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on the framework programme on 'Security and Safeguarding Liberties' for the period 2007-2013

Committee on Civil Liberties, Justice and Home Affairs

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I. General assessment of the programme

A. GENERAL AND FINANCIAL CONTEXT

'Giving full content to the concept of European citizenship, mainly through the completion of an area of freedom, security and justice.' That is one of the Commission's three priorities in respect of the financial perspective for 2007-2013. Ever since the Tampere Summit in 1999, the Union has been heavily involved in constructing this area of freedom, security and justice, something which was brought to fruition in the Hague Programme of November 2004. That programme clearly highlighted the vital importance of stepping up the prevention of and the fight against different kinds of crime, particularly terrorism. It also stressed the pressing need to make cooperation in these areas more practical. That should lead to a slight increase in the budgetary allocation made available under the relevant heading in the new financial perspective.

The package the Commission has brought forward includes three framework programmes (*'Solidarity and management of migration flows'*, *'Fundamental rights and justice'* and *'Security and safeguarding liberties'*) with a total budget of EUR 7 154 billion for the period concerned. The *'Security and safeguarding liberties'* general programme has been allocated EUR 745 million, of which EUR 597 million is currently earmarked for the specific programme entitled *'Prevention of and fight against crime'*, EUR 137 million for the *'Prevention, preparedness and consequence management of terrorism'* programme, and EUR 10 million for non-differentiated appropriations.

It should be noted, however, that the total allocation for the *'Security and safeguarding liberties'* programme, on which Parliament is only consulted, is decided upon annually via the budgetary procedure. For parliamentary scrutiny of the programme to be effective, Parliament will thus need to keep a very close eye on developments.

B. A HYBRID LEGAL BASIS

The two main aims of the *'Security and safeguarding liberties'* general programme have different legal bases:

- the first aim of preventing and combating crime – which is to be centred around the three thematic areas of law enforcement, crime prevention and criminology, and witness and victim protection – will be based on Articles 30, 31, 34(2)(c) and 39 of the Treaty on European Union;

- the second aim centres around prevention, preparedness and consequence management in relation to terrorism, with a particular focus on the need for a specific security setting and specific expertise. This is to be based on Article 308 of the EC Treaty.

This dual legal character is the only reason that two separate texts have been brought forward. The two texts have much in common, especially as regards combating terrorism. Parliament will be consulted on both of them.

C. GENERAL OBJECTIVES

The main objectives of the Commission proposal are to ensure effective operational cooperation both in combating terrorism – including its consequences – and organised crime and in enhancing the prevention of terrorism and organised crime.

The key aims are:

1) for the *'Prevention of and fight against crime'* programme:

- to develop coordination, cooperation and mutual understanding among law enforcement agencies, other national authorities and related EU services;
- to evaluate the implementation and efficiency of legislative and political measures decided upon at EU level;
- to promote public-private partnerships and strategies in respect of crime prevention, statistics, criminology and the protection of the victims and witnesses of crime.

2) for the *'Prevention, preparedness and consequence management of terrorism'* programme:

- to establish a coordinated approach across Member States as regards prevention and preparedness in respect of potential and actual terrorist threats and as regards crisis and consequence management;
- to carry out surveys and assessments in the public and private sectors to pinpoint the areas in which the EU remains vulnerable;
- to focus on integrating specific aspects of security and law enforcement into the rapid alert and crisis management system.

These programmes will bring added value by establishing bases for effective cooperation between law enforcement agencies and other relevant authorities, with a view to enabling the Member States to put in place a minimum level of protection against crime and the threat of terrorism. The ultimate aim is to eliminate any weak spots in the EU and its critical infrastructure that could be exploited by those involved in organised crime.

II. Clarity and coordination: the basic requirements

A. A NUMBER OF CLARIFICATIONS ARE NEEDED:

… AS REGARDS PARLIAMENT'S POWER OF SCRUTINY

The new framework programme will constitute a major step forward if, in line with the Commission's comprehensive approach, it is able to streamline and simplify the current situation, which is characterised by a plethora of small budget lines that make it impossible to achieve maximum efficiency.

Nevertheless, it is important to have a clear idea of the impact such an approach will have on the European Parliament's powers of political and budgetary scrutiny. The Commission must bring forward practical proposals to ensure that fundamental freedoms are protected and that

the European Parliament is able to exercise real democratic scrutiny over the entire programme. As the interparliamentary meetings held on 17 and 18 October 2005 showed, it is the responsibility of our national parliaments and of the European Parliament to scrutinise the process so as to avoid a situation in which the Council's legitimate desire to respond appropriately to current threats itself turns into a threat to individual freedoms.

- *Given the fact that European Parliament is ready and willing to carry out this task, especially as regards combating terrorism, what guarantees are being given to allow it to do so in a transparent, efficient and balanced way?*

… AS REGARDS THE WAYS IN WHICH THE PROGRAMMES ARE MANAGED:

If the implementation of the general programme is to be highly decentralised, appropriate management systems must be used. Rules governing inspections, checks and assessments must be drawn up or adapted and, to ensure transparency, the results should be accessible and distributed to those involved at an operational level. Effective and timely communication with all public or private services and national- or Community-level institutions involved in combating crime and terrorism is a fundamental element of the assessment and operation of the programmes.

Common management arrangements must make it easier for support to be provided in the Member States to give innovative projects with European potential the boost they need to be moved up to European level, meaning that Community – or, where this does not apply, centralised – aspects of such projects are vital.

- *It is therefore reasonable to ask whether the Commission has considered establishing an executive agency to manage such programmes. If it has rejected such an idea, what were its reasons for doing so?*

B. COORDINATION ISSUES

THE LEVEL AT WHICH MEASURES ARE COORDINATED

In both the public and private sectors, critical infrastructure is a particularly vulnerable area that the Commission is tackling head-on with a raft of recent and forthcoming measures aimed at developing a specific security setting and specific security expertise that extend beyond the general concepts of civil protection, as well as developing suitable contingency plans on the basis of shared technical standards.

The *'Prevention of and fight against crime'* programme also aims to enhance cooperation between national law enforcement agencies and other relevant EU bodies (particularly Europol and the European Police College) to address the need for the swift, efficient exchange of key information.

The key to the programme's success will evidently lie in its practical implementation and whether it can be linked with any of the other major programmes in the overall strategy to be brought forward by the Commission before the end of 2005.

Specifically, these might include not only the *'Argus'* crisis coordination centre and rapid alert system (through which joint rapid reaction responses to disasters of all kinds will be managed and all the communications networks set up to warn of public security and public health threats will be linked), but also the two other instruments that form part of the Council and Commission's strategy as regards prevention of, preparedness for and response to terrorist attacks:

1. the European Programme for Critical Infrastructure Protection (EPCIP), the aim of which fits snugly into the twin framework of the specific programmes as it covers preventive measures related to expertise and analysis, as well as the protection of specific sites;

2. the Critical Infrastructure Warning Information Network (CIWIN).

- *It is perfectly reasonable to ask why, with an increasing number of programmes that may well overlap, the need for a global perspective of the problem has not persuaded the Commission to group its initiatives together under a single programme dealing with civil protection in the event of major disasters.*

- *Could the Commission put our minds at rest with regard to who is actually at the controls? What is the point of tidying up and simplifying the controls if there are still several different drivers?*

… AND THE BUDGETARY EFFECTS:

- *How can a reliable assessment of cost effectiveness be made when the exact boundaries of the programme are still unclear?*

The Commission seems to be making slow progress as regards clarification. While it seems that Argus is not to be financed via the programme and funding for EPCIP is being given serious consideration, we have not received any definitive information on the matter. Such a two-pronged response would require a greatly increased budgetary allocation, and it would be useful if the Commission could shed some light on these two issues.

We are, however, already aware that for the second programme, *'Prevention of and fight against crime'* – which has a larger budgetary allocation – the level of funding was mainly assessed on the basis of previous funding programmes such as AGIS, which was so successful that in 2003 only just over a third of the applications received could be accommodated.

- *What is the precise extent to which public-private partnerships might be covered by the programme?*

- *If it is the responsibility of the Member States to provide funding for critical infrastructure under their jurisdiction to be upgraded to conform with new security standards, who will take on the responsibility when private operators who receive a negative assessment declare that they are technically and/or financially unable to carry out an upgrade?*

The discussion, therefore, is not centred around that which is clearly established via the two specific programmes, but around the **key choice** of whether to leave them with the sole additional power of acting as a financial 'support vehicle' (with a muddled or hybrid legal character) to sweep up behind Community initiatives on civil protection, or to include within their scope flagship initiatives such as Argus and EPCIP.

- As regards the first option, it is hard to see the Commission departing from its initial financial estimates, which, as far as the *'Prevention, preparedness and consequence management of terrorism'* programme is concerned, are merely anecdotal.
- However, it will be difficult for the second option to be credible or efficient without a slight increase in funding. This increase need not come about as a result of a reduction in the amounts allocated to the other general programmes brought forward by the Commission (*'Fundamental rights and justice'* and *'Solidarity and management of migration flows'*); on the contrary, it should result from an overall increase in the budgetary allocation as requested in the Böge report, with the backing of the LIBE Committee in the shape of the Deprez opinion.

CONCLUSION

The Commission has resolutely turned its back on the idea of maintaining the status quo. Its overall effort, in line with the Council's conclusions, to enhance and streamline an integrated European management system to deal with crises (including terrorism) is to be welcomed. However, that move must be followed up by the presentation, before the end of the year, of a coherent, uniform, clear and overarching strategy with the potential to succeed.

The stakes are high, as the high level of public concern about disasters in their various forms gives the EU an opportunity to emphasise its ability to bring initiative, organisation, solidarity and true 'added value', which can be seen on a day-to-day basis as regards prevention, a key aspect in an emergency.