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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
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Subject:	Fight against terrorism: Follow-up to the Council (Justice and Home Affairs) of 12-13 March 2015 - Implementation of Counter-Terrorism measures

Introduction

1. In the light of the tragic events and counter terrorism operations in several Member States in early January 2015, the Presidency dedicated discussions of Ministers of Home Affairs to the fight against terrorism during the informal meeting of Justice and Home Affairs Ministers in Riga on 29 January 2015. In addition, the judicial aspects of terrorism were discussed by the Ministers of Justice on 30 January 2015. As a result, the Riga Joint Statement was adopted which served as a contribution of the Ministers of Justice and Home Affairs to the informal meeting to the Heads of State or Government on 12 February 2015.

2. Statement of 12 February 2015 by the members of the European Council stressed the commitment to further reinforce action against terrorist threats, in full compliance with human rights and the rule of law. The members of the European Council provided a guidance to work towards ensuring the security of citizens, preventing radicalisation and safeguarding values as well as cooperating with international partners. The Council was requested to report on the detailed implementation of these orientations by the June European Council.
3. As a follow-up to the Statement of 12 February 2015 by the members of the European Council and to the Riga Joint Statement of 29 January 2015 by the Ministers of Justice and Home Affairs, at the Council (Justice and Home Affairs - JHA) meeting on 12-13 March 2015 four topics were identified "*where specific actions could be taken and significant results achieved in the coming months*":
 - making full use of the existing Schengen framework to reinforce and modernise external borders' control;
 - addressing the issue of internet content promoting terrorism or violent extremism by enhancing internet referral capabilities;
 - increasing cooperation and information exchange in the fight against illicit trafficking of firearms and addressing as a matter of priority the critical issues of decommissioning and de-activation of firearms;
 - stepping up information sharing and operational cooperation, including through Europol and Eurojust.

In addition to pursuing work on these four priority areas, the Council agreed to engage actively with the European Parliament in order to achieve decisive progress in the coming months on a strong and effective EU PNR Directive with solid data protection safeguards.

4. This report focuses on the state of implementation of two work strands of the Statement of 12 February 2015 by the members of the European Council: ensuring the security of citizens as well as preventing radicalisation and safeguarding values.

5. The renewed European Union Internal Security Strategy 2015-2020 will be addressing a number of orientations provided by the Heads of State or Government. It is foreseen that the Standing Committee on operational cooperation on internal security (COSI), in close cooperation with the Commission and, where appropriate, by involving other relevant actors such as the European External Action Service and JHA agencies, will start developing a well-targeted implementation document with a list of priority actions to implement the renewed European Union Internal Security Strategy for 2015-2020 as soon as possible. Hence, many of the measures described below will be further addressed in the light of the renewed European Union Internal Security Strategy 2015-2020 and the implementation document.

I. Ensuring the security of citizens

1. EU Passenger Name Records (PNR) directive

In the resolution of 11 February 2015 on anti-terrorism measures, the European Parliament "commits itself to work towards the finalisation of an EU PNR Directive by the end of the year". The draft report was presented by the rapporteur on 26 February 2015. The amendments to draft report were tabled by 1 April 2015. Work within the European Parliament is continued to finalise the report and to approve its mandate for negotiations with the Council. No clear deadline is set for approving the mandate in the European Parliament.

2. Reinforced application of the Schengen Framework

Following the request by Heads of State or Government "to proceed without delay to systematic and coordinated checks on individuals enjoying the right of free movement against databases relevant to the fight against terrorism based on common risk indicators", the issue was discussed at the JHA Council on 12 March 2015.

Ministers agreed to reinforce and carry out systematic checks on travel documents of all persons as well as on individuals enjoying the right of free movement under Union law against relevant databases, based on common risk indicators. The Commission was invited to introduce the above-mentioned measures regarding checks on persons and travel documents in the Practical Handbook for Border guards (Schengen Handbook) before the end of May 2015.

The Frontiers Working Party, in close cooperation with Commission, assessed the progress achieved. It highlighted that Member States have undertaken measures to implement a set of informal recommendations¹, further developed in February 2015², on how to interpret Article 7 of the Schengen Borders Code (SBC) for the purposes of intensified checks of travel documents against relevant databases and enhanced border checks on persons enjoying the right to free movement under the Union law. Most of the Member States referred to actions at national level aimed at awareness-raising among all relevant agencies (police/border guards and crime investigation services).

Meanwhile, the consultations of travel documents (of both third country nationals and stateless people and persons enjoying the right of free movement) against the relevant databases (the Schengen Information System (SIS) and Interpol's Database on Lost and Stolen Documents (SLTD)) predominantly on the basis of risk assessment have been increased. Also the number of checks on persons enjoying the right of free movement under European Union Law has increased. Checks are carried out on those persons who fall within the risk assessment profiles (for example, checks are often performed on the basis of assessed risk destinations/place of origin).

For most of the Member States the use of API data is a standard measure for some years. However, only few of the Member States use automatized check of the API data against the relevant databases.

Although progress has been achieved, the Presidency notes that many of the measures agreed by the JHA Council in March 2015 are still at the implementation stage, in particular coordinated implementation of targeted checks in accordance to the revised Schengen Handbook together with guidelines on common risk indicators.

The efficiency of the agreed measures will continue to be monitored by the relevant committees and working parties of the Council. Member States are encouraged to continue their efforts, in particular:

- to maximise the use of SIS and the SLTD;

¹ 16880/14.

² 6891/15.

- to maximise efforts in order to achieve solutions for the systematic consultations of travel documents at the external borders against the above mentioned databases on the basis of a risk analysis approach;
- to fully apply the risk assessment for checks on persons enjoying the right of free movement in the European Union. Based on an analysis of the risks for internal security and analysis of the threats affecting the security of external borders, checks should be carried out systematically on those persons which fall under this risk assessment;
- to maximise the use of the API data in view of better targeting border checks.

3. Stepping up law enforcement and judicial information sharing and operational cooperation

The JHA Council on 12 March 2015 has recognized the need to enhance information sharing and operational cooperation, including through Europol and Eurojust. Within the COSI, the Member States, the Commission and the relevant agencies have exchanged ideas on how to use existing information systems to their full potential, platforms or tools, such as SIS (Schengen Information System), EIS (Europol Information System), Europol's Focal Point Travellers and ECRIS (European Criminal Records Information System).

As requested at the JHA Council, Europol and Eurojust submitted proposals³ in March 2015 on how their existing platforms and services could be better exploited. One of the proposals suggested to establish a European Counter Terrorism Centre (ECTC) within the existing organisational framework of Europol to provide benefits and operational added value to the activities of Member States' competent authorities in strictly identified counter terrorism priority areas (planned to become operational by 1 January 2016). The ECTC would focus on contributing to step up information and criminal intelligence exchange.

In addition, it was also noted that since January 2015 Member States have increasingly provided information on foreign terrorist fighters to EIS and Focal Point Travellers. There is still an urgent need to facilitate awareness and access, as well as engender greater trust in the counter terrorism environment for sharing information at the European Union level through Secure Information Exchange Network Application (SIENA).

³ 7272/15 and 7445/15

4. Fight against illicit firearms

The JHA Council on 12 March 2015 has called for increasing cooperation and information exchange in the fight against illicit trafficking of firearms and addressing as a matter of priority the critical issue of de-activation of firearms. Within the COSI, the delegations also stressed the necessity to accelerate implementation of measures aimed at improving information exchange on firearms, reducing access to illegal firearms, decommissioning and de-activation of firearms as well as cooperation with third countries. Importance of revising the Firearms Directive⁴ as soon as possible was particularly underlined. Furthermore, the necessity to involve customs authorities was noted. In this regard, at the CCWP Experts meeting on 20 May 2015 improving the means of fighting trafficking of firearms from a customs perspective was discussed, focusing on a number of practical issues and underlining the importance of multidisciplinary approach. Member States exchanged their experience and best practice regarding cooperation between customs and police to reduce illegal trafficking of firearms.

Furthermore, Europol's existing capabilities in investigating the trafficking and use of firearms for criminal purposes are being augmented with specific objectives to identify and pursue related terrorist connections. Dedicated efforts build on existing means of cooperation established under the relevant EMPACT priority within the EU Policy Cycle on serious and organised crime, and in particular the Europol's Focal Point Firearms.

5. Deepening of cooperation of Member States' security services

Member States' intelligence and security services have historically established efficient bilateral and multilateral cooperation mechanisms which will continue to perform outside the European Union framework. On 16 April 2015, the Heads of intelligence and security services informed COREPER on organisation of the security community and existing level of mutual cooperation; they also shared their considerations on developing legal framework to counter the terrorist threat. The Presidency encouraged intelligence and security services to regularly inform decision makers regarding the situation in combatting terrorist threat and to share strategic intelligence with the corresponding EU institutions, in particular through the EU INTCEN.

⁴ Council Directive 91/477/EEC on control of the acquisition and possession of weapons, as amended by Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008 amending (OJ L 179, 8.7.2008, p. 5).

6. Financing of terrorism

Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (AML Directive) and Regulation of the European Parliament and the Council on information accompanying transfers of funds (AML Regulation) are aimed at strengthening EU rules against money laundering, terrorist financing and ensuring consistency with the approach followed at international level.

On 20 April 2015, the Council adopted its position at first reading on new rules aimed at preventing money laundering and terrorist financing. On 20 May 2015 the European Parliament adopted it at second reading.

7. Network and Information Security Directive

Substantial effort has been put into reaching an agreement on the Commission's Proposal for a Directive concerning measures to ensure a high common level of network and information security across the Union (NIS directive).

On 11 March Council mandate to continue negotiations with the European Parliament was agreed. On 29 April, Member States re-enforced the mandate, for a political trilogue on 30 April with the European Parliament where certain compromise proposals were identified. The Presidency is committed to continue working towards an agreement with the European Parliament and intends to hold an informal trilogue at the end of June 2015.

II. Preventing radicalization and safeguarding values

1. Strengthening internet referral capabilities, including establishment of an Internet Referral Unit at Europol

On 12 March 2015 the JHA Council agreed that, building on the Check-the-Web project, Europol will develop an EU Internet Referral Unit (EU IRU) by 1 July 2015 which will comprise the following four tasks:

- to coordinate and share the identification tasks (flagging) of terrorist and violent extremist online content with relevant partners,

- to carry out and support referrals quickly, efficiently and effectively, in close cooperation with the industry,
- to support competent authorities, by providing strategic analysis and operational analysis,
- to act as a European Centre of Excellence for the above tasks.

In order to develop the concept for the EU IRU, Europol devised a "Blueprint and Implementation Roadmap for the European Union Internet Referral Unit (EU IRU)", which was discussed during the experts meeting on 21 April 2015 at Europol as well as discussed and agreed by Europol's Management Board on 12 and 13 May 2015. Europol is expected to establish a European response concerning internet content referral activities with concerned private industry companies, with Member States envisaging support to the EU IRU by appointing national EU IRU contact points. Referral activities will not constitute an enforceable act, thus the decision and related implementation of the referral is taken under full responsibility and accountability of the concerned service provider.

A three-staged implementation approach has been identified as the optimal solution. The project will begin with a six months Pilot Phase, starting from 1 July 2015. This will further progress into an Initial Operating Capability by the 1 January 2016, followed by a Full Operating Capability by the 1 July 2016. The key capabilities that will be delivered within the Pilot Phase will be:

- A first stage of the flagging and referral coordination function based on Europol's Secure Information Exchange Network Application (SIENA), including Large File Exchange and the existing Check-the-Web tool;
- A first stage of the Open Source Scanning Team, based on the existing Anonymous Internet Search service and the testing of a dedicated Open Source scanning tool;
- The operational support function based on criminal analysis performed within the Analysis Work File Counter Terrorism;
- Priority Third Parties with an operational agreement will be associated (e.g. Australia as a key partner in Check-the-Web);
- The team will perform its searches and analysis on material written in the following languages: Arabic, Dutch, English, Estonian, French, German, Greek, Russian, Spanish;

- The forensic support and the R&D will be supported by the existing Europol units.

The EU IRU is also planned to form an integral part of the envisaged ECTC.

2. Counter-narratives

The Syria Strategic Communications Advisory Team (SSCAT) was created with a view to gather, exchange and make available expertise to Member States and European Union bodies. The project provides consultancy service to the Member States on the delivery of countering violent extremism and counter terrorism communications campaigns. It also works as a network where best practices on countering violent extremism and counter terrorism communications between the Member States is shared. The SSCAT Network has had two meeting so far.

In reaction to the terror attacks in Europe, the use of the EU Integrated Political Crisis Response (IPCR) web platform has been expanded (covering crisis communication issues, including in case of terrorism). The platform acts as an information-exchange forum and a repository for information related to the political decision making process at EU level and throughout Member States.

Information is not classified and shared on a voluntary basis.

3. Rehabilitation in the judicial context, including in prisons

At the JHA Council on 13 March the Ministers of Justice discussed the topic by sharing national experience on integrating judicial aspects into a comprehensive national anti-radicalisation and rehabilitation strategies. Ministers also underlined the role of the Radicalisation Awareness Network and its future Centre of Excellence in strengthening the national frameworks.

4. Initiatives regarding education

At the informal meeting on 17 March 2015 in Paris, upon a joint initiative of French government, the Presidency and the European Commission, the EU Education ministers discussed prevention of radicalization. As a result, a Declaration on promoting citizenship and the common values of freedom, tolerance and non-discrimination through education was adopted.

Information on the Declaration was further provided at the Education, Youth, Culture and Sport Council meeting on 18 May 2015. Ministers stressed the importance of efforts at different levels in tackling intolerance, discrimination and radicalization through the education process starting from an early age.

5. Communication strategies to promote tolerance, non-discrimination, fundamental freedoms, inter-faith and other community dialogue

Upon the initiative of the Presidency and France, on 11 January 2015 the EU ministers for culture issued a Joint Statement, defending the freedom of expression and protecting the rights of artists to create freely.

On 21 April 2015, the General Affairs Council had a lunch discussion on possible implementation of measures related to communication strategies to promote tolerance, non-discrimination, fundamental freedoms, inter-faith and other community dialogue. The Ministers discussed the underlying factors contributing to radicalisation, exchanged the best practices and initiatives. Prevention of radicalisation and fight against anti-Semitism was particularly emphasized. Ministers also drew attention to the Internet in promoting terrorism and underlined the importance of initiatives in the field of education.

In addition, at the Education, Youth, Culture and Sports Council on 19 May 2015, the Presidency organised a policy debate on the functioning of the Audiovisual Media Services Directive. The Ministers underlined that the freedoms guaranteed by the Audiovisual Media Services Directive must not be misused to disseminate hate speech, propaganda or disinformation, and they acknowledged that some additional exceptions could therefore be envisaged, for instance, when fundamental values, freedoms and democracy are under serious threat or threatens public policy objectives of national security, social cohesion and stability.

Several conferences were also organised focusing on investigative journalism and editorial independence, the safety of journalists, media freedom and pluralism (for instance, World Press Freedom Day 2015, organised together with UNESCO, on 3–4 May 2015 in Riga).

6. Vocational training, job opportunities, social integration

On 3-4 February 2015, a joint Employment Committee and Social Protection Committee conference took place in Riga. The conference focused on two topical issues in the area of employment and social policies: job quality and sustainable labour market inclusion, including the role of minimum income schemes.

The results of the conference fed into the Council Conclusions "Moving towards more inclusive labour markets"⁵ adopted by Employment, Social Policy, Health and Consumer Affairs Council on 9 March 2015. The conclusions focus on workplace sustainability and quality, income adequacy, job opportunities, secure transition from one job to another. They also include a call to cooperate and work together with the social partners and civil society to build an inclusive labour market. The conclusions also highlight issue of long-term unemployment and the need to offer job-seekers effective services based on an individualised approach, as well as the need to ensure synergies between labour market activation and social protection services. Also the use of financial instruments with a focus on improving labour-market integration of disadvantaged groups has been highlighted.

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The Council is invited to exchange ideas on how to take the agreed priority areas further.

⁵ 6182/15