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**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 May 2002

7756/1/02

REV 1

CATS 18

RELEX 50

NOTE

From :	the Presidency
To :	the Article 36 Committee
Subject :	Initiative of the Kingdom of Spain with a view to adopting a Council Decision on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with Article 4 of Common Position 2001/931/CFSP

Delegations will find enclosed the revised draft of the initiative that was distributed at the meeting of the Article 36 Committee in Avila on 21 May 2002.

COUNCIL DECISION 2002/ /JHA

of

on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with Article 4 of Common Position 2001/931/CFSP

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 30, 31 and 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Spain ¹,

Having regard to the Opinion of the European Parliament ²,

¹ OJ C

² OJ C

Whereas:

[...]

- (2) On 28 September 2001 the United Nations Security Council adopted Resolution 1373(2001) laying down wide-ranging strategies to combat terrorism and in particular for the fight against the financing of terrorism.
- (3) On 8 October 2001 the Council of the European Union reaffirmed the determination of the European Union and its Member States to play their full part, in a coordinated manner, in the global coalition against terrorism, under the aegis of the United Nations.
- (4) On 19 October 2001 the European Council stated that it is determined to combat terrorism in every form throughout the world and that it will continue its efforts to strengthen the coalition of the international community to combat terrorism in every shape and form, for example by increased cooperation between the operational services responsible for combating terrorism: Europol, Eurojust, the intelligence services, police forces and [...] judicial authorities.
- (5) The European Union should take additional measures to implement United Nations Security Council Resolution 1373(2001).
- (6) Article 4 of Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism ¹ provides that Member States shall, through police and judicial cooperation in criminal matters, within the framework of Title VI of the Treaty on European Union, afford each other the widest possible assistance in preventing and combating terrorist acts.

[...]

¹ OJ L 344, 28.12.2001, p. 93.

HAS DECIDED AS FOLLOWS:

Article 1

For the purposes of this Decision:

- (a) "the listed persons, groups or entities" means the persons, groups or entities listed in the Annex to Council Common Position 2001/931/CFSP on the application of specific measures to combat terrorism;
- (b) "terrorist offences" means the offences referred to in Articles 1 to 3 of the Framework Decision of ??? on combating terrorism ¹;
- (c) "Europol Convention" means the Convention of 26 July 1995 on the establishment of a European Police Office ²;
- (d) "Eurojust Decision" means Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime ³;
- (e) "Joint investigation teams Decision" means the Council Framework Decision of ??? 2002 on joint investigation teams.

Article 2

1. Each Member State shall designate a [...] specialised service within its police services, which - in accordance with national law - will have access to and collect [...] all information concerning and resulting from criminal investigations conducted by its law enforcement authorities with respect to terrorist offences involving any of the listed persons, groups or entities.

¹ OJ L

² OJ C 316, 27.11.1995, p. 2.

³ OJ L 63, 6.3.2002, p. 1.

[...]

3. Each Member State shall take necessary measures to ensure that [...] at least the following information [...], collected by the [...] specialised service, is communicated to Europol, through the national unit of that Member State and, in accordance with and insofar as permitted by the provisions of the Europol Convention, with a view to its processing pursuant to Article 10, and particularly Article 10(6), of that Convention:

- (a) data which identify the person, group or entity;
- (b) acts under investigation and their specific circumstances;
- (c) links with other relevant cases of terrorist offences;
- (d) the use of communications technologies;
- (e) the threat posed by the possession of weapons of mass destruction.

Article 3

1. Each Member State shall [...] designate a Eurojust national correspondent for terrorism matters under Article 12 of the Eurojust Decision or the appropriate [judicial] authority, and shall ensure that this correspondent has access to and can collect [...] all information concerning and resulting from criminal proceedings conducted under the responsibility of its judicial authorities, with regard to terrorist offences involving any of the listed persons, groups or entities. [...]

[...]

2. Each Member State shall take necessary measures to ensure that at least the following information [...], collected by the [...] national correspondent, is communicated to Eurojust, in accordance with, and insofar as permitted by, the provisions of the Eurojust Decision, in order to enable it to carry out its tasks :

- (a) data which identify the person, group or entity;
- (b) acts under investigation and their specific circumstances;
- (c) links with other cases;
- (d) the existence mutual legal assistance requests, including letters rogatory, which may have been made by or to another Member State, as well as the results of these.

Article 4

Member States shall, where appropriate, take the necessary measures to set up joint investigative teams in order to investigate and prosecute terrorist offences involving any of the listed persons, groups or entities.

Article 5

Member States [...] shall ensure that all data that they communicate to Europol and Eurojust, pursuant to Articles 1 and 2, and that relate to any of the listed persons, groups or entities or to offences that they are deemed to have committed or are about to commit, can be exchanged between Europol and Eurojust pursuant to [...] the agreement on cooperation [...] to be signed between these two bodies, in accordance with the Europol Convention and the Eurojust Decision.

Article 6

Each Member State shall take the necessary measures to ensure that requests from other Member States for mutual legal assistance and recognition and enforcement of judgments in connection with terrorist offences involving any of the listed persons, groups or entities, are dealt with [...] as a matter of urgency and shall be given priority.

Article 7

Each Member State shall take the necessary measures to ensure that any document, file, item of information, object or other means of evidence, seized or confiscated in the course of concrete criminal investigations or criminal proceedings in connection with terrorist offences against any of the listed persons, groups or entities, can be made accessible or available immediately to the authorities of other Member States in accordance with national law and relevant international legal instruments where investigations against those listed persons, groups or entities are being carried out in connection with terrorist offences or might be initiated.

Article 8

This Decision shall take effect on the day following that of its publication in the Official Journal.

Done at Brussels,

Council Declaration

The Council invites Europol and Eurojust to hold regular meetings, [...]for operational purposes and in order to achieve the best and most effective implementation of this Decision. The agreement to be concluded between Europol and Eurojust shall determine the modalities of the holding of such meetings.