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Prevention, preparedness and response to terrorist attacks

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1. INTRODUCTION

In the wake of the terrorist outrage which struck Madrid and the European Union as a whole on 11 March, the European Council agreed[1] a set of strategic objectives which, since then, have directed the Union's fight against terrorism.

At its meeting of 18 June 2004[2] the European Council endorsed the revised *EU Plan of Action on Combating Terrorism*. The effective prevention, preparedness and response of the Union to terrorist attacks are overarching objectives reflected in many wide ranging measures and actions identified in the Plan of Action, to which the Commission made a decisive contribution[3]. At this meeting, the European Council identified a number of priority issues which should be addressed before the end of 2004: prevention and consequential management of terrorist attacks, protection of critical infrastructures and finance of terrorism.

This Communication, and the three individual Communications simultaneously adopted by the Commission[4] on each of the areas referred to, respond to these requests of the European council and aim to contribute towards the preparation, with the Council, of the European Council meeting of 17 December 2004.

2. CIVIL SOCIETY AND THE FIGHT AGAINST TERRORISM

The rights to life, freedom and security[5] are among the most cherished – if not the most important - human rights[6]. Terrorism threatens them all. The preservation of those rights is a fundamental task requiring in our democracies the participation of all social actors. Thus, it is not enough that European policies are integrated, they must also be inclusive. They must involve parliaments, economic agents, civil society organisations and all European citizens.

The protection of life, security and freedom requires, in our times, novel solutions, means and approaches. If terrorists are to be denied the use of liberty against liberty itself, the whole of society will need to participate in the definition and the development of new tools and new controls: the more effective tools required to fight global terrorism and the new effective controls required to maintain the balance between collective security and individual freedom. Security objectives must nevertheless remain compatible with the principles of fundamental liberties; and with the international rules on free entrepreneurship and commercial exchanges;

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1 European Council Declaration on Combating Terrorism of 25 March 2004, http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/79637.pdf

2 BRUSSELS EUROPEAN COUNCIL - 17 AND 18 JUNE 2004 - PRESIDENCY CONCLUSIONS, 10679/2/04 REV2, http://ue.eu.int/uedocs/cmsUpload/81742.pdf

3 Commission Staff Working paper, "Compendium Counter-Terrorist Actions: Contribution of the Commission Services", SEC (2004) 669 of 25 May 2004

4 Commission Communications on "Terrorist Financing – taking the fight forward" [COM (2004) 700], " Prevention and consequence management in the fight against terrorism" [COM (2004) 701], and "Critical Infrastructure Protection in the fight against terrorism" [COM (2004) 702],

5 Article 3 of the Universal Declaration on Human Rights: "Everyone has the right to life, liberty and security of person."

6 C.f. Articles 2.1 "Everyone has the right to life" and 6 "Everyone has the right to liberty and security of person of the Charter of Fundamental Rights of the European Union, http://www.europarl.eu.int/charter/pdf/text_en.pdf

the confidentiality of individual and commercial data gathered for the purpose of security services must absolutely be guaranteed in the EU and also by our commercial partners.

2.1. Defending fundamental rights against violent radicalisation

Opposing violent radicalisation within our societies and disrupting the conditions facilitating the recruitment of terrorists must be fundamental priorities in a strategy to prevent terrorism. The Commission intends to contribute to related work in the Council in 2005 by drawing *inter alia* on the expertise of the European Monitoring centre on racism and xenophobia, experts and researchers. It will aim, on the one hand, to identify where European policies and instruments can play a preventive role against violent radicalisation and, on the other hand, examine how best to protect the fundamental rights and freedoms enshrined in the European Constitutional Treaty from those - who ever they may be – who would attempt attack them through violence and terror.

2.2. Public-Private Security Dialogue

Given the important role of the private sector in the prevention, preparedness and response to terrorist attacks, illustrated in each of the three other contributions to the preparation of the December 2004 European Council, the Commission considers it necessary to engage in a "Public-Private Security Dialogue" with representatives of European, national and sector federations and other representative organisations. This should build upon previous work in this field and existing partnerships, notably regarding the establishment of Public-Private Partnerships to address organised crime. It should not lead to the creation of new structures but rather constitute an opportunity for both sides to enter into a productive dialogue on balancing Europe's security needs with the need not to disrupt circulation of goods and services throughout Europe while respecting the confidentiality of individual and commercial data gathered for security purposes and while keeping the impact on enterprises and industries associated with the proposed measures proportionate to the achievement of security risks reduction.

2.3. Victims of terrorism

Support to the victims and their families as well as contributions to rehabilitation efforts must be an integral part of the response to terrorist attacks in a society bound by solidarity. On 25 March, the European Council invited the Commission *"to ensure the allocation, as a matter of urgency, of the funds available in the 2004 budget for supporting victims of terrorism."*

The Commission is currently working on different aspects of this response and implementing a pilot project agreed upon by the Parliament to support the financing of projects intended to help the victims to recover and to raise awareness of the public against terrorist threat.

In addition, a mechanism should be established which would share the economic burden of an event causing extreme damages, such as the World Trade Center attacks in New York, among the entire European Union. By exercising this solidarity, each Member State will find easier to cope with the aftermath of an attack of such a magnitude. The Commission is studying different options for such a mechanism in view to a possible proposal mid-2005.

2.4. Making 11 March a day of civic and democratic debate on securing freedom

The Commission intends to contribute to honouring the memories of the victims of the 11 March 2004 outrage, through the ceremonies to be held on the 1st European day of the victims of terrorism, on 11 March 2005. The Commission considers that the best way it can contribute to this, is by helping to make this day a day of civic and democratic debate on securing freedom. In the days following 11 March European citizens in all member states and in their millions have shown solidarity, commitment, courage and confidence in national and European institutions. The Union must honour this democratic maturity and contribute to an informed debate on the delicate balances which have to be found if Europe is to equate the highest level of public security with the strictest protection of the freedom and guarantees which characterise Europe. The Commission is willing to contribute, in cooperation with the Council, to the production of a Memorial Report to be addressed to the European, National and other parliaments as well as European citizens in general describing the measures taken by Europe between 11 March 2004 and 11 March 2005 and the respective state of implementation at European and national level as well as the main challenges which lay ahead. Such a report, dedicated to the memory of the victims of terrorism, could be prefaced by a message of the European Council.

3. AN INTEGRATED APPROACH TO THE PREVENTION, PREPAREDNESS AND RESPONSE TO TERRORIST ATTACKS IN THE COMMUNITY SPHERE

3.1. Community policies in the fight against terrorism

At its meeting of 18 June 2004, the European Council highlighted the importance of an integrated approach in the fight against terrorism and underlined the importance of making use of the wide-ranging instruments of the European Union. The Commission fully subscribes to this view which guides its own work.

The draft Constitutional Treaty abolishes the third pillar and, with few exceptions, mainstreams Justice and Home Affairs within other Union policies. The Commission has acquired considerable experience in the first pillar in the areas on which the European Council of June has asked for its contribution. This opens the way for a smooth institutional landing in the areas where the Commission will, following the entry into force of the Treaty, play its traditional policy preparation and execution role. The Commission considers that consistency and effectiveness in combating terrorism can only be achieved through bringing about a better mainstreaming of police cooperation and judicial cooperation into our overall policies.

Each of the three other Communications which are a part of the current contribution, addresses the ways in which the Commission, with its present tools and, in some cases, equipped with new tools, could enhance European prevention, preparedness and response to terrorist attacks, respectively on terrorist financing, prevention and consequence management and critical infrastructure protection in the fight against terrorism. They also highlight the importance of several overarching requirements which draw on many instruments and means found across a very wide spectrum of Community policies.

The following actions illustrate the mainstreaming of security objectives in numerous community policies with a view to the prevention, preparedness and response to terrorist attacks. It is not an exhaustive list of all policy areas where the Commission is currently

contributing directly towards the implementation of the Union's Plan of Action on Combating Terrorism. Such list, and that of all other policy areas where the Commission is contributing to pursue the strategic priorities set by the European council on 25 March, would include numerous other areas as different as transport, energy and space.

3.2. External cooperation

The European Council emphasised at its meeting of 18 June "*the need to ensure that the fight against terrorism is fully integrated into EU external relations policy and requests that concrete proposals are submitted to the December European Council on how this is most effectively achieved."*

The Commission is working in collaboration with the Council for the European Council on how to incorporate the fight against terrorism into the various elements of the EU's external relations policy. As a first contribution, the Commission services have produced a Non-Paper, 'The Commission's Counter-Terrorism Technical Assistance Strategy'.

This paper sets out the strategic policy rationale for developing the Commission's contribution to the overall EU approach to providing counter-terrorism assistance to third countries and regions. The strategy is based upon the following rationale: EC assistance should build upon existing cooperation and assistance, and be characterised by a collaborative approach with recipient countries; it should focus on areas of EC comparative advantage - geographically, with a particular emphasis on the Wider European neighbourhood and - thematically, providing longer-term institution building necessary to ensure durable results, covering UNSCR 1373 priority areas such as police and judicial cooperation, financial law and practice, and border management.

The Commission will further develop all transport and energy security aspects in the context of the fight against terrorism including in programming external assistance and in cooperation with third countries. The level of security in terms of infrastructure and procedures in European Union neighbours and in third Countries with which the Union has sustained commercial relations needs to be as high as possible. In any case it should be commensurate with internationally established standards.

In order to avoid re-screening or re-checking imports or goods or persons upon arrival or in transit, mutual recognition agreements on the implementation of the agreed international measures should be agreed and drafted by the Commission and proposed to Member States for endorsement. Peer reviews of these respective systems should be regularly conducted.

The Commission is also producing additional contributions, on other aspects of the EU's approach to integrating the fight against terrorism into its external relations, namely: developing cultural dialogue with the Islamic world; addressing the underlying factors of terrorism; and tackling the links between international organised crime and terrorism.

There are in addition important links to the work also underway in cooperation with the Council in the area of non-proliferation of weapons of mass destruction including measures related to dual-use items and export controls.

It is also important to note that related issues form an important part of multilateral and bilateral cooperation programs in which the Commission is involved.

3.3. Integrating European and national systems

If Europe is going to be able to ensure the security of its citizens to the highest possible standards it must be able to draw on the best information and the best expertise wherever this may be found.

The Commission has developed a number of rapid alert systems and a civil protection system allowing for the concrete, coordinated and effective expression of solidarity in case of emergencies, including those of a terrorist origin. The duty office of the Commission's Security Directorate operates on a 24/7 staffed basis. It acts as a point of contact for the majority of alert systems. In addition, there are command centres and crisis rooms in different services, which are triggered in a case of an alert and which are linked with counterparts across all the member states of the Union. The Commission is now actively considering establishing a central structure which will, as appropriate, link all the subsystems and host, in the event of crisis, joint teams which will bring together all the relevant information and expertise.

Analogous processes of consolidation and integration at European level are required and actually underway in the areas of fighting the financing of terrorism – e.g. real time access by law enforcement and intelligence services to financial institutions databases of subjects and transactions.

Furthermore, with regard to ensuring supply chain security, the Commission currently has a proposal before the Council and Parliament aimed at having a better warning system concerning exchanges of goods in order to ensure better control of all suspicious movements without hindering the normal flow of trade.

3.4. Authorities communicating with the public

Whilst the internal communications between authorities is critical in the case of a terrorist attack or similar emergency, good communications with the public may be just as critical. As the electricity black out in Italy has shown, failure to provide adequate communications with the public may result in unrest and even in mass hysteria. Equally, failure to pick up important signals from the public may cause calamities that could have otherwise been prevented or mitigated.

Good communications with the public requires modern and state-of-the art communications and information processing systems and procedures that are adapted to the new threat environment. Effective communication and information systems can assist with the early detection of an event, the rapid analysis, and the alert of the population in targeted areas. They are therefore key instruments for preventing and mitigating the consequences of any threat or attack. Several Member States are currently testing their public warning systems and new technical capabilities such as GSM cell-broadcasts are being tested or are already deployed.

The new global security environment and the rapid technological evolution cause major new challenges upon public safety and emergency communications services. The Commission is working to set up a user forum made up of officials in the field of public safety and emergency communications services. This forum will facilitate a more permanent dialogue between emergency service operators and authorities on interoperable systems for emergency handling and new concepts for public warning systems and procedures.

3.5. Linking-up with the law enforcement community

A second requirement concerns the involvement of law enforcement authorities and internal security authorities. In all the areas referred to these agencies may need to intervene. Such a role is crucial in the fight against the financing of terrorists, highly advisable in establishment of vulnerability assessments and the elaboration of standards for the protection of critical infrastructure and inevitable to varying degrees in the response to any terrorist attack.

However, the sharing of alerts between Community systems and the law enforcement and internal security authorities in the Member States can, and in the Commission's view should, be significantly improved. Such authorities should have access to alerts produced by the different European systems and should also be able to contribute with relevant information. The Commission believes that Europol should host a law enforcement alert mechanism (the Law Enforcement Network, LEN) and its connection with other European rapid alert and rapid response systems. Participation of Europol will take place within the limits of the Europol Convention.

The Commission also believes that Europol should play a major role in the establishment of the European Programme for Critical Infrastructure Protection (EPCIP) whose preparation it aims to complete in the course of 2005.

The Commission is of the view that Europol, Eurojust and other competent authorities must have access to the most complete and up-to-date information to ensure an effective fight against terrorist financing. There should be an overriding readiness at national, EU and international levels to exchange information relevant to all terrorist offences, including participation in the activities of a terrorist group through any form of financing.

3.6. The security research priority

The Commission considers it necessary for the Union to take decisive steps, in quantitative and qualitative terms, to reinforce scientific and technological research in the area of security by more than one order of magnitude.

Issues related to civil protection (including biosecurity and protection against risks arising from terrorist attacks) and crisis management are covered by the Scientific Support to Policies section of the 6th Framework Programme for Research. In addition to the ongoing initiatives, the Commission has recently adopted a Communication on "Security Research – the next steps", drawing on a report elaborated by a Group of Personalities in the Field of Security Research. This report advocates that as a minimum there should be additional funding of 1 billion € per year for a European Union Security Research Programme from 2007 onwards. The Commission has noted the recommendation of the Group of personalities that security research should be attributed an appropriate level of resources. It has employed its budgetary and policy follow-up accordingly in the financial perspectives.

A European Security Research Programme would significantly reinforce the activities in many areas, several of which are necessary to meet the requirements of fighting terrorist financing, protecting critical infrastructures and developing consequence management. In addition, the importance of cyber security as a focus of the IST Programme will continue to be high as the development of an "e-economy" requires a parallel improvement of "e-security".

The Commission considers that the private sector must play an important role – and make a concrete investment in security research. On its side, the Union must be ready to support the development of innovative joint research ventures associating public and private means.

3.7. The role of the private sector

Another very important overarching requirement is that of effective and integrated cooperation with the private sector. Whether one considers the need to monitor financial flows or to reinforce the resilience of critical infrastructures, private operators will have a crucial role to play. The Commission believes that it is necessary to engage the private sector as early as possible in the identification and the development of new solutions towards the security enhancement of goods and services.

Terrorism will most often require technological innovation and new forms of partnership, leading to added internal and external competitiveness. Private sector structured involvement in the development of high standards, practices and procedures for the security enhancement of goods and services should contribute, where possible, in order to avoid the imposition of new legislative requirements on industry. Preserving and reinforcing the integrity of the internal market requires that such work is conducted through cooperation at European level.

3.8. Explosives

In its declaration of 25 March, the European Council recognised *"that there is a need to ensure terrorist organisations and groups are starved of the components of their trade"*. It further underlined the "*need to ensure greater security of firearms, explosives, bomb-making equipment, and the technologies that contribute to the perpetration of terrorist outrages.* The issue was subsequently addressed in the Commission's "Compendium" and integrated in the revised Action Plan.

The Commission is actively pursuing the above objectives and contributing to the work in the Council instances, notably by means of staff working papers. This work is conducted in an inclusive manner involving the research community, experts, Europol, and the explosive and detonators manufactures. The aim is that notably the traceability, detection, identification enhancement, storage, accounting, transport and handling procedures regarding European explosives and detonators should contribute effectively to the highest possible security level. If necessary, proposals will be presented for that purpose.