



STATE OF
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A reinforced European Public Prosecutor's Office to fight terrorist crimes

#SOTEU

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'The European Union must also be stronger in fighting terrorism. In the past three years, we have made real progress. But we still lack the means to act quickly in case of cross-border terrorist threats. [...] I also see a strong case for tasking the new European Public Prosecutor with prosecuting cross-border terrorist crimes'

Jean-Claude Juncker, State of the Union Address, Strasbourg, 13 September 2017



Security is the number one concern of Europeans. In the past three years, the Commission has taken a series of landmark initiatives to tighten security laws across the EU. We have denied terrorists the means to carry out attacks, shared intelligence between Member States, protected Europeans online and managed our borders better.

As security threats have become increasingly cross-border, Europe has to pull resources to fight terrorist crime more effectively. The reinforced European Public Prosecutor's Office will ensure that no terrorist or criminal slips through the net.

Connecting fragmented investigations

The problem today. A jihadist terrorist cell employs agents in several EU countries. The terrorists do not communicate with each other and only receive instructions through encrypted messages. They all have different tasks, such as obtaining fake IDs (Country A) and buying chemical materials (Country B) and so on, whereas the head of the operation acts from a third country.

Authorities in Country A discover that fake documents have been established for fictitious persons and arrest the suspect. They are unaware that these documents were prepared for a terrorist cell and prosecute the person for simple document fraud.

Authorities in Country B identify the member of the cell, who has purchased an excessive amount of pesticides for producing a bomb. They arrest and charge him as a 'lone-wolf' terrorist, being unaware of the other members of the cell.

Both prosecutions lead to convictions but not in all cases for terrorist offences, while the wider network and its activities remain necessarily undetected.



The reinforced European Public Prosecutor's Office would be able to:

- ✓ steer investigations and prosecutions at EU level, ensuring a coherent prosecution approach. This would be possible thanks to the network of the European Public Prosecutors Office Delegated Prosecutors who would be working in all participating EU countries together with national authorities;
- ✓ connect and jointly prosecute related cases;
- ✓ order investigations;
- ✓ ensure the timely collection of evidence.

Timely exchange of information

The problem today. Authorities in Country A use special investigative techniques in a terrorism case involving a terrorist cell, which is suspected to be operating in Countries A, B, C and D.

Authorities in Country A want to protect their source and to ensure that the methods through which the information was gathered remain protected. This is why there are delays in sharing the information with Countries B, C and D, and with Eurojust (the EU agency facilitating the cooperation and coordination of criminal investigations between the competent authorities of EU Member states).

As a result, there is an increased risk of a successful terrorist crime in Countries B, C and D, and the subsequent going into hiding of terrorists.



The reinforced European Public Prosecutor's Office would be able to:

- ✓ instruct the national authorities to collect more information in a proactive and targeted manner;
- ✓ instruct the national authorities to share information with Eurojust and Europol;
- ✓ deal with sensitive and confidential information in particular, the European Public Prosecutor's Office would ensure full confidentiality of the information it operated with, including the way it was gathered.

Coordinated cross-border investigations

The problem today. Authorities in Country A and Country B are both aware of the suspicious activities of two terrorist cells operating in their countries. These cells seem to be planning jointly a terrorist attack in Country A.

The authorities of Country A decide to organise house searches and use the police to do so.

The authorities of Country B intend to do the same simultaneously but — because of other priorities or merely a lack of resources — the house searches come later than in Country A, allowing members of the cell to go into hiding.

As a result, only part of a larger network is caught and the risk of a terrorist attack is still imminent.



The reinforced European Public Prosecutor's Office would be able to:

- ✓ centrally direct investigations in multiple countries in particular, the European Public Prosecutor's Office could instruct national authorities to coordinate police investigations, allowing for example for the fast freezing and seizure of assets, and the ordering of arrests across the EU;
- ✓ give all authorities involved the information they need in a timely manner;
- ✓ ensure coherent and effective prosecution for terrorist crimes, which would take account of the interests of all EU countries involved and of the EU as a whole;
- ✓ address jurisdiction issues based on objective criteria which would help deciding on where to bring the case to court.

FUTURE case example

In **Country A**, there is an ongoing investigation into **terrorist financing**. While the authorities of that country have clear indications that the persons concerned are financing terrorism, it is unclear to them where the money is ultimately being used.

In **Country B**, there is an ongoing investigation into acts which are considered to be **preparatory acts for a terrorist attack**, including the purchasing of materials for creating a 'dirty bomb'.

In **Country C**, there is an ongoing investigation focusing on a website which contains **terrorist propaganda**. The authorities suspect that some closed-off parts of the site are also being used for communication between members of a terrorist group.

None of the countries concerned has yet sought the support of Europol or Eurojust, since they consider these investigations to be primarily national.

It is only when the case is brought to the attention of the European Public Prosecutor's Office through the European Delegated Prosecutor involved in the investigation in Country A that **the link between these cases is discovered**: the financing in Country A is actually being directed towards the activities of the group preparing the 'dirty bomb' in Country B, and it is discovered that these groups are actually in contact with each other through the website under investigation in Country C.

The European Public Prosecutor's Office can ensure that the investigative measures needed to obtain access to the logs of the website in Country C take place at the same time the financing group in Country A and the preparatory group in Country B are arrested, so that they have no chance to tamper with the evidence.

All terrorist suspects involved can be apprehended at the same time, and further investigative measures can be coordinated and implemented from one office. This also ensures that no jurisdictional conflicts arise.



