



Brussels, 16 December 2015
(OR. en)

15279/15

**Interinstitutional File:
2015/0281 (COD)**

LIMITE

**DROIPEN 169
COPEN 353
JAI 996
CODEC 1720**

NOTE

From:	incoming Dutch Presidency
To:	Delegations
No. Cion doc.:	14926/15
Subject:	Proposal for a Directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism - Comparison table

In view of the first meeting of the Council Working Party on Substantive Criminal Law (DROIPEN) on the proposed Directive on Combating Terrorism that will take place on 7 and 8 January 2016, delegations will find attached in the Annex a table outlining the new elements introduced by the Commission proposal compared to the existing EU rules in this area.

Following a presentation of the proposal by the Commission and a first round of general exchange of views, the intention of the Presidency is to focus the discussions on the new elements introduced by the proposal. The objective of the meeting will therefore be to conclude a first detailed examination of those provisions. To that end, delegations will be invited to present specific comments, including drafting proposals, as appropriate.

The Presidency will organise further meetings on 19 and 20 (poss.) January, 29 January, 8 February and 26 February.

Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism

COM proposal (doc. 14926/15)	Corresponding provision	Observation
TITLE I: SUBJECT MATTER AND DEFINITIONS		
<i>Article 1</i> Subject matter		
This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, as well as specific measures of protection of and assistance to victims of terrorism.	N/A	New
<i>Article 2</i> Definitions		
For the purposes of this Directive, the following definitions shall apply: (a) "funds" means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers	Article 1(1) of Council Regulation (EC) No 2580/2001 (Terrorists sanctions lists) 1. 'Funds, <i>other financial assets and economic resources</i> ' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including,	Identical to existing EU rules

COM proposal (doc. 14926/15)	Corresponding provision	Observation
cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit,	but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.	
b) "legal person" means any entity having legal personality under the applicable law, except for States or public bodies in the exercise of State authority and for public international organisations,	<p>Article 2(c), Directive 2013/40/EU (Cyber crime Directive) Article 2(f), Directive 2011/92/EU (Child abuse Directive) Article 5 (4), Directive 2011/36/EU (Trafficking in human beings Directive)</p> <p>"Legal person" shall mean any entity having legal personality under the applicable law, except for States or public bodies in the exercise of State authority and for public international organisations."</p>	Identical to the definitions of legal persons found in recently adopted EU substantive criminal law instruments.
(c) "terrorist group" shall mean: a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist offences	<p>Article 2 (1), first sentence of FD 2002/475/JHA (hereinafter "FD 2002") "Terrorist group" shall mean: a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist offences.</p>	Identical to existing EU rules
(d) "Structured group" shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its	<p>Article 2(1), second sentence of FD 2002 "Structured group" shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a</p>	Identical to existing EU rules

COM proposal (doc. 14926/15)	Corresponding provision	Observation
membership or a developed structure.	developed structure.	
TITLE II: TERRORIST OFFENCES AND OFFENCES RELATED TO A TERRORIST GROUP		
Article 3 Terrorist offences		
<p>1. Each Member State shall take the necessary measures to ensure that the intentional acts referred to in paragraph 2, as defined as offences under national law, which, given their nature or context, may seriously damage a country or an international organisation are defined as terrorist offences where committed with the aim of <i>one or more of the following</i>:</p> <ul style="list-style-type: none"> (a) seriously intimidating a population; (b) unduly compelling a Government or international organisation to perform or abstain from performing any act, (c) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation. 	<p>Article 1(1) of FD 2002</p> <p>"1. Each Member State shall take the necessary measures to ensure that the intentional acts referred to below in points (a) to (i), as defined as offences under national law, which, given their nature or context, may seriously damage a country or an international organisation where committed with the aim of:</p> <ul style="list-style-type: none"> - seriously intimidating a population, or - unduly compelling a Government or international organisation to perform or abstain from performing any act, or - seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation,..." 	Identical to existing EU rules
<p>2. Intentional acts referred to in paragraph 1 are</p> <ul style="list-style-type: none"> (a) Attacks upon a persons' life which may cause death; (b) attacks upon the physical integrity of a person; (c) kidnapping or hostage taking; 	<p>Article 1(1) of FD 2002</p> <p>"...shall be deemed to be terrorist offences:</p> <ul style="list-style-type: none"> (a) attacks upon a person's life which may cause death; (b) attacks upon the physical integrity of a person; (c) kidnapping or hostage taking; 	Identical to existing EU rules

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss;</p> <p>(e) seizure of aircraft, ships or other means of public or goods transport;</p> <p>(f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;</p> <p>(g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life;</p> <p>(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;</p> <p>(i) threatening to commit any of the acts listed in points (a) to (h).</p>	<p>(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss;</p> <p>(e) seizure of aircraft, ships or other means of public or goods transport;</p> <p>(f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;</p> <p>(g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life;</p> <p>(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;</p> <p>(i) threatening to commit any of the acts listed in (a) to (h).</p>	
<p>Article 4 Offences relating to a terrorist group</p>		
<p>Each Member State shall take the necessary measures to ensure that the following acts, when committed intentionally, are</p>	<p>Article 2 (2) of FD 2002 2. Each Member State shall take the necessary measures to ensure that the</p>	<p>Identical to existing EU rules</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>punishable as a criminal offence: (a) directing a terrorist group; (b) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.</p>	<p>following intentional acts are punishable: (a) directing a terrorist group; (b) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.</p>	
TITLE III: OFFENCES RELATED TO TERRORIST ACTIVITIES		
<i>Article 5</i> Public provocation to commit a terrorist offence		
<p>Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.</p>	<p>Article 3(1)(a) in relation to Article 3(2)(a) of FD 2002/475/JHA, as amended by FD 2008/919/JHA (hereinafter "FD 2008"): <i>Article 3(1)(a)</i> “Public provocation to commit a terrorist offence” shall mean the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in Article 1(1)(a) to (h), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed” <i>Article 3(2)(a)</i> 2. Each Member State shall take the necessary measures to ensure that offences</p>	<p>Identical to existing EU rules</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
	<p>linked to terrorist activities include the following intentional acts:</p> <p>(a) public provocation to commit a terrorist offence;</p>	
<p><i>Article 6</i></p> <p>Recruitment for terrorism</p>		
<p>Member States shall take the necessary measures to ensure that soliciting another person to commit one of the offences listed in points (a) to (h) of Article 3(2), or in Article 4 is punishable as a criminal offence when committed intentionally.</p>	<p>Article 3(1)(b) in relation to Article 3 (2)(b) of FD 2008</p> <p><i>Article 3(1)(b)</i></p> <p>“recruitment for terrorism” shall mean soliciting another person to commit one of the offences listed in Article 1(1)(a) to (h), or in Article 2(2);</p> <p><i>Article 3(2)(b)</i></p> <p>Each Member State shall take the necessary measures to ensure that offences linked to terrorist activities include the following intentional acts:</p> <p>(b) recruitment for terrorism;</p>	<p>Identical to existing EU rules</p>
<p><i>Article 7</i></p> <p>Providing training for terrorism</p>		
<p>Member States shall take the necessary measures to ensure that providing instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the</p>	<p>Article 3(1)(c) in relation to Article 3(2)(c) of FD 2008</p> <p><i>Article 3(1)(c)</i></p> <p>“training for terrorism” shall mean providing instruction in the making or use of explosives, firearms or other weapons or</p>	<p>Identical to existing EU rules</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>purpose of committing of <i>or contributing to one of the offences</i> listed in points (a) to (h) of Article 3(2), knowing that the skills provided are intended to be used for this purpose, is punishable as a criminal offence when committed intentionally.</p>	<p>noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing one of the offences listed in Article 1(1)(a) to (h), knowing that the skills provided are intended to be used for this purpose. <i>Article 3(2)(c)</i> Each Member State shall take the necessary measures to ensure that offences linked to terrorist activities include the following intentional acts: (c) training for terrorism;</p>	
<p><i>Article 8</i> Receiving training for terrorism</p>		
<p>Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally.</p>	<p>Article 3 of the CoE Additional Protocol (CETS. 217) 1 For the purpose of this Protocol, “receiving training for terrorism” means to receive instruction, <i>including obtaining knowledge or practical skills</i>, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of carrying out or contributing to the commission of a terrorist offence. 2 Each Party shall adopt such measures as may be necessary to establish “receiving</p>	<p>New</p> <p>Consistent with the CoE Addition Protocol to the Convention on the Prevention of Terrorism (hereinafter "CoE Additional Protocol")</p> <p>Compatible with the existing provision of FD 2008 on providing training for terrorism.</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
	training for terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.	
<p>Article 9 Travelling abroad for terrorism</p>		
<p>Member States shall take the necessary measures to ensure that travelling to another country for the purpose of the commission of or contribution to a terrorist offence referred to in Article 3, <i>the participation in the activities of a terrorist group referred to in Article 4</i> or the providing or receiving of training for terrorism referred to in Articles 7 and 8 is punishable as a criminal offence when committed intentionally.</p>	<p>Article 4 of the CoE Additional Protocol: 1. For the purpose of this Protocol, “travelling abroad for the purpose of terrorism” means travelling to a State, <i>which is not that of the traveller’s nationality or residence</i>, for the purpose of the commission of, contribution to or participation in a terrorist offence, or the providing or receiving of training for terrorism. 2. Each Party shall adopt such measures as may be necessary to establish “travelling abroad for the purpose of terrorism”, as defined in paragraph 1, from its territory or by its nationals, when committed unlawfully and intentionally, as a criminal offence under its domestic law. In doing so, each Party may establish conditions required by and in line with its constitutional principles. 3 Each Party shall also adopt such measures as may be necessary to establish as a criminal offence under, and in accordance with, its domestic law the attempt to commit an</p>	<p>New</p> <p>Consistent with the CoE Addition Protocol.</p> <p>The proposed Directive includes a specific reference to the participation of the activities of a terrorist group.</p> <p>The scope of criminalisation covers both the travel to third countries, as well as to EU MSs, including those of the nationality or residence of the perpetrator.</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
	offence as set forth in this article.	
<p><i>Article 10</i> Organising or otherwise facilitating travelling abroad for terrorism</p>		
<p>Member States shall take the necessary measures to ensure that any act of organisation or facilitation that assists any person in travelling abroad for the purpose of terrorism, as referred to in Article 9, knowing that the assistance thus rendered is for that purpose, is punishable as a criminal offence when committed intentionally.</p>	<p>Article 6 of the CoE Additional Protocol 1. For the purpose of this Protocol, “organising or otherwise facilitating travelling abroad for the purpose of terrorism” means any act of organisation or facilitation that assists any person in travelling abroad for the purpose of terrorism, as defined in Article 4, paragraph 1, of this Protocol, knowing that the assistance thus rendered is for the purpose of terrorism. 2. Each Party shall adopt such measures as may be necessary to establish “organising or otherwise facilitating travelling abroad for the purpose of terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.</p>	<p>New Consistent with the CoE Addition Protocol.</p>
<p><i>Article 11</i> Terrorist financing</p>		
Member States shall take the necessary	Article 1(5) of Directive 2015/849/EU	New elements introduced by the proposed

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>measures to ensure that providing or collecting funds, by any means, directly or indirectly, with the intent that they should be used, or knowing that they are to be used, in full or in part, to commit any of the offence(s) referred to in Articles 3 to 10 and 12 to 14 or 16 is punishable as a criminal offence when committed intentionally.</p>	<p>For the purposes of this Directive, ‘terrorist financing’ means the provision or collection of funds, by any means, directly or indirectly, with the intention that they be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of Council Framework Decision 2002/475/JHA.</p> <p>Article 5 of the CoE Additional Protocol 1 For the purpose of this Protocol, “funding travelling abroad for the purpose of terrorism” means providing or collecting, by any means, directly or indirectly, funds fully or partially enabling any person to travel abroad for the purpose of terrorism, as defined in Article 4, paragraph 1, of this Protocol, knowing that the funds are fully or partially intended to be used for this purpose. 2 Each Party shall adopt such measures as may be necessary to establish the “funding of travelling abroad for the purpose of terrorism”, as defined in paragraph 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.</p>	<p>Directive</p> <p>Identical with the definition of terrorist financing in existing EU rules.</p> <p>In line with the CoE Additional Protocol and FATF Recommendation No5. Extended scope of criminalisation covering new types of offences compared to the existing EU rules under FD 2002.</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
	<p>Recommendation No5 of FATF in conjunction with the Interpretive Note to it¹ <i>Terrorist financing offence</i> Countries should criminalise terrorist financing on the basis of the Terrorist Financing Convention, and should criminalise not only the financing of terrorist acts but also the financing of terrorist organisations and individual terrorists even in the absence of a link to a specific terrorist act or acts. Countries should ensure that such offences are designated as money laundering predicate offences.</p> <p>Article 2(2)(b) of FD 2002 2. Each Member State shall take the necessary measures to ensure that the following intentional acts are punishable:</p> <p>(a) directing a terrorist group; (b) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the</p>	

¹ The Interpretative note to FATF Recommendation No5 is available under http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

COM proposal (doc. 14926/15)	Corresponding provision	Observation
	fact that such participation will contribute to the criminal activities of the terrorist group.	
Article 12 Aggravated theft to commit a terrorist offence		
Member States shall take the necessary measures to ensure that aggravated theft with a view to committing one of the offences listed in Article 3 is punishable as a criminal offence when committed intentionally.	Article 3 (2)(d) of FD 2008 2. Each Member State shall take the necessary measures to ensure that offences linked to terrorist activities include the following intentional acts: (...) (d) aggravated theft with a view to committing one of the offences listed in Article 1(1); (...)	Identical to existing EU rules
Article 13 Extortion to commit a terrorist offence		
Member States shall take the necessary measures to ensure that extortion with a view to committing one of the offences listed in Article 3 is punishable as a criminal offence when committed intentionally.	Article 3 (2)(e) of FD 2008 2. Each Member State shall take the necessary measures to ensure that offences linked to terrorist activities include the following intentional acts: (...) (e) extortion with a view to the perpetration of one of the offences listed in Article 1(1); (...)	Identical to existing EU rules
Article 14		

COM proposal (doc. 14926/15)	Corresponding provision	Observation
Drawing up false administrative documents to committing a terrorist offence		
<p>Member States shall take the necessary measures to ensure that drawing up false administrative documents with a view to committing one of the offences listed in points (a) to (h) of Article 3(2) and point (b) of Article 4 is punishable as a criminal offence when committed intentionally.</p>	<p>Article 3 (2)(f) of FD 2008 2. Each Member State shall take the necessary measures to ensure that offences linked to terrorist activities include the following intentional acts: (...) ((f) drawing up false administrative documents with a view to committing one of the offences listed in Article 1(1)(a) to (h) and Article 2(2)(b).</p>	<p>Identical to existing EU rules</p>
TITLE IV: GENERAL PROVISIONS RELATING TO TERRORIST OFFENCES, OFFENCES RELATED TO A TERRORIST GROUP AND OFFENCES RELATED TO TERRORIST ACTIVITIES		
<i>Article 15</i> Relationship to terrorist offences		
<p>For an offence referred to <i>in Article 4 and Title III</i> to be punishable, it shall not be necessary that a terrorist offence be actually committed, nor shall it be necessary to establish a link to a specific terrorist offence or, insofar as the offences in Articles 9 to 11 are concerned, to specific offences related to terrorist activities.</p>	<p>Article 3(3) in relation to Article 3(2) of FD 2008 2. Each Member State shall take the necessary measures to ensure that offences linked to terrorist activities include the following intentional acts: (a) public provocation to commit a terrorist offence; (b) recruitment for terrorism; (c) training for terrorism; (d) aggravated theft with a view to</p>	<p>New elements introduced. The proposed article 15 is with horizontal application. Extended scope compared to existing EU rules. In line with FATF Recommendation No5, as regards terrorist financing.</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
	<p>committing one of the offences listed in Article 1(1); (e) extortion with a view to the perpetration of one of the offences listed in Article 1(1); (f) drawing up false administrative documents with a view to committing one of the offences listed in Article 1(1)(a) to (h) and Article 2(2)(b). 3. For an act as set out in paragraph 2 to be punishable, it shall not be necessary that a terrorist offence be actually committed.’</p> <p>Recommendation No5 of FATF in conjunction with the Interpretive Note to it² <i>Terrorist financing offence</i> Countries should criminalise terrorist financing on the basis of the Terrorist Financing Convention, and should criminalise not only the financing of terrorist acts but also the financing of terrorist organisations and individual terrorists even in the absence of a link to a specific terrorist act or acts. Countries should ensure that such offences are designated as</p>	

² The Interpretative note to FATF Recommendation No5 is available under http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

COM proposal (doc. 14926/15)	Corresponding provision	Observation
	money laundering predicate offences.	
<p><i>Article 16</i> Aiding or abetting, inciting and attempting</p>		
<p>1. Each Member State shall take the necessary measures to ensure that aiding or abetting an offence referred to in Articles 3 to 8 and 11 to 14 is made punishable.</p>	<p>Article 4 (1) of FD 2008 1. Each Member State shall take the necessary measures to ensure that aiding or abetting an offence referred to in Article 1(1), Articles 2 or 3 is made punishable.</p>	<p>New elements consistent with the comprehensive approach to criminalisation provided by the existing EU rules. In this respect it is also proposed to criminalise aiding or abetting in relation to the receiving of training while this is not required by the CoE Additional Protocol. Aiding or abetting travelling for terrorist purposes (Article 9) or organising or facilitating such travel (Article 10) is not included.</p>
<p>2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Articles 3 to 14 is made punishable.</p>	<p>Article 4 (2), FD 2008 2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Article 1(1), Article 2 or Article 3(2)(d) to (f) is made punishable.</p>	<p>New elements introduced. General application of the proposed provision. Extended scope of criminalisation compared to existing EU rules, thus also including inciting provocation , recruitment and providing training for terrorism alongside inciting the new offences introduced in relation to the CoE Additional Protocol.</p>
<p>3. Each Member State shall take the necessary measures to ensure that attempting to commit an offence referred to in Articles 3, 6, 7, 9 and 11 to 14, with the exception of possession as provided for in point (f) of Article 3(2) and the offence</p>	<p>Article 4(3) and (4),FD 2008 3. Each Member State shall take the necessary measures to ensure that attempting to commit an offence referred to in Article 1(1) and Article 3(2)(d) to (f), with the exception of possession as provided for in</p>	<p>New elements introduced Extended scope of criminalisation compared to existing EU rules, thus also including attempt to recruitment (Article 6) and providing training for terrorism (Article 7).</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
referred to in point (i) of Article 3(2), is made punishable.	<p>Article 1(1)(f) and the offence referred to in Article 1(1)(i), is made punishable.</p> <p>4. Each Member State may decide to take the necessary measures to ensure that attempting to commit an offence referred to in Article 3(2)(b) and (c) is made punishable.’</p>	<p>Attempt to travelling for terrorist purposes (Article 9) is included in relation to Article 4 (3) of the CoE Additional Protocol: "<i>Each Party shall also adopt such measures as may be necessary to establish as a criminal offence under, and in accordance with, its domestic law the attempt to commit an offence as set forth in this article.</i>"</p> <p>Attempt to terrorist financing (Article 11) included.</p> <p>Attempt to receiving training for terrorism (Article 8) or facilitating travel abroad (Article 10) is not included.</p>
<p>Article 17 Penalties for natural persons</p>		
<p>1. Each Member State shall take the necessary measures to ensure that the offences referred to Articles 3 to 14 and 16 are punishable by effective, proportionate and dissuasive criminal penalties, which may entail extradition.</p> <p>2. Each Member State shall take the necessary measures to ensure that the terrorist offences referred to in Article 3 and</p>	<p>Article 5, FD 2002</p> <p>1. Each Member State shall take the necessary measures to ensure that the offences referred to in Articles 1 to 4 are punishable by effective, proportionate and dissuasive criminal penalties, which may entail extradition.</p> <p>2. Each Member State shall take the necessary measures to ensure that the terrorist offences referred to in Article 1(1)</p>	<p>Consistent with existing EU rules. Adapted to the scope of the proposed Directive</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>offences referred to in Article 16, inasmuch as they relate to terrorist offences, are punishable by custodial sentences heavier than those imposable under national law for such offences in the absence of the special intent required pursuant to Article 3, save where the sentences imposable are already the maximum possible sentences under national law.</p> <p>3. Each Member State shall take the necessary measures to ensure that offences listed in Article 4 are punishable by custodial sentences, with a maximum sentence of not less than fifteen years for the offence referred to in point (a) of Article 4(a), and for the offences listed in point (b) of Article 4(b) a maximum sentence of not less than eight years. Where the terrorist offence referred to in point (i) of Article 3(2) is committed by a person directing a terrorist group as referred to in point (a) of Article 4, the maximum sentence shall not be less than eight years.</p>	<p>and offences referred to in Article 4, inasmuch as they relate to terrorist offences, are punishable by custodial sentences heavier than those imposable under national law for such offences in the absence of the special intent required pursuant to Article 1(1), save where the sentences imposable are already the maximum possible sentences under national law.</p> <p>3. Each Member State shall take the necessary measures to ensure that offences listed in Article 2 are punishable by custodial sentences, with a maximum sentence of not less than fifteen years for the offence referred to in Article 2(2)(a), and for the offences listed in Article 2(2)(b) a maximum sentence of not less than eight years. In so far as the offence referred to in Article 2(2)(a) refers only to the act in Article 1(1)(i), the maximum sentence shall not be less than eight years.</p>	
<p><i>Article 18</i> Mitigating circumstances</p>		
<p>Each Member State may take the necessary measures to ensure that the penalties referred to in Article 17 may be reduced if</p>	<p>Article 6, FD 2002 Each Member State may take the necessary measures to ensure that the penalties referred to in Article 5 may be reduced if the</p>	<p>Consistent with existing EU rules.</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>the offender:</p> <p>a) renounces terrorist activity, and b) provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to:</p> <ol style="list-style-type: none"> 1. prevent or mitigate the effects of the offence; 2. identify or bring to justice the other offenders; 3. find evidence; or 4. prevent further offences referred to in Articles 3 to 14 and 16. 	<p>offender:</p> <p>(a) renounces terrorist activity, and (b) provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to:</p> <ol style="list-style-type: none"> (i) prevent or mitigate the effects of the offence; (ii) identify or bring to justice the other offenders; (iii) find evidence; or (iv) prevent further offences referred to in Articles 1 to 4. 	
<p><i>Article 19</i> Liability of legal persons</p>		
<p>1. Each Member State shall take the necessary measures to ensure that legal persons can be held liable for any of the offences referred to in Articles 3 to 14 and 16 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, and having a leading position within the legal person, based on one of the following:</p> <p>a) a power of representation of the legal</p>	<p>Article 7, FD 2002</p> <p>1. Each Member State shall take the necessary measures to ensure that legal persons can be held liable for any of the offences referred to in Articles 1 to 4 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on one of the following:</p>	<p>Consistent with existing EU rules</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>person; b) an authority to take decisions on behalf of the legal person; c) an authority to exercise control within the legal person.</p> <p>2. Member States shall also take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of any of the offences referred to in Articles 3 to 14 and 16 for the benefit of that legal person by a person under its authority.</p> <p>3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in any of the offences referred to in Articles 3 to 14 and 16.</p>	<p>(a) a power of representation of the legal person; (b) an authority to take decisions on behalf of the legal person; (c) an authority to exercise control within the legal person.</p> <p>2. Apart from the cases provided for in paragraph 1, each Member State shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of any of the offences referred to in Articles 1 to 4 for the benefit of that legal person by a person under its authority.</p> <p>3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators or accessories in any of the offences referred to in Articles 1 to 4.</p>	
<p><i>Article 20</i> Penalties for legal persons</p>		
<p>Each Member State shall take the necessary measures to ensure that a legal person held</p>	<p>Article 8, FD 2002</p> <p>Each Member State shall take the necessary measures to ensure that a legal person held</p>	<p>Consistent with the existing EU rules</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>liable pursuant to Article 19 is punishable by effective, proportionate and dissuasive penalties, which shall include criminal or non-criminal fines and may include other penalties, such as:</p> <p>(a) exclusion from entitlement to public benefits or aid;</p> <p>(b) temporary or permanent disqualification from the practice of commercial activities;</p> <p>(c) placing under judicial supervision;</p> <p>(d) a judicial winding-up order;</p> <p>(e) temporary or permanent closure of establishments which have been used for committing the offence.</p>	<p>liable pursuant to Article 7 is punishable by effective, proportionate and dissuasive penalties, which shall include criminal or non-criminal fines and may include other penalties, such as:</p> <p>(a) exclusion from entitlement to public benefits or aid;</p> <p>(b) temporary or permanent disqualification from the practice of commercial activities;</p> <p>(c) placing under judicial supervision;</p> <p>(d) a judicial winding-up order;</p> <p>(e) temporary or permanent closure of establishments which have been used for committing the offence.</p>	
<p><i>Article 21</i></p> <p>Jurisdiction and prosecution</p>		
<p>1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 3 to 14 and 16 where:</p> <p>(a) the offence is committed in whole or in part in its territory;</p> <p>(b) the offence is committed on board of a vessel flying its flag or an aircraft registered there;</p>	<p>Article 9, FD 2002</p> <p>1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 1 to 4 where:</p> <p>(a) the offence is committed in whole or in part in its territory. Each Member State may extend its jurisdiction if the offence is committed in the territory of a Member State;</p> <p>(b) the offence is committed on board a</p>	<p>New elements introduced.</p> <p>In general, the provisions is consistent with the existing EU rules.</p> <p>Paragraph 1(d) requires establishing of national jurisdiction in relation to providing training, whatever the nationality of the person is, as long as the training is provided to nationals or residents of the MS concerned.</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>(c) the offender is one of its nationals or residents;</p> <p>(d) <i>the offender provides training for terrorism, as referred to in Article 7, to nationals or residents;</i></p> <p>(e) the offence is committed for the benefit of a legal person established in its territory;</p> <p>(f) the offence is committed against the institutions or people of the Member State in question or against an institution, body, office or agency of the European Union and based in that Member State.</p> <p>Each Member State may extend its jurisdiction if the offence is committed in the territory of a Member State.</p> <p>2. When an offence falls within the jurisdiction of more than one Member State and when any of the States concerned can validly prosecute on the basis of the same facts, the Member States concerned shall cooperate in order to decide which of them will prosecute the offenders with the aim, if possible, of centralising proceedings in a single Member State. To this end, the Member States may have <i>recourse to Eurojust</i> in order to facilitate cooperation between their judicial authorities and the</p>	<p>vessel flying its flag or an aircraft registered there;</p> <p>(c) the offender is one of its nationals or residents;</p> <p>(d) the offence is committed for the benefit of a legal person established in its territory;</p> <p>(e) the offence is committed against the institutions or people of the Member State in question or against an institution of the European Union or a body set up in accordance with the Treaty establishing the European Community or the Treaty on European Union and based in that Member State.</p> <p>2. When an offence falls within the jurisdiction of more than one Member State and when any of the States concerned can validly prosecute on the basis of the same facts, the Member States concerned shall cooperate in order to decide which of them will prosecute the offenders with the aim, if possible, of centralising proceedings in a single Member State. To this end, the Member States may <i>have recourse to any body or mechanism established within the European Union</i> in order to facilitate</p>	<p>In view of its competences to facilitate cooperation between judicial authorities and coordinate their actions within its mandate, a specific reference to Eurojust is included in paragraph 2.</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>coordination of their action. Sequential account shall be taken of the following factors:</p> <p>(a) the Member State shall be that in the territory of which the acts were committed,</p> <p>(b) the Member State shall be that of which the perpetrator is a national or resident,</p> <p>(c) the Member State shall be the Member State of origin of the victims,</p> <p>(d) the Member State shall be that in the territory of which the perpetrator was found.</p> <p>3. Each Member State shall take the necessary measures also to establish its jurisdiction over the offences referred to in Articles 3 to 14 and 16 in cases where it refuses to hand over or extradite a person suspected or convicted of such an offence to another Member State or to a third country.</p> <p>4. Each Member State shall ensure that its jurisdiction covers cases in which any of the offences referred to in Articles 4 and 16 has been committed in whole or in part within its territory, wherever the terrorist group is based or pursues its criminal activities.</p> <p>5. This Article shall not exclude the exercise of jurisdiction in criminal matters as laid down by a Member State in accordance with its national legislation.</p>	<p>cooperation between their judicial authorities and the coordination of their action. Sequential account shall be taken of the following factors:</p> <p>- the Member State shall be that in the territory of which the acts were committed,</p> <p>- the Member State shall be that of which the perpetrator is a national or resident,</p> <p>- the Member State shall be the Member State of origin of the victims,</p> <p>- the Member State shall be that in the territory of which the perpetrator was found.</p> <p>3. Each Member State shall take the necessary measures also to establish its jurisdiction over the offences referred to in Articles 1 to 4 in cases where it refuses to hand over or extradite a person suspected or convicted of such an offence to another Member State or to a third country.</p> <p>4. Each Member State shall ensure that its jurisdiction covers cases in which any of the offences referred to in Articles 2 and 4 has been committed in whole or in part within its territory, wherever the terrorist group is based or pursues its criminal activities.</p> <p>5. This Article shall not exclude the exercise of jurisdiction in criminal matters as laid down by a Member State in accordance with its national legislation.</p>	

COM proposal (doc. 14926/15)	Corresponding provision	Observation
TITLE V: PROVISIONS ON PROTECTION SUPPORT AND RIGHTS OF VICTIMS OF TERRORISM		
<i>Article 22</i> Protection of and assistance to victims of terrorism		
<p>1. Member States shall ensure that investigations into, or prosecution of, offences covered by this Directive are not dependent on a report or accusation made by <i>a victim of terrorism</i> or other person subjected to the offence, at least if the acts were committed on the territory of the Member State.</p>	<p>Article 10 (1), FD 2002 Member States shall ensure that investigations into, or prosecution of, offences covered by this Framework Decision are not dependent on a report or accusation made by a person subjected to the offence, at least if the acts were committed on the territory of the Member State.</p>	<p>Consistent with the existing EU rules</p>
<p>2. Member States shall ensure that specific services to assist and support victims of terrorism are in place. Such services shall have the capacity and organisational structure necessary to provide assistance and support to these victims immediately after an attack and as long as necessary thereafter, in accordance with the specific needs of each victim. The services shall be confidential, free of charge and easily accessible to all victims of terrorism. They shall include in particular:</p> <p>(a) emotional and psychological support, such as trauma support and counselling;</p> <p>(b) provision of advice and information on</p>	<p>Builds on Article 8 and Article 9 of Directive 2012/29/EU (Victims' Rights Directive)</p> <p><i>Article 8</i> Right to access victim support services 1. Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall have access to victim support services in accordance with their needs and the degree</p>	<p>New Builds on the relevant provisions of Directive 2012/29/EU thus being consistent with the objectives of existing general EU rules. Sets up a special set of rules regarding rights of victims of terrorism.</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>any relevant legal, practical or financial matter.</p>	<p>of harm suffered as a result of the criminal offence committed against the victim. (...) 3. Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim. (...)</p> <p>Article 9 Support from victim support services 1. Victim support services, as referred to in Article 8(1), shall, as a minimum, provide: (a) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for</p>	

COM proposal (doc. 14926/15)	Corresponding provision	Observation
	attendance at the trial; (b) information about or direct referral to any relevant specialist support services in place; (c) emotional and, where available, psychological support; (d) advice relating to financial and practical issues arising from the crime; (e) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation. 2. Member States shall encourage victim support services to pay particular attention to the specific needs of victims who have suffered considerable harm due to the severity of the crime. (...)	
3. This Directive shall apply in addition to and without prejudice to measures laid down in Directive 2012/29/EU.	N/A	New
Article 23 Rights of victims of terrorism resident in another Member State		
1. Member States shall ensure that their competent authorities cooperate among each other to ensure access to information for victims of terrorism who are residents of a Member State other than that one where the	Builds on Article 9(1)(a), Article 17 and Article 26 of Directive 2012/29/EU (Victims' Rights Directive) Article 9	New Builds on the relevant provisions of Directive 2012/29/EU thus being consistent with the objectives of existing general EU rules. Sets up a special set of rules regarding rights

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>terrorist offence was committed. The access to information shall include in particular information about the victims' rights, available support services and accessible compensation schemes.</p>	<p><i>Support from victim support services</i> 1. Victim support services, as referred to in Article 8(1), shall, as a minimum, provide: (a) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;</p> <p><i>Article 17</i> <i>Rights of victims resident in another Member State</i> 1. Member States shall ensure that their competent authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed, particularly with regard to the organisation of the proceedings. (...)</p> <p><i>Article 26</i> <i>Cooperation and coordination of services</i> 1. Member States shall take appropriate action to facilitate cooperation between Member States to improve the access of victims to the rights set out in this Directive and under national law. Such cooperation</p>	<p>of victims of terrorism.</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
	shall be aimed at least at: (a) the exchange of best practices; (b) consultation in individual cases; and (c) assistance to European networks working on matters directly relevant to victims' rights. (...)	
2. Member States shall ensure that all victims of terrorism have access to the assistance and support services as laid down in Article 22 on the territory of the Member State of their residence, even if the terrorist offence was committed in another Member State.	N/A	New
TITLE VI: FINAL PROVISIONS		
<i>Article 24</i> Replacement of Framework Decision 2002/475/JHA on combating terrorism		
Framework Decision 2002/475/JHA is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with	N/A	New

COM proposal (doc. 14926/15)	Corresponding provision	Observation
<p>regard to the to the date for transposition of that Framework Decision into national law. With regards to the Member States bound by this Directive, references to Framework Decision 2002/475/JHA shall be construed as references to this Directive.</p>		
<p><i>Article 25</i> Transposition</p>		
<p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [12 months after adoption]. They shall forthwith communicate to the Commission the text of those provisions.</p> <p>When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p> <p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	<p>N/A</p>	<p>New</p>

COM proposal (doc. 14926/15)	Corresponding provision	Observation
Article 26 Reporting		
<p>1. The Commission shall, by [24 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive.</p> <p>2. The Commission shall, by [48 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the impact and added value of this Directive on combating terrorism. The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA.</p>	N/A	New
Article 27 Entry into force		
This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	N/A	New
Article 28		

COM proposal (doc. 14926/15)	Corresponding provision	Observation
Addressees		
This Directive is addressed to the Member States in accordance with the Treaties.	N/A	New