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REPORT

containing a proposal for a European Parliament recommendation to the Council on combating the financing of terrorism
(2005/2065(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Mario Borghezio

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PROPOSAL FOR A EUROPEAN PARLIAMENT RECOMMENDATION TO THE COUNCIL

on combating the financing of terrorism (2005/2065(INI))

The European Parliament,

- having regard to the proposal for a recommendation to the Council, presented by Stefano Zappalà on behalf of the PPE-DE Group, on preventing and combating the financing of terrorism through measures to improve exchanges of information, transparency and the traceability of financial transactions (B6-0221/2005),
 - having regard to the Declaration on combating terrorism, adopted at the European Council meeting of 24 and 25 March 2004,
 - having regard to the European Union's revised Plan of action against terrorism, adopted at the European Council meeting of 17 and 18 June 2004,
 - having regard to the Communication from the Commission on the Prevention of and the fight against terrorism through measures to improve the exchange of information, to strengthen transparency and enhance the traceability of financial transactions (COM(2004)0700),
 - having regard to the set of measures for the prevention and suppression of terrorism provided for in the Hague Programme, which was adopted at the European Council meeting of 4 and 5 November 2004 and supplemented by the conclusions of the Presidency of the European Council of 16 and 17 December 2004, in particular those relating to the financing of terrorism,
 - having regard to the proposal for a directive on preventing money laundering by means of customs cooperation,
 - having regard to the proposal for a directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing,
 - having regard to the European Charter of Fundamental Rights, in particular Articles 6, 7, 8, 10, 12, 21 and 22,
 - having regard to Rule 114(3) and Rule 94 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0159/2005),
- A. whereas the measures referred to in the Hague Programme, especially those relating to the fight against money laundering and terrorist financing and the exchange of information, should be implemented within a reasonable time-frame and in such a way as to ensure data protection, in order to strengthen freedom, security and justice in the European Union,

- B. whereas the European security strategy provides for an integrated approach to the fight against terrorism, to be embodied in political, diplomatic, humanitarian, economic and financial measures and judicial and police cooperation,
- C. whereas the most conspicuous source of international terrorism is the international traffic in drugs and arms,
- D. whereas money laundering carried out through credit institutions that connive at the practice or through investments in tax havens is contributing to the financing of international terrorist organisations,
- E. whereas the 'preventive war' strategy has not succeeded in undermining the international terrorist organisations or their finances,
- F. whereas the organisation, running and operational development of terrorist networks entails constantly-evolving finance-raising activities, coupled with the continual search for new and interchangeable means of raising funds and of transferring these through legal and illegal channels, such as international trading companies, offshore companies and trusts, currency couriers, money remittance systems such as Hawala or the use of certain charitable organisations,
- G. whereas in most Member States charities are tax-exempt and the fiscal authorities therefore already have exact information on their budgets and financial movements,
- H. whereas in the current situation of enormous currency flows on the global market, owing to the multiplicity of financial transfers and the ever-changing nature of the economy it is very difficult and complex to identify and tackle unlawful practices in respect of those transfers, such as laundering of the illicit proceeds of tax and customs fraud, corruption, and the activities of organised crime and mafias, including trafficking in drugs, arms and human beings,
- I. whereas, bearing in mind that the volume of funds collected annually by charitable organisations amounts to hundreds of billions of dollars and that it is not easy to monitor the disbursement of the funds of such organisations, the charitable sector is therefore very vulnerable to abuse and there is accordingly a need for greater transparency of such legal persons,
- G. whereas, in some cases, terrorists have been able to use the proceeds of charitable fund collections, at times without the donors and even the managers and staff of those charitable organisations knowing about this; whereas, moreover, it has transpired that some not-for-profit organisations have provided cover and logistical support both for terrorist operations and for transfers of the arms used by terrorist networks,
- H. whereas in the fight against the financing of terrorism in the EU measures are needed to improve the exchange of information, strengthen judicial and police cooperation, and enhance the traceability of transactions and the transparency of the financial system and the activities of legal persons,
- L. whereas, in the fight against the financing of terrorism, the exchange of information is one

effective means of stopping such financing, but exchanges of information must be governed and counterbalanced by binding data protection legislation, in compliance with Article 8 of the European Convention on Human Rights and Articles 7 and 8 of the Charter of Fundamental Rights, in order to prevent the development of a society whose hallmark is surveillance,

M. whereas international terrorist organisations have created a pervasive network of relations with numerous criminal organisations and mafias; whereas the relationship between terrorist organisations and criminal organisations and mafias is built on common economic interests and on the financing sources themselves,

1. Addresses the following recommendations to the Council:

- (a) to adopt the third Directive on money laundering and the regulation on preventing money laundering by means of customs cooperation;
- (b) to call on the Member States to ratify the Protocol to the Convention of 29 May 2000 on mutual assistance in criminal matters between the Member States of the European Union and the International Convention on the suppression of the financing of terrorism of 9 December 1999, and to transpose the Council framework decision of 13 June 2002 on combating terrorism and Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime;
- (c) to establish cooperation and exchange structures, including at technical level, to facilitate structured exchanges of information between EU intelligence services, including Europol and Eurojust; to implement effectively the requirement to exchange complete and up-to-date information about all crimes of a terrorist nature, including participation in the activities of a terrorist group by means of financing;
- (d) to provide substantial financial support for the FIU.NET (Financial Investigation Units Network) project, which aims to establish a computer network that facilitates the exchange of information between FIUs, subject to data protection requirements and particularly in respect of the methods of financing terrorist networks;
- (e) to urge the Member States to improve cooperation with Sustrans and ratify the Protocol to the Europol Convention, which will enable Europol's remit to be extended to cover all money laundering offences;
- (f) to implement, via the urgent adoption of suitable legislation, measures to ensure the monitoring and traceability of international bank transactions, since these are a major means of payment for supplies of weapons and drugs and the proceeds may be used for terrorist ends;
- (g) to call on Member States to implement all the GAFI (General Authority for Investment) recommendations and to adopt measures to improve the traceability of transfers of funds, the identification of clients and the implementation of surveillance obligations, while avoiding the indiscriminate use of profiling in the banking and financial context and ensuring respect for fundamental rights, especially the right to

data protection;

- (h) to foster the adoption of international standards and adopt measures at Community level with a view to substantially reducing the opacity of the financial system and the lack of transparency of the structures for international financial transactions and transfers of funds, including international trading companies, trusts and offshore companies, not least in order to combat the existence of so-called 'tax havens' both inside and outside the EU, inter alia through cooperation with third countries
- (i) to introduce measures to monitor transfers of funds initiated outside the official channels and prevent the use and infiltration of not-for-profit associations and charities by terrorist organisations, while also supporting the proposal for a European code of conduct and self-regulation for the charitable sector which would require the publication of balance-sheets and institute common rules for auditing and inspection of accounts;
- (j) to call on Member States to exert all vigilance regarding possible links between terrorist circles and mafia-type criminal organisations related to money laundering connected with the financing of terrorism;
- (k) to activate reinforced surveillance obligations for operations involving enterprises or persons established in territories which do not implement the rules against money laundering;
- (l) to call on Member States to closely monitor financial institutions and fund transfer services in order to single out suspicious fund transfer activities in which transfers are not supported by the full name, address and account number of the (physical or legal) person requesting the transfer of funds;
- (m) to establish the requirement that the financial institutions, and any other entities subject to the obligations relating to the prevention of money laundering, urgently communicate all useful information to the competent public authorities when there are legitimate suspicions that certain funds might be channelled into terrorist activities or, more generally, to terrorist networks; the prerequisite laid down in a definition of 'suspected' should be stringent, it should not be possible for the criminal-law provisions relating, for example, to money laundering and terrorist acts to be used to institute legal proceedings for other types of crime and these provisions ought therefore to accord with the principles in the Corpus Juris¹, and the definition of the concept of 'suspected' should be such as to attain the stated objective and be proportionate;
- (n) to devise systems for automatically monitoring suspect transfer transactions on account of their being larger than the average, their frequency or the specific identity and geographical location of the payers and payees, in such a way as to safeguard the official money transfer system from real risk of implication in illicit activities and above all in the financing of terrorist activities; to draw up new rules for bank payments without however losing sight of the balance between the free movement of

¹ Protection of the Community's financial interests (COM(1997) 199).

capital and the identification of suspect funds;

- (o) to formulate a minimum standard for regulations on transparency of charities to ensure that banks, credit institutions, insurers, financial companies and not-for-profit organisations afford maximum transparency to their own management, financial and budget procedures, by exclusively using official bank accounts for fund deposits and standard and formal channels for fund transfers, by publishing budget plans that are as comprehensive as possible and include information on the precise identity of the recipients and on the intended use of the funds, and by entrusting the auditing of their own management processes to independent auditors;
 - (p) to call on banks, credit institutions, insurers, financial companies and not-for-profit organisations to work together more closely with experts in the field of international terrorism financing in order to shield themselves from any implication whatsoever in terrorist activities in view of the genuine risk of their activities being unlawfully used for the purpose of financing terrorist networks;
 - (q) to call on the Member States to incorporate and implement forthwith the measures to combat criminal activities for the financing of terrorism, especially those of the second directive on money laundering and the surveillance and identification obligations introduced by it, pending swift adoption of the third directive on money laundering and of the regulation on the prevention of money laundering by means of customs cooperation, inter alia in order to introduce in good time the requisite changes enabling an optimisation of the fight against international terrorism;
 - (r) to ensure the ongoing evaluation of the measures introduced to combat the international financing of terrorism, in close cooperation with the Commission and Parliament;
 - (s) to determine whether the emergency legislation introduced by some Member States in the wake of 11 September 2001 has obtained positive results for the fight against terrorism and its financing;
2. Instructs its President to forward this recommendation to the European Council, to the Council and, for information, to the Commission, the Governments and Parliaments of the Member States, the Council of Europe, and the United Nations and its specialised agencies.

EXPLANATORY STATEMENT

No explanatory statement has been drawn up, given that a comprehensive set of recitals has been adopted which spell out precisely the reasons behind the Recommendation.

24.5.2005

MINORITY OPINION

pursuant to Rule 161(3) of the Rules of Procedure
Giusto Catania and Sylvia-Yvonne Kaufmann

Terrorism is an unacceptable crime which has to be condemned without reservations.

Nevertheless, this does not mean that in the name of combating terrorism, the EU is legitimised to adopt measures violating the civil liberties and freedoms of citizens.

We do not think that the balance between security and human rights is right in the report: Control and surveillance are weighted far higher than the protection of civil liberties. Thus the rapporteur is not devoted to solve the problems of the present insufficient rules on data protection or the adoption of other measures that could help striking the right balance between security and the respect for human rights.

The report completely lacks a more preventive angle focusing on the roots of terrorism: poverty, misery, social injustices and inequalities, political and ethnical humiliation and the violation of human rights.

Furthermore, trafficking in arms and drugs, which is one of the main sources of financing of international terrorism, also happens through the banking system. The theory of "preventive war" has not succeeded in undermining the international terrorist organisations or their finances. In fact, in Afghanistan there has been a big increase in the amount of money made on drug trafficking (opium cultivation) from 2004 to 2005 to be used to finance terrorism. Thus, a higher priority should be given to solve the problem about trafficking in arms and drugs in the strategy to combat the financing of terrorism.

31.3.2005

PROPOSAL FOR A RECOMMENDATION B6-0221/2005

tabled pursuant to Rule 114(1) of the Rules of Procedure

by Stefano Zappalà on behalf of the PPE-DE Group

on preventing and combating the financing of terrorism through measures to improve exchanges of information, transparency and the traceability of financial transactions

The European Parliament,

- having regard to the Declaration on combating terrorism, adopted at the European Council meeting of 24 and 25 March 2004,
 - having regard to the European Union's revised Plan of action against terrorism, adopted at the European Council meeting of 17 and 18 June 2004,
 - having regard to the set of measures for the prevention and suppression of terrorism provided for in the Hague Programme, which was adopted at the European Council meeting of 4 and 5 November 2004, supplemented by the conclusions of the Presidency of the European Council of 16 and 17 December 2004, in particular those relating to terrorism,
 - having regard to the Directive on the use of the financial system for the purpose of money laundering, including terrorist financing,
 - having regard to Rule 114(1) of its Rules of Procedure,
- A. whereas the measures referred to in the Hague Programme which are relevant to the fight against terrorist financing, in particular as regards information, should be implemented rapidly, in order to strengthen freedom, security and justice in the European Union,
- B. whereas the European security strategy calls for action to be taken against new threats through political, diplomatic, humanitarian, economic and financial measures and through police, judicial and military activities,
- C. whereas terrorists have shown considerable creativity in the way they transfer money and use new systems to collect money, in particular currency couriers, money remittance systems such as Hawala and transfers through charitable organisations,
- D. whereas the exchange of information is one effective means of combating terrorist financing,
1. Addresses the following recommendations to the Council:
- a) to establish intelligence-sharing standards and a person responsible at European level

for information technologies in order to help EU intelligence services to share information and 'establish networks';

- b) to adopt the third Directive on money laundering without delay;
 - c) to work with the International Monetary Fund (IMF) to encourage global efforts against money laundering and terrorist financing;
 - d) to ask those countries with reservations to ratify the Protocol to the 2000 Convention on mutual assistance in criminal matters and the United Nations Convention on the suppression of the financing of terrorism, and to transpose the decision on combating terrorism and the Eurojust decision of 28 February 2002;
 - e) to call for an evaluation study of efforts to reduce the international financing of terrorism and how to improve these efforts;
2. Instructs its President to forward this recommendation to the Council and, for information, to the European Council and the Commission.

PROCEDURE

| | | |
|---|---|--------------|
| Title | Combating the financing of terrorism | |
| Procedure number | 2005/2065(INI) | |
| Proposal(s) for recommendation(s) considered | B6-0221/2005 | |
| Basis in Rules of Procedure | Rules 114(3) and 94 | |
| Committee responsible Date announced in plenary | LIBE 28.4.2005 | |
| Date of decision to draw up report | 25.11.2004 | |
| Committee(s) asked for opinion(s) Date announced in plenary | ECON 28.4.2005 | |
| Not delivering opinion(s) Date of decision | ECON 10.5.2005 | |
| Enhanced cooperation Date announced in plenary | | |
| Other proposal(s) for recommendation(s) included in report | | |
| Rapporteur(s) Date appointed | Mario Borghezio 25.11.2004 | |
| Previous rapporteur(s) | | |
| Discussed in committee | 12.4.2005 | 24.5.2005 |
| Date adopted | 24.5.2005 | |
| Result of final vote | for: 36 against: 4 abstentions: 0 | |
| Members present for the final vote | Edit Bauer, Carlos Coelho, Ewa Klamt, Jaime Mayor Oreja, Stefano Zappalà, Rosa Díez González, Wolfgang Kreissl-Dörfler, Edith Mastenbroek, Martine Roure, Inger Segelström, Henrik Lax, Giusto Catania, Mihael Brejc, Charlotte Cederschiöld, Kinga Gál, Livia Járóka, Barbara Kudrycka, Ioannis Varvitsiotis, Fausto Correia, Magda Kósáné Kovács, Claude Moraes, Antoine Duquesne, Tatjana Ždanoka, Mario Borghezio | |
| Substitutes present for the final vote | Frederika Brepoels, Antonio Tajani, Javier Moreno Sánchez, Gérard Deprez, Ignasi Guardans Cambó, Siiri Oviir, Mary Lou McDonald, Agnes Schierhuber, Antonio Masip Hidalgo, Marie-Line Reynaud, Jeanine Hennis-Plasschaert, Bill Newton Dunn, Sylvia-Yvonne Kaufmann | |
| Substitutes under Rule 178(2) present for the final vote | Giuseppe Gargani, Antolín Sánchez Presedo, Luis Yañez-Barnuevo García | |
| Date tabled – A6 | 26.5.2005 | A6-0159/2005 |
| Comments | ... | |

PROPOSAL FOR RECOMMENDATION CONSIDERED

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| Number B6 | B6-0221/2005 |
| Author(s) | Stefano Zappalà |
| Title | Combating of the financing of terrorism |
| Committee responsible | LIBE |
| Committee(s) asked for opinion(s) | ECON |
| Date announced in plenary | 28.4.2005 |