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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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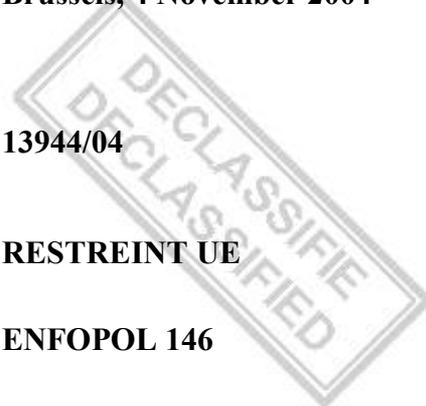
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NOTE

from: General Secretariat
to: Working Party on Terrorism

Subject : Evaluation of National Anti-Terrorist Arrangements
Report about Austria, 14-16 January 2004

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Evaluation of Austria 14-16 January 2004

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1. Terrorism Situation

1.1 Domestic Terrorism

As regards right wing extremism in Austria, the scene has been formed by two phenomena: the agitators in the established right-extremist milieu and the activities of the right wing extremist skinhead-scene. Both phenomena are not regarded as a danger for stability and security in Austria.

On the left wing extremism side, the activists of the anarchic autonomic scene still are regarded as potentially highly dangerous.

In both fields, significant downward tendencies are to be noted.

1.2 International Terrorism

In Austria it has become evident that ethnic separation within the Islamist scene is disappearing and that a small minority of Muslims has devoted itself to Salafism. These persons are in possession of propaganda material which glorifies the Jihad, they have been cultivating intense contacts abroad, and they have been acting in a very conspiratorial way. There is a risk that persons from this scene might get recruited in order to engage in terrorist activities.

However, investigations into activities of Islamist extremists in Austria did not lead to any detailed information concerning a structure in Austria or a logistical support of terrorism originating from Austrian territory.

Neither within the Bosnian circle nor within Palestinian and Turkish Islamic extremists, any tendency of radicalisation which would pose a threat to the intra-Austrian security has been established so far.

As far as Chechens are concerned, it has to be mentioned that the rapid increase in Chechen immigrants during the last year could help structures to develop which support the Chechen resistance. In this field Islamist tendencies can not be ruled out although the conflict is based on nationalist and / or separatist efforts.

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According to intensive investigations however, no hints on terrorist activities or preparation acts have occurred.

2. Structure of Authorities

2.1. General Structure

The democratic republic Austria is a federal state with 9 Länder and around 8 million inhabitants.

The Federal President as head of state and the legislative organs are elected by the people. Federal legislation is a concern of the National Council (Nationalrat) and of the Federal Council (Bundesrat), the latter also takes care for the interests of the Länder. Legislation on the level of the Länder is a matter of the Land Parliaments. The highest executive organ of the Federation is the Federal President and the members of the Federal Government, the highest organ of the Länder are the Land Governments, each headed by the Landeshauptmann.

The Austrian Constitution, in force since 1 October 1920, was renewed on 7 December 1929. The Federal Constitutional Law of 26 October 1955 decided on the neutrality of Austria.

Austria since 1 January 1995 is member of the EU.

2.2 Political and Security Structure

Amongst the most important tasks of the Federal Ministry of the Interior is the fight against terrorism and dangerous extremist efforts. The general responsibility lies with the Director General of Public Security, who supervises the Federal Agency for State Protection and Counter-Terrorism¹, the Federal Criminal Police Office² and the Police (in bigger cities) as well as the Gendarmerie (at the country-side), which both will be united in one national police in the near future.

¹ Bundesamt für Verfassungsschutz und Terrorismusbekämpfung (BVT);
² Bundeskriminalamt (BK);

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Since its foundation on 1 December 2002, the BVT with its 9 subordinated regional Land Office for State Protection and Counter-Terrorism³ is law enforcement and security service as well and works in direct contact with the judicial authorities.

The BK is in charge of general and organised crime, in particular as regards investigations, analysis and forensic sciences.

It has incorporated the Financial Intelligence Unit (FIU) which jointly cooperates with the BVT, the Financial Market Control and the Austrian National Bank.

3. Summary of the Evaluation

The experiences of the year 2003, particularly as regards the Iraq-crisis and the series of “letter bombs” against EU-institutions all over Europe, more than ever make an information network and a coordinated approach necessary for all agencies dealing with security. This network could create the precondition for a common European strategy, especially in key fields of the EU security like the fight against terrorism and the proliferation of weapons of mass destruction. Facilitating the EU Counter-Terrorism Coordinator was a first step on the way to improve law enforcement, security and intelligence coordination on the EU level.

For Austria the experiences as refers to the 9/11 attacks have proven that effectively fighting terrorism as a challenge of a national and international security only can succeed with a nation-wide coordination and combination of all resources available. In the course of the reform of the Austrian State Police Service the BVT was created. The BVT is entrusted with the central control of the competencies of the LVT, included the fight against terrorism. Moreover, this should improve the field of international cooperation as well as the fields of assessment and analysis.

³ Landesamt für Verfassungsschutz und Terrorismusbekämpfung (LVT);

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3.1 Good Practices

3.1.1 BVT Acting as Security Service

With the new organisation of the security structure, Austria as refers to terrorism has charged the BVT not only with the investigations in case a crime has been committed but moreover, the BVT legally is allowed to take groups under surveillance if they are suspected to become a serious threat for the public security. The BVT⁴ is bound to react as a police / law enforcement organ and immediately has to prevent or finish dangerous attacks.⁵ As far as there is a predominant public interest to avert criminal unions⁶ or to prevent a planned serious crime during the phase of preparation, it is admissible, under certain additional conditions, to postpone intervention.

3.1.2 BVT Acting as Law Enforcement Agency

Due to the special situation of the BVT there is no need to officially coordinate tasks. As security service being responsible for the "extended threat investigation"⁷ the Office has to observe groups if they are supposed to commit serious - in particular ideologically or religiously motivated - crimes against public security. Basing on this information the BVT continues with official investigations as law enforcement agency. It has direct contacts to the judicial authorities and in case of a prosecution it acts on behalf of the public prosecutor's offices and courts.

⁴ According to the Security Police Act/Code of Police Practice - Sicherheitspolizeigesetz - SPG

⁵ Principle of legality

⁶ Included terrorist groups

⁷ Erweiterte Gefahrenforschung

3.2 Recommendation

3.2.1 Use of Covert Surveillance Techniques

The BVT reported that its covert means to gather intelligence are very limited. The BVT under legally defined conditions is allowed to use under cover measures such as surveillance and under cover agents to avert dangerous attacks or criminal unions. Covert optical and acoustical recording techniques are only allowed to avert a criminal union in case a serious crime is to be expected.

For the extended threat investigation (cf. footnote 8) in addition to open sources only the use of non technical surveillance is allowed, that means that in this context it is neither allowed to take photos, nor to perform any other type of optical recordings. As these means can not be compared with the means for preventive purposes, this strongly limits the results.

Austrian authorities should reflect whether to create the legal possibility for the BVT to be able to use similar means for the extended threat investigation as for threat investigation, evaluation and prevention.

3.2.2 Access to Tele-Communication-Data

Concerning tele-communication the access to technical and billing data was claimed by the Ministry of Justice to be a concern of the prosecution office or of a judge whereas the police wanted to have a legal basis e.g. in hostage situations.

Austrian authorities should reflect about both possibilities but grant legal protection by an independent authority.

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3.3 EU / international Level

3.3.1 UN-Lists Identification Data

Austria mentioned the problem, that the pure listing of persons, being suspected of terrorism or of the financing of terrorism on the EU and UN-lists, often is not enough to freeze or seize assets or start preliminary proceedings. The enlisted data often are not detailed enough to clearly identify persons. Moreover, background information to prove the suspect of terrorism for the use in court trials often is missing.

Given the fact that this problem could not be solved at national level, the appropriate EU bodies are requested to bring it to the attention of responsible EU-bodies and of the UN level.