

(Acts adopted pursuant to Title VI of the Treaty on European Union)

COUNCIL DECISION 2003/48/JHA

of 19 December 2002

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 Article 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⁾,

Whereas:

- (1) At its extraordinary meeting on 21 September 2001, the European Council stated that terrorism is a real challenge to the world and to Europe and that the fight against terrorism will be a priority objective of the European Union.
- (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) Article 4 of Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism ⁽³⁾ 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. Such assistance shall be based on and fully exploit the existing powers of the Member States in accordance with acts of the European Union and other international agreements, arrangements and conventions which are binding upon Member States. Assistance will be provided in conformity with the national laws of the Member States, in particular those with regard to confidentiality of criminal investigations.

- (6) Common Position 2001/931/CFSP and the additional measures contemplated in this Decision concern particular persons, groups and entities listed in the Annex to that Common Position, which is regularly being updated.
- (7) Whilst Common Position 2001/931/CFSP sets out certain guarantees to ensure that persons, groups and entities are listed only if there is sufficient cause to do so, the Council shall draw the necessary consequences from any final finding and enforceable interim orders to the contrary by a court of the Member States.
- (8) This Decision respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union. Nothing in this Decision may be interpreted as allowing infringement of the legal protection afforded under national law to the persons, groups and entities listed in the Annex to Common Position 2001/931/CFSP,

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 Common Position 2001/931/CFSP;

⁽¹⁾ OJ C 126, 28.5.2002, p. 22.

⁽²⁾ Opinion given on 24 September 2002 (not yet published in the Official Journal).

⁽³⁾ OJ L 344, 28.12.2001, p. 93.

- (b) 'terrorist offences' means the offences referred to in Articles 1 to 3 of Council Framework Decision 2002/475/JHA of 13 June 2002 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' shall be understood as in Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams ⁽⁴⁾.

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 relevant 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.

2. 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, in accordance with national law 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 a appropriate judicial or other competent authority or, where its legal system so provides, more than one authority, and shall, in accordance with national law, ensure that this correspondent or appropriate judicial or other competent authority has access to and can collect all relevant 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 or by the appropriate judicial or other

competent authority, is communicated to Eurojust, in accordance with national law, 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 or prosecution and their specific circumstances;
- (c) links with other relevant cases of terrorist offences;
- (d) the existence of 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 investigation teams in order to carry out criminal investigations into terrorist offences involving any of the listed persons, groups or entities.

Article 5

Member States shall ensure that all relevant data that they communicate to Europol and Eurojust, pursuant to Articles 2 and 3, 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 insofar as provided by 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 judgements 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 relevant information included in document, file, item of information, object or other means of evidence, seized or confiscated in the course of 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 interested 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.

⁽¹⁾ OJ L 164, 22.6.2002, p. 3.

⁽²⁾ OJ C 316, 27.11.1995, p. 2.

⁽³⁾ OJ L 63, 6.3.2002, p. 1.

⁽⁴⁾ OJ L 162, 20.6.2002, p. 1.

Article 8

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

Done at Brussels, 19 December 2002.

For the Council
The President
L. ESPERSEN
