

# ***Police cooperation and the fight against terrorism***

## **Speech**

**delivered by**

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**of Home Affairs Committees of the**

**National Parliaments of the EU Member States**

**and the Candidate Countries**

**and of the European Parliament**

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I had a previous spell as Minister of the Interior in the years from 1989 to 1991. Since being reappointed to this office at the end of 2005, I have occasionally been asked what has changed since that period almost two decades ago. My answer is that a far larger percentage of my work now has to be devoted to European and international matters. I believe that Ministers of Home Affairs today spend more than a third of their working time on European and international cooperation.

That is a reflection of the fact that most of our tasks can no longer be performed exclusively in the national framework. This is true of efforts to combat illegal immigration and to control legal migration, of police cooperation in general and, needless to say, of the fight against terrorism in particular. Terrorism became the real new threat at the beginning of this century, at a time when security risks in the field of foreign affairs of the sort we experienced in the days of the Iron Curtain, or as recently as the late nineties in the Western Balkans, had become rather less likely to arise in Europe.

Because the age of globalisation, however, is making the world a smaller place, conflicts, which will inevitably surface in a more closely interdependent world with an expanding population, are not limited to the place where they erupt but are spread around the world. Terrorism is essentially **the** new form in which violent conflicts are waged, with all the diverse ramifications and implications that brings. Terrorists, for example, operate within internationally established networks, normally as small groups spread across a number of countries and linked by means of modern communication media.

A responsible security policy is one that responds to this threat. We are pursuing such a policy both in the European framework and in other forums such as the G8, which this year – as you know – comprised not only the meeting of Heads of State or Government in Heiligendamm but also a meeting in Munich of the Ministers of Justice and Home Affairs of the G8 countries. We are making these efforts because co-operating and exchanging information will make us better able to perform the tasks that confront us.

There are certain debates that are conducted time and again when we are together with our colleagues from the European Parliament, especially with representatives of the Committee on Civil Liberties, Justice and Home Affairs. At the present time we are dealing with the Visa Regulation in connection with the enlargement of the area covered by the Schengen Agreement. And we Interior Ministers are sometimes slightly fearful that a kind of division of labour is developing in which the Ministers of Home Affairs are regarded as primarily responsible for security, whereas the Members of the European Parliament focus more sharply on respect for fundamental civil rights.

I believe that such a division of labour would be dangerous, because people in most, if not all, Member States expect European unification not to diminish their security but instead expect us, including at European level, to be able to satisfy their security needs in this more closely interwoven world. If we allowed the notion to take root among the population that the European unification process entailed a loss of security, that would pose serious problems regarding the legitimacy of the process.

The extension of the Schengen area, resulting in the abolition of controls at more internal borders, is an issue that occasionally spreads alarm among the populations of border regions. I know this from the time, more than ten years ago, when internal controls at Germany's borders with France, the Netherlands, Belgium and Luxem-

bourg were abolished. If we were now to abolish controls at the German-Polish and German-Czech borders too – we are resolved to keep this process on schedule, and it looks as though we shall complete it by the end of the year – we must be armed with sound arguments with which we can explain to our peoples that closer police cooperation will enable us to ensure that security will be increased rather than diminished once checks on goods and travellers have been abolished at the internal borders of the enlarged Schengen area.

Last year the deployment of foreign police officers at the world football championships was successful. We had almost 350 police officers from 13 European countries operating here in their own national uniforms. They had the same rights as German police officers, because I had vested them with the powers of officers of the Federal Police for the duration of their mission. That was an entirely new form of cooperation. Until a few years ago, most states took the view that the exercise of police enforcement powers was something of an inviolable bastion of national sovereignty.

The deployment of foreign police proved its worth. The example will be followed, because it was a success in every respect. In all our previous cooperation with foreign police forces – in the preparations for the World Cup as well as in exchanges of data on football hooligans and the like – we have certainly achieved excellent results, the most recent example being the European Championship qualifier against the Czech Republic. The German football team had a match in Prague, and we were concerned that a few hundred German hooligans might make trouble. We were able to handle the situation very well, however, through close preventive cooperation.

All of this is proof that cross-border police cooperation works well. For this reason, at the meeting of the Council of Justice and Home Affairs Ministers of the European Union in February, we decided that the Prüm Convention on cross-border police cooperation, which we initially concluded along with six other States parties, would be incorporated into the general European legal framework, including the provisions on exchanges of data and access to national databases.

There is still something of a debate on the question whether the data-protection provisions of the Prüm Convention satisfy all the requirements. This surprised me a little, for the rules governing data protection that were adopted in the Prüm Convention were explicitly described as exemplary in the countries that are parties to the Convention. If they were exemplary at that time, I am confident that we can still apply them today.

The Prüm Convention enables national police forces to access information held by the other States parties on DNA analyses, fingerprints and vehicle registers. I must recall that, since the reconciliation of data began between Austria and Germany last December, police in Germany have made 1,900 hits in Austrian databases, and in 37 instances database hits in either country have provided new clues to the identity of the suspected offender in previously unsolved murder cases. This shows the potential inherent in the project for exchanges of data among all 27 Member States.

Besides linking national databases into a European information network, we also want to be able to use centralised EU databases in the fight against terrorism and organised crime. This is part of the debate on the question of what we need in the Schengen area to enable us to dispense with controls at the internal borders through the adoption of a common visa-information system. We want the security authorities to be given access to this information as well as to Eurodac, a fingerprint database which has hitherto been usable for asylum purposes only. In this matter we are now, I hope, in the final phase of negotiations with Parliament and the Council. I am confident we can achieve a result in the remaining weeks of the German presidency.

Besides developing information networks, we also have the opportunity – and this is at least equally important – to make more efficient use of scarce government resources. This takes me to the subject of checking the Web. When it comes to checking all the things that happen on the Internet – in chat rooms and so on – it is terribly important, in view of the incredible diversity of information, the fleeting nature of the relevant messages and the shortage of linguistic resources, that we form networks in order to make the most efficient possible use of the available monitoring capacity for Internet communications, especially in our efforts to combat terrorist activities.

The Internet offers terrorists a huge and indestructible forum – an information exchange, a communication platform, an open university and a training camp all rolled into one. Those who planted suitcase bombs in German trains last year – bombs which, fortunately, did not explode, otherwise they would have caused untold damage – downloaded their bomb-making instructions from the Internet. When terrorists make a statement with global impact on the Internet, it makes little sense for all the experts in 27 Member States to conduct their own searches, to have the statement translated from a rare Arabic dialect and then to analyse it. We must avoid duplication of effort. This is the purpose of our 'Check the Web' project, which is designed to enhance cooperation within the European Union. In addition, we also seek the creation of an information gateway within Europol through which the Member States can exchange their intelligence.

Besides the establishment of an information network, the second great benefit of Europe is that we stand by each other in emergencies in a spirit of good European solidarity. If we know who has which particular capabilities and resources, these can be used for the benefit of all. At Europol a network of experts from the various Member States is currently being created; in the event of a terrorist atrocity, these experts will be able to lend immediate assistance to their colleagues in specialised fields, such as victim identification. This was originally a Spanish initiative, launched in the wake of the Madrid bombings.

Europol, however, has hitherto been based on a multilateral convention, and altering its provisions is a cumbersome process. While we have finally put some new amending protocols into effect, we are working on shifting the legal basis of Europol to a Council decision, which can be more easily adapted to changing circumstances. We want to strengthen Europol in the field and broaden its jurisdiction within reason to all serious cross-border offences outside the realm of organised crime.

Just as we had resolved from the outset of the German presidency not to launch too many new initiatives but to focus on improving the efficiency of existing instruments, so we are trying to broaden the Prüm Convention, to strengthen Europol and to make Frontex more efficient.

We must naturally keep seeking the right balance between the right to security and fundamental freedoms, which are not mutually exclusive but check and foster each other, because freedom is just as impossible without security as security is worthless without freedom. In real life the task is to strike a judicious balance.

Augustine of Hippo, one of the church fathers, once referred to mankind as '*nos interrogantes*' – we who ask questions. It was not least the desire to live in freedom, to shape their own destiny, that brought the nations of Eastern and South-East Europe into the European Union after the end of "really existing socialism" and the fall of the Communist dictatorships.

For this reason, I believe it is of the utmost importance to refute the assertion that there is a contradiction between security and freedom, just as we must also dispel the impression that a division of labour exists between the European and national levels, if we are to nurture public acceptance of the European unification project.

In this complex area of European justice and home-affairs legislation, which straddles the first and third pillars of the Union, we are trying to progress as well as we can. At the same time, of course, we hope – and I am touching here on a matter that goes beyond the responsibility of interior ministers – before the German presidency of the Council is over, to have managed to compile as firm a timetable as possible for institutional reform of the European Union. As long as the institutions are not reformed, however, we must continue to discharge our responsibility within the present structure.

This is why we are now in the process of loosening what are sometimes highly complex links or divisions between the first and third pillars with their quite distinct legislative procedures by making strenuous efforts to bring about a framework decision on data protection within the third pillar, as Parliament has long been seeking and requesting. The Commission presented a draft for such a decision years ago, but after one year of deliberations 250 reservations had already been made, and the prospects of adopting a decision within the foreseeable future were rather bleak.

For this reason, we have taken a new initiative with a slimmed-down draft designed to put the negotiations back on track as well as enabling Parliament to give up its rather entrenched opposition to legislative procedures within the first pillar. On issues such as the Visa Regulation, as you know, Parliament has been emphasising that it will not support proposals in this field unless it finally gets the framework decision within the third pillar. We therefore need to move forward on this matter, and I hope we succeed. It is no easy undertaking, however, because it will be necessary to secure unanimous decisions in the 27-member Council on the one hand and to reach agreement between the Council and Parliament on the other.

Not even European cooperation, however, will suffice to defeat terrorism. Accordingly, cooperation with both Russia and the United States is also an essential element. You will be aware that we hold regular *troika* meetings with Russia and with the United States of America. Moreover, following on from an initiative taken by Austria when it held the presidency, we organised another trilateral meeting with Russia and the United States. Risks and threats and the fight against international terrorism are also on the G8 agenda.

We have some divergent experiences in our respective legal cultures, both in the various Member States of the European Union and in relation to our American partner, with regard to the protection of personal data, in other words people's right to determine the use of their own information. We have no reason to assume that the

right to privacy is not a highly cherished principle in the United States too. This erroneous assumption occasionally surfaces in Europe. Nevertheless, the legal protection of data is structured somewhat differently in the United States. We are trying to foster mutual understanding in order to defuse conflicts and to arrive at more joint action.

During our presidency, for instance, I have had the task of negotiating an agreement with the United States of America on the transfer of airline passenger data. There was already an agreement between the European Community and the United States, which laid down rules on data protection that were acceptable from a European point of view. The European Court of Justice, ruling on an action brought by the European Parliament, declared that the agreement rested on a breach of jurisdiction, because it had been concluded within the first pillar. For this reason it had to be denounced, and we now have to reframe it in the third pillar. At the present time we have an interim agreement, which is applicable until the end of July.

The Americans' position is that they do not really need an agreement at all, because they only want to have the passenger data. The sole purpose of the agreement, in fact, is the protection of our data in the United States. For this reason, we Europeans find ourselves in the role of supplicants in such negotiations. Nevertheless, I am still hopeful that we shall work out an arrangement. But not every aspect of it will fulfil the prevailing expectations in many European countries with regard to restriction of the use, disclosure and collection of such data. The interests of the two parties and their respective starting positions are such that we shall only come up with a result if we agree on a common perspective.

Besides differing legal traditions, another underlying problem, in my view, is a history of divergent perceptions of threat levels in some cases. This applies within the European Union too. I urge us, in the context of our cooperation, to try and develop a common understanding – both among specialised analysts and, more particularly, in public discussions within the European Union and its Member States – so that we can identify threats realistically without giving way to overreaction or misjudgement.

Here too, it is important that the rigour of protective measures must be properly balanced by an ambient climate in which we can avoid being caught up in hysteria. We must preserve the option of retaining the necessary degree of calm in the exercise of our fundamental freedoms even in the face of real and serious risks, because we would otherwise be hastening the achievement of the terrorists' ultimate aims. In this respect, as in all others, terrorists must not succeed.

I wish you every success for your meeting. Besides cooperating with the European Parliament, it is also of inestimable importance that national parliaments should share their experience and achieve greater mutual understanding in these matters.