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NOTE

From:	Presidency
To:	Permanent Representatives Committee
Subject:	Draft Joint Statement by the EU Home Affairs Ministers on the recent terrorist attacks in Europe

Ahead of the informal videoconference of the Ministers for Home Affairs (13 November 2020), delegations will find in the annex the draft "Joint Statement by the EU Home Affairs Ministers on the recent terrorist attacks in Europe".

Joint Statement by the EU Home Affairs Ministers on the recent terrorist attacks in Europe

We are deeply shocked by the horrific terrorist attacks which have taken place in recent weeks in Paris, Dresden, Conflans-Saint-Honorine, Nice, Vienna and other places, and we condemn these barbaric acts in the strongest possible terms. Our thoughts at this time are with the victims, but also with their relatives and friends, to whom we send our deepest sympathies and condolences. We also pay our great respect to the Austrian police officer who was critically injured in the line of duty. We pledge our support and solidarity to the affected countries and their people, and to the cities where the attacks took place. We will continue to pursue our joint efforts against terrorism with determination and will in no way compromise on our shared belief in human dignity, tolerance, democracy, justice and freedom, including freedom of speech.

Today [13 November 2020], on the fifth anniversary of the devastating terrorist attacks in Paris, in the Bataclan theatre and outside the Stade de France, the victims of those attacks remain present in our thoughts, as do all victims of terrorism over the years.

We must recall that victims of terrorism are the targets of an attack that affects in the gravest way the fundamental principles of the Union. Therefore, democratic societies in general, and EU Member States in particular, have to ensure that a comprehensive response to their needs, including the adoption of protection, support and assistance measures, is provided.

The attacks we have seen in recent weeks have shown the extent of the threat we face from terrorism. Only together we can put a stop to the terrorists and their backers.

Uphold freedom, act with determination

We affirm our unshakeable unity in the fight against terrorism which the European Union must undertake to contain this threat. Given the number of Member States affected, and the transnational nature of terrorist networks, we can clearly see the extent to which measures at European level are important and necessary.

We are determined to protect Europe's societies and its people. We will uphold our common values and European way of life. We will safeguard our pluralist societies and continue with firm resolve to combat all forms of violence which target people on the basis of their actual or supposed ethnic origin, or their religious belief or on the basis of other types of prejudice.

We reaffirm our determination to do everything in our power to counter this barbaric terror holistically, with all the instruments at our disposal, while fully maintaining all guarantees under the rule of law as well as fundamental freedoms. Europe's foundation will not be shaken by the scourge of violent extremism and terrorism. The terrorists cannot win their fight. The despicable attempt to divide our societies in Europe through fear and terror will not succeed. On the contrary: our open, pluralist societies allow all people to lead a self-determined life in freedom and security, regardless of their background or religious belief. They are stronger than hate and terror. We will take action against the threat of polarisation.

European framework for Counterterrorism

Over the last two decades we have steadily strengthened the security structures and legal framework in the Member States and at European Union level. We have further developed the role of the European law enforcement agency Europol in counter-terrorism, we have improved information-sharing and the use of European databases and information systems, and we have deepened police and judicial cooperation.

The rules on the acquisition and possession of firearms have been made more stringent by Directive 2017/853/EU amending Directive 91/477/EEC in terms of combating the improper use of firearms for criminal purposes, and especially for preventing terrorist attacks. In that context, we welcome the new EU action plan on firearms trafficking 2020-2025.

In the area of criminal law, the European Union has recently adopted powerful legislative instruments. This applies to material law enforcement – whether it be with regard to terrorist offences (under the Directive 2017/541 of 15 March 2017 on combating terrorism) or in the prosecution of offences of facilitating terrorist financing (in particular the Directive 2018/1673 of 23 October 2018 on combating money laundering by criminal law). But it also applies to judicial cooperation under the Regulation 2018/1805 of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders. Combating serious crime effectively requires a common commitment to strengthening our efforts in seizing and confiscating criminal assets, therefore the efficiency of the European legislation in that respect should be assessed.

The Union has also created operational instruments such as Eurojust’s Counter-Terrorism Register, which is designed to facilitate the comparison of procedures conducted in individual member states.

The aim now is to resolutely, ambitiously and effectively combat terrorism – denying it the conditions that allow it to thrive.

In early December at the Council of Ministers for Justice and Home Affairs, we will present comprehensive Council conclusions on internal security and on a European police partnership. These conclusions will also address the key issue of preventing violent extremism and combating terrorism. We will also recommend to the European Council that the office of European Counter-Terrorism Coordinator be retained.

Some things, however, can already be concluded:

Religious freedom

Europe has travelled a hard and painful path to embrace the principle of religious freedom. Freedom of conscience and religion means the freedom to follow or not to follow a religion. We require mutual respect, including within religious communities, and including respect for people with secular world views. We therefore stress our commitment to protecting in Europe religious expression which is both peaceful and respectful of the laws adopted by our Member States. This applies equally to all religions. We must protect people in Europe from the instrumentalisation or reframing of religious traditions for extremist purposes, and from extremist interpretations which lead to violence. Extremist endeavours aimed at destroying the free social order will be met with the full force and consistency of the rule of law. However, this fight against extremism must not lead to the exclusion and stigmatisation of religious groups. Our fight against terrorism is not directed against Islam, but against fanatical and violent extremism.

We invite the European Commission to actively steer this work and support initiatives across the EU to better understand root-causes, aims and the spread of extremist ideologies in Europe on one side and to promote religious education and training— preferably within the EU - that is in line with European fundamental rights and values on the other side. We shall aim at supporting the many different voices that are an integral part of our pluralist, open and liberal European society and make clear that we do not leave space for any sort of extremism to divide us.

Social Cohesion

The sense of belonging and equality is of central importance for the social cohesion of our modern, pluralist and open societies. Successful integration is of key importance in this regard. Integration is a two-way street. This means that migrants are expected to make an active effort to become integrated, while they are offered help in this regard. Opportunities for migrants, legally permitted to stay, to participate in all areas of society is just as important as for everyone to recognise and respect – in accordance with the applicable laws – EU common rules and values as the foundation for successful integration. Violations of the democratic order and values of European Member States or of their national laws should be neither downplayed nor tolerated, no matter what motivates them. Organisations that do not act in accordance with relevant legislation and support content that is contrary to fundamental rights and freedoms should not be supported by public funding, neither on national nor on European level.

Reinforce Schengen and its external borders

We have the obligation to ensure the security of people in Europe to the greatest extent possible. It is important to support, by all means, the law enforcement authorities in their fight against terrorism. To preserve and strengthen the functioning of Schengen and reinforcing our external borders we have to continue with the implementation of European legislation on the new databases and interoperability of our databases.

Schengen is an integral part of European cooperation and integration. We want to maintain free travel of persons between the Member States while ensuring a high level of security. The competent authorities need to know who enters the Schengen area and who travels within it. We must therefore protect our external borders effectively, recording entries and departures from the Schengen area in digital form, and cooperating more closely with third countries in order to combat terrorist threats. Travel movements of persons posing a terrorist or violent extremist threat (*Gefährder*) in the Schengen area are a major challenge for the security authorities. Responsibility for maintaining law and order and protecting internal security lies with the Member States. They must retain the ability to decide to reintroduce and prolong temporary internal border controls should the situation demand it in exceptional cases We want to strengthen and further develop options for security measures at the internal borders as well as instruments for cross-border law enforcement cooperation.

Equally important is a significant strengthening of relations with countries of origin and transit, especially with a view of return of criminal offenders and of persons posing a terrorist or violent extremist threat (*Gefährder*). We have to use all possible leverages in this respect and we call on the Commission and the European External Action Service to provide increased support to a more fluid repatriation from EU Member States to partner countries in the Middle East & North Africa and other regions of persons posing a terrorist threat. We will also explore how best to make use of the already existing detention possibilities under the Return Directive prior to repatriation.

A leading role for the European Border and Coast Guard Agency (Frontex) in the EU's common return system, including appropriate funding, should have priority in this regard. In addition Frontex can contribute to a better protection of the external borders of the European Union. The deployment of the Frontex Standing Corps, an increased technical equipment of the agency and an intensified interagency cooperation in the framework of an integrated border management system will improve the controls at the external borders and thereby decrease the risks and threats for the internal security within the EU.

Ensuring security

We welcome the initiative of a European police partnership and will intensify our police work in the spirit of this partnership. It is crucial for police officers in Europe to have access everywhere and at all times to the information they need to do their jobs, always with respect for human rights and fundamental freedoms. Existing instruments must be applied more consistent so that better use can be made of existing knowledge, and so that new approaches such as artificial intelligence can be harnessed for police work. We underline the importance of data retention, data collection, sharing and data analysis, always with respect for fundamental rights.

Access to digital information is becoming ever more crucial – whether it is traffic data or in some cases content data– and the mobility of this data demands effective cross-border instruments, because otherwise terrorist networks will in many cases be a step ahead of the investigating authorities. The competent authorities’ access to the digital information, that is essential for preventing and eliminating terrorist action must, – with respect for fundamental rights – be ensured and boosted, especially by concluding the current work on cross-border access to electronic evidence.

Taking the EU home affairs ministers’ joint declaration of 21 October 2020 on the future of Europol as a starting point, we invite the Commission to submit an update of the Europol mandate with a strong legal basis for the handling of large datasets. Europol and especially its European Counter Terrorism Centre (ECTC) are of fundamental importance for effectively supporting the Member States in their prevention and prosecution of terrorist crimes, and need to be bolstered. At the same time, Europol must be provided with sufficient financial and human resources. We also want to further expand the cooperation among the special forces of EU Member States, for example as part of the ATLAS network. In addition we want to generally facilitate the cross-border deployment of police officers on the basis of mutual agreement.

Prevention of radicalisation – online and offline

We want to take systematic action to prevent radicalisation in Europe. We will continue our efforts to prevent all sorts of extremist propaganda, the preaching of violence and the financing of hate and violent extremism. This is a common cause for Europe, reflected in our common diplomatic relations with third countries outside the European Union. Dialogues on these issues will be conducted as a matter of priority. The risks associated with radicalisation in prisons leading to violent extremism and terrorism, and the release of these individuals and those who have been convicted for terrorism, require more efficient measures.

The Islamist attack on a teacher in France shows once again how important it is to combat online terror, terrorism propaganda, disinformation and radicalisation through online terrorist content. More generally, social media and other hosting service providers have a responsibility in making sure that their services are not used for illegal activities promoting crime, terrorism or hatred, in respect with, human rights and fundamental freedoms, including freedom of expression and privacy. We therefore aim to successfully complete the negotiations of the regulation on terrorist content online (TCO) by the end of the year, while maintaining our strong ambition to create a new and effective operational instrument for the cross-border elimination of terrorist content. The aim is to enable issuing removal orders with cross-border effect to create a new and rapid and effective instrument to counter terrorist content online within an hour or less of its being reported, while maintaining effective safeguards for the protection of fundamental rights.

Given the importance of online radicalisation, online gaming and algorithmic amplification should be included in the work of the EU Internet Forum.

We also invite the Commission to present an ambitious Digital Services Act (DSA) with regard to strengthen responsibility of the internet companies to fight illegal content and amplification, to introduce new financial penalties and an oversight mechanism. This new regulation should define suitable requirements for removing illegal hate speech and other illegal content while respecting human rights, including freedom of expression and opinion. We will also examine with interest the Commission's announced proposal to designate hate crimes and incitement as criminal offences that are provided for and regulated under European Union law.

In the same vein, the Council must consider the matter of data encryption so that digital evidence can be lawfully collected and used by the competent authorities.

The review of the framework for data exchange for transnational court matters for terrorism cases which has been announced is also relevant to further strengthening our cooperation in this area.

Exchange of information on persons posing a terrorist or violent extremist threat (Gefährder)

A considerable number of terrorists in recent years have been individuals who were already known to competent authorities of the Member States concerned before their terrorist acts, and who had been classified as posing a threat of terrorist or other extremist violence. In a Europe of open internal borders and a borderless internet, we must consider the danger that such individuals also pose to other Member States. Therefore, while taking into account the competences of the Member States as well as national legal systems and European Union law, we must make full use of the existing instruments for sharing information and implement swiftly the Regulation for Interoperability of EU Information Systems with the aim detecting identity fraud. We must ensure that information about these individuals is entered into the relevant EU databases and information systems in accordance with the relevant legislation. Beyond this, we must continually improve our level of mutual understanding about what it means in practice when a Member State classifies an individual as posing a threat of terrorist or extremist violence.

Foreign Terrorist Fighters

It must be the goal of our competent authorities to do their utmost to prevent foreign terrorist fighters, many of whom have combat experience, from entering the Schengen area undetected whether they are citizens of an EU Member State or not. We therefore remain determined to strengthen the protection of the external borders and perform systematic checks of all persons. This is a basic requirement for an area of free movement. Systematic use of all relevant functionalities of the Schengen Information System (SIS) for this purpose is vital. We will also work towards increased capability to carry biometric checks of the SIS, feeding more biometric data to the SIS also more ex-ante, before arrival.

We are striving for a coordinated process at EU level with assistance of Europol for reviewing relevant information relayed by third countries, analysing it and – to the extent that this is legally possible – having the competent national authorities enter it into the SIS.

The renewed EU information architecture

The implementation of new instruments that are already planned (ETIAS, EES) must be completed consistently, and – especially where the need for it has already been established – supplemented with additional legal acts (conclusion of VIS trilogue, ETIAS consequential amendments, presentation of proposed regulations for Prüm and API). A necessary condition for the renewed EU information architecture is that end users in all Member States make comprehensive use of the systems and enter high-quality data into them.

Protecting public spaces

We underscore the importance of the existing measures and initiatives for the better protection of public spaces, including the places of worship of all faiths, and we recommend continuing these efforts. As stated in the EU Security Union Strategy of the European Commission, better physical protection of such spaces should be ensured without undermining the human rights and fundamental freedoms of the people. Additional funding sources from EU regional funds for urban development should be mobilised.

In difficult times, too, Europe will come together to counter the threat of terrorism.