



**COUNCIL OF  
THE EUROPEAN UNION**

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**LIMITE**

**ENFOPOL 45**

**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: **COUNCIL DECISION** on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations

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**COUNCIL DECISION 2008/.../JHA**

**of**

**on the improvement of cooperation  
between the special intervention units  
of the Member States of the European Union  
in crisis situations**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 30, 32 and 34(2)(c) thereof,

Having regard to the initiative of the Republic of Austria<sup>1</sup>,

Having regard to the Opinion of the European Parliament<sup>2</sup>,

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<sup>1</sup> OJ C 321, 29.12.2006, p. 45.

<sup>2</sup> Opinion of ... (not yet published in the Official Journal).

Whereas:

- (1) Article 29 of the Treaty states that the Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters.
- (2) In their Declaration on Solidarity against Terrorism of 25 March 2004, the Heads of State and Government of the Member States of the European Union declared their firm intention that the Member States mobilise all the instruments at their disposal to assist a Member State or an acceding State in its territory at the request of its political authorities in the event of a terrorist attack.
- (3) Following the attacks of 11 September 2001, the special intervention units of all law enforcement authorities of the Member States have already initiated cooperation activities under the aegis of the Police Chiefs Task Force. Since 2001, their network, called "Atlas", has conducted various seminars, studies, exchanges of materials, and joint exercises.
- (4) No single Member State has all the means, resources and expertise at its disposal to deal effectively with all possible kinds of specific or large-scale crisis situations requiring special intervention. It is therefore of crucial importance that each Member State be able to request the assistance of another Member State.

(5) Council Decision 2008/.../JHA of ... on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime<sup>\*</sup> ("Prüm Decision"), and in particular Article 18 thereof, regulates forms of police assistance between Member States in connection with mass gatherings and similar major events, disasters and serious accidents. This Decision does not cover mass gatherings, natural disasters or serious accidents within the meaning of Article 18 of the Prüm Decision but complements those provisions of the Prüm Decision envisaging forms of police assistance between Member States through special intervention units in other situations, namely in man-made crisis situations presenting a serious direct physical threat to persons, property, infrastructure or institutions, in particular hostage taking, hijacking and similar events.

(6) The availability of this legal framework and of a compilation indicating the competent authorities will allow Member States to react speedily and gain time should such a crisis situation arise. Moreover, with a view to enhancing Member States' ability to prevent and respond to such crisis situations, and in particular terrorist incidents, it is essential for the special intervention units to meet regularly and organise joint trainings, so as to benefit from mutual experiences,

HAS DECIDED AS FOLLOWS:

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<sup>\*</sup> See 11896/07.

*Article 1*

*Subject matter*

This Decision lays down general rules and conditions to allow for special intervention units of one Member State to provide assistance and/or operate on the territory of another Member State (hereinafter referred to as the "requesting Member State") in cases where they have been invited by the requesting Member State and have agreed to do so in order to deal with a crisis situation. The practical details and implementing arrangements complementing this Decision shall be agreed directly between the requesting Member State and the requested Member State.

*Article 2*

*Definitions*

For the purpose of this Decision:

- (a) "special intervention unit" shall mean any law enforcement unit of a Member State which is specialised in the control of a crisis situation;
- (b) "crisis situation" shall mean any situation in which the competent authorities of a Member State have reasonable grounds to believe that there is a criminal offence presenting a serious direct physical threat to persons, property, infrastructure or institutions in that Member State, in particular those situations referred to in Article 1(1) of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism<sup>1</sup>;

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<sup>1</sup> OJ L 164, 22.6.2002, p. 3.

(c) "competent authority" shall mean the national authority which may make requests and give authorisations regarding the deployment of the special intervention units.

*Article 3*

*Assistance to another Member State*

1. Through a request via the competent authorities, setting out the nature of the assistance requested as well as the operational necessity therefor, a Member State may ask to be assisted by a special intervention unit of another Member State with a view to dealing with a crisis situation. The competent authority of the requested Member State may accept or refuse such a request or may propose a different kind of assistance.
2. Subject to agreement between the Member States concerned, assistance may consist of providing the requesting Member State with equipment and/or expertise and/or of carrying out actions on the territory of that Member State, using weapons if so required.
3. In the case of actions on the territory of the requesting Member State, officers of the assisting special intervention unit shall be authorised to operate in a supporting capacity on the territory of the requesting Member State and take all necessary measures to provide the requested assistance in so far as they:
  - (a) operate under the responsibility, authority and direction of the requesting Member State and in accordance with the law of the requesting Member State; and
  - (b) operate within the limits of their powers under their national law.

*Article 4*

*Civil and criminal liability*

When officers of a Member State operate within another Member State and/or equipment is used under this Decision, the provisions on civil and criminal liability, set out in Articles 21(4) and (5) and 22 of the Prüm Decision shall apply.

*Article 5*

*Meetings and joint training*

The participating Member States shall ensure that their special intervention units hold meetings and organise joint training and exercises, whenever necessary, with a view to exchanging experience, expertise and general, practical and technical information on dealing with a crisis situation. Such meetings, training and exercises may be funded under possibilities offered by the financial programmes of the Union to obtain grants from the budget of the European Union. In this context, the Member State holding the Presidency of the Union shall endeavour to ensure that such meetings, training and exercises take place.

*Article 6*

*Costs*

The requesting Member State shall bear the operational costs incurred by the requested Member State's special intervention units in connection with the application of Article 3, including transport and accommodation costs, unless otherwise agreed between the Member States concerned.

*Article 7*  
*Relation to other instruments*

1. Without prejudice to their commitments under other acts adopted pursuant to Title VI of the Treaty, in particular the Prüm Decision:
  - (a) Member States may continue to apply bilateral or multilateral agreements or arrangements on cross-border cooperation in force on ... \* in so far as such agreements or arrangements are not incompatible with the objectives of this Decision;
  - (b) Member States may conclude or bring into force bilateral or multilateral agreements or arrangements on cross-border cooperation after ... \*\* in so far as such agreements or arrangements provide for the objectives of this Decision to be extended or enlarged.
2. The agreements and arrangements referred to in paragraph 1 may not affect relations with Member States which are not parties thereto.
3. Member States shall inform the Council and the Commission of the agreements or arrangements referred to in paragraph 1.

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\* Date of adoption of this Decision.  
\*\* Date of entry into force of this Decision.

*Article 8*

*Final provisions*

The General Secretariat of the Council shall compile and keep up to date the list of the competent authorities of the Member States which may make requests and give authorisations for providing assistance as referred to in Article 3.

The General Secretariat of the Council shall inform the authorities mentioned in paragraph 1 of any change to the list established pursuant to this Article.

*Article 9*

*Entry into force*

This Decision shall enter into force on ....<sup>\*</sup>.

Done at Brussels,

*For the Council*

*The President*

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<sup>\*</sup> Six months from the date of adoption of this Decision.