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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Report on measures with regard to foreign fighters

Delegations will find in annex a letter of the Italian Presidency to the President of the European Council concerning the above-mentioned subject.



2014 Italian Presidency of the Council of the European Union

12 December 2014

Mr Donald Tusk
President of the European Council
Rue de la Loi 175
1048 - Brussels

SGE 14 / 12993	
Reçu le 15-12-2014	
DEST. PRINC
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Dear Mr. President,

As you will be aware, the European Council concluded at its meeting on 30 August 2014 that determined action was needed to stem the flow of foreign fighters to Iraq and Syria. The European Council invited the Council to accelerate the implementation of the package of EU measures in support of Member States' efforts, review the effectiveness of the measures undertaken and propose additional action, as required. This reinforced the conclusions of the European Council of 26-27 June 2014 which stressed the need to mobilise all instruments of judicial and police cooperation in the fight against terrorism.

The current letter describes the measures adopted in this context over the last months. On the basis of documents¹ prepared by the Presidency and the EU Counter-Terrorism Coordinator in consultation with the Commission services and the EEAS, the Justice and Home Affairs Council discussed the issue at its meetings on 9-10 October and 4-5 December and highlighted the importance of addressing this challenge as a matter of priority and taking proportionate but specific, rapid and strong measures.

The Italian Presidency has given considerable priority to the implementation of these measures in the different Council working groups in their respective areas of competence. I would like to report to you on progress accomplished so far but need to stress that the threat remains serious and the measures have so far not stemmed the flow of foreign fighters.

To address *radicalisation* and in particular the use of the Internet for terrorist purposes, discussions with Internet and social media companies on this issue are on-going under the lead of the Commission. These include the establishment of a forum with representatives from the EU institutions, Member States and industry counterparts to identify effective ways and means to enhance European capacity to ensure the removal of illegal content. Moreover, Member States will share best practices on the establishment of internet referral units which flag illegal content to internet companies.

¹ 13416/1/14 REV 1, 15715/2/14 REV 2, 16002/1/14 REV 1

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The creation of the EU Syria Strategic Communications Advisory Team (SSCAT) with a view to gathering, exchanging and making available expertise in the area of counter-terrorism related strategic communications to Member States and EU bodies, is a very positive development.

The Commission will shortly launch the process to establish a Prevent-RAN (Radicalisation Awareness Network) Centre of excellence, which should focus in particular on assisting Member States in setting up practical counter-radicalization and/or disengagement projects and in sharing practices and methodologies with regard to the re-integration and rehabilitation of returnees from a social perspective.

Disappointingly, insufficient progress has been made in response to the call of the European Council to finalise the work on the *EU Passenger Name Record* proposal before the end of this year. Despite efforts by the Presidency, other Member States and the Commission to address concerns raised by MEPs, the EP still questions the necessity and proportionality of an EU PNR Directive, referring to the ECJ judgment of 8 April 2014 which invalidated the data retention directive on the basis of data protection considerations.

Several Member States have indicated they will take measures at national level to ensure the safety of their citizens, for lack of adequate action by the EU legislators, and will consider interconnecting existing and future national systems. Further efforts will be made by the Member States and Commission to convince MEPs of the need to deal with this issue at EU level as a matter of urgency.

Over the last months, different channels have been enhanced and improved to increase the *information exchange* about foreign fighters, notably through the use of SIS II and Europol's analysis files. However, it is clear that Member States' authorities have not yet maximised the potential of these instruments and should prioritise work on this area. In light of the above, the Presidency has launched, in partnership with the Europol, an initiative aimed at the establishment of a network of single points of contact exclusively dedicated to counter the phenomenon of foreign fighters, as an operational development of the existing focal point Travellers and Dumas Group. Ten Member States have already associated themselves to the network.

Regarding checks at *external borders*, the Council agreed to improve without further delay the checks at the external borders under the existing legal framework. The Commission is examining with Member States' border and counter-terrorism experts how to have a harmonised approach on non-systematic checks at the external borders and developing common risk indicators. Member States undertook to systematically control the validity of travel documents, using all relevant databases and to examine standards and best practices for border checks in this context. It is important that the Commission monitors the work on these measures so as to assure uniform and rapid implementation of the rules.

The Council has also considered how the *judicial response* to the foreign fighters problem might be improved. In particular, the Commission and Member States will examine what national legislative or other measures are taken to comply with UNSC Resolution 2178(2014). On that basis, it will be assessed whether the Council Framework Decision on Terrorism needs to be adapted. In addition, Member States will examine and share best practices on the development of rehabilitation and de-radicalization programmes in the judicial context.

Focus has also been placed on *cooperation with third countries*. On 20 October 2014, the Foreign Affairs Council adopted a counter-terrorism/foreign fighters strategy regarding Syria and Iraq. It is important to implement the strategy without delay, including supporting capacity-building initiatives in the region. The EU and its Member States affirmed their determination to further strengthen security and counter-terrorism cooperation, as well as the related political dialogue and engagement with third countries. The benefit the EU would draw from effective diplomatic efforts to support the concerned parties in finding a political solution to the conflicts to which foreign fighters are drawn cannot be overstated.

Given the persistence of the phenomenon, I would recommend that the Justice and Home Affairs Council, in its coordination role, continues to review regularly over the coming months the implementation of the measures agreed at its meetings in October and December, on the basis of contributions from the Counter-Terrorism Coordinator, in close consultation with the Commission services and European External Action Service, and with appropriate input from the relevant EU agencies.

Yours sincerely,

Minister for the Interior


Aggelino ALERNO

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