

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

2007/0803(CNS) - 06/12/2006 - Legislative proposal

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.