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PUBLIC

NOTE

from : Presidency/Counter-terrorism Coordinator
to : Council/European Council

Subject : EU Plan of Action on Combating Terrorism - Update

Delegations will find enclosed an updated version of the Implementation of the legislative Instruments listed in the Declaration on terrorism of the European Council of 25 March 2004 – state as on 30 May 2005.

**Implementation of the legislative Instruments listed in the Declaration on terrorism
of the European Council of 25 March 2004 – state as on 30 May 2005**

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK
1. Instruments of the European Union¹																								
a) Framework Decision of 13 June 2002 on the European Arrest Warrant (initial deadline for old Member States: 31 December 2003; for new Member States: date of accession; deadline set by the Declaration of the European Council: June 2004) ²																								
y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
b) Framework Decision of 13 June 2002 on Joint Investigation Teams (initial deadline for old Member States: 1 January 2003; for new Member States: date of accession; deadline set by the Declaration of the European Council: June 2004) ³																								
y	y	y	y	y	y	y	- ⁴	y	-	- ⁵	y	y	y	y	y	y	y	p ⁶	y	y	y	y	y	y

¹ y= in case of a Framework Decision: implementation completed, legislation has entered into force; - = implementation not completed; c= implementation completed, legislation has not entered into force; p= implemented in part; in case the Commission has already submitted a report on the implementation of an instrument (by the old Member States), the report is taken account of;

y= in case of a Convention or a Protocol: notified the General Secretariat of the Council that the Member State has ratified the instrument; - = no notification;

°= Member State has informed General Secretariat of the Council that the instrument has been implemented, but legislation has not been sent to the Council Secretariat;

² In February 2005, the Commission submitted a report on the implementation of the FD on the EAW (doc. 6815/05 COPEN 42 + ADD 1). According to this report, the legislation of in particular CZ, DK, EE, IE, LU, MT, NL, SI and UK does not fully comply with the FD. The legislation of IT was not examined in that report since, at the time of the drafting of the report, IT had not completed the implementation of the FD on the EAW.

³ In January 2005, the Commission submitted a report on national measures taken to comply with the FD on JITs (doc. 5448/05 COPEN 10 + ADD 1). According to this report, only the legislation of ES (out of the 19 Member States whose legislation was examined) fully complies with the FD.

⁴ GR has indicated that an ad hoc committee of the Ministry of Justice has prepared draft laws to implement the FD on JITs, the Eurojust Decision, the 2000 MLA Convention and the 2001 Protocol thereto as well as the FD on freezing orders. Their submission to the Parliament is imminent.

⁵ LU has indicated that its draft legislation to implement the FD on Joint Investigation Teams is currently pending before its Parliament.

⁶ HU has indicated that the FD on JITs has been implemented insofar as police co-operation is concerned. Relating to judicial co-operation, the legislation has been enacted but will only enter into force when the 2000 EU Convention on MLA enters into force.

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK
c) Framework Decision of 13 June 2002 on Combating Terrorism (initial deadline for old Member States: 31 December 2002; for new Member States: date of accession; deadline set by the Declaration of the European Council: June 2004) ¹																								
y ²	y	y	y	y	y	y	y	y	y	y	y	y	y	y	- ³	p ⁴	y	y	p	-	-	y	y	p ⁵

¹ On 8 June 2004 the Commission submitted a report on the implementation of the FD on Combating Terrorism by the 15 old Member States (doc. 10528/04 DROIPEN 28 CATS 30 + ADD 1 issued on 15 June 2004). According to this report, only FIN, FR and PT appear to have fulfilled entirely the obligations emerging from the FD on Combating Terrorism except Article 9(2) of the FD. The latter provision appears to have been incorporated, according to the aforementioned report, by none of the Member States. This report is the basis for a note from the Presidency to the Council (doc. 11687/2/04 DROIPEN 40 REV 2). The legislation of the 10 new Member States as well as further progress in implementing this Framework Decision and additional information provided for by the old Member States will be examined in a second report from the Commission (to be submitted to the Council by 30 June 2005).

² According to the aforementioned report from the Commission (doc. 10528/04 DROIPEN 28 CATS 30 + ADD 1), AT did not entirely comply with the Framework Decision at the time of the drafting of the report. Since then, AT has introduced further legislative procedures so as to enact supplementary legislation.

³ CY has indicated that new counter terrorism legislation is under preparation.

⁴ CZ has indicated that it has implemented the FD on Combating Terrorism with the exception of the provisions on liability of legal persons.

⁵ SK has informed the General Secretariat of the Council that it has implemented the FD on Combating Terrorism with the exception of the provisions on liability of legal persons. Criminal liability of legal persons will be established in the framework of the new Criminal Code which is currently in preparation.

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK
d) Framework Decision of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime¹ (initial deadline for old Member States: 31 December 2002; for new Member States: date of accession; deadline set by the Declaration of the European Council: June 2004)																								
y ²	y	y	y	y ³	y	y	-	y	y ⁴	-	y	y ⁵	c ⁶	y	°	p ⁷	y	y	°	y	-	y	°	y

¹ The report from the Commission on the implementation of this Framework Decision (doc. 9251/04 DROIPEN 14) which is the basis for the Presidency's note to Council (doc. 10369/2/04 DROIPEN 24 REV 2 + COR 1) examines only the legislation of the 15 old Member States. The legislation of the 10 new Member States as well as further progress in implementing this Framework Decision and additional information provided for by the old Member States will be examined in a second report from the Commission (to be submitted to the Council by 30 June 2005). According to the report from the Commission on the implementation of this Framework Decision (doc. 9251/04 DROIPEN 14), ES, IT and LU were, at the time of the drafting of the report, preparing legislation that had not yet entered into force, and a special legislative drafting committee was producing national transposing provisions in GR.

² According to the aforementioned report from the Commission (doc. 9251/04 DROIPEN 14), AT did not entirely comply with the Framework Decision at the time of the drafting of the report. Since then, AT has notified the COM and the GSC of legislation that was enacted in order to comply with the Framework Decision.

³ According to the aforementioned report from the Commission (doc. 9251/04 DROIPEN 14), ES did not entirely comply with Articles 1 and 3 of the Framework Decision at the time of the drafting of the report. Since then, ES has enacted new legislation in order to transpose the Framework Decision. These provisions are applicable to offences committed after 1 October 2004.

⁴ According to the aforementioned report from the Commission (doc. 9251/04 DROIPEN 14), IT did not inform on provisions implementing Article 2 of the Framework Decision. Since then, IT has notified the COM and the GSC of legislation that was enacted in order to comply with the Framework Decision.

⁵ According to the aforementioned report from the Commission (doc. 9251/04 DROIPEN 14), PT did not entirely comply with the Framework Decision at the time of the drafting of the report. Since then, PT has enacted new legislation in order to transpose the Framework Decision.

⁶ According to the aforementioned report from the Commission (doc. 9251/04 DROIPEN 14), SE was, at the time of the drafting of the report, examining whether new legislation was necessary to comply with the Framework Decision. Since then, SE has notified the COM and the GSC of legislation that was enacted in order to fully comply with the Framework Decision. This legislation will enter into force on 1 July 2005.

⁷ CZ has indicated that draft legislation to fully implement the Framework Decision is in preparation. The legislation is expected to enter into force on 1 August 2005.

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK
e) Decision of 28 February 2002 establishing Eurojust¹ (initial deadline: 6 September 2003; deadline set by the Declaration of the European Council: June 2004)																								
y	y	y	y	- ²	y	y	- ³	y	y	y	y	y	y	y	-	y	y	y	°	y	y	y	y	y
f) Decision of 19 December 2002 on the implementation of specific measures for police and judicial cooperation to combat terrorism⁴ (deadline set by the Declaration of the European Council: June 2004)																								
y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
g) Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union (deadline set by the Declaration of the European Council: December 2004)																								
y	y	- ⁵	y	y	y	y	- ²	- ⁶	- ⁷	-	y	y	c ⁸	-	° ⁹	- ¹⁰	y	y	y	y	-	- ¹¹	y	- ¹²

¹ The information refers to the question whether Member States have enacted legislation or take the view that they comply with the Council Decision on the basis of existing provisions (=y) or not (= -). As to the appointment of national members of Eurojust, all (old and new) Member States have notified the General Secretariat of the Council of the EU of their decisions. On 6 July 2004 the Commission submitted a report on the legal transposition of the Council Decision setting up Eurojust by the 15 old Member States (doc. 11280/04 EUROJUST 66 + ADD 1). According to this report from the Commission, FIN, UK, IE, GR, SE and DK still had to bring, at the time of the drafting of the report, their national legislation into conformity with the Eurojust Decision.

² ES has indicated that the draft legislation to implement the Eurojust Decision has been submitted to Parliament. It is expected that the implementation procedure will be finalised before the end of the year 2005.

³ GR has indicated that an ad hoc committee of the Ministry of Justice has prepared draft laws to implement the FD on JITs, the Eurojust Decision, the 2000 MLA Convention and the 2001 Protocol thereto as well as the FD on freezing orders. Their submission to the Parliament is imminent.

⁴ Designation of a Eurojust national correspondent for terrorism matters by each Member State

⁵ DE has indicated that draft legislation to ratify the MLA Convention and the Protocol thereto is currently pending before its Parliament (notably the Bundestag).

⁶ IE has indicated that legislation to implement the MLA Convention is in preparation.

⁷ IT has indicated that a draft law to ratify the MLA Convention is currently pending before its Parliament

⁸ SE has indicated that the MLA Convention and the Protocol thereto will enter into force in SE on 1 July 2005.

⁹ CY has indicated that the MLA Convention and the Protocol thereto have been implemented into national law. So far, the General Secretariat of the Council has not been notified thereof, accordingly.

¹⁰ CZ has indicated that the MLA Convention and the Protocol thereto have already been approved by its Government and were submitted to its Parliament on 14 March 2005.

¹¹ PL has indicated that legislation to implement the MLA Convention and the Protocol thereto were incorporated in its domestic legislation before PL's accession to the EU. However, the MLA Convention and the Protocol thereto have not yet been ratified. The President has recently received an authentic text of the Convention and the Protocol. Their ratification is expected to be completed soon.

¹² SK has indicated that it is preparing its accession to the MLA Convention and the Protocol thereto. The accession is expected to be completed before December 2005.

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK	
h) Protocol of 16 October 2001 to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (deadline set by the Declaration of the European Council: December 2004)																									
y	y	⁻¹	y	y	y	y	⁻²	⁻³	-	-	y	⁻⁴	^{c5}	-	^{o6}	⁻⁷	-	y	y	y	-	⁻⁸	y	⁻⁹	
i) Protocol of 30 November 2000 amending the Europol Convention (deadline set by the Declaration of the European Council: December 2004)																									
y	y	y	y	y	y	y	y	⁻³	y	⁻¹⁰	-	y	y	y	y	y	y	y	y	y	y	y	y	y	y
j) Protocol of 28 November 2002 amending the Europol Convention and the Protocol on the privileges and immunities of Europol (deadline set by the Declaration of the European Council: December 2004)																									
y	y	y	y	y	y	-	y	⁻³	-	⁻¹⁰	y	⁻⁴	⁻¹¹	y	y	y	y	y	y	y	y	y	y	y	y
k) Protocol of 27 November 2003 amending the Europol Convention (deadline set by the Declaration of the European Council: December 2004)																									
y	-	⁻¹²	y	⁻¹³	y	-	y	⁻³	-	⁻¹⁰	y	⁻⁴	⁻¹¹	y	y	y	y	y	y	y	y	y	y	y	y

¹ DE has indicated that draft legislation to ratify the MLA Convention and the Protocol thereto is currently pending before its Parliament (notably the Bundestag).

² GR has indicated that an ad hoc committee of the Ministry of Justice has prepared draft laws to implement the FD on JITs, the Eurojust Decision, the 2000 MLA Convention and the 2001 Protocol thereto as well as the FD on freezing orders. Their submission to the Parliament is imminent.

³ IE has indicated that legislation to implement the instrument is in preparation.

⁴ PT has indicated that the ratification process has been delayed by the elections of the Parliament. PT hopes to finalise the ratification process during the first half of 2005.

⁵ SE has indicated that the MLA Convention and the Protocol thereto will enter into force in SE on 1 July 2005. .

⁶ CY has indicated that the 2000 Convention on MLA and the 2001 Protocol thereto have been implemented into national law. So far, the General Secretariat of the Council has not been notified thereof, accordingly.

⁷ CZ has indicated that the MLA Convention and the Protocol thereto have already been approved by its Government and were submitted to its Parliament on 14 March 2005.

⁸ PL has indicated that legislation to implement the MLA Convention and the Protocol thereto were incorporated in its domestic legislation before PL's accession to the EU. However, the MLA Convention and the Protocol thereto have not yet been ratified. The President has recently received an authentic text of the Convention and the Protocol. Their ratification is expected to be completed soon.

⁹ SK has indicated that it is preparing its accession to the MLA Convention and the Protocol thereto. The accession is expected to be completed before December 2005.

¹⁰ LU has indicated that its draft legislation to implement the Protocols to the Europol Convention is currently pending before its Parliament.

¹¹ SE has indicated that a draft bill will be presented to the Parliament in autumn 2005. The ratification procedure is expected to be completed by the end of the year 2005.

¹² DE has indicated that its draft legislation to ratify the 2003 Protocol is expected to be sent to the Federal Cabinet, and subsequently to the Parliament (Bundestag and Bundesrat), in May or June 2005.

¹³ ES has indicated that on 1 April 2005 the Council of Ministers agreed to submit the Protocol to the Parliament for ratification by way of emergency procedure.

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK
l) Framework Decision of 22 July 2003 on the execution of orders freezing property or evidence (initial deadline for Member States (and current Acceding States): 2 August 2005; deadline set by the Declaration of the European Council: December 2004)																								
y	-	-	y	⁻¹	⁻²	-	⁻³	⁻⁴	-	-	-	-	c ⁵	p ^{o6}	°	⁻⁷	-	y	⁻⁸	-	-	⁻⁹		⁻¹⁰

¹ ES has indicated that it was expected that the draft law to implement the FD on the execution of orders freezing property or evidence would be submitted by the Council of Ministers to the Parliament before the end of May 2005.

² FIN has indicated that a draft bill is being prepared. It is expected that the draft bill will be submitted to Parliament in May and that the legislation will enter into force on 2 August 2005.

³ GR has indicated that an ad hoc committee of the Ministry of Justice has prepared draft laws to implement the FD on JITs, the Eurojust Decision, the 2000 MLA Convention and the 2001 Protocol thereto as well as the FD on freezing orders. Their submission to the Parliament is imminent.

⁴ IE has indicated that legislation to implement the instrument is in preparation.

⁵ SE has indicated that its legislation to implement the FD on freezing orders will enter into force on 1 July 2005.

⁶ UK has indicated that it has implemented the FD on freezing orders insofar as terrorist assets are concerned. UK is making progress towards full implementation.

⁷ CZ has indicated that legislation to fully implement the FD on freezing orders is being prepared. It is expected that the legislation will enter into force on 1 August 2005.

⁸ LV has indicated that the legislation to implement the FD on freezing orders is being prepared.

⁹ PL has indicated that a draft bill to implement the FD on freezing orders is pending before its Parliament. The first reading took place on 14 April 2005.

¹⁰ SK has indicated that its draft legislation to implement the FD on freezing orders is currently in preparation. It is expected that the legislation will enter into force on 10 October 2005.

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK	
2. INSTRUMENTS OF THE UNITED NATIONS¹																									
a) Convention on Offences and Certain Other Acts Committed on Board Aircraft of 14 September 1963																									
r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r
b) Convention for the Suppression of Unlawful Seizure of Aircraft of 16 December 1970																									
r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r
c) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 23 September 1971																									
r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r
d) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 14 December 1973																									
r	r	r	r	r	r	r	r	- ²	r	-	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r
e) International Convention against the Taking of Hostages of 17 December 1979																									
r	r	r	r	r	r	r	r	- ²	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r
f) Convention on the Physical Protection of Nuclear Material of 3 March 1980																									
r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r
g) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 24 February 1988																									
r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r
h) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of 10 March 1988																									
r	r	r	r	r	r	r	r	r	r	-	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r

¹ r= ratification (or accession or succession); s= signature (without ratification);

² IE has indicated that ratification procedures are in train following the enactment of the Criminal Justice (Terrorist Offences) Act 2005 on 8 March 2005.

AT	BE	DE	DK	ES	FIN	FR	GR	IE	IT	LU	NL	PT	SE	UK	CY	CZ	EE	HU	LV	LT	MT	PL	SI	SK	
i) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf of 10 March 1988																									
r	r	r	r	r	r	r	r	r	r	-	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r
j) Convention on the Marking of Plastic Explosives for the Purpose of Detection of 1 March 1991																									
r	s	r	r	r	r	r	r	r	r	-	r	r	s ¹	r	r	r	r	r	r	r	r	r	- ²	r	r
k) International Convention for the Suppression of Terrorist Bombings of 15 December 1997																									
r	r	r	r	r	r	r	r	s ³	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r
l) International Convention for the Suppression of the Financing of Terrorism of 9 December 1999																									
r	r	r	r	r	r	r	r	s ³	r	r	r	r	r	r	r	s	r	r	r	r	r	r	r	r	r

¹ SE has indicated that work on the ratification of the Convention is ongoing. It is expected that the Parliament will deal with the ratification in autumn 2005.

² PL has indicated that the ratification procedure has been initiated.

³ IE has indicated that ratification procedures are in train following the enactment of the Criminal Justice (Terrorist Offences) Act 2005 on 8 March 2005.