

Combating terrorism: criminalisation of offences linked to terrorist activities. Framework Decision

2007/0236(CNS) - 06/11/2007 - Initial legislative proposal

PURPOSE: to update Framework Decision 2002/475/JAI on combating terrorism, in order to include in the concept of terrorism, public provocation to commit terrorist offences, as well as recruitment and training for terrorism.

PROPOSED ACT: Council Framework Decision

BACKGROUND: terrorism constitutes one of the most serious threats to democracy, to the free exercise of human rights and to economic and social development. The European Union has set itself an objective in the Treaty on European Union to provide citizens with a high level of safety within an Area of Freedom, Security and Justice. It is vitally important that Member States of the European Union have effective criminal laws in place to achieve this objective in the context of the fight against terrorism.

Modern information and communication technologies play an important role in the propagation of the terrorist threat. The Internet, in particular, is cheap, fast, easily accessible and has a practically global reach. All these advantages, highly appreciated by law-abiding citizens that benefit from the Internet in their daily lives, are also unfortunately exploited by terrorists. They use the Internet as a means of dissemination of propaganda aiming at mobilisation and recruitment as well as instructions and online manuals intended for training or planning of attacks. Both are addressed at current and potential supporters. The Internet serves in this manner as one of the principal boosters of the processes of radicalisation and recruitment and also serves as a source of information on terrorist means and methods, thus functioning as a 'virtual training camp'.

Preventing such a growing threat constitutes a political urgency for the EU. Therefore, the Commission proposes to amend and update Framework Decision 2002/475/JAI on combating terrorism (see [CNS/2001/0217](#)) to take this new development into consideration and to:

- offer Member States the advantages of a more integrated institutional framework of the European Union for these particular offences (in particular, common interpretation by the Court of Justice);
- provide for a specific legal regime that will be applicable to the newly integrated offences (in particular, criminal penalties in all Member States and compulsory rules on jurisdiction);
- strengthen the EU's antiterrorism policy by triggering the European Union cooperation mechanisms for such offences.

CONTENT: this proposal aims to amend Framework Decision 2002/475/JAI in order to align it with the Council of Europe Convention on the prevention of terrorism (Warsaw, 16 May 2005) by including in the Framework Decision's current concept of terrorism: i) public provocation to commit terrorist offences; ii) recruitment and training for terrorism.

In this context, the following definitions are added to the text of the Framework Decision:

- "public provocation to commit a terrorist offence" means the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of terrorist acts as listed in the Framework Decision (whether or not this behaviour directly advocates terrorist offences);

- "recruitment for terrorism" means to solicit another person to commit an act of terrorism as listed in the Framework Decision;
- "training for terrorism" means to provide instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances for the purpose of committing a terrorist act as listed in the Framework Decision (including providing skills to be used for this purpose).

The Framework Decision, as amended by this proposal, will aim at approximating the definition of terrorist offences in all Member States and harmonising national provisions on public provocation to commit a terrorist offence, and recruitment and training for terrorism, so that these forms of behaviour are punishable, also when committed through the Internet, throughout the EU. Aggravated theft, extortion or drawing up false administrative documents with a view to committing a terrorist act would also be considered as terrorist activities punishable by sanctions.

In addition, the Framework Decision specifies that for an act to be punishable, it shall not be necessary that a terrorist offence actually be committed (provocation is sufficient).

The Framework Decision also aims to ensure that existing provisions on penalties, liability of legal persons, jurisdiction and prosecution applicable to terrorist offences, also apply to the provocation to commit terrorist offences and to recruitment and training for terrorism.

Member States shall take the necessary measures to comply with this Framework Decision by 31 December 2008.