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**CATS 11
DROIPEN 13**

NOTE

from : Presidency
to : Delegations

No. prev. Doc.: 6035/08 CATS 7DROIPEN 8

Subject : Council Framework Decision amending Framework Decision 2002/475/JHA on combating terrorism

1. The European Commission adopted on 6 November a proposal amending the Framework Decision 2002/475/JHA on combating terrorism (doc 14960/07 CATS 122 DROIPEN 104 + ADD 1 + ADD 2). The objective of the proposal is to update the Framework Decision and align it with the Council of Europe Convention on prevention of terrorism, by including public provocation to commit terrorist offences, recruitment for terrorism and training for terrorism.
2. The Commission advocates that it is important to include these offences in the Framework Decision because it:
 - entails the advantages of the more integrated institutional framework of the EU;
 - the legal regime of the Framework Decision in respect of the type and level of criminal penalties and compulsory rules on jurisdiction will be applicable to the offences;

- EU cooperation mechanisms (see for instance the Decision of 2005 on sending terrorist-related information to Europol and Eurojust) are triggered since they have as their scope of application the Framework Decision.
3. The Presidency considers that the proposal of the Commission is very important. It is however also very delicate, as admitted by the Commission, since it is situated on the borderline of fundamental rights and freedoms such as freedom of expression, assembly or of association and the right to respect for family life. It is therefore essential that the right balance is struck in the instrument.
 4. A first discussion on the proposal has taken place during the Portuguese Presidency in CATS (21-22 November 2007), Coreper and Council (6-7 December 2007). The discussion continued during the CATS meeting of 6 February 2008.

1. The safeguards

5. As the Framework Decision aligns itself on Articles 5, 6 and 7 of the Council of Europe Convention, the question arises whether the balance obtained in the negotiations of that Convention is maintained. This is in particular true as regards the conditions and safeguards under article 12 of that Convention. These safeguards relate to the respect for human rights and the principle of proportionality.
6. As for the EU framework :
 - (i) Safeguards are provided by the existing Framework Decision as such (see in particular recital 10 and Article 1(2)) and by the Treaty on European Union.
 - (ii) The proposal of the Commission contains in its preamble clear statements in relation to the intention of the Framework Decision (see in particular pre-ambular paragraphs 14 and 15).

7. Two additional clauses, already proposed during the CATS meeting of 6 February 2008, may be used to enhance these safeguards.

(a) New recital based on Article 12.2. of the Convention

8. The Presidency already proposed a new recital, based on Article 12.2. of the Convention, worded as follows :

"The establishment, implementation and application of the criminalisation under the Framework Decision should be [proportional to the nature and circumstances of the offence] [subject to the principle of proportionality], with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment".

9. The Presidency is aware of the fact that the reference to the “principle of proportionality” in this context may not be entirely clear because of the fact that, in Community law, the “principle of proportionality” usually refers to a key limitation of the action of the Community (and, possibly, of the Union): this is not the meaning of the clause which is proposed here ¹. But we are here in the context of criminal law where in the Member States the principle has a specific meaning, usually because of constitutional provisions (see also Article 49 of the Charter of Fundamental Rights) ². The Presidency is also of the opinion that, in order to avoid giving the impression to alter the scope of the clause, the wording of the Convention of the Council of Europe should be kept as much as possible.

¹ The “principle of proportionality” in its usual meaning in Community law is already referred to both in recital 9 of Framework Decision 2002/475/JHA and in recital 13 of the proposal of the Commission.

² The principle of proportionality in the proposed Recital would require that the power of procedure i.e. establishment, implementation and application of the criminalisation shall be proportional to the nature and circumstances of the offence while respecting the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.

10. A possible solution would be to keep the wording of Article 12.2. of the Convention but to replace "subject to the principle of proportionality" by "proportional to the nature and circumstances of the offence".

(b) New article

11. The Swedish delegation, supported by several delegations, suggested to add in the Framework Decision a new Article based on the provision found in the draft Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law, which would read as follows :

"This Framework Decision shall not have the effect of requiring Member States to take measures in contradiction to fundamental principles relating to freedom of association and freedom of expression, in particular freedom of the press and the freedom of expression in other media as they result from constitutional traditions or rules governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability."

(c) Conclusion

12. In order to facilitate the discussion, the Presidency has prepared a table to compare the safeguards found in the Framework Decision and those found in the Convention of the Council of Europe (Annex 1).

13. Taking into consideration the sensitivity of the file and the pressure on the timing, the Presidency suggests to add :

- the new recital based on Article 12.2. of the Convention, as it is currently proposed (possibly with the limited change suggested above)

AND

- the new article based on the provision found in the draft Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law

Delegations are invited to agree on this proposal.

2. Definition of offences

14. As already announced during the CATS meeting of 6 February 2008, the Presidency intends to deal, as a first step, only with the definition of the main offences contained in the proposal of the Commission ("public provocation", "recruitment" and "training"). In other words, the Presidency does not intend to discuss, at this point, other issues such as the application of Article 4 of the Framework Decision (inciting, aiding, or abetting, and attempting) or of Article 9 of the Convention (ancillary offences).

15. These three offences ("public provocation", "recruitment" and "training") correspond to Article 5 to 7 of the convention. The Presidency notes that BG, DK, FI, RO and SK have already ratified the Convention and that a further 20 Member States have signed it. Consequently, it would seem imperative, as already decided by the Council in December 2007, that the Union should not disturb the ratification process by altering the text of the incriminations in articles 5-7 of the Convention.

16. Following the request made by some delegations during the CATS meeting of 6 February 2008, the Presidency, with the assistance of the Commission, has prepared the Annex in order to compare the scope of the proposal of the Commission with the scope of the Convention of the Council of Europe on the prevention on terrorism.
17. The difference in the scope of the two instruments is based on different approaches with regards to the concepts of "terrorist group" and "terrorist offence".

(a) Terrorist group

18. The wording used for the definition of "recruitment" in the proposal of the Commission and in the Convention is not exactly the same because the Commission proposal relies on the notion of "terrorist group" and that of "direction of or participation in a terrorist group" contained in Article 2 of the Framework Decision which do not exist in the Convention.

19. The difference may be illustrated as follows:

Proposal for a Framework Decision	Convention on the Prevention of Terrorism
<i>Recruitment for terrorism = to solicit another person</i>	
- to commit a terrorist offence	- to commit a terrorist offence
	- to participate in the commission of a terrorist offence
- to direct a terrorist group	- to join an association or group, for the purpose of contributing to the commission of one or more terrorist offences by the association or the group
- to participate in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.	

(b) Terrorist offence

20. For the definition of "public provocation", "recruitment" and "training", both the Convention and the proposal of the Commission use the concept of "terrorist offence". However, the definition of the "terrorist offence" is different:

- the Convention defines the "terrorist offence" as any of the offences within the scope of and as defined in one of the ten conventions listed in the Appendix to the Convention;
- the Framework Decision defines the "terrorist offence" in Article 1(1) as a separate offence characterised by the perpetration of specific acts with a "terrorist" intention.

21. The table contained in the Annex is an attempt to compare the scope of the notion of "terrorist offence" in the two instruments. When making this comparison, one should keep in mind that all acts listed in the definition of the terrorist offence in the Framework Decision are subject to the existence of the "terrorist" intention.

(c) Result of the comparison

22. The comparison, both with regards to the notion of "terrorist offence" and that of "terrorist group", confirms that :
- (i) the approach is not exactly the same in the Framework Decision and in the Convention;
 - (ii) however, when trying to illustrate the types of behaviour covered by each instrument, one finds that the result is very similar;
 - (iii) but, even when considering the result in terms of concrete acts to be covered, it is impossible to conclude that there will be in all circumstances no differences whatsoever: on some limited aspects, the Framework Decision as proposed by the Commission might possibly be slightly wider and it might be slightly more limited on other aspects (including because of the "terrorist" intention required in the Framework Decision). However, it would seem to the Presidency that any such possible difference is in any case tempered by differences in legal systems, legislative technique and judge made discretions. Therefore, the Presidency considers this to be negligible for purposes of adopting the text.
23. The only solution to avoid any possible difference would be to incorporate word by word the definitions of the convention. This, however, would affect the consistency of the EU legislation because it would mean that the notion of "terrorist offence" and that of "terrorist group" have more than one meaning.
24. The Presidency therefore suggests :
- a. to maintain the approach proposed by the Commission and therefore to rely on the notion of "terrorist group" and that of "terrorist offence" of the Framework Decision
 - b. within the limits set by this approach, to identify possible improvements of the definitions. Any such improvement may however not jeopardise the ratification process of the Convention and must be compatible with this aim.

Delegations are invited to agree on this proposal.

(d) Possible improvements within the limits of the approach proposed by the Commission

25. In order to ensure such improvement, the Presidency submits the following issues for discussion and invite delegations to submit other ideas:

d.1. "Recruitment"

26. Compared to the Convention, the wording "to participate in the commission of a terrorist offence" is missing in the definition of "recruitment" as proposed by the Commission and the reason of this omission is not obvious. If this part were to be added, the definition could be worded as follows:

"recruitment for terrorism" means to solicit another person :

- *to commit or to participate in the commission of one of the acts listed in Article 1(1), or*
- *to commit one of the acts listed in Article 2(2).*

Delegations are invited to comment on this option.

d.2. "Threatening" as part of the scope of "recruitment" and "training"

27. Article 1(1) of the Framework Decision contains a list of acts which are considered as a terrorist offence when committed under certain conditions:

- Article 1(1)(a) to (h) refer to various "material acts" (hostage taking, seizure of aircraft, ...)
- Article 1(1)(i) refer to the act of "threatening to commit one of the acts referred to in (a) to (h)".

28. In the scope of its definition of "public provocation", the Commission includes acts listed in Article 1(1)(a) to (h) but excludes the act of "threatening" (Article 1(1)(i)). The need for such exclusion seems obvious.

29. The question arises as to whether Article 1(1)(i) should be maintained, as it is the case in the proposal of the Commission, in the scope of the definition of “recruitment” and “training”.

Delegations are invited to comment on this option.

Comparison on “safeguards”

Framework Decision 2002/475/JHA	Convention of the Council of Europe
Recitals	Preamble
1. The European Union is founded on the universal values of human dignity, liberty, equality and solidarity, respect for human rights and fundamental freedoms. It is based on the principle of democracy and the principle of the rule of law, principles which are common to the Member States.	
10. This Framework Decision respects fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they emerge from the constitutional traditions common to the Member States as principles of Community law. The Union observes the principles recognised by Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union, notably Chapter VI thereof. Nothing in this Framework Decision may be interpreted as being intended to reduce or restrict fundamental rights or freedoms such as the right to strike, freedom of assembly, of association or of expression, including the right of everyone to form and to join trade unions with others for the protection of his or her interests and the related right to demonstrate.	Recalling the need to strengthen the fight against terrorism and reaffirming that all measures taken to prevent or suppress terrorist offences have to respect the rule of law and democratic values, human rights and fundamental freedoms as well as other provisions of international law, including, where applicable, international humanitarian law;
11. Actions by armed forces during periods of armed conflict, which are governed by international humanitarian law within the meaning of these terms under that law, and, inasmuch as they are governed by other rules of international law, actions by the armed forces of a State in the exercise of their official duties are not governed by this Framework Decision,	
Articles	Articles
Art. 1.2. This Framework Decision shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.	Art. 12.1 Each Party shall ensure that the establishment, implementation and application of the criminalisation under Articles 5 to 7 and 9 of this Convention are carried out while respecting human rights obligations, in particular the right to freedom of expression, freedom of association and freedom of religion, as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other obligations under international law.

FD amending Framework Decision 2002/475/JHA	
Recitals	
(14) The Union observes the principles recognised by Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union, notably Chapters II and VI thereof. Nothing in this Framework Decision may be interpreted as being intended to reduce or restrict fundamental rights or freedoms such as freedom of expression, assembly, or of association, the right to respect for private and family life, including the right to respect of the confidentiality of correspondence.	
(15) Public provocation to commit terrorist offences, recruitment for terrorism and training for terrorism are intentional crimes. Therefore, nothing in this Framework Decision may be interpreted as being intended to reduce or restrict the dissemination of information for scientific, academic or reporting purposes. The expression of radical, polemic or controversial views in the public debate on sensitive political questions, including terrorism, falls outside the scope of this Framework Decision and, in particular, of the definition of public provocation to commit terrorist offences,	
Possible new recital: "The establishment, implementation and application of the criminalisation under the Framework Decision should be <u>[proportional to the nature and circumstances of the offence]</u> [subject to the principle of proportionality], with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment".	Art. 12.2. The establishment, implementation and application of the criminalisation under Articles 5 to 7 and 9 of this Convention should furthermore be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.
Articles	
Possible new article (or new paragraph inserted in Article 1) = Swedish proposal "This Framework Decision shall not have the effect of requiring Member States to take measures in contradiction to fundamental principles relating to freedom of association and freedom of expression, in particular freedom of the press and the freedom of expression in other media as they result from constitutional traditions or rules governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability."	

Comparison on the scope of the “terrorist offence”

Art. 1.1 Framework Decision	Conventions referred to in the CoE Convention	
	Offences	Ref. ¹
<p>Intentional acts referred to below in points (a) to (i), as defined as offences under national law, which, given their nature or context, may seriously damage a country or an international organisation where committed with the aim of:</p> <ul style="list-style-type: none"> — seriously intimidating a population, or — unduly compelling a Government or international organisation to perform or abstain from performing any act, or — seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation, shall be deemed to be terrorist offences: 		
<p>(a) attacks upon a person’s life which may cause death; (b) attacks upon the physical integrity of a person;</p>	<p>Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:</p> <p>1. performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death.</p> <p>(...)</p> <p>Any person commits an offence if that person unlawfully and intentionally:</p> <p>(...)</p> <p>(b) performs an act of violence against a person on board / a fixed platform / a ship / an aircraft / if that act is likely to endanger its safety; or</p> <p>(...)</p> <p>(e) injures or kills any person in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs [=offences related to "fixed platforms" and "ships"]</p>	<p>C6 - (nouvel art. 1.1bis)</p> <p>C2 - Art. 1 C7 - Art. 3.1 C8 - Art. 2.1.</p>

¹ See list at the end of the document.

Art. 1.1 Framework Decision	Conventions referred to in the CoE Convention	
	Offences	Ref. ¹
	The intentional commission of: (a) A murder , kidnapping or other attack upon the person or liberty of an internationally protected person;	C3 – Art 2.1 (a)
	The intentional commission of: (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;	C5- Article 7.1
(c) kidnapping or hostage taking;	The intentional commission of: (a) A murder, kidnapping or other attack upon the person or liberty of an internationally protected person; b) A violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty; (c) A threat to commit any such attack;	C3 - Art. 2.1.
	Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "hostage") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages ("hostage-taking") within the meaning of this Convention.	C4 - Art. 1.1.
(d) causing extensive destruction to (see below) ... likely to endanger human life or result in major economic loss		
- a Government or public facility, an infrastructure facility, including an information system, a public place or private property;	Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility: 1. With the intent to cause death or serious bodily injury; or 2. With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.	C9 - Art. 2.1

Art. 1.1 Framework Decision	Conventions referred to in the CoE Convention	
	Offences	Ref. ¹
- a transport system,	1. Any person commits an offence if he unlawfully and intentionally: (...) <ul style="list-style-type: none"> (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or (e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight. 	C2 - Art. 1.
	Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon: (...) <ul style="list-style-type: none"> 2. destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport, if such an act endangers or is likely to endanger safety at that airport. 	C6 - (new art. 1.1bis)
	Any person commits an offence if that person unlawfully and intentionally: (...) <ul style="list-style-type: none"> (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or (f) communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or (...)	C7 - Art. 3.1.
- a fixed platform located on the continental shelf,	Any person commits an offence if that person unlawfully and intentionally: (a) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or (...) <ul style="list-style-type: none"> (c) destroys a fixed platform or causes damage to it which is likely to endanger its safety; or (d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety; or (...)	C8 - Art. 2.1.

Art. 1.1 Framework Decision	Conventions referred to in the CoE Convention	
	Offences	Ref. ¹
(e) seizure of		
- aircraft	Any person who on board an aircraft in flight: 1. unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or (...)	C1 -Art. 1
- ships;	Any person commits an offence if that person unlawfully and intentionally: (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;(...)	C7 - Art. 3.1.
- or other means of public or goods transport	Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "hostage") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages ("hostage-taking") within the meaning of this Convention. <i>[Applicable any time there is a driver/passenger in the means of transport in question]</i>	C4 – Art 1.1
(f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;		
nuclear →	The intentional commission of: (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property; (b) a theft or robbery of nuclear material; (c) an embezzlement or fraudulent obtaining of nuclear material; (d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation; (...) (f) an attempt to commit any offense described in paragraphs (a), (b) or (c); and (g) an act which constitutes participation in any offense described in paragraphs (a) to (f)	C5 - Art. 7.1.

Art. 1.1 Framework Decision	Conventions referred to in the CoE Convention	
	Offences	Ref. ¹
"explosives" →	<p>Any person commits an offence if he unlawfully and intentionally (...) places or causes to be placed on an aircraft in service / ship / fixed platform by any means whatsoever, a device or substance which is likely to destroy that aircraft / ship / platform,</p> <ul style="list-style-type: none"> - or to cause damage to <ul style="list-style-type: none"> o that aircraft which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or o that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or - or likely to endanger the safety of that platform 	<p>C2 - Art. 1.</p> <p>C7. - Art. 3.1.</p> <p>C8. - Art. 2.1.</p>
(g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life;	<p>1. Any person commits an offence if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or Government facility, a public transportation system or an infrastructure facility.</p> <ul style="list-style-type: none"> - With the intent to cause death or serious bodily injury, or - With the intent to cause extensive destruction of such place, facility or system where such destruction results or is likely to result in major economic loss <p>2. Any person also commits an offence if that person attempts to commit the offence as set forth in paragraph 1</p> <p>3. Any person commit an offence if that person</p> <ul style="list-style-type: none"> (a) participates as an accomplice in an offence as set forth in paragraph 1 or 2; or (b) organises or directs others to commit an offence as set forth in paragraph 1 or 2; or (c) in any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned. 	<p>C 9 – Article 2</p>
→ release of dangerous substances	<p>Explosive or other lethal device means:</p> <ul style="list-style-type: none"> (a) An explosive or incendiary weapon or device that is designed or has the capability to cause death, serious body injury or substantial material damage; or (b) A weapon or device that is designed, or has the capability, to cause death, serious body injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material. 	<p>C9</p> <p>C9 Article 2 + Article 1.3 on definitions</p>

Art. 1.1 Framework Decision	Conventions referred to in the CoE Convention	
	Offences	Ref. ¹
→ or causing fires, floods or explosions the effect of which is to endanger human life;	<i>Applicable anytime fires, floods or explosions are caused by "explosives or other lethal devices" as described above and according to Article 2.</i>	
(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;	For the purposes of this Convention: 2. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications. <i>Applicable anytime the damage is caused by "explosives or other lethal devices" as described above and according to Article 2.</i>	C9 Article 2 + Article 1.2 on definitions
(i) threatening to commit any of the acts listed in (a) to (h).	The intentional commission of: (...) (e) a threat: (i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or (ii) to commit an offense described in subparagraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;	C5 - Art. 7.1.
	The intentional commission of: (...) (c) A threat to commit any such attack [<i>against an internationally protected person</i>]; (...)	C3 - Art. 2.1
	Any person also commit an offence if that person: Threatens, with or without condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if the threat is likely to endanger the safe navigation of the ship in question/the safety of the fixed platform.	C 7 – Art. 3.2 (c) C8 – Art. 3.1 (a) C4-Art. 1.1

Art. 1.1 Framework Decision	Conventions referred to in the CoE Convention	
	Offences	Ref. ¹
Not covered by Art. 1.1. of the FD (only to some extent by Article 2.2., → participation in a terrorist group)	<p>Additionally, threatening to kill, to injure or to continue detaining another person is part of the definition of hostage taking And threatening to use the force is part of the seizure of aircrafts, ships and fixed platforms</p> <p>Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:</p> <p>(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or</p> <p>(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.</p>	<p>C1- Art. 1(a) C7 –Art. 3.1(a) C 8 – Art. 3.1 (a)</p> <p>C10 - Art. 2.1.</p>

- C1. = Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
- C2. = Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971
- C3. = Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted in New York on 14 December 1973;
- C4. = International Convention Against the Taking of Hostages, adopted in New York on 17 December 1979;
- C5. = Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 3 March 1980;
- C6. = Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988;
- C7. = Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;
- C8. = Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;
- C9. = International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997;
- C10. = International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999.