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NOTE

from : the Counter-Terrorism Coordinator
to : COREPER/Council/European Council
Subject : Implementation of the EU Counter-Terrorism Strategy - Priorities for further
action

Introduction

On 14 December 2007, the European Council welcomed the suggestions made by the EU Counter-Terrorism Coordinator (referred to hereafter as CTC) with a view to strengthening the implementation of the Counter-Terrorism Strategy¹ and called for work to be taken forward rapidly on them.

This report assesses the progress made in recent months.

¹ 15448/07

1. Information sharing

1.1. Working structure in the Council

The CTC welcomes the fact that Coreper has recently been invited to re-convene the ad hoc group on information exchange ¹, mainly in order to deal with issues relating to the practical implementation of the Council Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States² ("Swedish Framework Decision") and the Council Decision on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime³ ("Prüm Decision").

This should be the first step towards setting up a proper and fully-fledged working group on information exchange, which is absolutely necessary to allow for and ensure coordination of different matters relating to information exchange and development of a long-term EU policy on information exchange. It is understood that the importance of such a single working group has been recognised and will be taken into account in the preparations for the entry into force of the Lisbon Treaty.

1.2. Systematic transmission of information to Europol and Eurojust

Decision 2005/671/JHA of 20 September 2005 provides for the systematic transmission of information to Europol and Eurojust. Both agencies reported in May 2008 to the CTC on the implementation of this instrument.

¹ 9208/08

² OJ L 386 of 29.12.2006, p. 89

³ 11896/07

Europol has developed a method to evaluate and improve transmission of terrorism-related information based on the comparison between, on the one hand, contributions received from national units and, on the other hand, the information gathered by Europol staff on the basis of open sources ¹. For example, during the first quarter of 2008, Europol received 50 terrorism-related contributions (for the Europol Information System - EIS - and the Analytical Work Files -AWF) from the national units. Europol staff concluded that, based only on open sources, at least 6 other cases should have been reported to Europol for the period concerned. Subsequent contacts between Europol and the national units led to information being submitted for 3 out of these 6 cases. The national unit refused transmission in one of these cases (on the grounds that the case concerned was a purely intelligence operation). There has been no reply from national authorities on the other two cases. Further efforts are therefore necessary in some Member States to ensure adequate transmission of information to Europol.

Eurojust carried out a detailed evaluation on the basis of information provided by the national members ². For the CTC, the evaluation demonstrates that implementation at national level is rather limited ³. The report also indicates the measures which need to be taken internally to process all information transmitted by national authorities. It is necessary for national authorities to use secure connections and available templates in order to increase Eurojust's capacity to process the information. By swiftly implementing the measures listed in the report, Eurojust will increase the value added through the processing of information transmitted by national authorities. The added value and assistance thus provided by Eurojust will in turn increase the interest of national authorities in transmitting information⁴. The CTC welcomes the practical action taken by Eurojust's Terrorism Team during recent months in terms of sharing of information, including Eurojust's contribution to the TE-SAT report and the organisation of a tactical meeting with national authorities to share experience.

¹ 9612/08 restraint UE

² 9553/08 restraint UE

³ While 18 national members consider that Decision 2005/671/JHA has been implemented in their Member State, only 11 national members indicated that procedures were in place at national level to select and transmit terrorism-related information to Eurojust. It is difficult to see how Decision 2005/671/JHA could be implemented without the setting up of appropriate procedures.

⁴ These issues relating to transmission of information to Eurojust and processing of information by Eurojust are currently among the main points under discussion in the negotiation of a Decision on the strengthening of Eurojust. The discussions show that transmission of information on a systematic basis, which requires that adequate procedures be in place at national level, is necessary and that technical measures must be taken to ensure transmission of that information in a structured way (see 9114/08 COPEN 88 EUROJUST 43 EJM 36).

The CTC also welcomes the joint organisation by Eurojust and Europol of an operational meeting with US authorities on 18 April 2008 to exchange information on returning Jihadists.

Eurojust and Europol will be invited to report again on this issue for November 2008. The new evaluation should include an analysis of the adequacy of the scope defined in Decision 2005/671/JHA.

1.3. Cooperation between Europol and Eurojust

As noted in the discussion paper of the CTC of December 2007, this issue of systematic transmission of information to Europol and Eurojust prompts the question of the interaction between the two agencies. There is an urgent need to create structural links between these two agencies, which form part of the same continuum in coordinating criminal investigation¹. The Council has decided not to change the current legal framework applicable to cooperation between Europol and Eurojust in order to avoid any delay in the finalisation of the Europol Decision. However, discussions have confirmed the need to improve the situation. The CTC welcomes the proposal to urge Europol and Eurojust to adapt their cooperation agreement. This revision of the cooperation agreement should in particular be designed to strengthen Eurojust's involvement in Europol's Analytical Workfiles. The cooperation agreement cannot however go beyond what is possible under the legal framework of both agencies: adaptation of these legal frameworks will be necessary in the medium term.

1.4. Sharing Internet-related information

The "Check the Web" project carried out by Europol is a natural consequence of the need to pool resources and to avoid duplication of work with regard to the surveillance of websites advocating Islamist extremist terrorism. The project is developing as planned, even though six Member States have not yet activated their accounts.

¹ This need is also reflected in the draft Decision on the strengthening of Eurojust, proposed by 14 Member States in January 2008 (5037/08 COPEN 1 EUROJUST 1 EJN 1, see Articles 9a(1)(c), 12(5)(d) and 26(1)(a) inserted by the proposal).

Member States should give some thought to where their accounts for the project could best be located: centralising them in the Europol National Unit might prevent the real experts from feeling directly involved in the project and therefore from using it and contributing to its development.

The project is entering a crucial phase: it is essential to make sufficient information available to attract national authorities and authorities from third States cooperating with Europol and to persuade them to transmit more information. Phase 2 is being developed at Europol and should be launched as soon as possible.

1.5. Exchange of information at national level

At the invitation of the Spanish Government, officials from Member States which have a central body responsible for coordinating the exchange and analysis of information on terrorism met in Madrid on 9 April to explore the possibilities for developing reciprocal cooperation. The meeting showed that it would be useful to hold meetings of experts from these central bodies on a more regular and systematic basis, to exchange strategic analyses of subjects such as radicalisation or the role of the Internet, to exchange best practice as regards integrating information from different sources (intelligence, police, customs and judicial data; open sources, etc.) and to organise training jointly.

1.6. Exchange of information with the United States

The High-level Contact Group on data protection and data sharing (HLCG) has identified 12 common data protection principles (with one outstanding issue relating to redress) and will submit these in a report to the EU-US summit in June 2008. The report will also identify the various formats (agreement or less binding instruments like political declarations) through which these principles could be utilised. It will fall to the political decision-makers on both sides of the Atlantic to decide which option will be favoured. It is worth recalling that the exercise was launched with a view to intensifying the exchange of law enforcement information between the EU and the US, which indeed requires a robust regime of protection of personal data. It would seem that a legally binding EU-US Agreement (to be negotiated on the basis of the Lisbon Treaty) would offer the best guarantees in terms of both data protection and a sustained intensification of exchange of law enforcement data.

2. Radicalisation

The protection of citizens and critical infrastructure, investigation and prosecution of terrorists, and measures to mitigate the consequences of terrorist attacks are all indispensable parts of the EU's Counter-Terrorism Strategy. EU policies and measures in these areas address the short-term consequences of the scourge of terrorism. Ultimately, however, any effort to reduce or eradicate the threat of terrorism in the long term must address the circumstances that make people embrace terrorism as a method of achieving their political objectives. With the adoption of the Strategy for Combating Radicalisation and Recruitment in December 2005, the EU made an excellent start, but now needs to step up efforts to cooperate in this area. The CTC will work with the incoming French Presidency to achieve that objective.

While recognising that Europe has been confronted with various types of terrorism, Member States have explicitly agreed that the terrorism perpetrated by Al-Qaida and extremists inspired by Al-Qaida is currently the main threat to the Union. It is therefore inevitable that the European Union's prevention measures are primarily aimed at combating the ideology of Al-Qaida and addressing the circumstances that make this ideology attractive to some. At the same time, the EU and its Member States must continue to reject any stigmatisation of Islam and recognise that they can only succeed if they involve Muslims in their counter-terrorism efforts.

On 5 March, the CTC informally met with a number of high-ranking civil servants from Member States charged with the coordination of national counter-terrorism policies. They agreed that the Union needs to do more in the area of prevention. Five Member States volunteered to put forward additional ideas for further implementation of the Strategy for Combating Radicalisation and Recruitment. Spain will submit suggestions for countering radicalisation through better dialogue with religious denominations, in particular in the context of training religious leaders. Sweden will put forward fresh ideas on cooperation in the field of community policing. The United Kingdom will share its views on ways to counter terrorist propaganda. Building on its "Check the Web" initiative, Germany will consider how to prevent radicalisation on the Internet, while the Netherlands will collect best practice on the role of local authorities in preventing terrorism. Where relevant, the proposals will contain suggestions for use of EU funds (notably Community funds in the area of justice, freedom and security). The CTC is looking forward to receiving their proposals and will discuss them with the Presidency and the European Commission.

The European Commission has announced that it will be submitting a new communication on radicalisation and recruitment to terrorism. The CTC invites the Commission to publish that communication as soon as possible in order to inject new momentum into the Union's joint efforts to prevent terrorism. The Commission's communication could provide a good basis for further work on radicalisation and recruitment under the French Presidency.

As part of its prevention effort, the European Union has developed a strategy to prevent radicalisation and recruitment through effective and coherent communication of its values and policies in the media ("Media Communication Strategy"). In November 2007, the CTC reported on the implementation of the Media Communication Strategy throughout the Union and its Member States. In the first half of 2008, new efforts were made to involve experts in the EU's efforts to communicate as coherently and effectively as possible on policies that have a bearing on processes of radicalisation. The EU's dedicated Information Working Party (IWP) is encouraged to look into this matter in the second half of 2008 and beyond. Member States and the European Commission need to use the Strategy as much as possible in their external communication in relevant areas. The CTC will present a new implementation report to the Council in the autumn of 2008 and will look forward to working with the French and Czech Presidencies to ensure further implementation of the Media Communication Strategy.

Two practical ideas are being taken forward to improve communication in relevant areas in the framework of implementation of the Media Communication Strategy. The first concerns the prospect of the Council Secretariat recruiting next year an Arabic-speaking official for the Council press service. The second relates to the setting up of a common web page on counter-terrorism, linking the relevant pages of the Commission, the European Parliament and the Council.

The Alliance of Civilisations' (AoC's) **first Annual Forum** (Madrid, January 2008), in which the Presidency of the EU, the SG/HR Solana, Commissioner Ferrero-Waldner and the CTC participated, met its dual purpose – to maintain real commitment (not just make statements) and to launch result-oriented projects, with a strong initial emphasis on media.

The AoC has invited international/regional organisations to develop a “Chart for Partnering with the Alliance”. Five multilateral agencies and organisations have signed/are about to sign *partnership agreements* with the Alliance as a statement of their political commitment (UNESCO, Arabic States League, ISESCO¹, ALESCO², UCLG³ and the Council of Europe).

Mr Sampaio has visited Brussels twice: last November when he met with CONUN and on 8-9 April when he briefed the PSC and had a meeting with representatives of the EU Institutions (the SG/HR, the CTC, President Barroso, Commissioner Ferrero-Waldner and the President of the European Parliament).

Following HR Sampaio's meeting with the PSC on 8 April and a CONUN discussion on 16 April, it was confirmed that an EU-AoC Plan of Action will be discussed at Council level on the basis of the work of the European Commission and the Council Secretariat. An informal partnership will be established through an exchange of letters containing an action plan to mark the EU's support for the AoC.

The EU's agenda already converges with that of the AoC. Creating a link with the EU's widespread work in the areas covered by the Alliance will be mutually reinforcing. In working with the Alliance, the EU will remain committed to its core principles of democracy, respect for human rights and the rule of law.

3. Technical assistance

COTER carried out an evaluation of cooperation with Morocco and Algeria in the area of technical assistance. It concluded that it was necessary to refocus the approach on a limited number of priorities to be jointly defined with a view to improving implementation and follow-up. This new approach was presented to the Moroccan and Algerian partners in the course of two separate meetings, which led to agreement on a new phase of cooperation on this basis.

¹ International Islamic Organization for Education, Science and Culture

² Arab League Educational, Cultural and Scientific Organization

³ United Cities and Local Governments

The assessment of the terrorist threat to the security of the Union indicates that the resources of the Union and of Member States should be focused to a greater extent on two regions: Pakistan, North and Sub-Saharan Africa/the Sahel.

Pakistan

The situation in Pakistan remains of great importance to global counter-terrorism efforts. Al-Qaida elements are still active in Pakistan's western border areas and European and Pakistani extremists continue to maintain contacts. Therefore, EU counter-terrorism assistance to the newly elected Government of Pakistan not only contributes to the stability of a volatile part of the world, it also enhances Europe's internal security. Pakistan already receives extensive counter-terrorism aid from the United States and other donors. The Commission does not provide counter-terrorism assistance to Pakistan, but the Commission's programmes in other areas are helpful in addressing some of the conditions conducive to the spread of terrorism.

The EU could usefully supplement the efforts of the Commission and other donors. As a matter of priority, financing possibilities under the new Instrument for Stability for projects aimed at the prevention of terrorism in Pakistan and the wider South Asian region should be examined. The European Union also needs to reflect on ways to ensure the development of further synergies between its assistance programmes and the improvement of Pakistan's internal security.

Sahel

The region of North Africa will remain a priority for the European Union, with the objective of strengthening and improving cooperation with our partners in the fight against terrorism. The Sahel region should now be added, in view of the existence of a growing threat, of clear links with terrorist groups operating in North Africa and of various forms of trafficking, e.g. in drugs or in arms. A European Union initiative in the Sahel region is becoming an urgent necessity, in order to arrest a development which threatens to spread rapidly. An action of this kind could aim, in particular, to assist the countries concerned in implementing the United Nations conventions and resolutions. To this end, the CTC plans, in close cooperation with the forthcoming French Presidency and the Commission, to explore all options for such an action, utilising the various financial instruments available, such as the Stability Instrument, the CFSP budget and development assistance. To explore these options, initial contacts have recently been established by the CTC with

DG DEV at the Commission as well as with DG RELEX which is examining with Member States' experts a possible programme covering North Africa and Sahel under the Stability instrument. The European Union could envisage supporting the initiative by the President of Mali concerning the holding of a regional conference on security and development.

4. Implementation

It is cause for concern that little progress has been made during the last six months in implementing the legal instruments referred to by the CTC in its November 2007 report (see table in 9416/08 ADD 1).

It is also extremely important that the Council be able to adopt, before the entry into force of the Lisbon Treaty, a number of instruments which will be of value in combating terrorism but on which parliamentary scrutiny reservations have been entered. Otherwise, the need to adopt them under the new legislative procedures would cause considerable delay.

These instruments are the following, in particular:

- the draft Framework Decision on the European Evidence Warrant (EEW) for obtaining objects, documents and data for use in proceedings in criminal matters;
- the draft Decision on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime;
- the draft Decision concerning access for consultation of the Visa Information System (VIS) by the authorities of Member States responsible for internal security and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences;
- the draft Decision on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations;
- the draft Decision establishing the European Police Office (EUROPOL);
- the draft Framework Decision on combating racism and xenophobia;
- the draft Framework Decision on the protection of personal data processed in the framework of police and judicial co-operation in criminal matters.

5. Conclusions

Significant progress has been made in recent months in implementing the Union's counter-terrorism strategy, inter alia with the amendment of the 2002 Framework Decision on the definition of terrorism, the draft Directive on critical infrastructure protection, the adoption of the Action Plan on explosives and the establishment of a Task Force on the CBRN threat.

Since legislative activity in the criminal field is likely to slow down prior to the entry into force of the Lisbon Treaty on 1 January 2009, the second half of 2008 provides an opportunity to accelerate the implementation of the Union's strategy on radicalisation and recruitment and to mobilise the resources of Member States, the Community and the Union for technical assistance projects focusing on the two geographical priority areas suggested in this report.
