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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

on the proposal for a Council decision establishing the specific programme 'Prevention, Preparedness and Consequence Management of Terrorism' for the period 2007-2013

General Programme 'Security and Safeguarding Liberties'
(COM(2005)0124 – C6-0241/2005 – 2005/0034(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Romano Maria La Russa

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on establishing the specific programme 'Prevention, Preparedness and Consequence Management of Terrorism', for the period 2007-2013
General Programme 'Security and Safeguarding Liberties'
(COM(2005)0124 – C6-0241/2005 – 2005/0034(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the Commission proposal to the Council (COM(2005)0124)[1],

– having regard to Article 308 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0241/2005),

– having regard to Rule 51 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0000/2006),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission	Amendments by Parliament
Amendment 1 Title	
Proposal for a Council decision establishing the specific programme "Prevention, Preparedness and Consequence Management of Terrorism", for the period 2007-2013	Proposal for a Council decision establishing the specific programme "***Risk Assessment*** and Consequence Management of ***Critical Infrastructure Security***", for the period 2007-2013

[1] Not yet published in OJ.

Justification

If we wish to take the 'all hazards' approach advocated by the Council and the Commission and also bring the programme's title into line with its actual budgetary capacity, we need to amend the title in order for it to reflect both this wider scope and more realistic objectives.

Amendment 2
Recital 1

(1) Prevention, preparedness and consequence management of terrorism are essential aspects of the objective of maintaining and developing the Union as an area of freedom, security and justice as provided for in Article 2, fourth indent, of the Treaty on European Union.	(1) ***Risk assessment*** and consequence management of ***critical infrastructure security*** are ***priority*** aspects of the objective of maintaining and developing the Union as an area of freedom, security and justice as provided for in Article 2, fourth indent, of the Treaty on European Union.

Justification

The amendment to this programme's title, while reflecting more modest objectives, should not alter the priority given by the EU to the security issue in its aim of developing a genuine area of freedom, security and justice.

Amendment 3
Recital 2

(2) The Community must take the necessary measures to prevent ***terrorists*** from attacking the values of democracy, the rule of law, open society ***and the freedom of our citizens and societies, and*** to limit the consequences of ***any attack*** wherever possible.	(2) The Community must take the necessary measures to prevent ***natural or man-made disasters (including terrorism), in the case of the former, from impairing the well-being, freedom and security of our citizens and societies and, in the case of the latter,*** from attacking***, furthermore,*** the values of democracy, the rule of law ***and*** open society, ***as well as*** to limit the consequences of ***such disasters*** wherever possible

Justification

See Amendments 1 and 2.

Amendment 4
Recital 6

(6) The Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions[1], established by Council Decision 2001/792/EC, Euratom of 23 October 2001, addresses immediate response to all major emergencies, but has not been designed specifically for prevention, preparedness and consequence management of terrorist attacks.	***deleted***

Justification

See Amendment 1.

Amendment 5
Recital 7

(7) In the interest of efficacy, cost-efficiency and transparency, the specific efforts on ***prevention, preparedness*** and consequence management of ***terrorism*** should be streamlined and financed by one single programme.	(7) In the interest of efficacy, cost-efficiency and transparency, the specific efforts on ***risk assessment*** and consequence management of ***disasters affecting critical infrastructure*** should be streamlined and financed by one single programme.

Justification

See Amendment 1.

Amendment 6
Recital 8

(8) With regard to legal certainty and coherence, and to the complementarity with other financial programmes, the terms "***prevention and preparedness*** measures",	(8) With regard to legal certainty and coherence, and to the complementarity with other financial programmes, the terms "***risk assessment*** measures", "crisis and

[1] OJ L 297, 15.11.2001, p. 7.

"crisis and consequence management" and "critical infrastructure" should be defined.	consequence management" and "critical infrastructure" should be defined.

Justification

See Amendment 1.

Amendment 7
Recital 9

(9) Commission actions, together with transnational projects where appropriate, are essential to achieve an integrated and coordinated ***EU*** approach. In addition, it is useful and appropriate to support projects within Member States to the extent that they can provide useful experience and knowledge ***for*** further actions at Community level, in particular inspections and risk and threat assessments.	(9) Commission actions, together with transnational projects where appropriate, are essential ***to identify and assess without delay the threats to European critical infrastructure and*** to achieve ***an early warning system between the Commission and the Member States and*** an integrated and coordinated approach ***to responses at EU level***. In addition, it is useful and appropriate to support projects within Member States to the extent that they can provide useful experience and knowledge ***applicable to*** further actions at Community level, in particular inspections and risk and threat assessments.

Justification

See Amendment 1.

Amendment 8
Recital 11

(11) Complementarity needs to be ensured with other Community and Union programmes such as the EU Solidarity Fund and the Response and Preparedness Instrument for major emergencies, the Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions, the Research & Development Framework Programme and the structural funds.	(11) Complementarity needs to be ensured with other Community and Union programmes such as the EU Solidarity Fund and the Response and Preparedness Instrument for major emergencies, the Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions, the Research & Development Framework Programme and the structural funds. ***Joint funding should also be expressly authorised with Commission programmes which allow***

	specific studies to be carried out on critical infrastructure security, in particular in the fields of transport and energy, with the aim of eventually bringing all funding resources together in a single instrument serving a clearly established global strategy.

Justification

The protection of critical infrastructure affects a whole range of sectors, covered by various Commission DGs. These DGs sometimes have budgetary resources - albeit to a limited degree - which may be used for specific studies relating to infrastructure security. It is therefore important to authorise and encourage such funding synergies.

Amendment 9
Recital 12

(12) Since the objectives of this programme cannot be sufficiently achieved by the Member States and ***can*** therefore, by reason of the scale or impact of the initiative, ***be better achieved*** at the Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty establishing the European Community. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary to achieve those objectives.	(12) Since the objectives of this programme cannot be sufficiently achieved by the Member States and ***may*** therefore, by reason of the scale or impact of the initiative, ***require in this case an intervention*** at the Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty establishing the European Community. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary to achieve those objectives.

Justification

Reaffirmation of the principle of subsidiarity.

Amendment 10
Article 1

This decision establishes for the period from 1 January 2007 to 31 December 2013 the specific programme « ***Prevention, Preparedness*** and Consequence Management of ***Terrorism***», hereinafter referred to as « the programme », as part of the general programme "Security and safeguarding liberties" in order to contribute to the strengthening of the area of Freedom, Security and Justice. This Decision shall not apply to matters covered by the Rapid Response Instrument in the event of major emergencies.	This decision establishes for the period from 1 January 2007 to 31 December 2013 the specific programme « ***Risk Assessment*** and Consequence Management of ***Critical Infrastructure Security***», hereinafter referred to as « the programme », as part of the general programme "Security and safeguarding liberties" in order to contribute to the strengthening of the area of Freedom, Security and Justice. This Decision shall not apply to matters covered by the Rapid Response Instrument in the event of major emergencies.

Justification

See Amendment 1.

Amendment 11
Article 2, point (a)

(a) "***prevention and preparedness***" refers to measures aiming to ***prevent and/or reduce the risk of a terrorist attack and/or its*** consequences, ***particularly through risk and threat assessments, inspections and development of common standards on technology and methodology***;	(a) «***risk assessment***», refers to measures ***and checks*** aiming to ***identify risks for and threats to critical infrastructure resulting from a natural or man-made disaster (including terrorism) and their*** consequences ***and leading to the highlighting of weaknesses in such infrastructure and recommendations on how to remedy them***;

Justification

See Amendments 1 and 2.

Amendment 12
Article 2, point (b)

(b) "consequence management" refers to measures limiting the mid-term consequences of ***terrorist attacks*** which are necessary to safeguard the European Union as an area of Freedom, Security and Justice;	(b) "consequence management" refers to measures limiting the mid-term consequences of ***such disasters*** which are necessary to safeguard the European Union as an area of Freedom, Security and Justice***, in particular through the emergence of a centralised early warning system and effective coordination at Community level of responses to such***

situations;

Justification

See Amendments 1 and 2.

Amendment 13
Article 2, point (c)

(c) "critical infrastructure" refers to physical resources, services, communication facilities, networks and/or assets the disruption or destruction of which would have a serious impact on the health, safety, security or economic well-being of citizens or of the effective functioning of the European Union or its Member States' governments.	(c) "critical infrastructure" refers to physical resources, services, communication facilities, networks and/or assets the disruption or destruction of which would have a serious impact on the health, safety, security or economic well-being of citizens or of the effective functioning of the European Union or its Member States' governments ***and a non-exhaustive list of which appear in the annex to this document***.

Justification

See Amendments 1 and 2.

Amendment 14
Article 3

1. This programme shall contribute to protect citizens, their liberties and society against ***terrorist attacks*** and related incidents, and to safeguard the European Union as an area of Freedom, Security and Justice.	1. This programme shall contribute to protect citizens, their liberties and society against ***all types of disasters*** and related incidents, and to safeguard the European Union as an area of Freedom, Security and Justice.
2. The general objectives of the programme contribute to the development of other Union and Community policies such as police and judicial cooperation in criminal matters, protection of the environment, public health, transport, research and technological development and economic and social cohesion.	2. The general objectives of the programme contribute to the development of ***a global security concept based, in particular, on*** other Union and Community policies ***and joint actions*** such as police and judicial cooperation in criminal matters, protection of the environment, ***energy supply, security of communication and information networks,*** public health, transport, research and technological

development***, continuity of public action*** and economic and social cohesion.

Justification

The list of EU policies to which this programme contributes would need to be supplemented, in particular to include sectors such as energy and communication networks, since the exploitation of the weaknesses of such sectors may have extremely serious cross-border consequences.

Amendment 15
Article 4, paragraph 1

1. Within the general objectives, and unless covered by other specific legal instruments, the programme shall stimulate, promote and develop measures on ***prevention, preparedness*** and consequence management.	1. Within the general objectives, and unless covered by other specific legal instruments, the programme shall stimulate, promote and develop measures on ***risk assessment*** and consequence management.

Justification

See Amendment 1.

Amendment 16
Article 4, paragraph 2, point (a)

2. ***With regard to prevention and preparedness to terrorist attacks, the programme*** aims at	2. ***It*** aims***, in particular,*** at:
(a) stimulating, promoting, and supporting risk and threat assessments on critical infrastructure, ***including*** evaluations on site, to identify possible targets ***of terrorist attacks*** and possible needs for upgrading their security,	(a) stimulating, promoting, and supporting risk and threat assessments on critical infrastructure, ***in particular by means of*** evaluations on site, to identify possible targets and possible needs for upgrading their security,

Justification

See Amendment 1.

Amendment 17
Article 4, paragraph 3

3. With regard to consequence management ***in case of terrorist attacks***, the programme aims at	3. With regard to consequence management, the programme aims at

Justification

See Amendment 1.

Amendment 18
Article 4, paragraph 3, point (a)

(a) stimulating, promoting and supporting exchange of know-how, experience and technology on the potential consequences of ***terrorist attacks***,	(a) stimulating, promoting and supporting exchange of know-how, experience and technology on the potential consequences of ***disasters***,

Justification

See Amendment 1.

Amendment 19
Article 4, paragraph 3, point (c)

(c) ensuring real-time input of specific expertise ***on terrorism matters*** within overall crisis management, rapid alert and civil protection ***mechanisms***.	(c) ensuring real-time input of specific expertise within ***an*** overall crisis management, rapid alert and civil protection ***mechanism***.

Justification

See Amendment 1.

Amendment 20
Article 5, paragraph 1, point (c), indent 4

- contribute otherwise considerably to protecting the Union and its citizens from ***terrorist attacks***.	- contribute otherwise considerably to protecting the Union and its citizens from ***the various types of disasters: measures relating to national critical infrastructure the malicious or accidental exploitation of whose shortcomings could have serious cross-border repercussions shall therefore be eligible, in partnership with the Member States.***

Justification

Certain national critical infrastructure fall within the scope of this programme owing to the foreseeable serious consequences of any malfunction. In such circumstances, they should therefore, at the request and/or with the agreement of the Member State concerned, be eligible for funding under the programme.

Amendment 21
Article 8, paragraph 4 a (new)

	4a. The Commission shall, as far as possible, simplify procedures and ensure that calls for proposals provided for in this programme do not entail a bureaucratic burden for promoters of proposed projects. The call for proposals may, where appropriate, be organised in two stages, the first of which would only require information that was strictly necessary for a proper assessment of the project to be sent.

Justification

The programme should not, on account of its complexity and/or administrative unwieldiness, discourage any initiative; the simplification of procedures is a key to its success.

Amendment 22
Article 10, paragraph 2

2. The programme may share resources with other Community and Union instruments, in particular the programme "Prevention of and Fight against Crime", in order to implement actions meeting the objectives of both the programme and other Community/Union instruments.	2. The programme may share resources with other Community and Union instruments, in particular the programme "Prevention of and Fight against Crime", in order to implement actions meeting the objectives of both the programme and other Community/Union instruments ***and with Commission programmes allowing specific studies relating to critical infrastructure security to be carried out, such as those already in progress in the fields of transport and energy.***

Justification

See Amendment 8.

Amendment 23
Article 14, paragraph 3

	(a) a succinct yearly report, including, in particular, information making it possible to measure the programme's success in quantitative terms.
(a) an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of this programme no later than 31 March 2010;	***b)*** an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of this programme no later than 31 March 2010;
(b) a Communication on the continuation of this programme no later than 31 December 2010;	***(c)*** a Communication on the continuation of this programme no later than 31 December 2010;
(c) an ex-post evaluation report no later than 31 March 2015.	***(d)*** an ex-post evaluation report no later than 31 March 2015.

Justification

Parliament cannot wait for three-and-a-half years to have an initial idea of the programme's results; it primarily needs indications in order to be able to play its role as budgetary co-legislator properly, and adjust or reorientate work on the basis of the results. A succinct yearly report must therefore be a requirement.

Amendment 24
Article 14 a (new)

	Article 14a
	Equal treatment
	Organisations in receipt of an operating grant by virtue of this programme may take part in calls for proposals for other programmes, without however being

entitled to preferential treatment vis-à-vis other organisations financed from budgets other than that of the European Union.

Justification

Reminder of the principle of equal treatment.

Amendment 25
Annex

INDICATIVE LIST OF CRITICAL INFRASTRUCTURE SECTORS:
1)Energy
a. Oil and gas production, refining, treatment and storage, including pipelines
b. Electricity generation
c. Transmission of electricity, gas and oil
d. Distribution of electricity, gas and oil
2) Information, Communication Technologies, ICT
a) Information system and network protection
b. Instrumentation automation and control systems (SCADA etc.)
c. Internet
d. Provision of fixed telecommunications
e. Provision of mobile telecommunications
f. Radio communication and navigation
g. Satellite communication
h. Broadcasting
3) Water
a. Provision of drinking water
b. Control of water quality
c. Stemming and control of water quantity
4) Food
a) Provision of food and safeguarding food safety and security
5) Health
a. Medical and hospital care
b. Medicines, serums, vaccines and pharmaceuticals
c. Bio-laboratories and bio-agents
6)Financial

a)Payment services/payment structures (private)
b)Government financial assignment
7) Public & Legal Order and Safety
a) Maintaining public & legal order, safety and security
b)Administration of justice and detention
8)Civil administration
a. Government functions
b. Armed forces
c. Civil administration services
d. Emergency services
exposal and courier services
9)Transport 29 Road transport
a. Rail transport
b. Air traffic
c. Inland waterways transport
d. Ocean and short-sea shipping
10) Chemical and nuclear industry
a. Production and storage/processing of chemical and nuclear substances
b. Pipelines of dangerous goods (chemical substances)
11) Space and Research
a. Space
b. Research

EXPLANATORY STATEMENT

Following the Tampere and The Hague Summits, the Commission included among its priorities in respect of the 2007-2013 financial perspective the task of achieving an overall level of security for the European Union which would, on account of its excellence, be a pillar giving full meaning to the concept of European citizenship.

However, while the specific programme '*Prevention, Preparedness and Consequence Management of Terrorism*' initially gave the impression - as its title indicates - that its only purpose was to improve measures to fight the terrorist threat, a number of actual or potential disasters and the Commission's desire to lay the foundations for a comprehensive security system at European level have, in the meantime, led to a redefinition of the programme's scope. This redefinition - on which there is strangely total consensus between the Council and Commission - extends the programme's objective to improving the overall security of all critical infrastructure, whatever the nature of threats, developing an effective prevention policy and implementing genuine coordination of the EU's response in the event of a disaster taking place.

It is important to amend the report's title at this initial stage since, although terrorism is admittedly the most important and frequent threat to the various critical infrastructures which, if attacked, would have an extremely serious cross-border impact, the report seeks to tackle the whole range of such threats, thus also covering natural disasters, major public health risks, technological malfunctions, etc. As the cross-border aspect of this redefined problem still implies a high degree of cooperation between the various national security services, the relevant instrument must be maintained within the third pillar.

This choice may seem baffling when compared with the limited resources allocated to the project - EUR 137 million over seven years - in view of the task which the Commission has set itself. Admittedly, the programme is not aimed at funding the operational security of critical infrastructure as such. However, it is intended to reduce the vulnerability of such infrastructure where the alteration or halting of their activity might have serious repercussions on human lives, the environment, economic and financial activity, or the functioning of democracy and the rule of law in all or part of the European Union. This security imperative covers a whole host of vital activities. Energy, transport, information and communication technologies, the food chain, medical and laboratory infrastructure, financial systems, transport, high-risk sectors such as the chemical and nuclear industries and the space industry are all sectors for which this initiative is a priority obligation.

Why then is there such a gulf between the scale and urgency of the task and the resources made available for its achievement? How can we possibly extend the programme's scope without expanding the relevant budget proportionately?

This is admittedly an emerging area of activity, for which there is no precedent. Though limited, the funds allocated to these objectives, which are not otherwise budgeted for, should exert a 'lever' effect and initiate a long-term operation leading eventually to a heightened awareness of actual needs and, hence, the necessary contribution from Member States and the Union to funding that is commensurate with the challenge before us, which is far from the case at present. Moreover, the desire, in the context of the concept of overall security, to provide the 'missing link' between civil security and security as it relates strictly to policing,

as an essential means of connecting and thus increasing the effectiveness of each of these pillars, is to be commended. While the aim of the programme is not to influence the action of the various emergency services or security forces, it is intended to improve prevention measures by helping to identify risks and responses through optimum coordination of resources, which are currently insufficiently interconnected.

However, since the Commission and the Council have agreed on a redefinition of objectives, focusing on a pragmatic *'all-hazard approach'* to the Union's critical infrastructure, they must complete their clarification efforts and avoid using an extremely ambitious title to hide what is a much more limited reality. And that reality is that it was only with great difficulty that the governments reached a financial agreement, which actually fell far short of the wishes expressed by Parliament and - what is more serious - of what was needed to pursue the objectives which the European Union had set itself, among which the establishment of an area of freedom, security and justice was high on the agenda.

In other words, even leaving to one side the coordination aspect, if we are trying to make a significant impact with a budget of EUR 137 million over seven years (below the Commission's low hypothesis, according to which an annual budget of 20 million was the minimum below which this action could not be effective), we have to acknowledge that we cannot possibly, in the initial stage, finance anything other than initiatives to clearly identify weaknesses in European critical infrastructure and, where appropriate, draw attention to the risks that would be run if such shortcomings were not adequately addressed.

In this connection, Parliament's role must be to check that the funds allocated in this area provide genuine added value, with due respect for the principles of proportionality - including considerable simplification of procedures - and subsidiarity. Even if Parliament is prepared to accept the twists and turns of the Commission's strategy as it seeks to deal with the financial reluctance of Member States and the extremely cumbersome legal perplexity of security policy, it must ensure, for its own part, that the programme's title, objectives and financial resources are realistically matched.

However, as far as coordination is concerned, the report should support any measure that will speed up the establishment of the CIWIN network, which, through its hybrid nature, should combine an early warning system with a discussion and exchange area to signal and forward immediate alerts and the immediate implementation at Community level of appropriate protection measures in the event of a crisis, and constitute a basis for discussion and exchanges on best practice with regard to protecting critical infrastructure outside emergency periods. Here again, such efforts - linking up the Commission and the Member States and backing up the (already operational) ARGUS system enabling rapid circulation of information between all the early warning systems of the Commission and its services - will only be fully justified if future developments, based, here again, on future budgetary increases, make provision for Member States, as well as owners and operators of critical infrastructure, to be connected to the network.

Lastly, procedures for the monitoring of the programme - in particular by the European Parliament - need to be better defined. Clearly, the European Parliament must be involved in the committee responsible for the management of the programme. It would also appear desirable for a summary annual report to be submitted to the committee responsible and for it to serve as a basis for possible reference to a review clause. A link should also be set up with

the national parliaments enabling them, in the light of the results and any shortcomings highlighted, to make their requests for appropriate intervention known in their respective Member States. The presentation of the annual report could take place in the European Parliament, in the presence of representatives of the national parliaments.

The Commission's appreciable effort, in line with the Council's theoretical wishes aimed at strengthening overall security within the Union, would have greatly benefited had the operation been more transparent, based on a clear statement from the outset of its final intention, namely to set up an integrated European system of prevention and management of all types of crises. In the absence of a document outlining in clear and simple terms the strategy and the responsibilities of the various participants in achieving these objectives, Parliament has no choice but to express its views on a project which, it is hoped, will act as a 'trigger' - both at Union level and in the Member States - and whose main shortcoming, as highlighted by Parliament, is its own funding.

Nevertheless it is in everyone's interest to 'start the ball rolling' and help strengthen overall security by allowing the funding of assessment and the highlighting of shortcomings, as well as effective coordination of resources available and appropriate measures in the event of a disaster. This is an urgent matter. The fact that public opinion is extremely sensitive to the various types of disaster makes this an ultra-sensitive issue, on which early action is essential. While this may provide an opportunity for the European Union to show its capacity for initiative as regards organisation and response and to provide a practical illustration of the principle of solidarity, which constitutes one of the most solid potential foundations of European citizenship, any shortcomings with tragic consequences could kill off what remains of the European project.