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NOTE

From: EU Counter-Terrorism Coordinator
To: Delegations

Subject: **Follow-up to the statement of the Members of the European Council of 12 February 2015 on counter-terrorism: State of play on implementation of measures**

I. INTRODUCTION

The orientations provided by the Members of the European Council on 12 February 2015 have been and remain an important driver for the counter-terrorism work at EU level. A comprehensive overview of implementation of measures was provided by the EU CTC in June 2015 (doc 9422/1/15 REV 1) and by the HRVP in a letter to the European Council in June.

In the meantime, the thwarted attack on the Thalys train on 21 August 2015 reaffirms the need for political steer from the Council and confirm the necessity to move forward at an accelerated pace.

The profile of the Thalys attacker confirms the importance and relevance of the issues the EU has been working on: He circulated a lot in Europe, flew to Turkey and returned by land (Balkans route), bought the weapons in Brussels, bought the train ticket with cash and looked at preaching on the internet prior to the act. Sharing of information between law enforcement and security services had been a challenge. A declaration was adopted at the ministerial meeting on 29 August in Paris hosted by the French Government, focusing on a number of areas for action (doc 11594/15).

II. PRIORITIES FOR EU ACTION/STATE OF PLAY ON IMPLEMENTATION OF THE 12 FEBRUARY 2015 STATEMENT BY HOSG:

Focus and additional effort is necessary in particular in the following areas:

1. Border management

a) EU Passenger Name Record (EU PNR): The vote in LIBE in July 2015 to start the trilogues was a positive step. Once the trilogues will have been finalised, a revised report will be voted by LIBE and then by the EP Plenary. Finding a majority in the EP remains a challenge, as in LIBE only one of the shadow rapporteurs (EPP) voted in favour. Hence proactive engagement with the EP needs to continue.

b) Coordinated implementation of the common risk indicators: It is positive that the common risk indicators have been finalized by the Commission. However, challenges remain with regard to the coordinated implementation, as also mentioned in the Paris declaration. Frontex should support the operationalisation of the common risk indicators and the coordinated implementation of more systematic checks by Member States. Frontex could be asked to translate the common risk indicators into operational guidelines and to operationalise them at official border crossing points and within Frontex Joint Operations like Poseidon in Greece and Triton in Italy by expanding the present focus to include a heightened CT awareness, in particular with regard to screening and voluntary debriefing. It is crucial that Europol and Frontex cooperate closely and that the agreement to exchange personal data between them is concluded as soon as possible. As a pre-condition, Frontex is required to adopt appropriate data protection arrangements.

Frontex has submitted the implementing measures designed to implement the exchange of personal data to the European Data Protection Supervisor for green light and will have to finetune the ICT setting required for the exchange of personal data. The first exchange of data is likely to be tested in March 2016. Nevertheless, the new “Hot spot approach” developed along the Commission proposals, and especially the EU Regional Task Force in Catania allow Frontex and Europol officers to cooperate on the spot and to make the best possible use of screening and debriefing interviews of migrants. Cooperation between Frontex and Eurojust is important as well. Frontex could explore how to facilitate coordinated and simultaneous operations of control at the external borders on targeted routes, as well as help to pursue an integrated information led security approach on all types of transport routes. Frontex could also provide training. This would require appropriate resources.

The Commission assisted by Frontex, Europol and the Member States should regularly update the common risk indicators and operational guidelines.

c) **Electronic connection of Member States' border guards to Interpol databases:** A number of Member States have not yet electronically connected border guards to Interpol databases, which makes systematic checking of databases without negative impact on travel flows difficult. The European Commission could be invited to work with interested Member States on financially supporting upgrading of the technology. This would also be helpful in the migration context.

2. Information sharing

a) **Schengen Information System (SIS II):** It is crucial that the SIS II is used to the maximum extent, both with regard to feeding information and checking the database, in accordance with the recommendations by the SIS SIRENE Working Party in December 2014¹. Further improvements are possible. In this context it would interesting to analyse whether the Thalys attacker (Ayoub El-Khazzani) had been the subject of an Article 36 alert in the SIS II. Data is necessary to assess the use of the SIS II in the foreign fighters context.

¹ 14523/3/15

b) Europol: Member States have increasingly provided information on foreign terrorist fighters to Europol since January 2013. The total number of contributions is now 1069 (620 by the end of February 2015), with 9724 person entities stored in Focal Point (FP) Travellers (3600 in March 2015), out of those 1969 are confirmed fighters/travellers. Interpol has become a significant contributor to FP Travellers with more than 3000 persons reported by September 2015.

Despite these positive developments, FP Travellers, both from a quantitative and qualitative perspective (fragmented information picture), is not yet in the position to provide complex in depth analysis in relation to the contributed operational cases across the EU, given that more than half of all contributions originate from five MS and one associated third country, a trend which remains unchanged.

FP Travellers generates hits based on foreign phone numbers used by suspects on their way to the Middle East, also relating to the facilitation of illegal immigration. This underlines that MS and third partners, by contributing to FP Travellers, can benefit from an enhanced information picture, especially in light of open source reporting which indicates that MS believe there are over 10,000 persons of interest in the EU with links to foreign terrorist fighters.

Between March and September 2015 contributions of foreign fighters into the European Information System (EIS) have increased from 188 to 1527.

c) Eurojust: Operational cooperation via Eurojust and judicial information sharing with Eurojust have considerably increased. While in 2014 Member States have requested the assistance of Eurojust in 13 terrorism cases, in 2015 (until 15 September) the number of cases referred to Eurojust has increased to 22. The number of foreign terrorist fighters cases increased from three last year to 14 in 2015 so far. Eurojust organised five coordination meetings on foreign terrorist fighter cases in 2015. Eurojust has received information that one joint investigation team (JIT) was set up in 2014 and 2015 each in foreign terrorist fighter cases, and that in addition one Member State has signed 10 JITs in relation to foreign terrorist fighters. There is a significant increase in information exchange on ongoing prosecutions, from 34 cases in 2014 to 84 cases in 2015 so far.

Since its association to Focal Point Travellers in March 2015, Eurojust has sent two contributions, with a request for cross check entities against the Europol database. Representatives of Focal Point Travellers attended two coordination meetings at Eurojust in 2015. Eurojust is strengthening cooperation with the countries in North Africa and the Middle East (MENA), encouraging the appointment of Eurojust contact points, including specifically for counter-terrorism matters, and is organising a seminar with the MENA region at the end of 2015, focusing on judicial cooperation in counter-terrorism and foreign fighters.

3. Firearms

The Paris incident underlined the importance and urgency to work on firearms. Implementation of the ambitious Council Conclusions to be adopted on 8 October should be a priority, in particular the adoption of the Commission regulation on deactivation of firearms (as an implementing act under the current directive) by the end of the year and the presentation of the proposal for the revised directive early next year.

The work carried out to combat the trafficking in firearms within the framework of the EU policy cycle should be improved by ensuring a more proactive involvement of all Member States and focusing on more operationally oriented actions with the involvement of neighboring countries of the Western Balkans and the MENA region.

4. Internet

a) Internet Referral Unit (EU IRU) at Europol: The pilot phase has started on 1 July 2015. The IRU has built partnerships with internet companies and is investigating technical ways to improve cooperation, in particular the referral process. The IRU has already carried out 500 referrals, over 90 % of which have been successful leading to the removal of the flagged content. Most of the referral requests stemmed from IRU monitoring capability. The IRU refers across the major platforms, but has insufficient resources to monitor other platforms. The IRU is also tackling the facilitation of illegal immigration, with a continuous analysis of social media-related information on a 7/7 basis, and has provided operational support in the investigation related to recent terrorist attacks. EU IRU will participate in three H2020 research projects relating to open source monitoring and propaganda detection, based on the needs gathered within the Member States. The outcome of the projects would be used by the EU IRU to support the Member States.

It is crucial that the IRU gets the support which is required to progress towards an initial operational capability by January 2016. Challenges are that the EU IRU has no certainty of the budget for the upcoming year, which hinders the planning of future activities. A sufficient number of experts is needed. Two short term secondments of experts by Member States will only last until end of 2015. Resources are also necessary to be up to date on technical skills and capabilities. The contributions for referrals from Member States need to be increased.

The current Commission proposal for the new Europol regulation neither includes the IRU nor the authorization to exchange personal data with the private sector (such as internet links, URL). This risks to considerably reduce the means for action of the IRU. A solid legal basis in the new Europol legislation is necessary.

b) Syria Strategic Communications Advisory Team (SSCAT): The SSCAT, an 18 month pilot project funded by the Commission, has been very successful so far. The team has already advised around half of the EU Member States, there is a huge demand to strengthen communications and counter-narratives. The advisory service will end at the end of 2015 unless it is prolonged. It would be important to prolong and expand the SSCAT: It is now necessary to not only cover situations related to Syria, but more broadly prevention of radicalization and anti-Islam hatred, in particular with regard to the refugee crisis. It is also time now to give SSCAT the means to support implementation of communication campaigns in interested Member States and to support EU institutions to improve communication in the Arab world. Numbers are crucial in online communications: Supporting civil society to communicate more effectively is key, an expanded SSCAT could create and support such a network.

c) Forum with the internet companies: The Commission is actively preparing the launch of the Forum by the end of the year, hosting regular preparatory expert meetings. It is important to start the Forum as soon as possible and to fully engage, building a constructive and mutually beneficial relationship with the internet companies.

5. Prevention of radicalization

a) **Radicalization Awareness Network (RAN) - Center of Excellence:** Progress has been made and the Center is being set up. This Commission flagship initiative will expand the work of the RAN, animate the network and provide opportunities to Member States to receive targeted expert advice to design and implement PREVENT projects. It is important that Member States make full use of the RAN services as appropriate and encourage participation of frontline experts in the RAN activities. The CTC encourages that the Center will earmark resources to work with priority third countries.

b) **Rehabilitation:** Commissioner Jourova's high level ministerial conference "Criminal justice response to radicalisation", organized jointly with the Luxemburg Presidency and with the support and participation of the EU CTC will be an important milestone to discuss criminal policy towards foreign fighter returnees and the challenges and experiences related to rehabilitation programmes in the judicial context, inside and outside prison. Follow up will be important, including identification of how best the EU can support Member States in this area. It is important to bring judicial and PREVENT actors together, the conference is achieving this. The Radicalization Awareness Network (RAN) could play an important role in supporting Member States to develop rehabilitation programmes and to facilitate sharing of best practice.

c) **Prevention of anti-Muslim hatred/counter-narratives:** The refugee crisis shows the importance of addressing anti-Muslim hatred, especially in regions with few Muslim residents, where prejudices can be particularly strong. In this context, the Annual Colloquium on Fundamental Rights 2015 "Tolerance and respect: preventing and combating anti-Semitic and anti-Muslim hatred in Europe" organized by the First Vice President of the Commission Timmermans on 1-2 October 2015, will provide inspiration for how the EU can support to address this issue. Prevention of radicalization of refugees is also a priority, speedy integration is key, as is a strategic approach as to how best religious services can be provided to the refugee communities.

While some have voiced concern that Daesh is using the refugee crisis to infiltrate jihadists into the EU, the EU CTC believes that by far the greater threat is from radicalized EU citizens/residents and foreign fighters returning from Syria/Iraq who might be inspired or directed to commit attacks.

However, the refugee crisis calls for:

- greater use of the powerful counter-narrative to Daesh which the refugees present: while Daesh calls for migration (hijra) of all Muslims to the so-called "Islamic State", hundreds of thousands of Muslims are voting with their feet, repudiating DAESH's vision and coming to Europe in search of protection or a better life. In a sign that DAESH is concerned about the phenomenon, the group has called on the refugees to return to the "Caliphate";
- action to protect the refugee population from radicalisation.

d) Education has an important role to play. It would be useful if the Commission presented a political initiative and concrete projects on what it can do in the fields of education, youth and sport to prevent of radicalization, in implementation of the HoSG statement of 12 February and the Paris Declaration of 17 March on Promoting citizenship and the common values of freedom, tolerance and non-discrimination through education. It will be important to be ambitious, think big and to have flagship programmes with a real impact across Europe, especially on the ground, such as large scale virtual exchange programmes between students in Europe and in the MENA region, similar to President Obama's initiative in commemoration of Ambassador Stevens who lost his life in Libya. This could also be an area of cooperation with internet companies and would improve tolerance and mutual understanding between youth on both sides of the Mediterranean.

6. External action

Since the summer, the EU has made important progress on regional counter-terrorism projects for North Africa and Middle East (some projects have started or are close to implementation). The Conclusions of the Foreign Affairs Council of 9 February 2015 continue to drive the external action. While this note focuses on internal issues, three developments merit highlight with regard to external action:

Tunisia was a top priority for the EU already before the Sousse attack, not least as one of the few good news stories to have emerged from the Arab Spring. In the wake of the Sousse attack, the EU has stepped up engagement with Tunisia: the EU CTC and the EEAS visited Tunisia again in July 2015 and the first upgraded and targeted security and counter-terrorism dialogue will take place in Tunis on 21 September 2015. In parallel, an intense process has been launched by the G 7 with Tunisia covering border, aviation and tourism security and counter-terrorism. The EU has played an active role. Tunisia expects meaningful CT assistance from the EU and there is an urgent need to provide this.

The threat from terrorism in Tunisia, Libya, Iraq, Syria, Egypt and other countries in the region underline the need to continue to direct EU funding towards **CT activity in the MENA region**, not least to help arrest the migration flows which arise in part as people in the region flee in response to the threat from terrorism. If Tunisia fails because of terrorism (the tourism sector has already collapsed, affecting directly and indirectly up to 15 % of GDP), the EU will have to deal with even more refugees.

Another priority for EU engagement is **Turkey**. At the end of June, the EU CTC co-chaired a CT workshop organized by the EEAS with the participation of EEAS, Commission, JHA agencies and Member States hosted by the Turkish MFA in Ankara. A next step will be the development of an action plan for agreement by Turkey which will cover a range of issues, including countering violent extremism.

The **Western Balkan region** plays a key role in countering terrorism and violent extremism. The EU CTC, Commission and EEAS welcomed the Slovenian-led Western Balkans CT Initiative, which mapped existing and planned activities, provides the basis for further CT and CVE engagement in the region and should start its implementation soon. The Commission should therefore consider funding projects of this initiative, particularly under the IPA programme as a priority.

7. Land transport.

Following the security incident on the Thalys train on 21 August 2015, an extraordinary meeting of the EU expert group for land transport security (LANDSEC) was held in Brussels on 11 September 2015 to discuss rail passenger security. Member States and operators considered a proportionate security response was required that would not harm rail transport operations or undermine the nature of public transport, including rail, in that it should remain open, accessible and expedient. Railway operators and law enforcement authorities could work closely together to carry out security assessments and adopt security plans covering security training requirements for staff, obligations for drills and exercises, the setting of security levels (for activation by Member States), contingency planning and recovery plans to deal with major incidents. Today, no enabling provision exists which would allow the Commission to take - in Comitology - implementing measures with regard to railway security, similar as for aviation security. It should be considered to add such a provision to legislation, so that the necessary framework is in place.

III. MINISTERS ARE INVITED TO ENDORSE THE FOLLOWING CONCLUSIONS:

1. The Presidency, Member States, the Commission and the EU CTC are invited to continue proactive engagement with the EP on the EU PNR.
2. The European Commission, in close cooperation with Frontex, is invited to present to COSI as soon as possible options on operationalization of the common risk indicators.
3. Frontex and Europol are invited to finalize the appropriate and necessary data protection arrangements, including related to ICT. On this basis, Frontex and Europol are invited to finalize the operation cooperation agreement as soon as possible.
4. The EU CTC is invited to report to COSI ahead of the December Council about state of play on electronic connection of Member States' border guards to Interpol databases.
5. Member States are invited to use the SIS II to the maximum extent. The Commission and the EU CTC are asked to prepare a detailed, data driven report to the December Council on all aspects of the use of the SIS II for terrorism/foreign terrorist fighters.

6. Member States are encouraged to contribute to Focal Point Travellers to the maximum extent. Europol is asked to report at the December Council about the establishment of the European Union Counter-Terrorism Center (ECTC) and progress related to information exchange, in particular Focal Point Travellers.
7. Eurojust is asked, as in the past years, to present a report to the December Council on the criminal justice response to foreign fighters and make recommendations for the way ahead.
8. Member States are invited to increase contributions for referrals to the EU IRU and to second experts to the EU IRU at Europol. The budgetary authorities are invited to provide the EU IRU with appropriate resources as soon as possible. The Presidency is invited to pursue in the trilogues with the EP its proposal to include a solid legal basis for the IRU, including the authorization to exchange personal data with the private sector, in the draft regulation on Europol.
9. The Commission is invited to prolong and expand the SSCAT project.
10. Member States, assisted by the SSCAT where appropriate, and the Commission are invited to explore how the refugees could be actively involved in counter-narratives.
11. The Presidency is invited to consider Council Conclusions in follow up to the conference organized by Commissioner Jourova.
12. The Commission is invited to present in 2016 a communication on the contribution of education, culture and sport to the prevention of radicalization, support Member States, explore the feasibility of ambitious flagships such as virtual exchange programmes and propose ways to use EU funds at their best (for example Erasmus+) to have an even bigger impact on the ground.
13. The EEAS and the Commission, in cooperation with the EU CTC, are invited to provide as soon as possible ambitious counter-terrorism assistance to Tunisia.

14. The Commission is invited to fund training of railway and security staff and support actions to raise awareness among the public about potential threats, and to report about possible actions to COSI ahead of the December Council. The Commission is invited to consider introducing an enabling provision in legislation that would allow the Commission to take - in Comitology - implementing measures with regard to railway security, similar as for aviation security.

15. The EU CTC, in close consultation with Commission services and the EEAS, is asked to present to the December Council a detailed report on implementation of measures of the 12 February 2015 HoSG statement.
