

EUROPEAN PARLIAMENT

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Committee on Foreign Affairs

2004/0069(CNS)

1.4.2005

OPINION

of the Committee on Foreign Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council decision on the exchange of information and cooperation concerning terrorist offences
(COM(2004)0221 - 15599/2004 – C6-0007/2004 – 2004/0069(CNS))

Draftsman: István Szent-Iványi

PA_Leg

SHORT JUSTIFICATION

Since the September 11 events, there have been alarming and far-reaching changes in the security dimension, as well as in the civil and international human rights standards and norms in Europe and in the rest of the World. While the fight against terrorism has been the context for these changes, many of the measures taken have had little success with effectively countering terrorism and raising people's security (e.g. the Madrid terrorist attacks), but are rather concerned with redefining rights and norms, expanding controls and restrictions.

The Rapporteur welcomes the draft Council Decision as an important step towards better co-ordination of efforts in the fight against terrorism between the EU authorities, Europol and Eurojust, and the responsible national authorities of the Member States. However, the Rapporteur notes that the draft Decision is only one of the series of legislative measures necessary for making a wide-ranging, effective co-operation possible. He also feels that it is important to emphasise the necessity of striking a sensitive balance between the fight against terrorism and human rights, and believes that in this regard this legislative proposal needs to contain a clause on data protection in the exchange and use of information.

For these reasons, the Rapporteur presents amendments which defend Parliament's position that the exchange of information concerning terrorist offences in the Member States of the EU should not be kept outside the scope of continuous and effective cooperation within the EU institutions, between the EU and its Member States, its candidate states and its future member states as well as between the EU and the USA, while complying with the international data protection standards.

AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 Recital 5

(5) The objectives of the proposed action cannot be satisfactorily attained by the Member States acting alone and can therefore, given the need for reciprocity, be

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¹ Not yet published in OJ.

better attained by the Union, which may accordingly act in accordance with the subsidiarity principle. In accordance with the principle of proportionality, this Framework Decision does not go beyond what is necessary to attain those objectives.

better attained by ***closer cooperation between Member States and by the Union, which may accordingly act in accordance with the subsidiarity principle***. In accordance with the principle of proportionality, this Framework Decision does not go beyond what is necessary to attain those objectives.

Justification

70% of the information exchanged through Europol is exchanged on a bilateral basis and this amendment recognises this reality.

Amendment 2 Recital 5 a (new)

(5a) Member States are determined to take further steps towards the rapid ratification of all international conventions and protocols relevant to the fight against terrorism, including the protocols amending the Europol Convention, and are committed to further promote the process of universal ratification by third countries of the relevant international instruments related to the fight against terrorism and the provision by those countries of aid and technical assistance in their implementation.

Justification

The ratification of the protocols amending the Europol Convention is necessary for ensuring a wider Europol mandate and also possibility for the co-operation in the exchange of information with a third country, such as the US. The EU should promote the universal ratification of relevant international agreements by the candidate countries and third countries, which have difficulties in tackling terrorist activities and the provision of aid and technical assistance in their implementation.

Amendment 3 Article 2, paragraph 6

6. Each Member State shall take the necessary measures to ensure that any relevant information included in document, file, item of information, object or other means of evidence, seized or confiscated in the course of criminal investigations or criminal proceedings in connection with terrorist offences can be made accessible or available immediately to the authorities of other interested Member States in accordance with national law and relevant international legal instruments where investigations are being carried out or might be initiated, or prosecutions are in progress in connection with terrorist offences.

6. Each Member State shall take the necessary measures to ensure that any relevant information included in document, file, item of information, object or other means of evidence, seized or confiscated in the course of criminal investigations or criminal proceedings in connection with terrorist offences can be made accessible or available immediately to the authorities of other interested Member States in accordance with national law and relevant international legal instruments where investigations are being carried out or might be initiated, or prosecutions are in progress in connection with terrorist offences;
Member States receiving such information shall undertake to protect it according to the same standards of confidentiality as the originating state and immediately notify the originating state of related information in their possession.

Justification

There needs to be confidence that information will be treated with appropriate security and that the passage of information is not just in one direction.

Amendment 4 Article 4 a (new)

Article 4a

The Member States shall ensure that the submission and exchange of information required by this Regulation, and its subsequent use, is in accordance with human rights and fundamental freedoms, including the established standards and rules on data protection and the protection of the individual against the abuse of data.

Amendment 5

Article 5 a (new)

Article 5a

Europol and Eurojust shall prepare and present their yearly reports to the Council and the European Parliament.

Justification

Taking into account the complexity of terrorist-linked offences, there is a necessity to create a closer linkage between Europol, Eurojust and the EU policy-making level. Reporting back to the Council and the European Parliament is a way to ensure more effective EU counter-terrorist policies as well as a parliamentary control of the bodies.

Amendment 6
Article 5 b (new)

Article 5b

The Commission shall conduct a feasibility study on the readiness and capability of the candidate countries and European neighbouring countries to be involved in the exchange of information on terrorist offences, and shall take the necessary steps to facilitate their participation.

Justification

The feasibility and possible ways of including Bulgaria, Croatia, Romania and Turkey in the exchange of information related to terrorist offences should be examined in order to widen the scope of cooperation and prepare the candidate States for their tasks as Member States.

(ExFdrAM/560716)The study should also extend its geographical scope in order to cover the readiness and capabilities of the European neighbouring countries to co-operate in this information process.

PROCEDURE

Title	Proposal for a Council decision on the exchange of information and cooperation concerning terrorist offences
References	(COM(2004)0221 - 15599/2004 – C6-0007/2004 – 2004/0069(CNS))
Committee responsible	LIBE
Committee asked for its opinion Date announced in plenary	AFET 15.9.2004
Enhanced cooperation	No
Drafts(wo)man Date appointed	István Szent-Iványi 13.9.2004
Discussed in committee	15.3.2005 29.3.2005
Date amendments adopted	30.3.2005
Result of final vote	for: 49 against: 4 abstentions: 1
Members present for the final vote	Vittorio Emanuele Agnoletto, Angelika Beer, André Brie, Philip Claeys, Simon Coveney, Ryszard Czarnecki, Véronique De Keyser, Giorgos Dimitrakopoulos, Camiel Eurlings, Alfred Gomolka, Klaus Hänsch, Richard Howitt, Toomas Hendrik Ilves, Bogdan Klich, Helmut Kuhne, Joost Lagendijk, Vytautas Landsbergis, Francisco José Millán Mon, Pierre Moscovici, Baroness Nicholson of Winterbourne, Raimon Obiols i Germà, Alojz Peterle, Tobias Pflüger, Bernd Posselt, Michel Rocard, Raúl Romeva i Rueda, José Ignacio Salafranca Sánchez-Neyra, Jacek Emil Saryusz-Wolski, Gitte Seeberg, Marek Maciej Siwiec, Konrad Szymański, Charles Tannock, Inese Vaidere, Geoffrey Van Orden, Ari Vatanen, Luis Yañez-Barnuevo García, Josef Zieleniec
Substitutes present for the final vote	Laima Liucija Andrikienė, Carlos Carnero González, Alexandra Dobolyi, Árpád Duka-Zólyomi, Hélène Flautre, Kinga Gál, Jaromír Kohlíček, Pasqualina Napoletano, Doris Pack, Athanasios Pafilis, Rihards Pīks, Aloyzas Sakalas, Anders Samuelsen, Inger Segelström, Csaba Sándor Tabajdi
Substitutes under Rule 178(2) present for the final vote	Christofer Fjellner, Bronisław Geremek