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REPORT

on the initiative of the Republic of Austria with a view to adopting a Council decision on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations (15437/2006 – C6-0058/2007 – 2007/0803(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Armando França

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the initiative of the Republic of Austria with a view to adopting a Council decision on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations
(15437/2006 – C6-0058/2007 – 2007/0803(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the initiative of the Republic of Austria (15437/2006)
 - having regard to Articles 30, 32 and 34(2)(c) of the EU Treaty,
 - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0058/2007),
 - having regard to Rules 93 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0507/2007),
1. Approves the initiative of the Republic of Austria as amended;
 2. Calls on the Council to amend the text accordingly;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls on the Council to consult Parliament again if it intends to amend the initiative of the Republic of Austria substantially;
 5. Instructs its President to forward its position to the Council and the Commission, and the government of the Republic of Austria.

Text proposed by the Republic of Austria

Amendments by Parliament

Amendment 1
Recital 4

(4) No single Member State has all the means, resources and expertise at its disposal to deal effectively with all possible kinds of large scale crisis situations requiring special intervention. It

(4) No single Member State has all the means, resources and expertise at its disposal to deal effectively with all possible kinds of *specific or* large scale crisis situations requiring special

is therefore of crucial importance that each Member State be able to request the assistance of another Member State.

intervention. It is therefore of crucial importance that each Member State be able to request the assistance of another Member State.

Amendment 2
Recital 5

(5) This Decision sets out some general rules on liability, including rules on criminal liability, in order to provide a legal framework for circumstances in which Member States concerned agree to request and provide assistance. The availability of this legal framework and of a declaration indicating the competent authorities will allow the Member States to react speedily and gain time in the event a crisis situation arises,

(5) Council Decision 2007/.../JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime ("the Prüm Decision"), and in particular its Article 18, regulates forms of police assistance between Member States in connection with mass gatherings and similar major events, disasters and serious accidents. This Decision does not cover mass gatherings, natural disasters or serious accidents within the meaning of Article 18 of the Prüm Decision, but complements those provisions of the Prüm Decision which provide for forms of police assistance between Member States through special intervention units in other situations, i.e. in man-made crisis or terrorist situations presenting a serious direct physical threat to persons, property, infrastructure or institutions, in particular hostage taking, hijacking and similar events.

With this in view, each Member State should indicate the competent national authorities from which the other Member States concerned may request assistance or intervention.

Justification

It is important to make clear what is the main goal of this decision in order to justify the adoption for such a measure in addition to the Prüm Decision.

Amendment 3
Recital 5 a (new)

(5a) The availability of this legal framework and of a compendium indicating the competent authorities will allow the Member States to react speedily and gain time in the event that such a crisis situation arises. Moreover, with a view to enhancing Member States' ability to prevent and respond to such crisis situations, and in particular terrorist incidents, it is essential for the special intervention units to meet regularly and organise joint training sessions, so as to benefit from mutual experiences.

Amendment 4
Article 1

This Decision lays down general rules and conditions to allow for special intervention units of one Member State to provide assistance and/or operate on the territory of another Member State (hereinafter referred to as the "requesting Member State") in cases where they have been invited by the latter Member State and have agreed to do so in order to deal with a crisis situation.

This Decision lays down general rules and conditions to allow for special intervention units of one Member State (*hereinafter referred to as the "requested Member State"*) to provide assistance and/or operate on the territory of another Member State (hereinafter referred to as the "requesting Member State") in cases where they have been invited by the latter Member State and have agreed to do so in order to deal with a crisis situation. ***The practical details and implementing arrangements complementing this Decision shall be agreed directly between the requesting Member State and the requested Member State.***

Amendment 5
Article 2, point 1

1) "special intervention unit" shall mean ***any*** law enforcement authority of a Member State which is specialised in the control of a crisis situation.

1) "special intervention unit" shall mean ***the*** law enforcement authority of a Member State which is specialised in the control of a crisis situation.

Justification

The aim is to clarify the objective of the proposal for a decision.

Amendment 6 Article 2, point 2

2) "crisis situation" shall mean any man-made situation in a Member State **presenting** a serious direct physical threat to persons or institutions in that Member State, in particular **hostage-taking, hijacking and similar incidents**.

2) "crisis situation" shall mean any man-made situation in a Member State **giving rise to reasonable grounds for believing that a criminal act has been, is being or will be committed which presents** a serious direct physical threat to persons, **property, infrastructure** or institutions in that Member State, in particular **those situations referred to in Article 1(1) of Council Framework Decision 2002/475/JHA of 13 June 2002¹**.

¹ OJ L 164, 22.6.2002, p. 3.

Amendment 7 Article 2, point 2 a (new)

2a) "competent authority" shall mean the national authority which may make requests and give authorisations regarding the deployment of the special intervention units.

Amendment 8 Article 3, paragraph 1

1. *A* Member State may ask to be assisted by a special intervention unit of another Member State with a view to dealing with a crisis situation. *A* Member State may accept or refuse such a request or may propose a different kind of assistance.

1. **Through a request via the competent authorities setting out the nature of the requested assistance as well as the operational necessity thereof, a** Member State may ask to be assisted by a special intervention unit of another Member State with a view to dealing with a crisis situation. **The competent authority of the**

requested Member State may accept or refuse such a request or may propose a different kind of assistance.

Amendment 9
Article 4

General rules on liability

1. Where, in accordance with this Decision, officers of a Member State operate in the territory of another Member State, the latter Member State shall be liable for any damage caused by them during their operations.

2. By way of derogation from paragraph 1, where the damage results from actions that were contrary to directions given by the requesting Member State or were beyond the limits of the of the relevant officers' powers under their national law, the following rules shall apply:

(a) a Member State in whose territory the damage was caused shall make good such damage under the conditions applicable to damage caused by its own officers;

(b) a Member State whose officers have caused damage to any person in the territory of another Member State shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf;

(c) without prejudice to the exercise of its rights vis-à-vis third parties and with the exception of point (b), each Member State shall refrain in the circumstances provided for in this paragraph from requesting reimbursement of damages it has sustained from another Member State.

Civil and criminal liability

When officers of a Member State operate within the territory of another Member State and/or equipment is used under this Decision, the provisions on civil and criminal liability, set out in Articles 21 and 22 of the Prüm Decision shall apply.

Amendment 10
Article 5

Article 5

deleted

Criminal liability

During the operations referred to in Article 3, officers operating in the territory of another Member State shall be regarded as officers of that Member State with respect to offences committed against them or by them.

Amendment 11

Article 6

Member States shall ensure that their **relevant authorities** hold meetings and organise joint training and exercises, **whenever necessary**, with a view to exchanging experience, expertise and general, practical and technical information about providing assistance in crisis situations.

All the participating Member States shall ensure that their **special intervention units** hold meetings and **regularly** organise joint training **courses** and exercises, with a view to exchanging experience, expertise and general, practical and technical information about providing assistance in crisis situations. **Such meetings, training and exercises may be funded under certain financial programmes of the Union, to obtain grants from the budget of the European Union. In this context, the Member State holding the Presidency of the EU shall endeavour to ensure that such meetings, training and exercises take place.**

Amendment 12

Article 7

Each Member State shall bear **its own** costs, unless otherwise agreed between the Member States concerned.

The requesting Member State shall bear **the operational** costs **incurred by the requested Member State's special intervention units in connection with the application of Article 3, including transport and accommodation costs**, unless otherwise agreed between the Member States concerned.

Amendment 13
Article 8, paragraph 4 a (new)

4a. Nothing in this Decision shall be construed as permitting the application of these rules governing cooperation among the law enforcement agencies of the Member States to relations with the respective agencies of third countries in circumvention of the existing rules applicable to international police cooperation under national legal systems.

Justification

The purpose of this amendment is the introduction of an express material safeguard against the unauthorized expansion of these simplified rules for cooperation ("by analogy"), to the interactions with the agencies of third countries, which might not be operating under similar standards of accountability and democratic control to those existing in the EU Member States - situation that might result in unwarranted jeopardizing of European citizens' vital interests.

PROCEDURE

Title	Cooperation between the special intervention units of the Member States
References	15437/2006 - C6-0058/2007 - 2007/0803(CNS)
Date of consulting Parliament	30.1.2007
Committee responsible Date announced in plenary	LIBE 1.2.2007
Rapporteur(s) Date appointed	Armando França 5.11.2007
Previous rapporteur(s)	Fausto Correia
Discussed in committee	27.2.2007 9.10.2007 20.11.2007 18.12.2007
Date adopted	18.12.2007
Result of final vote	+: 53 -: 1 0: 0
Members present for the final vote	Alexander Alvaro, Roberta Angelilli, Alfredo Antoniozzi, Mario Borghezio, Mihael Brejc, Kathalijne Maria Buitenweg, Michael Cashman, Giuseppe Castiglione, Giusto Catania, Jean-Marie Cavada, Carlos Coelho, Esther De Lange, Panayiotis Demetriou, Gérard Deprez, Agustín Díaz de Mera García Consuegra, Bárbara Dührkop Dührkop, Claudio Fava, Armando França, Urszula Gacek, Kinga Gál, Patrick Gaubert, Roland Gewalt, Lilli Gruber, Jeanine Hennis-Plasschaert, Lívia Járóka, Ewa Klamt, Stavros Lambrinidis, Henrik Lax, Sarah Ludford, Claude Moraes, Javier Moreno Sánchez, Rareş-Lucian Niculescu, Bogusław Rogalski, Martine Roure, Luciana Sbarbati, Inger Segelström, Csaba Sógor, Søren Bo Søndergaard, Vladimir Urutchev, Ioannis Varvitsiotis, Renate Weber, Manfred Weber, Tatjana Ždanoka
Substitute(s) present for the final vote	Edit Bauer, Simon Busuttil, Genowefa Grabowska, Ignasi Guardans Cambó, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Jean Lambert, Jörg Leichtfried, Antonio Masip Hidalgo, Bill Newton Dunn, Rainer Wieland
Substitute(s) under Rule 178(2) present for the final vote	Manuel Medina Ortega