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NOTE

from:	Presidency
to:	CATS
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Subject:	Judicial dimension of the fight against terrorism - Follow-up to the CTC recommendations for action

On 8 October 2010, the EU Counter-Terrorism Coordinator presented a number of recommendations to the Council on the judicial dimension of the fight against terrorism. These recommendations have not been adopted by the Council. The Presidency thinks that further examination is required in order to determine for each recommendation:

- 1) whether further follow-up is required;
- 2) who should be responsible for it; and
- 3) within which time span.

To that end, the Presidency has endeavoured to draw up a table in which for each of the recommendations, it has tentatively identified the actor(s) which could be responsible for the follow-up, as well as possible deadlines within which action should be taken.

The Presidency invites CATS to examine and discuss the attached table.

**EU CTC - Judicial dimension of the fight against terrorism – Recommendations for action
(doc. JAI 716 COPEN 175 EUROJUST 83 ENFOPOL 240 COTER 62 FIN 380 + COR 1)**

RECOMMENDATIONS	INSTITUTION	DEADLINE
I. Judicial organisation		
R 1. Compensate for the lack of specialisation in those MS which choose not to centralise by offering prosecutors and magistrates dealing with terrorist cases professional advice and training sessions under the European Judicial Training Network and with the assistance of the Eurojust National Coordination System where the contact points for terrorism have a seat	EJTN/Eurojust	30 June 2012
R 2. Catalogue operating methods between intelligence services and players in the judicial sphere and identify good practice, taking account of their respective areas of specialisation.	MS/Eurojust	31 December 2011

II. Special investigation techniques and terrorist financing		
R 3. Work to improve mutual awareness of good practices and draw up model agreements, and then establish a common judicial framework for certain investigative techniques such as the use of undercover agents and informers, or online searches, and spell out the rules to be observed in the case of surveillance and undercover operations that continue across borders	COM/MS	31 December 2012
R 4. Strengthen cooperation between MS so as to provide appropriate protection to witnesses and others cooperating with judicial action	COM	30 June 2012
R 5. Reinforce the MS' technical capacity and training in the investigation of computer-based media by establishing a centre of excellence at Europol, and support this effort with EU funding	Europol	31 December 2011
R 6. Instruct the CARIN network to promote more effective use of the instruments governing cooperation on the detection of assets, freezing, seizure and return, by compiling a handbook on the use of these measures	MS Network of EU asset recovery offices	31 December 2011
R 7. Utilise the results of the 5th mutual evaluation round to develop a training course in financial investigations	EJTN	30 June 2013

R 8. Establish a framework of appropriate administrative measures for implementing a preventive freeze on assets pursuant to Article 75 TFEU	COM/Council/EP	31 December 2011
R 9. Develop the partnership with the private sector, notably by improving the FIUs' system of feedback from banks in relation to the financing of terrorism	FIUnet/COM	31 December 2011
R 10. Develop a European terrorist finance tracking programme (EU=TFTP)	COM/Council/EP	30 July 2014
III. Rights of defence		
R 11. Establish an overview of the practices of the various Member States as regards the checking and protecting of (intelligence) sources, particularly in cross-border proceedings, whilst safeguarding the rights of defence, especially the principle of an adversarial process	COM	31 December 2011
R 12. Implement as soon as possible the roadmap on protection of suspects in criminal proceedings, as provided for in the Stockholm Programme	Council/EP	31 December 2013
IV. Judicial cooperation		
R 13. Lay down the principle that evidence obtained in the context of a joint investigation team in one Member State, in accordance with the procedural requirements of that Member State, is to be regarded as equivalent to evidence properly obtained in the Member State of the proceedings as to substance	COM/MS	31 December 2012
R 14. Consider extending this principle to transfers of proceedings	COM/MS	31 December 2013

R 15. Taking terrorism as a pilot case, promote a mechanism for the settlement of conflicts of jurisdiction: strengthen the mechanisms laid down in the Framework Decision on the prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings, specifically for the area of terrorism	COM/MS	30 June 2012
R 16. Increase the use of joint investigation teams and their EU funding via Eurojust	MS/Eurojust	31 December 2011
R 17. Adopt measures by which Europol and Eurojust should always be involved in joint investigation teams concerning terrorist cases	MS	31 December 2011
V. International perspective		
R 18. Make more systematic use of the Eurojust channel in cases which extend outside the European Union	MS	31 December 2011
R 19. Intensify EU assistance programmes for third countries confronted with terrorism, to strengthen their judicial mechanisms	COM/EEAS/MS	31 December 2011
R 20. Take advantage of the existence of liaison magistrates between third countries and MS and, on the basis of those experiences, extend this network and establish Eurojust liaison magistrates in third countries with which more intense cooperation is desirable	MS/Eurojust	31 December 2011

R 21. Start to draw up cooperation agreements with those third countries most often involved in terrorist cases under investigation in the EU, in particular to determine the legal framework for the exchange of information, arrangements for any technical assistance, and the conditions under which joint investigation teams might be established	COM/MS	31 December 2013
R 22. Lay down basic criteria for the acceptance of evidence gathered in a non-Member State	COM/MS	31 December 2013
VI. Strategy for EU prosecutions and criminal policy		
R 23. Increase judicial input in the composition of COSI, by the participation of Eurojust and the Consultative Forum of Prosecutors General/Directors of Prosecution		30 June 2011
R 24. Evaluate the impact of the 2002 and 2008 Framework Decisions on terrorism: carry out systematic and in-depth monitoring of national case-law, based in particular on Eurojust's analysis (the Terrorism Convictions Monitor)	COM	30 June 2013
