



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 8 June 2004

**10009/2/04
REV 2**

LIMITE

**JAI 184
ECOFIN 201
TRANS 217
RELEX 223
ECO 111
PESC 423
COTER 34
COSDP 288
PROCIV 85
ENER 165
ATO 57**

NOTE

from : Presidency
to : Coreper/Council

Subject : Report to the European Council on the implementation of the Declaration on
 combating terrorism

[PM - THIS DRAFT REPORT HAS BEEN UPDATED IN LIGHT OF OUTCOME OF THE MEETINGS OF THE COUNCIL (JHA) ON 8 JUNE AND OF PSC ON 8 JUNE. THE FINAL VERSION WILL BE ISSUED AFTER THE GAERC ON 14 JUNE.]

1. Introduction

The Declaration on Combating Terrorism adopted by the European Council on 25 March mandated the Council, in cooperation with Secretary General/ High Representative Solana and the Commission, to report in detail to the June European Council on the state of implementation of the measures embraced by the Declaration.

This report has been prepared for that purpose. It follows the sequence in which items were dealt with in the Declaration of 25 March. The report focuses, in particular, on those measures on which the European Council sought progress by June.

Further actions that have a deadline after this date, or are ongoing, are detailed in the revised Plan of Action (doc. 10010/2/04 REV 2) which is being produced in parallel and should be read in conjunction with this report.

2. Solidarity Clause

As stated in the Declaration on Solidarity against Terrorism, Member States shall act jointly in a spirit of solidarity if one of them is the victim of a terrorist attack. They shall mobilise all the instruments at their disposal, including military resources. The Political and Security Committee has started examining ways in which this Declaration can be given practical expression, including in the field of ESDP.

The Community Mechanism for Civil Protection is available to support and facilitate rapid and mutual civil protection assistance to Member States following a terrorist attack. Discussions on strengthening the Community Mechanism, including through the possible creation of EU-FAST (EU First Aid Support Team), are underway. The EU-FAST initiative was proposed with the aim of strengthening existing capacities also for alleviating the consequences of terrorist attacks on civilian populations.

3. European Security Strategy

The European Security Strategy established the strategic framework for EU action in the fight against terrorism, identifying terrorism as a global phenomenon which threatens the whole of Europe. Action under the Irish Presidency has been undertaken within this framework. Since the terrorist attacks in Madrid of 11 March 2004, focus has primarily been on internal aspects of the fight against terrorism, but the external dimension is equally important. In addition to the considerable progress in the three months since the Declaration was adopted, concrete proposals for further action are also being put forward.

As a first step in the development of an EU long-term strategy to address all factors which contribute to terrorism, a cross-pillar study on Recruitment to Terrorism, which identifies key factors which can contribute to radicalisation, support for terrorist organisations and recruitment to terrorism, has been prepared. Priorities for ongoing action are identified in the report and include the identification of specific initiatives to broaden the international consensus in relation to the fight against terrorism, engaging with Islamic countries to support their efforts to tackle extremism and widen educational opportunities, and conducting comprehensive studies of recruitment to terrorism in specific contexts, such as in prisons, schools, universities or mosques.

ESDP contribution

The European Council has called for work to be rapidly pursued to develop the contribution of the European Security and Defence Policy (ESDP) to the fight against terrorism, on the basis of actions taken since the Seville European Council. In this regard:

- The May GAERC endorsed a Political and Security Committee report on modalities, procedures and criteria for making available to the Community Civil Protection Mechanism the content of the database of military assets and capabilities relevant to the protection of civilian populations against the effects of terrorist attacks, including CBRN. Implementation of these modalities as well as work to enhance the effectiveness of this military database and its interoperability with civilian assets are now being taken forward by the appropriate bodies.
- As part of the implementation of the Headline Goal 2010 paper, a number of intelligence-based illustrative scenarios based on Joint SITCEN assessments will be developed and finalised in 2004. The threat from terrorism will be addressed in this process.

- The Political and Security Committee will elaborate a conceptual framework identifying the main elements of the ESDP dimension of the fight against terrorism, including preventive aspects.
- The EU has been seeking ways of cooperating with NATO in the fight against terrorism.

Further work in all these areas, which will form the basis of the long-term strategy, will continue into the Dutch Presidency.

4. Assistance to Victims

The Council Directive on compensation to crime victims was adopted by the Justice and Home Affairs Council at its meeting on 29 April, following agreement on a general approach at its meeting 30 March.

The Commission has launched a call for proposals for pilot projects supporting victims of terrorism, including actions to commemorate the first ‘victims of terrorism’ day.

5. Building on existing cooperation

The Declaration called for progress to be made on legislative measures both by way of implementation at Member State level of a number of existing instruments and by the adoption of certain other instruments.

(a) Legislative Measures

- Progress towards the implementation of a number of instruments at Member State level by specified deadlines continues to be made. The position in regard to measures required to be implemented by the end of June is set out in Annex 1. That position should improve further by that date;
- The Draft Framework Decision on Confiscation of Crime Related Proceeds, instrumentalities and property and the Draft Framework Decision on Attacks against Information Systems were to be adopted by June 2004. Both remain subject to parliamentary scrutiny reservations;
- The Council has adopted a general approach on the Framework Decision on the application of the principle of the Mutual Recognition to Confiscation Orders on 8 June.
- New legislative proposals have been presented by reference to the two priority areas identified in the Declaration and on which the European Council has requested negotiations to be brought to completion by June 2005. A Draft Framework Decision on the retention of communications data was presented by the United Kingdom, France, Sweden and Ireland in April. A draft Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States was presented by Sweden in June with a view to adoption by December 2005. The Commission Communication of 5 April on measures to be taken to combat terrorism etc. includes a proposal for a Draft Council Decision on the exchange of information and cooperation concerning terrorist offences. The Communication also contains additional proposals for the purpose of advancing the Declaration.
- A separate report on implementation made by the EU Counter-terrorism Coordinator has been taken note of by the Council on 8 June 2004 and is currently under examination within the Council bodies with a view to achieving improvements in this area.

(b) **Reinforcing Operational Cooperation**

Significant progress has been made on a number of matters identified in the Declaration for the purpose of reinforcing operational cooperation

- Europol has re-established its Counter Terrorism Task Force and is reinforcing its counter-terrorism capacity more generally;
- the Police Chiefs Task Force has prepared a report on the terrorist attacks in Madrid as requested by the European Council and completed its review of how its operational capacity can be reinforced which is being examined with a view to forwarding recommendations to the Council.
- the Europol / Eurojust Agreement was approved by the Justice and Home Affairs Council on 29 April;
- Decisions have been taken on strengthening coordination within the Council structures to deal with terrorism, on the basis of the Council Secretariat report of 8 March and a further options paper presented by the Counter-Terrorism Coordinator.

c) **Maximising the Effectiveness of Information Systems**

- The Council Regulation on the introduction of new functions for the Schengen Information System, including in the fight against terrorism was adopted by the Justice and Home Affairs Council on 29 April;
- A decision establishing the Visa Information System was adopted by the Justice and Home Affairs Council on 8 June;

- Conclusions on the location, management of the SIS II system were adopted by the Justice and Home Affairs Council on 29 April. Conclusions on SIS II functions will be adopted by the Council on 14 June.

6. Strengthening Border Controls and Document Security

Progress has also been made on the measures identified in connection with the strengthening of border controls, protection of passports, etc.

- Substantial progress on the Draft Regulation establishing a European Borders Agency was achieved at the Justice and Home Affairs Council on 30 March
- The Council Directive on the obligation of carriers to communicate passenger data was adopted by the Justice and Home Affairs Council on 29 April.
- The Strategy for Customs Cooperation in the Third Pillar 2004-2006 and the related work plan were adopted by the Justice and Home Affairs Council on 30 March;

7. EU Guidelines for a Common Approach to Combating Terrorism

The EU Guidelines for a Common Approach to the Fight Against Terrorism constitute a useful tool in the political dialogue as well as in other external relations of the European Union. These guidelines will serve as a basis in formulating and presenting the position of the European Union. In that way, they will help to sharpen the focus in the fight against terrorism.

8. Strategic Objectives for a Revised EU Plan of Action to Combat Terrorism

A revised Plan of Action to Combat Terrorism, in keeping with the strategic objectives approved by the European Council in March, has been prepared.

The Plan of Action is contained in Council Document 10010/2/04 REV 2.

The Plan of Action, which builds on the 2001 Action Plan, represents the EU Strategy to combat the threat posed by global terrorism and will inform future work for the purpose of taking forward the European Council Declaration. The Plan of Action has been prepared with a view to being capable of also acting as a roadmap for the purpose of such future work and, where appropriate, includes deadlines for the achievement of specified objectives and/or progress on specified measures.

It is intended that the Plan of Action will be regularly updated by the Council and Secretary General/High Representative Solana, with a view to ensuring that the action required at any particular time in relation to individual measures will be clearly identified.

9. Sharing of Intelligence

The report of the Secretary General /High Representative on the integration within the Council General Secretariat (SitCen) of an intelligence capacity on terrorism was taken note of by the Council on 8 June.

The European Council asks SG/HR Solana to implement the proposed arrangements as soon as possible and to keep this question under constant review and to report on progress made at the December 2004 European Council.

10. Preventing the Financing of Terrorism

Work on identifying measures to improve the effectiveness and efficiency of the mechanism set up to freeze the assets of terrorists and terrorist organisations was prioritised by the Presidency. A number of proposals for improving efficiency and effectiveness in the working methods of the relevant Council bodies have been agreed. In addition :

- Work on identifying holders and true beneficiaries of bank accounts, irrespective of their place of residence will be prioritised by the incoming Presidency.
- The EU and EU Member States' efforts to give increased effect to the provisions of UNSCR 1373 directed to the freezing of assets are being actively pursued.
- A consolidated list of all persons and entities subject to EU asset freezing measures will be made available to the public via the Commission website from 10 June 2004.
- The 16 April Commission Communication on Organised Financial Crime addressed transparency issues and alternative remittance. The Commission intends to hold a meeting of the EU Forum for the Prevention of Organised Crime during the Dutch Presidency. This will consider improvements on regulation and transparency of legal entities as well as assessing the feasibility and potential scope of an EU instrument on the regulation of the charitable sector.
- Dialogue on the Financing of Terrorism with the Euromed countries has taken place. This issue will also feature on the agenda for the EU-US Summit in June and further ad hoc dialogue with the GCC countries is planned for later this year. The incoming Presidency will ensure follow-up as appropriate.

11. Measures to Protect Transport and Population

Work is ongoing on the strengthening of all forms of transport and specific proposals in this regard are outlined in the Action Plan (Council Document 10010/2/04 REV 2).

- A Regulation on ship and port facilities security was adopted on 22 March, while a proposal for a Directive on improving port security was presented in February. A further proposal to modify this Directive to make it more explicit in terms of controls of vehicles being loaded onto passenger ferries is expected to be presented this month.

- In tandem with the work on taking forward the Community Civil Protection Mechanism relevant to the protection of civilian populations against terrorist attacks, work has also been accelerated on the implementation of the CBRN programme, in the context of strengthening capacity to alleviate the consequences of terrorist attacks on civilian populations.

12. International Cooperation

There has been good progress in supporting the key role of the UN and strengthening international solidarity in countering terrorism.

- Work was initiated by COTER, which held a formal meeting with the Counter-Terrorism Committee (1373) and met with representatives of the 1267 Sanctions Committee of the UN in May. These contacts will continue and will focus on where the EU and the UN can cooperate on specific counter terrorism measures and areas of mutual assistance.
- The Commission and the Counter Terrorism Coordinator also met with the key UN Security Council Committees in May.
- Strategic criteria for Capacity Building Technical Assistance programmes in Counter-Terrorism in Third Countries were agreed by COTER in June. Approximately 10 priority countries for action will now be identified by the incoming Presidency with the involvement of the EU Counter-terrorism Co-ordinator.
- COTER continued its work on threat assessments on particular countries and regions.

13. Cooperation with US

- COTER conducted a number of Troika meetings with partners. A set of criteria for COTER Troikas was adopted under this Presidency.

- A High Level Policy Dialogue on Border and Transport Security with the US has been established and the first of these biannual meetings was held on 26 April.
- The fight against Terrorism will feature prominently at the EU-US Summit on 25/26 June and a joint statement will issue on counter terrorism cooperation.

14. Counter Terrorism Coordinator

The Counter Terrorism Coordinator has been actively engaged in coordinating the work of the Council in combating terrorism.

He has engaged on a programme of visits to Member States to consult with them on issues arising relevant to his mandate and to listen to their needs. He has also developed contacts with relevant US policy makers and in the UN. He has submitted proposals in relation to Council working structures and on ways to improve monitoring of the implementation of EU legislation together with an interim report on two peer evaluation processes underway within the Council relevant to the Union's fight against terrorism.

The Counter Terrorism Coordinator has also been closely involved in the preparation of the new Action Plan.

15. Conclusion

The European Council notes with satisfaction the considerable progress to date on the implementation of the Declaration, including the updated Roadmap of the EU Plan of Action.

**Implementation of the legislative Instruments listed in the Declaration on terrorism
of the European Council of 25 March 2004 – state as on 9 June 2004**

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK
1. Instruments of the European Union¹																								
a) Framework Decision of 13 June 2002 on the European Arrest Warrant (initial delay for Member States: 31 December 2003; for Acceding States: date of accession; delay set by the Declaration of the European Council: June 2004)																								
y	y	-	y	y	y	y	-	y	-	y	y	y	y	y	y	-	-*	y	c	y	y	y	y	-*
b) Framework Decision of 13 June 2002 on Joint Investigation Teams (initial delay for Member States: 1 January 2003; for Acceding States: date of accession; delay set by the Declaration of the European Council: June 2004)																								
y	y	y	y	y	y	y	-	-	-	-	y	y	y	y		-		c ^o	o	-	c ^o	o		

¹ y = in case of a Framework Decision: implementation completed, legislation has entered into force; - = implementation not completed; c = implementation completed, legislation has not entered into force; p = implemented in part;

y = in case of a Convention or a Protocol: notified the General Secretariat of the Council that the Member State has ratified the instrument; - = no notification;

o = informal information that the instrument has been implemented, but legislation has not been sent to the General Secretariat of the Council;

* EE announced that its legislation to implement the Framework Decision on the European Arrest Warrant would enter into force on 1 July 2004. SK announced that its legislation to implement the FD on the EAW would enter into force on 1 August 2004. DE has indicated that it expects the final decision to be taken at the latest on 18 June 2004

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK
c) Framework Decision of 13 June 2002 on Combating Terrorism (initial delay for Member States: 31 December 2002; for Acceding States: date of accession; delay set by the Declaration of the European Council: June 2004)																								
y	y	y	y	y	y	y	-	-	y	y	-	y	y	y		-		°	p°	-	-	°		
d) Framework Decision of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime¹ (initial delay for Member States: 31 December 2002; for Acceding States: date of accession; delay set by the Declaration of the European Council: June 2004)																								
y ²	y	y	y	y ³	y	y	-	y	p ⁴	-	y	y ⁵	p	y		°p		°	°	-	-	°		

¹ According to the report from the Commission on the implementation of this Framework Decision (doc. 9251/04 DROIPEN 14), ES, IT and LU were, at the time of the drafting of the report, preparing legislation that had not yet entered into force, a special legislative drafting committee was producing national transposing provisions in GR and SE was examining whether new legislation was necessary to comply with the Framework Decision

² According to the aforementioned report from the Commission (doc. 9251/04 DROIPEN 14), AT did not entirely comply with the Framework Decision at the time of the drafting of the report. Since then, AT has notified the COM and the GSC legislation that was enacted in order to comply with the Framework Decision.

³ According to the aforementioned report from the Commission (doc. 9251/04 DROIPEN 14), ES did not entirely comply with Articles 1 and 3 of the Framework Decision at the time of the drafting of the report. Since then, ES has enacted new legislation in order to transpose the Framework Decision. These provisions have already entered into force and will be applied to offences committed after 1 October 2004.

⁴ According to the aforementioned report from the Commission (doc. 9251/04 DROIPEN 14), IT did not notify provisions implementing Article 2 of the Framework Decision. Thus, it is taken that IT complies only in part with the Framework Decision.

⁵ According to the aforementioned report from the Commission (doc. 9251/04 DROIPEN 14), PT did not entirely comply with the Framework Decision at the time of the drafting of the report. Since then, PT has enacted new legislation in order to transpose the Framework Decision.

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK
e) Decision of 28 February 2002 establishing Eurojust¹ (initial delay: 6 September 2003; delay set by the Declaration of the European Council: June 2004)																								
y	y	y	y	-	y	y	-	y	-	-	y	y	y	y		y		°	-	y	y	y	y	
f) Decision of 19 December 2002 on the implementation of specific measures for police and judicial cooperation to combat terrorism² (delay set by the Declaration of the European Council: June 2004)																								
y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	-	-	-	y	y	y	-	y	-	-

¹ The information refers to the question whether Member States have enacted legislation or take the view that they comply with the Council Decision on the basis of existing provisions (=y) or not (= -). As to the appointment of national members of Eurojust, the following Member States have notified the General Secretariat of the Council of the EU of their decisions: All old Member States as well as CZ, EE, HU, LV, LT, PL and SK.

² Designation of a Eurojust national correspondent for terrorism matters by each Member State