offences involving any of the listed persons, groups or entities, are dealt with urgently and as a matter of priority.

Article 7

Each Member State shall take the necessary measures to ensure that any document, file, item of information, object or other means of evidence, seized or confiscated in the course of criminal investigations or criminal proceedings against any of the listed persons, groups or entities, can be made accessible or available immediately to the authorities of other Member States where investigations against those listed persons, groups or entities are being carried out or might be initiated.

Article 8

This Decision shall take effect on the date following its publication in the Official Journal of the European Communities.

Done at Brussels, ...

Council Declaration

Europol and Eurojust shall facilitate the holding of regular meetings, at least once every quarter, for operational purposes and in order to achieve the best and most effective implementation of this Decision.
