

The fight against terrorism: Note by the Presidency in association with the Counter-Terrorism Co-ordinator

Introduction

As shown by the revised Action Plan (14330/1/04), the EU and its Member States have continued to make progress in the implementation of the measures decided by the European Council. New strategies have been designed to sharpen EU policies in the fight against terrorism. On 5 November 2004, the European Council adopted the Hague Programme which foresees ambitious measures in the fields of exchange of information, border control, document security, police and judicial cooperation (14292/04). On 17 December, the European Council will adopt a number of strategies,

elaborated in response to mandates set out in its conclusions of June 2004, including on combating terrorist financing (14180/3/04) and on civil protection and critical infrastructure protection (15232/04 and 15480/04). On the external side, it will discuss proposals on integrating the fight against terrorism into EU external relations policy (15082/04), an assessment of Counter terrorism clauses (15083/04), and the Conceptual Framework on the ESDP contribution to the fight against terrorism (14441/04).

As is clear from the range of activity covered both in the action plan and in the documents before the Council, the fight against terrorism touches virtually every aspect of the EU's work. But for the purposes of the Council discussions, it is suggested that attention should be focused on a relatively small number of key issues.

1. Information sharing

The events of 11 September and 11 March showed the importance of exchange of information between law enforcement officers and with intelligence services, both within and between states. In the Hague programme, the European Council expressed its conviction that strengthening freedom, security and justice requires an "innovative approach to the cross-border exchange of law-enforcement information". It called for the exchange of such information to be governed, in general, by the "principle of availability" and asked for the Commission to present proposals at the latest by the end of 2005 on the implementation of this principle. This is a potentially significant step forward and every effort should be made to ensure that progress is maintained.

Other, related work is also under way. The proposal for a Council Decision on the exchange of information and co-operation concerning terrorist offences enabling Member State services engaged in the fight against terrorism, as well as Europol and Eurojust, to have access to the most complete and up-to-date information, as well as the draft Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States, in particular as regards serious offences including terrorist acts, are priorities for the European Council.

Progress is also needed with respect to the proposal for a Framework Decision on the retention of telecommunications traffic data and the draft Framework Decision on a European Evidence warrant. Experience of the negotiations to date has shown that these are sensitive issues, where concerns of national security as well as data protection are evident. The European Council has already established deadlines for these instruments. An important complement to work on information exchange is the elaboration of common, legally binding principles on data protection. The Commission will present a proposal on this by Summer 2005.

2. Combating the financing of terrorism

Terrorists need money to prepare and carry out terrorist attacks. Identifying and disrupting the mechanisms through which terrorism is financed are therefore key elements of the EU's counter-terrorist strategy. The cross-pillar strategy against the financing of terrorism before the Council gives an overview of what has been done and where more work is needed. Significant progress has been made in the last 6 months on the proposals for two key pieces of legislation: the third money laundering directive and the regulation on cash movements. Together with the European Parliament, every effort should be made to complete the work on these instruments as soon as possible. Action is also needed in fulfilment of the other recommendations in the strategy, including with respect to the freezing of terrorist assets. The document on integrating the fight against terrorism into EU external relations policy calls for a further examination of Common Position 931/2001 and of the procedures regarding its implementation. The Council may wish to ask Coreper to explore this further and to report to the Council in June 2005.

3. Civil protection and critical infrastructure protection

The Council and Commission Solidarity programme on the consequences of terrorist threats and attacks (14813/04) as well the Council conclusions on prevention, preparedness and response to terrorist attacks (15232/04) represent the Council's response to the European Council's June request for additional work to be carried out on civil protection and critical infrastructure protection.

Implementation of the programme and the related conclusions will be a priority in 2005 and will require the Member States, the Commission and the Council, inter alia, to enhance the quality of their risk assessment and analysis, to strengthen the political and operational preparedness and capability for consequence management, to increase learning, training and exercises as well as to examine questions of interoperability. Member States and the Commission are also asked, as far as possible, to contribute to the ongoing assessment of capabilities available at the European level and to obtain and share, on a restricted basis, information on relevant vaccines, sera and other medical resources, that might be made available in the event of a major terrorist attack, and to ensure an optimal coordination of public information during cross-border crises. In addition, the Commission will develop, together with the Member States, a European Programme for Critical Infrastructure Protection with potential trans-boundary effects (EPCIP).

4. External action

The document "Integrating the fight against terrorism into EU external relations policy", prepared by the SG/HR in association with the Presidency, puts forward a number of suggestions to ensure greater effectiveness and enhanced coherence to the EU external action in the fight against terrorism. Close co-operation with the United Nations remains essential, as does EU action to encourage universal ratification and implementation of the relevant UN Conventions and resolutions. Counter-terrorism should be an integral element of our relations with third countries, both in terms of political dialogue and of co-operation more generally, including through the adoption of counter-terrorism clauses in agreements where appropriate. The promotion of cross-cultural and inter-religious dialogue between the EU and its partners should be encouraged. The EU also has an important role in helping countries to meet international counter-terrorism standards through the provision of technical assistance. The Council has selected a number of priority countries for action, both in the field of political dialogue and technical assistance. Consultations have begun with the countries concerned. Action plans will be developed over the coming months based on an analysis of needs, wishes expressed by partners and EU capabilities to deliver. In this context, it is recalled that the Hague programme invites the Council to set up, in conjunction with Europol and the European Border Agency, a network of national experts on preventing and combating terrorism and on border control, who will be available to respond to requests from third countries for technical assistance in the training and instruction of their authorities.

5. Recruitment and radicalisation

Action to combat terrorism cannot succeed in the longer term if no action is taken to try to limit recruitment into terrorism. This is not an easy issue to address. As noted in the European Security Strategy, "the most recent wave of terrorism is global in scope and is linked to violent religious extremism. It arises out of complex causes. These include the pressures of modernisation, cultural, social and political crises, and the alienation of young people living in foreign societies".

Experience shows that radicalisation facilitates terrorist recruitment. The Hague programme calls on the Council, with the assistance of the EU Counter-Terrorism Coordinator, together with the Commission and experts of the Member States, to develop, by the end of 2005, a long term strategy to address the factors which contribute to radicalisation and recruitment for terrorist activities. This must be a high priority for 2005 and should take into account the outcome of the November 2004 Ministerial Conference on integration.

Concluding remarks

On the key issues outlined above important work is in progress, but further efforts are needed in 2005. Another issue which needs sustained attention is that of implementation. The importance of full and timely implementation of measures agreed by the EU cannot be over-emphasised. The EU has put in place a solid legal framework governing law enforcement and judicial co-operation within the EU which makes an important contribution to our ability to combat terrorism. Some Member States still need to take the necessary action to enable full use to be made of this framework.

The right legal framework at the EU level is essential. But Member States still retain full responsibility for ensuring they have in place appropriate national structures and instruments to enable them to achieve the underlying objective: to combat terrorism effectively. A very valuable tool in this context is the peer evaluation process. The analysis of best practices found in the interim report of the peer evaluation and its addendum provide governments with useful examples and ideas on how performance might be improved. The recommendations for action in the interim report are of course not binding. But they cover a number of areas which are of critical importance for effective action against terrorism, for example national co-ordination mechanisms, information sharing and information gathering, and have been approved by the Council as a whole. The Council might therefore wish to consider asking Member States that have already been evaluated to report to the Council by June 2005 on the measures taken to implement the recommendations in the peer review.
