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REPORT

on the role of the European Union in combating terrorism
(2001/2016(INI))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Graham R. Watson

CONTENTS

	Page
PROCEDURAL PAGE.....	4
PROPOSAL FOR A RECOMMENDATION	5
EXPLANATORY STATEMENT.....	15

PROCEDURAL PAGE

At the sitting of 18 January 2001 the President of Parliament announced that the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had been authorised to draw up a recommendation to the Council, pursuant to Rule 107(1) of the Rules of Procedure, on the role of the European Union in combating terrorism.

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Graham R. Watson rapporteur at its meeting of 23 November 2000.

It considered the draft report at its meetings of 19 June and 11 July 2001.

At the last meeting it adopted the motion for a resolution by 32 votes to 2, with 5 abstentions.

The following were present for the vote: Graham R. Watson (chairman and rapporteur), Regina Bastos (for Carlos Coelho, pursuant to Rule 153(2) of the Rules of Procedure), Maria Berger (for Robert J.E. Evans), Marco Cappato, Michael Cashman, Charlotte Cederschiöld, Carmen Cerdeira Morterero (for Gerhard Schmid), Ozan Ceyhun, Thierry Cornillet, Gérard M.J. Deprez, Rosa M. Díez González (for Renzo Imbeni, pursuant to Rule 153(2) of the Rules of Procedure), Giuseppe Di Lello Finuoli, Adeline Hazan, Jorge Salvador Hernández Mollar, Anna Karamanou, Sylvia-Yvonne Kaufmann (for Pernille Frahm), Margot Keßler, Timothy Kirkhope, Eva Klamt, Alain Krivine (for Fodé Sylla), Klaus-Heiner Lehne (for Enrico Ferri), Luís Marinho (for Martin Schulz), Iñigo Méndez de Vigo (for Daniel J. Hannan), Hartmut Nassauer, Elena Ornella Paciotti, Ana Palacio Vallelersundi (for Bernd Posselt), Paolo Pastorelli, Hubert Pirker, Martine Roure (for Sérgio Sousa Pinto), Giacomo Santini (for Mary Elizabeth Banotti), Ilka Schröder (for Alima Boumediene-Thiery, pursuant to Rule 153(2) of the Rules of Procedure), Patsy Sørensen, Joke Swiebel, Anna Terrón i Cusí, Astrid Thors (for Baroness Sarah Ludford, pursuant to Rule 153(2) of the Rules of Procedure), Maurizio Turco (for Frank Vanhecke), Gianni Vattimo, Christian Ulrik von Boetticher and Jan-Kees Wiebenga.

The report was tabled on 12 July 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

PROPOSAL FOR A RECOMMENDATION

European Parliament recommendation on the role of the European Union in combating terrorism (2001/2016(INI))

The European Parliament,

- having regard to Article 29 of the Treaty on European Union, which specifically refers to terrorism as one of the serious forms of crime to be prevented and combated at European Union level by developing common action in the fields of police and judicial cooperation in criminal matters and approximating, where necessary, rules on criminal matters in the Member States,
- having regard to Article 31(e) of the Treaty on European Union, which empowers the European Union progressively to adopt measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in the fields of organised crime, terrorism and illicit drug trafficking,
- having regard to Article 39(3) of the Treaty on European Union, under which the European Parliament may make recommendations to the Council,
- having regard to the Universal Declaration of Human Rights, signed on 10 December 1948, and in particular Articles 1, 2, 3, 5, 7, 12, 13 and 19 thereof,
- having regard to the European Convention on the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, as amended by Protocol No 11, and in particular Articles 3, 5, 6, 8, 9 and 10 thereof¹,
- having regard to the European Union Charter of Fundamental Rights, officially proclaimed in Nice on 7 December 2000, and in particular Articles 1, 2, 4, 6, 7, 10 11 and 19 thereof²,
- having regard to the Convention on the prevention and punishment of the crime of genocide, approved by the United Nations General Assembly Resolution 260A of 9 December 1948,
- having regard to the European Convention on extradition, signed in Paris on 13 December 1957³,
- having regard to the European Convention on mutual assistance in criminal matters, signed in Strasbourg on 20 April 1959⁴,
- having regard to the European Convention on the international validity of criminal judgments, signed in the Hague on 28 May 1970⁵,
- having regard to the European Convention on the transfer of proceedings in criminal matters,

¹ ETS Nos. 5 and 140.

² OJ C 364, 18.12.2000, p. 1.

³ ETS No 24.

⁴ ETS No 30.

⁵ ETS No 70.

signed in Strasbourg on 15 May 1972¹,

- having regard to the Principles of international cooperation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity, approved by General Assembly resolution 3074 (XXVIII), 28 UN GAOR supp. (30A) at 78, UN Doc. A/9030/Add. 1 (1973),
- having regard to the Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents, approved on 14 December 1973,
- having regard to the European Convention on the suppression of terrorism, signed in Strasbourg on 27 January 1977²,
- having regard to the International Convention against the taking of hostages, approved by General Assembly resolution 34/146 of the United Nations on 17 December 1979,
- having regard to the European Convention on the transfer of sentenced persons, signed in Strasbourg on 21 March 1983³,
- having regard to Recommendation 982 (1984), approved by the Parliamentary Assembly of the Council of Europe, on the defence of democracy against terrorism in Europe,
- having regard to its resolution of 18 April 1985 on measures to combat terrorism⁴,
- having regard to its resolution of 11 July 1985 on air traffic safety and international terrorism⁵,
- having regard to its resolution of 11 September 1986 on terrorism⁶,
- having regard to its resolution of 10 March 1988 on terrorist acts committed on civil aviation⁷,
- having regard to its resolution of 26 May 1989 on problems relating to combating terrorism⁸,
- having regard to its resolution of 13 June 1991 on murders committed by terrorists in the Community⁹,
- having regard to the Convention between the Member States of the European Communities on the enforcement of foreign criminal sentences, signed in Brussels on 13 November 1991,
- having regard to Recommendation 1170 (1991) adopted by the Standing Committee, acting

¹ ETS No 73.

² ETS No 90.

³ ETS No 112.

⁴ OJ C 122, 20.5.1985, p. 109.

⁵ OJ C 229, 9.9.1985, p. 89.

⁶ OJ C 255, 13.10.1986, p. 135.

⁷ OJ C 94, 11.4.1988, p. 117.

⁸ OJ C 158, 26.6.1989, p. 394.

⁹ OJ C 183, 15.7.1991, p. 278.

on behalf of the Parliamentary Assembly of the Council of Europe, on 25 November 1991, about the European Convention on the suppression of terrorism,

- having regard to its resolution of 10 March 1994 on terrorism and its impact on security in Europe¹,
- having regard to the measures to eliminate international terrorism, approved by United Nations General Assembly resolution 49/60 at the 84th plenary meeting on 9 December 1994,
- having regard to the Council Act of 10 March 1995, drawing up the Convention on simplified extradition procedure between the Member States of the European Union²,
- having regard to the Declaration on terrorism issued by the Ministers of the Interior and of Justice at the Informal Council Meeting of 14 October 1995 (La Gomera Declaration),
- having regard to Article 2(1) and (2) of the Convention on the establishment of a European Police Office (Europol Convention)³,
- having regard to the conclusions of the Madrid European Council meeting of 15 and 16 December 1995 with regard to measures to combat terrorism, and especially Annex 3 thereof,
- having regard to the public hearing on action to combat terrorism, held on 21 February 1996 by the Committee on Civil Liberties and Internal Affairs,
- having regard to its resolution of 4 July 1996 on the communication from the Commission to the Council and the European Parliament on the illicit traffic in radioactive substances and nuclear materials⁴,
- having regard to the 25 measures to fight terrorism advocated by the seven leading industrialised countries (G7) and Russia on 30 July 1996 in Paris,
- having regard to the Council Act of 27 September 1996 drawing up the Convention relating to extradition between the Member States of the European Union⁵,
- having regard to the Joint Action of 15 October 1996 concerning the creation and maintenance of a Directory of specialised counter-terrorist competences, skills and expertise to facilitate counter-terrorist-cooperation between the Member States of the EU⁶,
- having regard to its resolution of 30 January 1997 on combating terrorism in the European Union⁷,
- having regard to its resolution of 18 September 1997 on extradition between the Member

¹ OJ C 91, 28.3.1994, p. 236.

² OJ C 78, 30.3.1995, p. 1.

³ OJ C 316, 27.11.1995, p. 1.

⁴ OJ C 211, 22.7.1996, p. 15.

⁵ OJ C 313, 23.10.1996, p. 11.

⁶ OJ L 273, 25.10.1996.

⁷ OJ C 380, 16.12.1996, p.4.

States of the European Union, drawn up on the basis of Article K.3 of the Treaty on European Union¹,

- having regard to the text of the Convention relating to extradition between the Member States of the European Union, approved by the Council on 26 March 1997²,
- having regard to the International Convention for the suppression of terrorist bombings, approved by United Nations General Assembly Resolution 52/563 on 15 December 1997,
- having regard to the conclusions of the Cardiff European Council meeting of 15 and 16 June 1998, in particular with regard to mutual recognition of decisions on criminal matters³,
- having regard to the Joint Action adopted by the Council on 29 June 1998 on good practice in mutual legal assistance in criminal matters⁴,
- having regard to the Council decision of 3 December 1998 instructing Europol to deal with crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property⁵,
- having regard to the Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice, and in particular paragraphs 46, 47, 49 and 50 thereof, adopted by the Justice and Home Affairs Council of 3 December 1998⁶,
- having regard to the Joint Action adopted by the Council on 21 December 1998 on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union⁷,
- having regard to the conclusions of the Tampere European Council meeting of 15 and 16 October 1999,
- having regard to the Council recommendation of 9 December 1999 on cooperation in combating the financing of terrorism⁸,
- having regard to the conclusions of the Santa María de Feira European Council meeting of 19 and 20 June 2000, and in particular conclusion 51 thereof with regard to terrorism,
- having regard to the programme of measures to implement the principle of mutual recognition of judicial decisions in criminal matters⁹,
- having regard to its resolution of 17 May 2001 on the mutual recognition of final decisions in

¹ OJ C 304, 6.10.1997, p. 7.

² OJ C 191, 23.6.1997, p. 13.

³ Presidency Conclusion No 39.

⁴ OJ L 191, 7.7.1998, p.1.

⁵ OJ C 26, 30.1.1999, p. 22.

⁶ OJ C 19, 23.1.1999, p.1.

⁷ OJ L 351, 29.12.1998, p. 1.

⁸ OJ C 373, 23.12.1999, p. 1.

⁹ OJ C 12, 15.1.2001, p. 10.

criminal matters¹,

- having regard to Articles 107 and 163 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0273/2001),
- A. whereas the Union is founded on the indivisible and universal values of humanity dignity, freedom, equality and solidarity, respect for human rights and fundamental freedoms; whereas it is based on the principles of democracy and the rule of law, which are common to the Member States,
- B. whereas the European Union respects fundamental rights, as guaranteed by the European Convention on the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, and as they result from the constitutional traditions common to the Member States as general principles of Community law,
- C. whereas the European Union Charter of Fundamental Rights reaffirms the rights which result, in particular, from the constitutional traditions and international commitments common to the Member States, the Treaty on European Union and Community Treaties, the European Convention on the Protection of Human Rights and Fundamental Freedoms, the social charters adopted by the Community and the Council of Europe, and the decisions of the Court of Justice of the European Communities and the European Court of Human Rights,
- D. whereas the European Union places the human person at the heart of its action by its decision to establish Union citizenship and create an area of freedom, security and justice,
- E. whereas, over the past few years, the European Union has experienced an increase in terrorist activities within its borders and there is hardly a European country which has not recently been affected, directly or indirectly, by such acts of violence,
- F. whereas these acts show that there has been a profound change in the nature of terrorism in the European Union and highlight the inadequacy of traditional forms of judicial and police cooperation in combating terrorism,
- G. whereas this new form of terrorism stems from the activities of networks operating at international level, which are based in several countries and exploit legal loopholes arising from the geographical limits of investigations, sometimes enjoying extensive logistical and financial support,
- H. whereas the increase in the number of terrorist acts committed in recent years in the European Union now makes it necessary to step up action to combat terrorism, while respecting the rights and freedoms enshrined in the European Convention on Human Rights and the European Union Charter of Fundamental Rights,

¹ Not yet published in the OJ.

- I. whereas procedural law, especially rules covering pre-trial orders, differ considerably from one Member State to another,
- J. rejecting and condemning all acts of terrorism, which often subject the victims and their relatives and friends to unspeakable suffering, by causing them physical injury, disablement, psychological trauma and death and by ruining their lives,
- K. expressing its sincere condolences to the families of victims of acts of terrorism and its deepest sympathy to those affected by terrorist attacks, and their families,
- L. stressing that the victims of acts of terrorism and their families must be provided with effective assistance and psychological support,
- M. whereas, for the purposes of this recommendation, a terrorist act means any act committed by individuals or groups resorting to violence or threatening to use violence against a country, its institutions, its population in general or specific individuals which, for reasons of separatist aspirations, extremist ideological conceptions, religious fanaticism or desire for profit, is intended to create a climate of terror among official authorities, certain individuals or groups in society or the general public,
- N. whereas all ideologies are legitimate provided that they are expressed through dialogue and respect for democratic values, and hence terrorism is an expression of intolerance,
- O. whereas democratic dialogue based on mutual respect and non-violence, aimed at upholding democracy, is the best means of resolving political, social and environmental conflicts and preventing conflicts from being used as a pretext for committing terrorist acts,
- P. pointing out that in our democratic society any political, social or environmental conflict can and must be settled through the channels provided in a democratic and constitutional State, which means that there can be no justification for the use of terrorist violence,
- Q. recommending that, as part of their action to prevent terrorism, Member States should pursue educational, social and other policies to combat social, economic and cultural exclusion and to build among young people a commitment to renounce all forms of violence and an understanding of how to use democracy to overcome conflict,
- R. calling on the Member States to adopt effective measures to prevent a 'support framework' for terrorists being created and maintained, by prohibiting any form of participation in terrorist acts and preventing logistic, material and financial assistance to terrorist acts,
- S. calling on the Member States to adopt effective measures to prevent the formation of, demonstrations by or collaboration between violent groups in Europe which exploit legitimate social aspirations for their own ends,

- T. whereas terrorist acts in the European Union should be considered as criminal acts whose aim is to alter political, economic, social and environmental structures in states governed by the rule of law by actually threatening to use violence or resorting to violence, as distinct from acts of resistance in third countries against state structures which themselves employ terrorist methods,
- U. whereas, for the purposes of this recommendation, a terrorist association or organisation means any group composed of two or more people acting in collusion with a view to committing terrorist acts,
- V. reiterating its unqualified rejection of terrorist organisations and terrorism in the European Union, which represent a denial of democratic values and the most fundamental of human rights, the right to life and, as such, must be condemned in all circumstances,
- W. whereas new forms of terrorist activity are constantly appearing, such as ‘computer terrorism’ which consists in destroying or damaging computer systems, including civilian or military data bases and telecommunications systems, with a view to destabilising a state or putting pressure on public authorities, or ‘environmental terrorism’, with similar aims,
- X. regretting the European Union’s slowness in responding to the terrorist threat and the fact that there is as yet no coherent and legally binding set of coordinated measures, adopted by common accord, and whereas cooperation at all levels between central and regional government is necessary to fight terrorism,
- Y. whereas, in view of the growing number of terrorist acts carried out using new methods such as chemical, biological and toxic substances, the Member States should take additional security measures on a par with modern technological developments in order to ensure public safety,
- Z. deeply concerned at the link which exists between terrorism and arms and drug trafficking,
- AA. convinced that, in view of the democratic and constitutional structure of decision-making processes in the Member States, no ideological or other grounds can justify terrorist acts committed within the European Union and that, however political the reasons cited may be, such acts can only be considered as crimes, and even as crimes against humanity, and must be prosecuted, with due respect for the European Convention on Human Rights and the European Union Charter of Fundamental Rights,
- BB. emphasising, consequently, that measures taken to combat terrorism must, under no circumstances, be based on exceptional laws or procedures,
- CC. whereas certain terrorist acts are orchestrated and carried out by groups organised at international level, which are explicitly or implicitly tolerated by certain states,

- DD. whereas the European Union should provide for diplomatic, political and economic sanctions and deterrents to be used against third states which openly or secretly support acts of terrorism and terrorist groups,
- EE. whereas the Treaty of Amsterdam opened up new opportunities for European Union action against certain criminal acts, and whereas, as a result of its entry into force, the European Union is responsible for adopting a catalogue of coherent measures, and not merely ad hoc proposals, to introduce coordinated action against terrorism within its borders,
- FF. considering the possibilities based on Article 30 TEU of cooperation between Member States in the preservation of law and order and the maintenance of peace,
- GG. whereas conclusion 33 of the Tampere European Council meeting of 15 and 16 October 1999 approved the principle of mutual recognition of judicial decisions, which should become the cornerstone of judicial cooperation in both civil and criminal matters within the Union, and stipulated that the principle should apply both to judgments and to other decisions of judicial authorities,
- HH. whereas conclusion 35 of the Tampere European Council meeting of 15 and 16 October 1999 stated that it considered that the formal extradition procedure should be abolished among the Member States as far as persons are concerned who are fleeing from justice after having been finally sentenced, and replaced by a simple transfer of such persons, in compliance with Article 6 of the Treaty on European Union,
- II. reiterating its confidence in the structures and operation of the Member States' legal systems and their capacity to guarantee a fair trial,
- JJ. calling on Europol to publish annual reports on the terrorist threat in the Union and to inform the European Parliament on a regular basis about its activities and progress made in combating terrorism and to inform it promptly in the event of important developments,
- KK. reminding the Council and Commission of the Treaty articles which allow the Union to take an active interest in the problems of terrorism in Member States,

1. makes the following recommendations to the Council:

(Recommendation 1)

- Calls on the Council to adopt a framework decision with a view to approximating legislative provisions establishing minimum rules at European level relating to the constituent elements of criminal acts and to penalties in the field of terrorism.

(Recommendation 2)

- Calls on the Council to adopt a framework decision aimed at legislative harmonisation and the establishment of a European common area of freedom, security and justice, abolishing formal extradition procedures and adopting the principle of mutual recognition of decisions on criminal matters, including pre-judgment decisions, relating to terrorist offences, among the Member States of the European Union.

(Recommendation 3)

- Calls on the Council to adopt a framework decision establishing measures governing and guaranteeing the implementation of a 'European search and arrest warrant' with a view to combating terrorism in the context of action against crime, whether organised or not, trafficking in human beings and crimes against children, illegal trafficking in drugs and arms, and corruption and fraud, taking due account, in the event of more than one offence having been committed, of the gravity of each offence.

(Recommendation 4)

- Calls on the Council to adopt the appropriate legal instruments for the approximation of national legislation concerning the compensation of victims of terrorist crimes.
2. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, as well as to the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

I. TERRORISM

1. Background

Over the last ten years, Europe has experienced an increase in terrorist activity within its borders. There is hardly a country in Europe which has not been affected, either directly or indirectly, by such acts of violence.

These acts show that there has been a profound change in the nature of terrorism in Europe and highlight the inadequacy of traditional forms of judicial and police cooperation in combating it. This new form of terrorism stems from the activities of networks operating at international level, which are based in several countries and exploit legal loopholes arising from the geographical limits of investigations, sometimes enjoying extensive logistical and financial support.

Terrorism has a long tradition behind it. What makes modern-day terrorism particularly dangerous is that, unlike terrorist acts in the past, the actual or potential impact of armed attacks is increasingly devastating and lethal as a result of technological developments in the arms and explosives sector.

Many politicians and experts in this field therefore believe that the fight against terrorism is one of the major challenges facing us in the 21st century.

In the European Union Member States, terrorism takes different forms, ranging from murder, bodily harm or threats to people's lives, to kidnappings, hostage-taking and the destruction of property or damage to public or private facilities.

These terrorist acts may seek to create a climate of terror among the general public, to exert pressure on public authorities or even to destabilise political systems.

In some cases, criminal organisations also resort to terrorist acts with a view to pursuing other criminal aims, generally linked to financial gain.

Terrorism invariably seeks to undermine democracy, parliamentary institutions and the territorial integrity of states.

Terrorism constitutes a serious threat to democratic society, whose moral and social fibre is affected by it. It attacks the most fundamental human right, the right to life, and for that reason must be condemned in all circumstances.

Today, more than ever, steps are needed to combat terrorism by drawing up legislative proposals aimed at punishing such acts and measures to strengthen international cooperation.

2. Definition

It is almost impossible to find a definition which is objective, clear and universally acceptable.

However, in the context of the European Union, whose Member States are founded on the rule of law and democracy, it is possible to come up with a definition of terrorism, based on Council of Europe Recommendation No 1426 (1999).

According to this definition, a terrorist act means: 'any offence committed by individuals or groups resorting to violence or threatening to use violence against a country, its institutions, its population in general or specific individuals which, being motivated by separatist aspirations, extremist ideological exceptions, fanaticism or irrational and subjective factors, is intended to create a climate of terror among official authorities, certain individuals or groups in society, or the general public'.

II. – ANTI-TERRORIST LEGISLATION IN THE EUROPEAN UNION MEMBER STATES

1. General introduction

The majority of EU Member States do not have specific legislation on terrorism at present.

The following 8 countries fall into this category: Austria, Belgium, Denmark, Finland, Luxembourg, the Netherlands and Sweden.

In Austria, a new law was adopted in 2000 making it possible to monitor the activities of criminal organisations more effectively as soon as preparations begin for reprehensible acts and with a view to making the establishment of or involvement in such an organisation a criminal offence. This law has introduced a new concept of criminal association, without however introducing the term 'terrorism' nor any definition thereof.

In Greece, a bill was tabled in March 2001.

At present, the following six Member States have, to different degrees, specific legislation on the subject: Germany, Spain, France, Italy, Portugal and the United Kingdom.

It is worth noting that, although more than half the Member States do not have specific legislation in this area, the five most populated states do.

2.- Main features of national laws

(a) Definitions of terrorism and acts of terrorism

The German and Italian laws do not contain any definition of terrorism. They merely mention terrorist organisations or groups, without specifying what exactly is meant by the term.

Only Spain, France, the United Kingdom and Portugal have adopted a definition of terrorism in their legislation, i.e. four of fifteen EU Member States.

These definitions differ considerably in wording and scope. However, it is worth noting three main criteria, not all of which are included in each definition.

An act may be defined as an act of terrorism if:

- it constitutes a threat to law and order and public peace (Spain and France),
- it affects the proper functioning of government and institutions (Spain, United Kingdom and Portugal),
- it intimidates persons or groups of persons (United Kingdom and Portugal).

(b) Scale of punishments

Given the differences between the prison sentences imposed by the states, it is impossible to establish any common features.

(c) Specific investigation provisions

With the exception of Portugal, which does not apparently have any specific provision on the subject, derogations to ordinary law are provided for in various legal systems. These concern, in particular:

- police powers with regard to arrest and custody (Germany, Spain, France, Italy and the United Kingdom);
- search provisions (Germany, France and the United Kingdom),
- phone tapping provisions (Germany and Spain);
- special measures for police informants (Spain, France, Italy and Portugal).

(d) Courts responsible

There are no special courts to try terrorist acts, except in Ireland. However, there may be provisions on the specific composition and operation of courts in terrorist cases (France, United Kingdom). Cases may also be centralised in a single court at national level (Spain, France).

III.- THE EUROPEAN UNION'S ROLE IN COMBATING TERRORISM

Given that terrorism is organised on an international scale, only international action can be effective against it, with due respect for the rights and freedoms enshrined in the European Convention on Human Rights.

It is clear from the above that anti-terrorist legislation differs considerably from one Member State to another in the European Union.

Persons held responsible for offences, who are outside the state of the judge or court responsible for dealing with the case, can only be brought to trial through the extradition procedure.

However, it should be possible, within the European Union, to introduce alternative legal mechanisms, especially between countries which share common constitutional traditions, the principles of freedom, democracy, respect for human rights and fundamental freedoms, as well as the rule of law, principles on which the European Union is founded.

The Union must be an area of freedom, security and justice and this area is liable to be disrupted by terrorism.

Terrorism is one of the most fearsome challenges facing our societies. The indiscriminate violence which is characteristic of terrorism and which affects the population at large makes it intolerable. People in Europe are appalled and saddened at such terrorist attacks and have regularly shown that they want to be able to live together in peace.

Article 29 of the Treaty on European Union specifically refers to terrorism as a form of crime which must be prevented and combated at European level through closer cooperation between police forces and judicial authorities, and approximation of the criminal law provisions of Member States.

The European dimension of anti-terrorist action is not a recent idea. Determined efforts to achieve cooperation between police and judicial services on a cross-border basis to fight terrorism have produced notable successes.

Similarly, a number of important conventions on action to combat terrorism have been signed or are currently being negotiated within the Council of Europe and the United Nations.

However, the resumption of terrorist attacks has unfortunately shown that these efforts are still inadequate in seeking to eradicate terrorism.

More efforts are needed in European cooperation.

The Treaty of Amsterdam has now empowered the European Union to take up this challenge. Immediately after its entry into force, the heads of state or of government, meeting in Tampere, incorporated action against terrorism into their overall approach to combating all forms of crime. They undertook to set up joint investigation teams, which have proved to be the only effective means of tackling terrorism organisations at its root.

Europol, whose mandate specifically covers action against terrorism, must support this common action, notably by participating in these teams, and will do so all the more effectively if its operational role is strengthened.

Moreover, judicial cooperation instruments, in particular those intended to prevent criminals from exploiting differences in legal systems, will also make it possible to reduce or even remove obstacles to terrorists being handed over by one country to the courts of another.

IV. THE CONTENT OF THE EUROPEAN PARLIAMENT'S RECOMMENDATION TO THE COUNCIL ON COMBATING TERRORISM

The first sentence of paragraph 3 in Article 39 of the Treaty on European Union stipulates that: 'The European Parliament may ask questions of the Council or make recommendations to it'. This is the legal basis of our draft report.

It is the European Parliament's responsibility to see to it that these guidelines contained in the Treaties and the conclusions of the Tampere European Council are put into practice as soon as possible.

The European Union should:

- (a) adopt measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in the field of terrorism (Article 31(e) of the TEU);
- (b) abolish the formal extradition procedure between Member States (Conclusion 35 of the Tampere European Council);
- (c) establish a 'European search and arrest warrant' with a view to prosecution, taking due account, in the event of more than one offence having been committed, of the gravity of each offence;
- (d) apply the principle of mutual recognition of decisions on criminal matters (Conclusions 33 and 36 of the Tampere European Council).