



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 29 November 2005

**14734/1/05
REV 1 ADD 1**

LIMITE

**JAI 445
ECOFIN 364
TRANS 244
RELEX 668
ECO 141
PESC 1047
COTER 78
COSDP 835
PROCIV 188
ENER 178
ATO 108**

"I" ITEM NOTE

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

Subject : Implementation of the Action Plan to Combat Terrorism

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 29 November 2005.

**Implementation of the legislative Instruments listed in the Declaration on terrorism
of the European Council of 25 March 2004 – state as on 29 November 2005**

AT	BE	CY	CZ	DE	DK	EE	ES	FIN	FR	GR	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	SE	SI	SK	UK
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 ³	y	p ⁴	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) ⁵																								
y	y	y	y	y	y	y	y	y	y	- ⁶	p ⁷	y	- ⁸	y	y	- ⁹	y	y	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 Following a decision taken by the Supreme Court of Cyprus on 7 November 2005, Cyprus will not be in a position to execute European Arrest Warrants against Cypriot nationals until its Constitution has been changed.

⁴ On 18 July 2005 the German Constitutional Court declared the German law to implement the FD on the EAW null and void. During the transitional period until a new German act has been enacted and entered into force, Germany will apply extradition arrangements; the extradition of German nationals to other Member States is not possible during that provisional period. However, German judicial authorities can continue to issue European arrest warrants.

⁵ 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.

⁶ 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.

⁷ 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.

⁸ IT has indicated that its draft legislation to implement the FD on Joint Investigation Teams is currently pending before its Parliament and that no estimate can be given as to when the Parliament will approve it.

⁹ LU has indicated that its draft legislation to implement the FD on Joint Investigation Teams is currently pending before its Parliament.

AT	BE	CY	CZ	DE	DK	EE	ES	FIN	FR	GR	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	SE	SI	SK	UK
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	- ³	p ⁴	y	y	y	y	y	y	y	y	y	y	p	-	y	y	y	y	y	y	y	p ⁵	y

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	CY	CZ	DE	DK	EE	ES	FIN	FR	GR	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	SE	SI	SK	UK
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	°	p ³	y	y	y	y ⁴	y	y	- ⁵	y	y	y ⁶	°	y	-	-	y	y	y ⁷	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 CZ has indicated that draft legislation to fully implement the Framework Decision is being discussed in Parliament. The legislation is expected to enter into force on 1 July 2006.

⁴ 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.

⁵ GR has indicated that the draft legislation to implement the Framework Decision has been submitted to the Greek Parliament.

⁶ 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.

⁷ 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.

AT	BE	CY	CZ	DE	DK	EE	ES	FIN	FR	GR	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	SE	SI	SK	UK
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	y	y	- ²	y	y	- ³	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); entry into force on 23 August 2005																								
y	y	c ⁵	- ⁶	y	y	y	y	y	y	- ³	c ⁷	- ⁸	- ⁹	y	y	-	-	y	y	y	y	y	- ¹⁰	c ¹¹

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 CY has ratified the MLA Convention. The legislation will enter into force on 1 February 2006.

⁶ CZ has indicated that the MLA Convention and the Protocol thereto were approved by its Government and Parliament and have been submitted to the President in order to complete the ratification process.

⁷ HU has ratified the 2000 MLA Convention. The legislation will enter into force on 23 November 2005.

⁸ IE has indicated that legislation to implement the MLA Convention is in preparation.

⁹ IT has indicated that a draft law to ratify the MLA Convention is currently pending before its Parliament

¹⁰ 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.

¹¹ UK has ratified the 2000 MLA Convention. The legislation will enter into force on 21 December 2005.

AT	BE	CY	CZ	DE	DK	EE	ES	FIN	FR	GR	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	SE	SI	SK	UK
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); entry into force on 5 October 2005																								
y	y	^{o1}	⁻²	y	y	-	y	y	y	⁻³	^{c4}	⁻⁵	-	y	y	-	-	y	y	⁻⁶	y	y	⁻⁷	⁻⁸
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	y	y	y	y	⁻⁵	y	y	y	⁻⁹	y	⁻¹⁰	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	y	y	y	y	y	⁻⁵	-	y	y	⁻⁹	y	y	y	⁻⁶	⁻¹¹	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	y	y	y	⁻¹²	y	y	y	y	-	y	y	⁻⁵	-	y	y	⁻⁹	y	y	y	⁻⁶	⁻¹¹	y	y	y

¹ CY has indicated that the 2001 Protocol has been implemented into national law. So far, the General Secretariat of the Council has not been notified thereof, accordingly.

² CZ has indicated that the MLA Convention and the Protocol thereto were approved by its Government and Parliament and have been submitted to the President in order to complete the ratification process.

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 HU has ratified the 2001 Protocol. The legislation will enter into force on 23 November 2005.

⁵ IE has indicated that legislation to implement the instrument is in preparation.

⁶ PT has indicated that the ratification process has been delayed by the elections of the Parliament.

⁷ 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.

⁸ UK has indicated that it is in a position to ratify the 2001 Protocol.

⁹ LU has indicated that its draft legislation to implement the Protocols to the Europol Convention is currently pending before its Parliament.

¹⁰ NL has indicated that it does not intend to ratify the 2000 Protocol since that Protocol will become obsolete when the 2003 Protocol will enter into force.

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 Parliament (Bundestag and Bundesrat) once the new government is in place. The ratification process is expected to be concluded early 2006.

AT	BE	CY	CZ	DE	DK	EE	ES	FIN	FR	GR	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	SE	SI	SK	UK
I) 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	-	°	- ¹	-	y	-	- ²	y	y	- ³	y	- ⁴	-	- ⁵	-	-	- ⁶	y	y	-	y	-	- ⁷	p ^{°8}

¹ CZ has indicated that legislation to fully implement the FD on freezing orders is being discussed in Parliament. The legislation is expected to enter into force on 1 July 2006.

² ES has indicated that its Council of Ministers adopted on 18 November 2005 a draft bill to implement the FD on freezing orders. The draft bill will now have to be adopted by the Spanish Parliament.

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

⁶ MT has indicated that the legislation to implement the FD on freezing orders is being prepared.

⁷ 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 1 January 2006.

⁸ 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.

AT	BE	CY	CZ	DE	DK	EE	ES	FIN	FR	GR	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	SE	SI	SK	UK	
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	r	r	r	r	r	r	r	r	- ²	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	r	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 LU has indicated that the draft law to ratify the Convention was submitted to the Luxembourg Parliament in October 2005.

AT	BE	CY	CZ	DE	DK	EE	ES	FIN	FR	GR	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	SE	SI	SK	UK
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
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	r	r	r	r	⁻¹	r	r	⁻²	r	^{s³}	r	r	r
k) International Convention for the Suppression of Terrorist Bombings of 15 December 1997																								
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
l) International Convention for the Suppression of the Financing of Terrorism of 9 December 1999																								
r	r	r	s	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r

¹ LU has indicated that the draft law to ratify the Convention was submitted to the Luxembourg Parliament in October 2005.

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

³ 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.