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Texts adopted by Parliament

Tuesday, 23 September 2008 - Brussels Provisional edition

Combating terrorism * [P6_TA-PROV\(2008\)0435](#) **A6-0323/2008**

► European Parliament legislative resolution of 23 September 2008 on the proposal for a Council Framework Decision amending Framework Decision 2002/475/JHA on combating terrorism (COM(2007)0650 – C6-0466/2007 – 2007/0236(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (**COM(2007)0650**)
 - having regard to the Council guideline of 18 April 2008⁽¹⁾,
 - having regard to Article 29, Article 31(1)(e) and Article 34(2)(b) of the EU Treaty,
 - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0466/2007),
 - 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 and the opinion of the Committee on Legal Affairs (**A6-0323/2008**),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 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 Commission proposal substantially;
 5. Calls on the Council and the Commission, following the entry into force of the Treaty of Lisbon, to treat as a priority any subsequent proposal designed to amend this text pursuant to Article 10 of the Protocol on Transitional Provisions to be annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community and pursuant to Declaration No 50 relating to that Protocol;
 6. Declares itself already prepared – once the Treaty of Lisbon comes into force – to consider any such proposal if necessary in accordance with the urgency procedure and in close cooperation with Member States' parliaments; should the new proposal reflect the substance of this opinion, the procedure laid down in the interinstitutional agreement as regards codification could apply;
 7. Instructs its President to forward this opinion to the Council and the Commission.

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Amendment 1 Proposal for a framework decision – amending act Recital 6 a (new)	

(6a) Action by the European Union to combat terrorism should be taken in close cooperation with local and regional authorities who have a key role to play, particularly in relation to prevention, in so far as the instigators and perpetrators of terrorist acts live within local communities with whose population they interact, and whose services and instruments of democracy they employ.

Amendment 2
Proposal for a framework decision – amending actRecital 7

(7) The current proposal foresees the criminalisation of terrorist linked offences in order to contribute to the more general policy objective of prevention of terrorism through reducing the dissemination of those materials *which might* incite persons to commit terrorist attacks.

(7) The current proposal foresees the criminalisation of terrorist linked offences in order to contribute to the more general policy objective of prevention of terrorism through reducing the dissemination of those materials *with the intention and the likelihood of inciting* persons to commit terrorist attacks.

Amendment 3
Proposal for a framework decision – amending actRecital 10

(10) The definition of terrorist offences, including offences linked to terrorist activities, should be further approximated in all Member States, so that it will cover public *provocation* to commit a terrorist offence, recruitment for terrorism and training for terrorism, when committed intentionally.

(10) The definition of terrorist offences, including offences linked to terrorist activities, should be further approximated in all Member States, so that it will cover public *incitement* to commit a terrorist offence, recruitment for terrorism and training for terrorism, when committed intentionally.

(This amendment applies to the entire legislative text under consideration, with the exception of Recital 9; if it is adopted, technical adjustments will have to be made throughout the text.)

Amendment 4
Proposal for a framework decision – amending actRecital 11

(11) Penalties and sanctions should be provided for natural and legal persons having committed *or being liable for* public *provocation* to commit terrorist offences, recruitment for terrorism and training for terrorism, when committed intentionally. These forms of behaviour should be equally punishable in all Member States irrespective of whether they are committed through the Internet or not.

(11) Penalties and sanctions should be provided for natural and legal persons having committed public *incitement* to commit terrorist offences, recruitment for terrorism and training for terrorism, when committed intentionally. These forms of behaviour should be equally punishable in all Member States irrespective of whether they are committed through the Internet or not.

Amendment 5
Proposal for a framework decision – amending actRecital 11 a (new)

(11a) The failure of the Council to agree on procedural rights in criminal proceedings hampers European judicial cooperation; this deadlock urgently needs to be overcome.

Amendment 6
Proposal for a framework decision – amending actRecital 12

(12) Additional jurisdictional rules should be established to ensure that public provocation to commit a terrorist offence, recruitment for terrorism and training for terrorism may be effectively prosecuted when they are directed towards or resulted in the commission of a terrorist offence which is subject to the jurisdiction of a Member State.

deleted

Amendment 7
Proposal for a framework decision – amending actRecital 12 a (new)

(12a) This Framework Decision is complementary to the Council of Europe Convention on the Prevention of

Terrorism of 16 May 2005, and it is therefore essential, in parallel with the entry into force of this Framework Decision, that all Member States ratify that Convention.

Amendment 8
Proposal for a framework decision – amending actRecital 14

(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.

(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, **freedom of the press and freedom of expression of other media, or** the right to respect for private and family life, including the right to respect of the confidentiality of correspondence, **which also covers the content of e-mail and other kinds of electronic correspondence.**

Amendment 9
Proposal for a framework decision – amending actRecital 15

(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,

(15) Public **incitement** 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, **artistic** 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 **incitement** to commit terrorist offences,

Amendment 10
Proposal for a framework decision – amending actRecital 15 a (new)

(15a) The criminalisation of the acts listed in this Framework Decision should be effected in such a way as to be proportionate to the legitimate aims pursued, necessary and appropriate in a democratic society, and non-discriminatory; it should, in particular, be compatible with the Charter of Fundamental Rights of the European Union and with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Amendment 11
Proposal for a framework decision – amending actArticle 1 – point -1 (new)Framework Decision 2002/475/JHAArticle 1 – paragraph 2

(-1) Article 1(2) is amended as follows:

" 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 , in the Charter of Fundamental Rights of the European Union and in the European Convention for the Protection of Human Rights and Fundamental Freedoms."

Amendment 12
Proposal for a framework decision – amending actArticle 1 – point 1Framework Decision 2002/475/JHAArticle 3 – paragraph 1 – point a

(a) "public **provocation** to commit a terrorist offence" means the distribution, or otherwise making available, of a message to the public, **with the intent to incite** the commission of one of the **acts** listed in Article 1(1)(a) to (h),

(a) "public **incitement** to commit a terrorist offence" means the distribution, or otherwise making available, of a message to the public **clearly and intentionally advocating** the commission of one of the **offences** listed in

where such conduct, **whether or not directly advocating terrorist offences**, causes a danger that one or more such offences may be committed;

Article 1(1)(a) to (h), where such conduct **manifestly** causes a danger that one or more such offences may be committed;

Amendment 13
Proposal for a framework decision – amending actArticle 1 – point 1Framework Decision 2002/475/JHAArticle 3 – paragraph 1 – point b

(b) "recruitment for terrorism" means to solicit another person to commit one of the **acts** listed in Article 1(1), or in Article 2(2);

(b) "recruitment for terrorism" means **intentionally** to solicit another person to commit one of the **offences** listed in Article 1(1)(a) to (h) , or in Article 2(2);

Amendment 14
Proposal for a framework decision – amending actArticle 1 - point 1Framework decision 2002/475/JHAArticle 3 - paragraph 1 - point c

(c) "training for terrorism" means to provide instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing one of the **acts** listed in Article 1(1), knowing that the skills provided are intended to be used for this purpose.

(c) "training for terrorism" means to provide instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing one of the **offences** listed in Article 1(1)(a) to (h) , knowing that the skills provided are intended to be used for this purpose.

Amendment 15
Proposal for a framework decision – amending actArticle 1 - point 1Framework decision 2002/475/JHAArticle 3 - paragraph 2 - point d

(d) aggravated theft with a view to committing one of the **acts** listed in Article 1(1);

(d) aggravated theft with a view to committing one of the **offences** listed in Article 1(1);

Amendment 16
Proposal for a framework decision – amending actArticle 1 - point 1Framework decision 2002/475/JHAArticle 3 - paragraph 2 - point e

(e) extortion with a view to the perpetration of one of the **acts** listed in Article 1(1);

(e) extortion with a view to the perpetration of one of the **offences** listed in Article 1(1);

Amendment 17
Proposal for a framework decision – amending actArticle 1 - point 1Framework decision 2002/475/JHAArticle 3 - paragraph 2 - point f

(f) drawing up false administrative documents with a view to committing one of the **acts** listed in Article 1(1)(a) to (h) and Article 2(2)(b).

(f) drawing up false administrative documents with a view to committing one of the **offences** listed in Article 1(1)(a) to (h) and Article 2(2)(b).

Amendment 18
Proposal for a framework decision – amending actArticle 1 - point 1Framework decision 2002/475/JHAArticle 3 - paragraph 3 a (new)

3a. Member States shall ensure that the acts referred to in paragraph 2(a) to (c) of this Article are criminalised with due respect for the obligations relating to freedom of speech and freedom of association by which those States are bound, in particular the obligations relating to freedom of the press and freedom of expression in other media, and with due respect for the confidentiality of correspondence, including the content of e-mail and other kinds of electronic correspondence. The criminalisation of the acts covered in paragraph 2(a) to (c) shall not have the effect of reducing or restricting the dissemination of information for scientific , academic, artistic or reporting purposes, the expression of radical, polemic or controversial views in the public debate on sensitive political questions, including terrorism.

Amendment 19
Proposal for a framework decision – amending actArticle 1 - point 1Framework decision 2002/475/JHAArticle 3 -

paragraph 3 b (new)

3b. Member States shall also ensure that the criminalisation of the acts referred to in paragraph 2(a) to (c) of this Article is effected in a way which is proportionate to the nature and the circumstances of the offence, having regard to the legitimate aims pursued and the necessity thereof in a democratic society, and excludes any form of arbitrariness and discriminatory or racist treatment.

Amendment 20
Proposal for a framework decision – amending act Article 1 - point 3 Framework decision 2002/475/JHA Article 9 - paragraph 1 a

"1a. *Each* Member State *shall also establish its jurisdiction over* the offences referred to in Article 3(2)(a) to (c) *where the offence was directed towards or resulted in the carrying out of an offence referred to in Article 1 and such offence is subject to the jurisdiction of the Member State under any of the criteria set out in paragraph 1(a) to (e) of this Article.*"

"1a. A Member State *may decide not to apply, or to apply only in specific cases or under specific circumstances, the jurisdictional provisions in paragraph 1(d) and (e) in respect of* the offences referred to in Article 3(2)(a) to (c) *and in Article 4, in so far as they are linked to the offences referred to in Article 3(2)(a) to (c).*"

(1) See the Council's public register: <http://register.consilium.europa.eu/pdf/fr/08/st08707.fr08.pdf>