



Procedure file

Basic information		
CNS - Consultation procedure Decision	2007/0803(CNS)	Procedure completed
Cooperation between the special intervention units of the Member States in crisis situations. Initiative Austria		
Subject 7.30 Police, judicial and customs cooperation in general 7.30.20 Action to combat terrorism		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		05/11/2007
		PSE FRANÇA Armando	
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	2881	23/06/2008
	Justice and Home Affairs (JHA)	2827	08/11/2007
European Commission	Commission DG	Commissioner	
	Justice and Consumers	FRATTINI Franco	

Key events			
05/12/2006	Legislative proposal published	15437/2006	Summary
01/02/2007	Committee referral announced in Parliament		
08/11/2007	Debate in Council	2827	
18/12/2007	Vote in committee		Summary
20/12/2007	Committee report tabled for plenary, 1st reading/single reading	A6-0507/2007	
31/01/2008	Results of vote in Parliament		
31/01/2008	Debate in Parliament		
31/01/2008	Decision by Parliament	T6-0028/2008	Summary
23/06/2008	Act adopted by Council after consultation of Parliament		
23/06/2008	End of procedure in Parliament		
06/08/2008	Final act published in Official Journal		

Technical information	
Procedure reference	2007/0803(CNS)
Procedure type	CNS - Consultation procedure

Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Treaty on the European Union (after Amsterdam) M 034-p2c; Treaty on the European Union (after Amsterdam) M 030; Treaty on the European Union (after Amsterdam) M 032
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/45100

Documentation gateway

Document attached to the procedure	15438/2006	05/12/2006	CSL	Summary
Legislative proposal	15437/2006	06/12/2006	CSL	Summary
Committee draft report	PE396.521	31/10/2007	EP	
Amendments tabled in committee	PE398.396	27/11/2007	EP	
Committee report tabled for plenary, 1st reading/single reading	A6-0507/2007	20/12/2007	EP	
Text adopted by Parliament, 1st reading/single reading	T6-0028/2008	31/01/2008	EP	Summary
Commission response to text adopted in plenary	SP(2008)1176	27/02/2008	EC	

Additional information

European Commission	EUR-Lex
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Final act

[Decision 2008/617](#)
[OJ L 210 06.08.2008, p. 0073](#) Summary

Cooperation between the special intervention units of the Member States in crisis situations. Initiative Austria

This Council paper involves an Austrian initiative with a view to adopting a Council Decision on the improvement of cooperation between the special intervention units of the Member States of the EU.

Following the terrorist attacks of 11 September 2001, the special units of all EU law enforcement authorities initiated cooperation activities under the umbrella of the Police Chiefs Task Force (PCTF). The so-called 'ATLAS network' has since 2001 conducted various seminars, studies, exchange of materials and common exercises (included a secured communication network currently under development at Europol).

The goal of the ATLAS network is to bring each counter-terrorism unit to the highest possible level of professionalism by the realisation of a structural and intense mutual cooperation. The exchange of information and the promotion of mutual assistance in order better to coordinate EU activities in the field of counter-terrorism are also important goals for ATLAS.

Terrorist events that occurred in the last few years have clearly demonstrated the need for good cooperation between the special intervention units at EU level. Indeed, no Member State can pretend that it has all means, resources and expertise at its disposal to deal with every large scale situation that requires special intervention. The option of requesting the assistance of another Member State might therefore prove to be of crucial importance both from a qualitative and quantitative point of view.

In the margins of the PCTF meeting of 11 and 12 October 2004 there was a demonstration of a large scale exercise involving units from Belgium, France, the Netherlands, Germany and Sweden. On this occasion, the question arose whether the appropriate legislative framework existed if such an operation should ever take place in reality.

On subsequent occasions, the importance of establishing a legal framework was stressed by several Member States, and the G6 agreed in March 2006 on developing joint support teams to offer operational assistance in case of serious terrorist attacks. These expert teams or liaison officers will provide on-site support to an attacked country on its request.

The Austrian initiative involves the following: large scale crisis situations require interventions by specialised units. Requesting the assistance of another Member State might therefore be of crucial importance. Therefore, the draft Council Decision sets out basic rules, including civil and

penal liability, in order to provide a legal framework where Member States agree to use this possibility of requesting and providing assistance. The framework will simplify and speed up the capacities of EU Member States in case of a crisis situation in order to ensure the best possible level of aid for the Member State concerned.

Cooperation between the special intervention units of the Member States in crisis situations. Initiative Austria

PURPOSE: improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations

PROPOSED ACT: Council Decision, initiative of the Republic of Austria.

BACKGROUND: in their Declaration on Solidarity against Terrorism of 25 March 2004, the Heads of State and Government of the Member States of the European Union declared their firm intention that the Member States mobilise all the instruments at their disposal to assist a Member State or an acceding State in its territory at the request of its political authorities in the event of a terrorist attack.

Given that no single Member State has all the means, resources and expertise at its disposal to deal effectively with all possible kinds of large scale crisis situations requiring special intervention. It is therefore of crucial importance that each Member State be able to request the assistance of another Member State.

This draft initiative aims to provide a legal framework for circumstances in which Member States concerned agree to request and provide assistance.

CONTENT: this Decision sets out some general rules on liability, including rules on criminal liability, in order to provide a legal framework for circumstances in which Member States concerned agree to request and provide assistance. The availability of this legal framework and of a declaration indicating the competent authorities will allow the Member States to react speedily and gain time in the event a crisis situation arises.

Assistance to another Member State: a Member State may ask to be assisted by a special intervention unit of another Member State with a view to dealing with a crisis situation. This State may accept or refuse such a request or may propose a different kind of assistance.

Subject to agreement between the Member States concerned, assistance may consist of the provision of equipment or expertise to the requesting Member State, or of carrying out actions on the territory of that Member State.

In the case of actions on the territory of the requesting Member State, officers of the assisting special intervention unit shall:

- be authorised to act in a supporting capacity on the territory of the requesting Member State;
- operate under the responsibility and direction of the requesting Member State and in accordance with the law of the requesting Member State;
- operate within the limits of their powers under their national law.

General rules on liability: where, officers of a Member State operate in the territory of another Member State, the latter Member State shall be liable for any damage caused by them during their operations. Where the damage results from actions that were contrary to directions given by the requesting Member State or were beyond the limits of the of the relevant officers' powers under their national law, the following rules shall apply:

(a) a Member State in whose territory the damage was caused shall make good such damage under the conditions applicable to damage caused by its own officers;

(b) a Member State whose officers have caused damage to any person in the territory of another Member State shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf;

(c) without prejudice to the exercise of its rights vis-à-vis third parties, each Member State shall refrain in the circumstances provided for in this paragraph from requesting reimbursement of damages it has sustained from another Member State.

Criminal liability: during the operations, officers operating in the territory of another Member State shall be regarded as officers of that Member State with respect to offences committed against them or by them.

Meetings and joint training: Member States shall ensure that their relevant authorities hold meetings and organise joint training and exercises, whenever necessary, with a view to exchanging experience, expertise and general, practical and technical information about providing assistance in crisis situations.

Costs: each Member State shall bear its own costs, unless otherwise agreed between the Member States concerned.

Relation to other instruments: Member States may continue to apply bilateral or multilateral agreements or arrangements in force in so far as such agreements or arrangements allow the objectives of this Decision to be extended or enlarged between Member States.

Cooperation between the special intervention units of the Member States in crisis situations. Initiative Austria

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Mr. Armando FRANÇA (PES, PT) under the consultation procedure on the Austrian initiative aimed at improving cooperation between the special intervention units in crisis situations.

Although, overall, MEPs approve the proposed initiative, they suggest that the definition of 'crisis situation' be amended and, before that, the possibilities for cooperation between Member States be broadened.

The main amendments adopted by the committee can be summarised as follows:

Complement the 'Prüm Decision': Members wanted to state more clearly the role and limits of special intervention units within the framework of the Austrian initiative and insist on its main objective, which is to complement the Prüm Decision on the stepping-up of cross-border cooperation in order to combat terrorism and cross-border crime (see [CNS/2007/0804](#)). The Prüm Decision envisages, in particular, the forms of police cooperation in the case of mass gatherings, major events, natural disasters or serious accidents. MEPs have excluded this type of cooperation from the Austrian initiative, limiting the intervention of special units to 'man-made crisis situations or acts of terrorism presenting a serious direct physical threat to persons, property, infrastructure or institutions, in particular hostage taking, hijacking and similar events'.

Crisis situations: cooperation should be triggered at the request of the Member State that finds itself in a crisis situation, i.e. in a situation 'resulting from a man-made act, taking place in a Member State and leading one to reasonably believe that a criminal act will be or is being committed, which presents a serious direct physical threat to persons, property, infrastructure or institutions in that Member State, in particular those situations referred to in Council Framework Decision 2002/475/JAI (see [CNS/2001/0217](#)) on combating terrorism'.

'Requested' Member State: Members suggest that Member States from which help is requested be identified as the 'requested Member State'. They also specify that the practical details and implementing arrangements of intervention shall be directly agreed between Member States.

'Competent authority': Members specify the terms for requesting intervention between Member States. They thus provide for there to be a single 'authority' in each Member State in charge of 'making requests and giving authorisation for the deployment of special intervention units'. By making a request setting out 'the nature of the requested assistance' as well as 'the operational necessity thereof', a Member State can ask to be assisted by this specific authority. The competent authority of a requested Member State may refuse such a request or propose a different kind of assistance.

Strengthening cooperation first: to strengthen cooperation before a crisis situation arises, Members seek to strengthen the preventative and training measures of the special units. They suggest that these units gather together regularly and organise joint training sessions, so as to benefit from mutual experiences and to save time when a crisis arises. These meetings, training sessions and joint exercises may be funded by the EU budget under certain ad hoc financial programmes. The Member State holding the Presidency of the EU shall endeavour to ensure that such meetings, training and exercises take place.

Funding interventions: Members specify that the requesting Member State shall bear the operational costs incurred by the requested Member State's special intervention units, including transport and accommodation costs (unless otherwise agreed between the Member States concerned).

Civil and criminal liability: Members also specify the liability that lies with special intervention units during an operation: in the case of joint police operations or joint actions led by the special intervention units, the host Member State shall be liable for measures taken by the police crossing the border, in accordance with the relevant provisions of the Prüm Decision.

Lastly, MEPs state that nothing in the draft decision may be interpreted as being contrary to 'the current rules applicable to international police cooperation according to national legal systems'.

Cooperation between the special intervention units of the Member States in crisis situations. Initiative Austria

The European Parliament adopted a resolution based on the report drafted by Armando FRANÇA (PES, PT) on the Austrian initiative aimed at improving cooperation between the special intervention units in crisis situations. The resolution was adopted by 558 votes for 56 against and 10 abstentions.

The main amendments were as follows:

Complement the 'Prüm Decision': Members wanted to state more clearly the role and limits of special intervention units within the framework of the Austrian initiative and insist on its main objective, which is to complement the Prüm Decision on the stepping-up of cross-border cooperation in order to combat terrorism and cross-border crime (see [CNS/2007/0804](#)). The Prüm Decision envisages the forms of police cooperation in the case of mass gatherings, major events, natural disasters or serious accidents. MEPs have excluded this type of cooperation from the proposal, limiting the intervention of special units to 'man-made crisis situations or acts of terrorism presenting a serious direct physical threat to persons, property, infrastructure or institutions, in particular hostage taking, hijacking and similar events'. With this in view, each Member State should indicate the competent national authorities from which the other Member States concerned may request assistance or intervention.

Crisis situations: cooperation should be triggered at the request of the Member State that finds itself in a crisis situation, i.e. any man-made situation in a Member State giving rise to reasonable grounds for believing that a criminal act has been, is being or will be committed, which presents a serious direct physical threat to persons, property, infrastructure or institutions in that Member State, in particular the situations referred to in Article 1(1) of Council Framework Decision 2002/475/JHA on combating terrorism.

The practical details and arrangements for implementing the Decision shall be agreed directly between the requesting Member State and the addressee Member State.

'Competent authority': this means the national authority which may make requests and give authorisations regarding the deployment of the special intervention units. Through a request via the competent authorities setting out the nature of the assistance requested as well as the operational necessity, a Member State may ask to be assisted by a special intervention unit of another Member State with a view to dealing with a crisis situation. The competent authority of the addressee Member State may accept or refuse such a request or may propose a different kind of assistance.

Liability: Parliament deleted the Commission's clauses on 'General rules on liability' and 'Criminal liability'. It stated instead that where officers of a Member State operate within the territory of another Member State and/or equipment is used under the Decision, the provisions on civil and criminal liability set out in Articles 21 and 22 of the Prüm Decision shall apply.

Training: all participating Member States shall ensure that their special intervention units hold meetings and regularly organise joint training courses and exercises, with a view to exchanging experience, expertise and general, practical and technical information about providing assistance in crisis situations. Such meetings, training courses and exercises may be funded under certain financial programmes of the Union

and obtain grants financed from the general budget of the European Union. In this context, the Member State holding the Presidency of the EU shall endeavour to ensure that such meetings, training courses and exercises take place.

Funding: Members specified that the requesting Member State shall bear the operational costs incurred by the addressee Member State's special intervention units, including transport and accommodation costs, unless otherwise agreed between the Member States concerned.

Lastly, MEPs state that nothing in the Decision shall be construed as permitting the application of these rules governing cooperation among the law enforcement agencies of the Member States to relations with the relevant agencies of third countries in circumvention of the existing rules of national legal systems applicable to international police cooperation.

Cooperation between the special intervention units of the Member States in crisis situations. Initiative Austria

PURPOSE: to improve cooperation between the special intervention units of the Member States of the European Union in crisis situations.

LEGISLATIVE ACT: Council Decision 2008/617/JHA on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations;

BACKGROUND: in their Declaration on Solidarity against Terrorism of 25 March 2004, the Heads of State and Government of the Member States of the European Union declared their firm intention that the Member States mobilise all the instruments at their disposal to assist a Member State or an acceding State in its territory at the request of its political authorities in the event of a terrorist attack. Given that no single Member State has all the means, resources and expertise at its disposal to deal effectively with all possible kinds of specific or large-scale crisis situations requiring special intervention, the Council provides a legal framework for circumstances in which Member States concerned agree to request and provide assistance. The availability of this legal framework and of a compilation indicating the competent authorities will allow Member States to react speedily and gain time should such a crisis situation arise.

CONTENT: the Decision lays down general rules and conditions to allow for special intervention units of one Member State to provide assistance and/or operate on the territory of another Member State in cases where they have been invited by the requesting Member State and have agreed to do so in order to deal with a crisis situation. The practical details and implementing arrangements complementing this Decision shall be agreed directly between the requesting Member State and the requested Member State.

Assistance to another Member State: through a request via the competent authorities, setting out the nature of the assistance requested as well as the operational necessity, a Member State may ask to be assisted by a special intervention unit of another Member State with a view to dealing with a crisis situation. The competent authority of the requested Member State may accept or refuse such a request or may propose a different kind of assistance.

Subject to agreement between the Member States concerned, assistance may consist of providing the requesting Member State with equipment and/or expertise and/or of carrying out actions on the territory of that Member State, using weapons if so required.

In the case of actions on the territory of the requesting Member State, officers of the assisting special intervention unit shall be authorised to operate in a supporting capacity on the territory of the requesting Member State and take all necessary measures to provide the requested assistance in so far as they:

- operate under the responsibility, authority and direction of the requesting Member State and in accordance with the law of the requesting Member State;
- operate within the limits of their powers under their national law.

The definition of 'special intervention unit' shall mean any law enforcement unit of a Member State which is specialised in the control of a crisis situation. The General Secretariat of the Council shall compile and keep up to date the list of the competent authorities of the Member States which may make requests and give authorisations for providing assistance.

Civil and criminal liability: when officers of a Member State operate within another Member State and/or equipment is used under this Decision, the provisions on civil and criminal liability set out in the [Prüm Decision](#) shall apply.

Meetings and joint training: the participating Member States shall ensure that their special intervention units hold meetings and organise joint training and exercises, whenever necessary, with a view to exchanging experience, expertise and general, practical and technical information on dealing with a crisis situation. Such meetings, training and exercises may be funded under possibilities offered by the financial programmes of the Union to obtain grants from the budget of the European Union. In this context, the Member State holding the Presidency of the Union shall endeavour to ensure that such meetings, training and exercises take place.

Costs: the requesting Member State shall bear the operational costs incurred by the requested Member State's special intervention units in connection with the application of Article 3, including transport and accommodation costs, unless otherwise agreed between the Member States concerned.

Relation to other instruments: the Decision is without prejudice to their commitments under other acts adopted pursuant to Title VI of the Treaty, in particular the Prüm Decision. Member States may continue to apply bilateral or multilateral agreements or arrangements on cross-border cooperation in force on 23 June 2008 in so far as such agreements or arrangements are not incompatible with the objectives of this Decision. They may conclude or bring into force bilateral or multilateral agreements or arrangements on cross-border cooperation after 23 December 2008 in so far as such agreements or arrangements provide for the objectives of this Decision to be extended or enlarged.

ENTRY INTO FORCE: 23/12/2008.