



**COUNCIL OF
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NOTE

from: EU Counter-Terrorism Coordinator
to Council / European Council

Subject: EU Counter-Terrorism Strategy - Discussion paper

My last report on the implementation of the EU Counter Terrorism Strategy (15359/1/09) argued that it made sense to perform this exercise only once every year. Nevertheless, in fulfilment of my role to promote effective implementation of the Strategy within the framework of the Union, I would like to draw the Council's attention to a small number of issues where action is important and timely.

The most important task currently facing all the bodies of the Union is how to get maximum advantage from the opportunities presented by the Treaty of Lisbon. This should allow the Union to take a major step forward in the coherence of its policy making, especially combining internal and external aspects of policy. In the area of Justice and Home Affairs we already have the ambitious tasks of implementing the Stockholm Programme and Internal Security Strategy, which include a number of measures directly or indirectly combating the terrorist threat. I do not want to add to the burden, and the examples presented here highlight a number of areas where work is already underway, and where progress will have a special value in demonstrating what can now be achieved by a more integrated approach.

I would propose to start with transport security, terrorist travel and the relationship between internal and external security. Other areas which could benefit from a similar approach in due course are cyber security and the solidarity clause. To address cyber security, the US has set up a coordinator in the White House. In the EU the disappearance of the three Pillars opens the way to have a comprehensive approach to address cyberterrorism, cybercrime, cyberattacks/-war and cybersecurity. I will be in contact with the relevant services in the Commission and come forward with a proposal.

The Solidarity Clause in Art. 222 TFEU asks the Union and the Member States to act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or victim of a natural or man-made disaster. To come up with a mechanism to implement this clause is an urgent task. To guarantee a solid and sustainable implementation and a well balanced instrument this mechanism should be developed without the pressure of an impending natural disaster or in haste in the aftermath of a terrorist attack. The regular CCA exercises have illustrated some of the issues that will need to be tackled by such a new mechanism.

In addition to what is set out below, I presented the first meeting of COSI with proposals for action following earlier discussion of the PKK threat as a way of showing how COSI could usefully deal with operational issues.

Challenge I: Create a clearer picture of the threat Europe is facing

All the evidence available confirms the key judgements of my last discussion paper: the comprehensive strategy adopted by the Union in 2005 remains valid, and terrorism inspired by Al Qaeda remains the greatest threat to the Union in terms of organisations with the intention and capability to launch mass casualty attacks such as that so narrowly avoided in Detroit on Christmas Day or on Times Square on 1 May. No other terrorist movement is currently attempting mass slaughter on the scale of these attempts. Even so, Al Qaeda does not have a monopoly on politically motivated violence, and we need to be alive to other trends. It is good that COSI has begun its work by looking at an analysis of the threat facing Europe, not only from terrorism but also other forms of crime. That process and its essential components such as the TE-SAT report need to be further developed and become a dynamic part of setting the security agenda for the Union.

The statistical indicators tracked in the TE-SAT report are important, but only tell part of the story. Even though the number of plots and arrests has decreased in the last year that does not mean that there are not several other factors indicating a continuing high risk of terrorist attacks in Europe. It is important to reflect information from investigations in progress and from security and intelligence agencies. Presenting a coherent overall picture from such a wide range of sources creates a particular challenge for all of us responsible for counter terrorism policy. Only by providing up to date information and presenting a clear and comprehensive picture of the threat to political decision makers, the media and the public at large, can we obtain the support necessary to continue with a successful work on counter terrorism.

Recommended action:

- § COSI should discuss further how to present a comprehensive analysis of the threat. We should also provide more detailed information to the European Parliament, for example through restricted briefings.

Challenge II: Secure better public transport - especially in the field of land transport

The Stockholm Programme agreed that "*Work on aviation and maritime security need to be developed, in step with threat analysis, in close cooperation with transport operators in order to mitigate the impact on the travelling public. Greater attention should be paid to potential targets such as urban mass transit and high speed rail networks,*"

A lot has already been achieved or is on its way - especially in the field of aviation when it comes to the regulations on liquids, carry-on items or the ongoing examination by Commission of the feasibility of using security scanners in European airports. We have an action programme set out with the US at the meeting in Toledo in January. To implement this we not only need to combine security and transport initiatives, but include action in countries outside the Union.

An ongoing challenge remains over the issue of security of land based transport (high speed railways, urban mass transit, rail freight). We should remember that the most devastating attacks of recent years within the Europe targeted land transport. The Madrid train attacks on 11 March 2004 killed 191 people and wounding 1,800. In London, on 7 July 2005: 52 people were killed and around 700 were injured. The attack on the Nevski express in Russia on 27 November 2009 killed 27 people, and in the Moscow Metro attack of 29 March 2010, 39 people were killed and 70 wounded.

Special security measures are already applied on certain high speed connections (such as the Eurostar). Free movement within the Schengen area, the liberalisation of the European railway market, and the increasing integration of different types of transport (civil aviation and high speed trains; train freight and air cargo) offer great advantages for passengers and businesses and positive benefits for the environment but create new risks that need to be carefully managed.

This cannot mean installing a level of security common in civil aviation, but taking action should help ensure that land transport is more secure as much in the sense of being reliably available as in the sense of being protected against attack.

Recommended action:

- § We have to rise awareness, discuss common minimum standards, extend the exchange of best practices, continue exercises and further improve our communication channels - especially when it comes to cross border traffic or to cooperation between public authorities and private providers.
- § Joint discussions between policy makers on Transport and JHA are an important step towards better security for land transport in the EU. Relevant projects in research and development need funding and further support from all relevant actors. We need to pursue this work at a steady pace in the examination, evaluation and implementation of further measures - rather than try to sprint ahead too quickly after an emergency.

Challenge III: Ensure the monitoring of terrorist travel

A not insignificant number of radicalised EU nationals and residents are travelling to conflict areas or attending terrorist training camps and returning to Europe¹. This must be a serious concern to Member States. On return, these people may use their newly-acquired experience and skill for terrorist actions and spread their radical ideas to others or give guidance to others to follow them on their path of violence. Those who stay to fight are endangering coalition forces in conflict zones and civilian population.

This problem needs to be addressed in a comprehensive approach, by improving the coordination between the relevant agencies within the EU, including security and law enforcement, taking advantage of the improved possibilities for cooperation between the former first and third Pillar after the coming into force of the Treaty of Lisbon. This subject is also of great concern to the United States and we have much to gain from enhanced cooperation.

Recommended action:

- § Europol: The US should be fully associated with relevant Europol projects and Analytical Work Files, and we should also rise to the challenge of working with the US as equals on issues such as PNR. At the moment we give the US data and get assessed intelligence in return. An effective EU PNR system, under proper safeguards, would mean dealing as equals in protecting all our citizens.

¹ Europol TE-SAT 2010.

§ Frontex: Currently the procedure to amend the Frontex Regulation (6898/10) is on its way. One possible option still under debate is to give Frontex a limited mandate to process personal data to fight against criminal networks organising illegal immigration. I would invite the relevant Council bodies to include such a competence into the amended mandate given the relevance of such illegal trafficking for all sorts of crime including terrorism.

Challenge IV: Connecting Internal and External Security

Almost every major terrorist plot has an international dimension. This is not necessarily in terms of a simple "command and control" connection as seems to have been present in the Mumbai attacks of 2008, but can include, for example, indirect encouragement and advice over the internet. The Detroit attack had strong links to Yemen, apparently shared with the Fort Hood shootings. Pakistan is a common connection in a large number of plots recently discovered. Even groups with domestic agendas, such as ETA, whose terrorism is largely confined to one Member State have extensive international connections. Recent experience shows that these connections can be a major vulnerability which good international coordination can exploit against them.

Since the beginning of my period as CTC I have been instrumental in encouraging the Union to develop and focus the external dimension of its CT policy. In 2008 the Union had a limited range of external political dialogues on counter-terrorism, but no direct programmes of assistance and capacity building. In cooperation with the Commission and successive Presidencies we have developed political dialogues with key countries supporting the implementation of the Union's first ever international assistance programmes in the CT field. We now have an €15 Million programme underway in Pakistan, a similar €15 Million programme about to start in Yemen and a €10 Million programme in the Sahel. The Commission also started direct cooperation with the UN CTITF, by responding to a request to sponsor action to support implementation of the UN Global CT Strategy in Central Asia. Together with a number of Member States, the Commission is also looking at responding favourably to a request from the UN Counter-Terrorism Executive Director to set up a training facility in Bangladesh [on the successful model of the Jakarta Centre for Law Enforcement Cooperation, which the Commission already supports].

Positive results from these programmes will justify increasing the amounts available for specific CT assistance and capacity building. However, this is only a small part of the Union's overall international engagement relevant to CT. I will be active in support of the High Representative, and in cooperation with the EEAS, on the whole spectrum of activity relevant to CT. I have provided already to those planning the EEAS a paper setting out some of my ideas in greater detail, but in summary these are that the EEAS should:

Recommended action:

- § Coordinate the external action of other parts of the Council and Commission working on relevant issues. This is particularly important in sustaining the high level political dialogues which the Union has on CT, for example with the US and Russia, and wishes to develop with other key global players such as India and China (as recommended in the Stockholm Programme). Issues such as the TFTP agreement, or our response to the Detroit or Mumbai attacks have a major effect on our overall relationships with these countries and the EEAS needs a proper overview to ensure coherence.
- § Continue to deliver specific projects on countering terrorism, including through use of the Instrument for Stability (IfS) for capacity building projects, as mentioned above.
- § Take a lead in developing the international law aspects of counter-terrorism, as mandated by Art 3 (5) TEU.
- § Contribute to reform of the system of terrorist listing (where UNSCR 1904 marked a significant step forward, and the Union separately needs to decide how to implement Art 75 TFEU). I am concerned that we need to develop more flexible ways to use the listing instruments to produce the changes in behaviour that the system was intended to achieve.
- § Ensure the mobilisation of all the available instruments (CDI, EDF, CFSP, CSDP, police cooperation & criminal justice) in a more coordinated manner. Improving the effectiveness of the EUPOL Mission in Afghanistan is a particular current priority where such an integrated approach could not only improve the operation of the Mission itself, but also the beneficial impact on the EU's own security. This positive impact on internal security will help justify devoting more resources from Interior Ministries. As a further example there has been a lot of work on security and development in Sahel, mainly dealt with in the CFSP world, at the same that the JHA world has been dealing with West Africa, most notably in the Pact to Combat International Drug Trafficking: yet both are related and we need to prevent these two "arcs of crisis" linking up.

- § We also need to develop the CT relevant aspects of other programmes, in particular there needs to be a strengthened security dimension in development work recognising that development is impossible without security, just as security is impossible without development. And we need to include in our efforts the full chain of criminal justice, including access to justice for all. It is no good, for example, building up an efficient police force if there are no courts in which suspects can be tried, and no prisons in which they can be held.
- § The EU needs better public diplomacy to make its case in the Arab World, for example the extent of our assistance to the Palestinians. In particular the EU should appoint a dedicated Arabic spokesperson to raise the EU's profile in the Arab media.
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