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Terrorism Offences and Counter-Terrorism Operations

At the time of the report, there was no specific “terrorist offence” in Belgian legislation. A framework decision on combating terrorism, expected to enter into force in 2002 that contains a list of terrorist acts, including the collection and supplying of funds for that purpose, should update the national law. Belgium “has negotiated the framework decision on combating terrorism” and the relevant bodies have approved it in 2001. The Home Affairs Council has also “obtained political agreement on the establishment of a judicial cooperation unit, Eurojust.”

Counter-terrorism operations are based on the Belgian Penal Code for offenses taking place “upstream of a terrorist act,” like criminal conspiracy, threats of attacks and others, and offences involved in a terrorist act, such as taking hostages, kidnapping, murder etc. Also punishable are offenses committed by terrorists or terrorist groups “with a view to facilitating their action,” for instance the use of false documents, collection of funds etc. Membership in a criminal organization entails imprisonment for up to three years and a fine. Additionally, specific laws such as the law on preventing the use of the financial system for money-laundering (1993), and the law on organized crime (1999) and the implementation of international treaties on terrorism (mostly United Nations instruments) also govern counter-terrorism efforts. One example of recent prosecution and punishment of terrorist activity is the trial of members of the Armed Islamic Group (GIA), where the defendants were found guilty and given “heavy sentences.”

Controlling Weapons and Dangerous Materials

The supply of weapons to terrorists is governed by a royal decree on the creation of an inter-departmental committee on combating illegal arms transfers, a law on the import, export and transit of dual-use goods and technologies, and a law on the import, export and transit of weapons, ammunition and materiel specially intended for military purposes and the related technology. On top of these laws, customs regulations apply at the time of import, export or transit even if no prohibition or restriction applies or if customs rules have been violated. The Royal Decree, 8 March 1993 regulates the import, export and transit of weapons, munitions and special material for military use and related technology. Those who break the law may be subject to an imprisonment period of a maximum of 5 months and/or a fine of one million francs.

The Royal Order concerning the protection of workers against risks connected with the exposure to biological agents at work, 29 April 1999 contains the various safety and health measures that may be imposed in workplaces where there is potential exposure of workers to biological hazards. It includes: obligations of workers; hazard evaluation; establishment of a list of exposed workers; substitution as a form of prevention; training and information of the personnel; and provisions for periodical medical examinations and vaccinations. The annex provides a list of biological agents, with their classification codes; indications concerning confinement measures and levels; confinement measures for certain industrial processes; list of enterprises; and workers for whom vaccination is necessary.

Financing of Terrorism and Freezing Assets

The Belgian anti-money-laundering law of 1993 prevents the financing of terrorism by specifying that an illegal origin of funds or assets is “an offence connected with terrorism”. The Belgian Financial Intelligence Processing Unit enforces this law and disposes of special means to discover suspicious money-laundering activities connected with terrorism. In addition, Belgium is bound by various European Union laws to prevent the financing of terrorism. Although there are

no special measures to prevent financing of terrorism, the tax administrations and judicial authorities that search and suppress serious and organized tax fraud and dismantle fraudulent mechanisms and schemes “are indirectly involved in the administrative investigations and inquiries designed to combat terrorism.”

International Cooperation

The European Union provides for much cooperation among the police and intelligence forces of the member states, as well as systems of bilateral or EU-wide early warning measures. They have been updated after the September 11th attacks, and now also count an anti-terrorist unit within the European Police Office, Europol. There is also now close judicial and police cooperation with the United States since the fall of 2001.

There is no specific law at the time of this report that deals with preventing terrorists from using the Belgian territory to commit terrorist acts against other states. But this does not preclude investigations into the planning of terrorist acts abroad. Indeed, such inquiries have recently led to arrests (e.g. the case of Trabelsi et al.). These procedures are as of now based on existing criminal law and other aforementioned legislation.

Because Belgium cooperates with other countries in criminal matters, it also does with respect to terrorism. All “sectoral conventions against terrorism” and the European Convention on the Suppression of Terrorism, to which Belgium is a party, provide for judicial collaboration among the party states. For instance in the area of customs, there are information exchange measures like the Convention that established the Customs Cooperation Council, known as the World Customs Organization, conventions based on the Treaty on European Union and the Schengen Agreement, as well as bilateral agreements and the Belgian general law on customs and excise. The Belgian customs service can assist other states with respect to violations of laws and regulations on the entry into and exit from Belgium, which may be connected with the planning or commission of terrorist acts.

In order to intensify and accelerate the exchange of information for the fight against terrorism and related activities, there is successful cooperation between police and intelligence services within the EU. The Council adopted a series of special measures to intensify the exchange of information among the States soon after September 11th, 2001. One such measure is the regular meetings of the heads of antiterrorism units and intelligence agencies, as well as the strengthening of the role of Europol. Belgium exchanges information on a regular basis with eligible third countries in the EU and in the context of bilateral police cooperation agreements with other countries, cooperation on the issue of terrorism is being discussed. The Parliament has yet to approve these agreements. Apart from these agreements, information exchange occurs on a case-by-case basis.

Regarding information about the exchange of goods, including all types of weapons, in order to improve the monitoring of exports and transit of such goods, “information concerning dual-use goods will now be exchanged within the Interdepartmental Committee to Control Illegal Arms Transfers.” Data concerning the import of fireworks are transmitted to the federal police on a regular basis and considered within the task force that brings together representatives of the customs, justice and federal police departments and the Ministry of Economic Affairs. Belgium also cooperates with the Netherlands in this regard.

Belgium’s accession to the Convention on the use of information technology for customs purposes will facilitate the implementation of the customs information system (CIS) database, essentially a bulletin board of cases with an early warning system and recommended actions. This system deals primarily with goods that are subject to prohibition, restriction or control, including weapons and hazardous substances. Another potentially helpful initiative is that of the German, Belgian and French delegations to the customs cooperation working group of the Council of the EU, envisaging “the establishment of an archive of customs investigation files to promote the

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exchange of information on terrorism. Under this proposal, a computerized archive would make available to the competent customs investigation services of the EU States the reference numbers of investigation files, whether open or closed whenever any country's customs service should find a breach. If this is implemented, it would indirectly help to control the preparation of terrorist acts.

A cooperation agreement with the police and customs services has the goal of fully implementing in Belgium the Europol Convention, and a cooperation agreement between the maritime police and customs departments will be signed soon, and will include anti-terrorism as one of its objectives. As for border controls, a personal identity system within the Schengen zone, the Schengen Information System, facilitates the detection of movements at the outer borders of the zone of persons known to be connected with terrorism. In Belgium, a new passport offers a high level of protection against falsification since 2001. A EU regulation requires a uniform visa for EU member states, and "provides procedures and specifications designed to prevent the creation and use of false or falsified visas. Falsification of documents and their use are punishable under the Belgian Penal Code.

With regard to information exchange and cooperation in taxation issues, there are no new measures, but the existing instruments are important. Belgium has signed bilateral conventions for the avoidance of double taxation, most of which adhere to the provisions of the Organization for Economic Cooperation and Development (OECD) model convention. These agreements help to avoid double taxation on income and to prevent tax evasion, although they are restricted in many ways. They may limit their application to Belgian residents and States that have signed such conventions. "Information, which is limited to the taxes enumerated in the conventions, may be transmitted only to the individuals and authorities responsible for levying and collecting taxes, and are aimed only at ensuring the correct implementation of those conventions and of the domestic tax laws of the States concerned." Still, many of these instruments allow the transmission of information to authorities in charge of penalizing tax law violations.

As of yet, Belgium has signed and ratified six UN conventions related to terrorism, and another five have yet to be ratified. "There are no major obstacles to incorporating them into Belgian law." For ratification, the International Convention for the Suppression of the Financing of Terrorism has priority and Belgium also plans to become a party to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973). With that, all UN conventions will then be in force in Belgium.

BIBLIOGRAPHY OF BELGIAN LEGISLATION

Financing of Terrorism and Freezing Assets

1. Anti-money-laundering law (1993), Article 3, paragraph 2
2. framework decision on combating terrorism (expected to enter into force in 2002)
3. Belgian Penal Code
4. Law on preventing the use of the financial system for money-laundering (1993)
5. Law on organized crime (1999)
6. Law on the implementation of decisions of the United Nations Security Council (1995)
7. Royal decree on restrictive measures against the Taliban of Afghanistan (2000)
8. Decree-law on foreign-exchange control (1944)
9. Royal decree on financial relations with the Federal Republic of Yugoslavia (2001)
10. Act of 28 April 1999, Article 2
11. Code of Criminal Procedure, Article 29, paragraph 2

State support of terrorism and the fight against Terrorism

1. Penal Code, article 324 bis
2. Law on serving in a foreign army or troop situated in the territory of a foreign State (1979)
3. Royal decree on the creation of an interdepartmental committee on combating illegal arms transfers (1999)
4. Law on the import, export and transit of dual-use goods and technologies (1962)
5. Law on the import, export and transit of weapons, ammunition and materiel specially intended for military purposes and the related technology (1991)
6. General Law on customs and excise, Article 231

Laws Pertaining To Biology

1. Royal Order modifying the Royal Order of 4 August 1996 concerning the protection of workers against risks connected with the exposure to biological agents at work, 29 April 1999
2. Royal Order concerning the protection of workers against risks connected with the exposure to biological agents at work, 4 August 1996
3. Royal Decree, 8 March 1993
4. Law of 5 August 1991
5. Law of 11 September 1962
6. Law of 3 January 1933

International Cooperation

1. General law on customs and excise, Article 325
2. Code NC 36.04.1000 (imports of fireworks)