

EUROPEAN UNION



Committee of the Regions

CONST-027

Brussels, 21 October 2005

OPINION

of the

Committee of the Regions

of 12 October 2005

on the

Communications from the Commission to the Council and the European Parliament

Prevention, preparedness and response to terrorist attacks

Prevention of and the fight against terrorist financing

through measures to improve the exchange of information, to strengthen transparency and

enhance the traceability of financial transactions

Preparedness and consequence management in the fight against terrorism

Critical infrastructure protection in the fight against terrorism

COM(2004) 698 final – COM(2004) 700 final – COM(2004) 701 final – COM(2004) 702 final

THE COMMITTEE OF THE REGIONS,

HAVING REGARD TO the Communication from the Commission to the Council and the European Parliament of 20 October 2004 on *Prevention, preparedness and response to terrorist attacks* (COM(2004) 698 final),

HAVING REGARD TO the Communication from the Commission to the Council and the European Parliament of 20 October 2004 on the *Prevention of and the fight against terrorist financing through measures to improve the exchange of information, to strengthen transparency and enhance the traceability of financial transactions* (COM(2004) 700 final),

HAVING REGARD TO the Communication from the Commission to the Council and the European Parliament of 20 October 2004 on *Preparedness and consequence management in the fight against terrorism* (COM(2004) 701 final),

HAVING REGARD TO the Communication from the Commission to the Council and the European Parliament of 20 October 2004 on *Critical infrastructure protection in the fight against terrorism* (COM(2004) 702 final),

HAVING REGARD TO the European Commission's decision of 12 November 2004 to consult it on these questions, in accordance with Article 265(1) of the Treaty establishing the European Community,

HAVING REGARD TO its President's decision of 3 November 2004 to instruct its Commission for Constitutional Affairs and European Governance to draw up an opinion on the subject,

HAVING REGARD TO the Treaty on the European Union and especially Title I *Common provisions* and Title VI *Provisions on police and judicial cooperation in criminal matters* and the Treaty establishing the European Community,

HAVING REGARD TO the Treaty establishing a Constitution for Europe signed on 29 October 2004 and in particular Title I *Definition and objectives of the Union* in the first part, the whole of the second part entitled *The Charter of Fundamental Rights of the Union*, Chapter IV *Area of freedom, security and justice*, and finally Title III *Internal policies and activities* in the third part,

HAVING REGARD TO the action programme to combat terrorism adopted by the European Council on 21 September 2001,

HAVING REGARD TO the revised action programme on combating terrorism adopted by the European Council on 18 June 2004,

HAVING REGARD TO the conclusions of the European Council of 17 December 2004,

HAVING REGARD TO the declaration of the European Council of 25 March 2004 on combating terrorism,

HAVING REGARD TO the framework decision of the Council of 13 June 2002 on combating terrorism,

HAVING REGARD TO the framework decision of the Council of 13 June 2002 on the European arrest warrant and extradition procedures between Member States,

HAVING REGARD TO the framework decision of the Council of 13 June 2002 on joint investigation groups,

HAVING REGARD TO the framework decision of the Council of 15 March 2001 on arrangements for victims in criminal proceedings,

HAVING REGARD TO the reports of the European Parliament on the referrals in question,

HAVING REGARD TO the local and regional dimension of the Area of Freedom, Security and Justice (CdR 61/2003¹),

HAVING REGARD TO its resolution in support of local elected representatives under threat in the Basque country (CdR 72/2003 fin²),

HAVING REGARD TO its opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on *Reinforcing the civil protection capacity of the European Union* (CdR 241/2003 fin³),

1 OJ C 73 of 23.3.2004, p. 41.

2 OJ C 244 of 10.10.2003, p. 53.

3 OJ C 43 of 18.2.2005, p. 38.

HAVING REGARD TO its opinion on the Communication from the Commission to the Council and the European Parliament on *Crime Prevention in the European Union* (CdR 355/2003 fin⁴),

HAVING REGARD TO the declaration on cross-frontier civil protection adopted at Udine on 27 May 2005 by its Commission for Sustainable Development,

HAVING REGARD TO its draft opinion (CdR 465/2004 rev.1) adopted on 14 June 2005 by its Commission for Constitutional Affairs and European Governance (rapporteur: Mrs Theodora Bakogianni, Mayor of Athens (EL/EPP),

- 1) WHEREAS Article 2 of the Treaty on the European Union states as a main aim of the European Union the maintenance and development of the Union as a "area of freedom, security and justice", this aim is reiterated in the Treaty establishing a Constitution for Europe and Article II-6 of Title II "Freedom" in the second part, *Charter of fundamental rights of the Union*, explicitly acknowledges "the right" of every person "to freedom and security",
- 2) WHEREAS the formation of a common European policy to tackle the terrorism and the coordinated action of the supranational and national authorities are absolutely necessary for the protection of the aforementioned right and the achievement of the aforementioned aim of the Union,
- 3) WHEREAS the risk from terrorism affects free, open democracy and victimises society itself,
- 4) WHEREAS real, effective protection of fundamental rights underpins the common European project and represents an essential, non-negotiable condition for establishing the EU action plan in the fight against terrorism,
- 5) WHEREAS in many states the local and regional authorities are important responsibilities for matters relating to security and civil defence, are (also) responsible for implementing infrastructure policies, are closer to the citizen, and have the opportunity to contribute substantially to raising the awareness of European public opinion in the face of the terrorist threat,
- 6) WHEREAS, the local and regional authorities' representative body and supporter of proximity democracy in the context of Community decision-making procedure is directly involved in the application of the measures for tackling terrorism,

⁴ OJ C 43 of 18.2.2005, p. 10.

unanimously adopted the following opinion at its 61st plenary session, held on 12 and 13 October 2005 (meeting of 12 October):

*

* *

1. The views of the Committee of the Regions

The Committee of the Regions

1.1 Comments on the Commission Communication on *Prevention, preparedness and response to terrorist attacks*

1.1.1 **thinks** the European Commission for requesting an opinion which corresponds to the CoR's own suggestion and constitutes a useful precedent which compensates for the lack of a legal basis both in the current Treaties (Article 22 of the consolidated Treaty) and in the Treaty establishing a Constitution for Europe (Article III-129);

1.1.2 **expresses** its satisfaction at the incorporation of the Charter on Fundamental Rights, which contains a specific chapter on protection of individual freedoms and justice, in the Constitutional Treaty: this confers on it binding legal effect and will help to build up an awareness in the European citizen that the Union is indeed developing as an "area of freedom, security and justice";

1.1.3 **applauds** the Commission's proposals as expressed in its Communication on prevention, preparedness and response to terrorist attacks, with the comment that these observations have a general character, and in particular **expresses** its satisfaction at the general conclusion that tackling terrorism at its core requires the participation of the whole of society both in defining new means of prevention and suppression, and in defining new measures for monitoring an achievement of a balance between collective security and individual freedom;

1.1.4 **calls** for careful assessment of the possibility of taking measures to prevent the violent radicalisation of terrorism, given the main objective of ensuring the security of citizens; no such preventive action should lead in practice to jeopardising fundamental rights;

1.1.5 **recalls**, however, that the decisions already taken at Community/Union level to tackle racism and xenophobia have not yet been implemented in all the Member States;

1.1.6 **points out** that even in the context of the fight against terrorism prevention relates horizontally to many public policies set up by the local and regional authorities;

- 1.1.7 **considers** it useful to begin a dialogue between the private and public sectors on security matters, while emphasising equally the risks which could arise from failing to respect the confidentiality of personal and commercial data which will be collected for security reasons;
- 1.1.8 **expresses** its total satisfaction with the efforts of the Commission to provide assistance to victims and/or their families after terrorist attacks, and with the raising of public awareness, and **agrees** with the setting-up of a mechanism to distribute the financial cost of a phenomenon which could cause exceptional damage anywhere in the European Union;
- 1.1.9 **takes the view** that incorporating police and judicial cooperation in global policies will contribute to an effective response to terrorism, but points out that this presupposes a strict delimitation of the relevant powers and responsibilities;
- 1.1.10 **agrees** that tackling terrorism should be incorporated in the external relations of the European Union;
- 1.1.11 takes **the view** that there is a need to strengthen the systems of internal communication between the relevant authorities at national and supranational level in the event of terrorist attack or a corresponding emergency situation, as well as between those authorities and the public, and **regards** as particularly important the implementation of the users' forum which will make possible the effective application of these systems;
- 1.1.12 **thinks** it necessary to develop closer cooperation between Europol and Eurojust on the one hand, and between the responsible national authorities in the field of information on the other, while stressing that this must be carried out within a clear institutional framework;
- 1.1.13 **agrees** with the proposal to strengthen scientific research and technology in the field of security.
- 1.2 **Comments on the Commission Communication on the *Prevention of and fight against terrorist financing through measures to improve the exchange of information, to strengthen transparency and enhance the traceability of financial transactions***
- 1.2.1 **agrees** from the outset that the fight against terrorist financing includes improving cooperation in the field of information exchange, strengthening the capability to detect financial credit transactions and increasing the transparency of legal entities;
- 1.2.2 **expresses** its satisfaction at the European Commission's concern to discover a balance – always difficult to achieve – between the activation of the above measures on the one hand and protection of individual liberties on the other, also taking account of the provisions of the Charter of Fundamental Rights;

- 1.2.3 **notes** the progress which has been made in the exchange of information between the relevant authorities and agrees with the activation of the joint investigation groups in which public prosecutors and judges participate;
- 1.2.4 **points out** that the development of further cooperation mechanisms, the exchange of information and reactions between public authorities and financial credit bodies presupposes the drawing-up of new provisions defining the specific powers and possibilities for making use of the relevant information;
- 1.2.5 **takes the view** that promoting the creation of national organisations responsible for the detection, blocking and confiscation of assets of suspected terrorists will be effective at inter-state level only if it is implemented in a uniform way in all the Member States, taking account of the differences observed in the various legal systems;
- 1.2.6 **underlines** that, with regard to making full use of electronic proof in the courts, it would be necessary to take account of and examine problems which on the one hand concern the limits of use of the said proof and on the other hand the risk of intervention by third parties in the relevant programmes;
- 1.2.7 **agrees** from the outset that additional legislative provisions will be necessary to ensure effective monitoring of cross-frontier movement of capital;
- 1.2.8 **maintains** that defining a minimum basis of common rules for financial bodies in the EU, as regards checking the identity of clients, registering their identifying data and creating an electronic database centralising samples of identity cards, are measures which require processing by specialised experts to the extent that they encroach significantly on the individual right to protection of personal data;
- 1.2.9 **thinks** it necessary to develop a wider dialogue on the problems of introducing minimum rules for legislation concerning the transparency of the humanitarian or non-profit-making sector;
- 1.2.10 **notes** that the difficulties encountered in drawing up a European list of terrorist organisations have not yet been overcome.
- 1.3 **Comments on the Commission Communication on *Preparedness and consequence management in the fight against terrorism***
- 1.3.1 **expresses** satisfaction with the proposal to strengthen the civil protection mechanism and agrees with the assessment that collective action, based on solidarity, can guarantee a timely and well targeted response to terrorist scenarios;

- 1.3.2 **underlines** the importance of systematic training of the members of the services concerned, and regrets that up to now not all the Member States have given special attention to this;
- 1.3.3 **agrees** with the proposal to list all the resources of civil protection existing at European level to assist Member States hit by a terrorist attack, so as to achieve the most effective possible preparation for and management of the consequences of a terrorist attack at local and regional level;
- 1.3.4 **takes the view** that the Community mechanisms for health protection are particularly important, and thinks it essential for the national authorities to participate in them more widely in a coordinated way;
- 1.3.5 **is in favour** of setting up a centralised alarm system combining the various European systems which are already operational, and of an alarm system for police services, and **agrees** on the need to set up a crisis management centre.
- 1.4 **Comments on the Commission Communication on *Critical infrastructure protection in the fight against terrorism***
 - 1.4.1 **agrees** fully that a terrorist attack against infrastructure of vital importance, such as so-called cyber-terrorism, carries enormous risks with regard to effective tackling and management of the resulting crisis;
 - 1.4.2 **regards** as correct the criteria proposed for the definition of critical infrastructure and agrees that they should be refined also at national level, taking account of sectoral and collective experience, whilst emphasising that a homogeneous level of protection must be sought;
 - 1.4.3 **points out** that certain important steps have been taken at the level of Community legislation in the field of protection of critical infrastructure, and considers that it will need to take an active part from now on in the preparation of additional legislative proposals;
 - 1.4.4 **supports** the setting up of a European programme for protection of critical infrastructure and of a related alarm network, and wishes to point out that for these measures to be effective, it is essential for it to participate actively in their formulation and implementation.

2. **Recommendations of the Committee of the Regions**

The Committee of the Regions

2.1 **Terrorist attacks: prevention, preparation and response**

- 2.1.1 **Recommends** that encouragement be given in an institutional framework to the communication policy against terrorism and the creation of relevant centres at local and

regional levels, given that the development of a public debate is one of the best defences of an open democratic society against closed terrorist organisations;

- 2.1.2 **proposes** that the participation of local and regional authorities be sought when deciding on measures to combat racism and xenophobia, so as to facilitate the implementation of Community policy in this field;
- 2.1.3 **suggests** to the Council the setting-up of a European unit responsible for policies to assist the victims of terrorism, under the direct responsibility and competence of the European coordinator against terrorism; this unit should play a coordinating role vis-à-vis the national centres intended to provide support and assistance to the victims of terrorist attacks and their families, with the participation of representatives of the local and regional authorities; and **calls for** appropriate funds for this purpose to be provided from the Community budget;
- 2.1.4 **proposes** that an action programme be set up, in cooperation with the relevant institutional bodies of the European Union, to promote good neighbourhood relations with third countries, so as to back up the Community strategic policy of combating terrorism in the external relations field;
- 2.1.5 **urges** the EU in its external relations and the Member States to help bring about the rapid conclusion of the Global Convention on international terrorism promoted by the United Nations.
- 2.2 **Preventing and combating the financing of terrorism through measures to improve the exchange of information, transparency and traceability of financial transactions**
 - 2.2.1 **recommends** the establishment of more extensive monitoring, carried out by an independent body, of the practice of the relevant authorities when collecting and processing the information, and an improvement in the traceability of financial transactions;
 - 2.2.2 **reiterates** in this context its invitation to the European Commission to present a proposal for protection and non-disclosure of personal data in the context of the fight against terrorism in order to protect the fundamental rights of citizens;
 - 2.2.3 **proposes** that a regulatory text should define the field of action of the local and regional authorities as regards the collection and structured exchange of information;
 - 2.2.4 **advocates** the setting up of a specialised commission to study attentively the establishment of national bodies responsible for detecting, tracking down, freezing and confiscating terrorist property, taking account of the disparities between the various legal systems of the Member States, and cooperation with other authorities at supranational and national levels, and at all events recommends envisaging a way for the courts to monitor the actions of those bodies;

2.2.5 **calls for** there to be an explicit legal basis for the participation of local and regional authorities in the consultative committee for research on security, and asks that the Community budget devote a specific heading to financing the research programmes in this field.

2.3 **Fight against terrorism: preparation for and management of the consequences**

2.3.1 **Proposes** the establishment of systematic training of members of the civil protection services at local and regional levels, and advocates that it should cover, in particular, the field of support for use of the programme for management of problems, analysis of crises and communication with the public and that it should include an exchange of training programmes;

2.3.2 **calls for** an extension of its institutional role in the formulation of European policy in support of civil protection arrangements;

2.3.3 **calls for** specific provision to be made for a representative of local and regional authorities to form part of the crisis management centre;

2.3.4 **suggests** the promotion of fully organised local networks which would serve as operational centres and would have strong alarm and coordination capacities for emergency situations, while being able to communicate with the relevant actors at national and supranational levels and to alert them;

2.3.5 **reiterates** its call for the setting-up of a European Observatory for urban safety which would bring together representatives of the local and regional authorities of the Member States and provide the CoR and all other relevant European institutional bodies with all information on the planning of policies, the promotion and coordination of research, and the collection, organisation and processing of security data, particularly through the dissemination of examples and best practice and the building of regional and local partnerships.

2.4 **Protection of critical infrastructure in the fight against terrorism**

2.4.1 **proposes** that a commission be set up with special responsibility for drawing up the criteria which the Member States will propose for defining critical infrastructure, and requests institutional provision for the participation in it of a representative of local and regional authorities for each Member State, with the aim of assisting the establishment and implementation of the European programme for protection of critical infrastructure;

2.4.2 **advocates** the establishment at national level of centres for the protection of each piece of critical infrastructure, which would include representatives of the local and regional authorities and would help to solve problems and put forward solutions by communicating and cooperating directly among themselves at horizontal level;

2.4.3 **recommends** that certain members of the critical infrastructure services be systematically encouraged to acquire specialised training in the field of monitoring systems and IT networks.

Brussels, 12 October 2005.

The President
of the
Committee of the Regions

The Secretary-General
of the
Committee of the Regions

Peter Straub

Gerhard Stahl
