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Justice and Home Affairs

Brussels, 20 November 2015

Presidents **Etienne Schneider**
Minister for Internal Security and Defence

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Minister for Justice

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

ITEMS DEBATED

Counter-terrorism

The Council adopted the following conclusions:

- "1. The Council is appalled by the heinous terrorist attacks which took place in Paris on 13 November 2015 and expresses its deepest condolences to the victims of these attacks, their families and friends. The Council emphasises its solidarity with the people of France and pays tribute to the courage and decisive actions of the French authorities. The attacks were an assault on the European values of freedom, democracy, human rights and the rule of law. This is not the first time that the EU has been confronted with a major terrorist attack and important measures have already been decided. The Council underlines the importance of accelerating the implementation of all areas covered by the statement on counter-terrorism issued by the Members of the European Council on 12 February 2015 and in particular of the measures outlined below.

PNR

2. The Council reiterates the urgency and priority to finalise an ambitious EU PNR before the end of 2015, which should include internal flights in its scope, provide for a sufficiently long data period during which PNR data can be retained in non-masked-out form and should not be limited to crimes of a transnational nature.

Firearms

3. The Council:
- a) welcomes the adoption of the Implementing Regulation on common deactivation standards on 18 November 2015,
 - b) welcomes the presentation by the Commission on 18 November 2015 of a proposal to revise the current Directive on Firearms, on which work will start without delay,
 - c) is committed to increasing operational cooperation through Europol under the EU Policy Cycle on serious and organised crime, notably within the Operational Action Plan Firearms. All Member States affected by the problem are invited to join these efforts by the end of 2015,

- d) invites Frontex and Europol to assist the Member States bordering the Western Balkans region in increasing controls of external borders to detect smuggling of firearms, and to enhance cooperation with countries in the region, inter alia by using operational regional platforms such as the Western Balkans counter-terrorism initiative.

Strengthening controls of external borders

4. Member States undertake to:

- a) implement immediately the necessary systematic and coordinated checks at external borders, including on individuals enjoying the right of free movement,
- b) on the basis of a quick identification of urgent needs and possible solutions to be communicated by the Commission before the end of 2015, upgrade the Schengen Member States' border control systems (electronic connection to the relevant Interpol databases at all external border crossing points, automatic screening of travel documents) by March 2016,
- c) in the context of the current migration crisis, carry out a systematic registration, including fingerprinting, of third country nationals illegally entering the Schengen area, whether migrants or applicants for international protection, and perform systematic security checks by using relevant databases, in particular SIS II, Interpol databases, VIS and national police databases, with the support of Frontex and Europol, and ensure that hotspots are equipped with the relevant technology. Europol will deploy guest officers to the hotspots in support of the screening process, in particular by reinforcing secondary security controls,
- d) strengthen the control at the external borders which are most exposed, in particular by deploying, when the situation so requires, rapid border intervention teams (RABITs) and police officers in order to ensure systematic screening and security checks.

5. The Council reiterates its Conclusions of 9 November 2015 and invites the Commission:

- a) as it updates its proposals on Smart Borders, to present a proposal for a targeted revision of the Schengen Borders Code to provide for systematic controls of EU nationals, including the verification of biometric information, against relevant databases at external borders of the Schengen area, making full use of technical solutions in order not to hamper the fluidity of movement,
- b) to provide, in its proposal to update the Frontex Regulation, a solid legal basis for the contribution of Frontex to the fight against terrorism and organised crime and access to the relevant databases.

6. Frontex will:

- a) contribute to the fight against terrorism and support the coordinated implementation of the Common Risk Indicators (CRIs) before the end of 2015,
- b) assist the Member States in tightening controls at external borders so that suspicious travel by foreign terrorist fighters and smuggling of firearms can be better detected, in cooperation with Europol,
- c) work closely with Europol and Eurojust, in particular in the context of the hotspots, and exchange data with Europol on the basis of the cooperation agreement to exchange personal data. The latter should be concluded without delay so that Frontex and Europol can start exchanging data as of 1 January 2016.

Information sharing

7. The Council decides to step up law enforcement cooperation:

- a) Member States will ensure that national authorities enter systematically data on suspected foreign terrorist fighters into the SIS II, in particular under Article 36.3, carry out awareness raising and training on the use of the SIS and define a common approach to the use of the SIS II data relating to foreign fighters,
- b) Member States will speed up full implementation and effective use of the Prüm acquis (interconnection and consultation of national databases on DNA, fingerprints and vehicle registration),
- c) Europol will launch the European Counter Terrorist Centre (ECTC) on 1 January 2016 as a platform by which Member States can increase information sharing and operational cooperation with regard to the monitoring and investigation of foreign terrorist fighters, the trafficking of illegal firearms and terrorist financing. The new Europol Regulation, on which an agreement should be reached between the co-legislators before the end of the year, should be consistent with the mandate and objectives of the ECTC, including the IRU,
- d) Member States will second CT experts to the ECTC to form an enhanced cross-border investigation support unit, capable of providing quick and comprehensive support to the investigation of major terrorist incidents in the EU. Eurojust should also participate,
- e) The Commission is invited to propose that Europol be reinforced with the necessary resources to support ECTC and to submit a legislative proposal in order to enable Europol to systematically cross-check the Europol databases against the SIS II,

- f) The Commission is invited to undertake efforts to achieve interoperability of the relevant databases with regard to security checks, notably SIS II, Interpol's SLTD and iARMS. In this framework, Member States, with the support of the Commission, are invited to establish Single Points of Contact for the facilitation of the information exchange,
- g) Member States will make maximum use of these capabilities to improve the overall level of information exchange between CT authorities in the EU. Member States will ensure that the relevant national authorities significantly increase their contributions to Focal Point Traveller at Europol to reflect the threat and connect to relevant Europol information exchange systems.

Financing of terrorism

8. The Council:

- a) invites the Commission to present proposals to strengthen, harmonise and improve the powers of, and the cooperation between Financial Intelligence Units (FIU's), notably through the proper embedment of the FIU.net network for information exchange in Europol, and ensure their fast access to necessary information, in order to enhance the effectiveness and efficiency of the fight against money laundering and terrorist financing in conformity with Financial Action Task Force (FATF) recommendations, to strengthen controls of non-banking payment methods such as electronic/anonymous payments, money remittances, cash-carriers, virtual currencies, transfers of gold or precious metals and pre-paid cards in line with the risk they present and to curb more effectively the illicit trade in cultural goods,
- b) is committed to ensure a swift and effective freezing of terrorist assets throughout the Union, whether through autonomous EU decisions or in compliance with UN Security Council Resolutions.

Criminal justice response to terrorism and violent extremism

- 9. The Council welcomes the signing in Riga on 22 October 2015 by the EU of the Council of Europe Convention on the Prevention of Terrorism and of its additional Protocol on Foreign Terrorist Fighters and welcomes the intention of the Commission to present a proposal for a directive updating the Framework Decision on Combating Terrorism before the end of 2015 with a view to collectively implementing into EU law UNSC Resolution 2178 (2014) and the additional Protocol to the Council of Europe Convention.

10. Member States will use ECRIS at its full potential. The Council welcomes the intention of the Commission to submit by January 2016 an ambitious proposal for the extension of ECRIS to cover third country nationals.
11. The Council invites the Commission to allocate as a matter of urgency the necessary financial resources to implement the Council Conclusions on enhancing the criminal justice response to radicalisation leading to terrorism and violent extremism. This should notably support the development of rehabilitation programmes as well as risk assessment tools in order to determine the most appropriate criminal justice response, taking into account the individual circumstances and security and public safety concerns.

Funding

12. The Council invites Member States to use the Internal Security Fund to support the implementation of these conclusions and to prioritise relevant actions under the national programmes to this effect, and calls on the Commission to prioritise the funding available under centrally managed funds to the priorities identified in these conclusions, including operational costs.

Implementation

13. In view of its role in ensuring that operational cooperation on internal security is promoted and strengthened within the Union, COSI will liaise with competent Working Parties of the Council and with the Commission and EU agencies to ensure effective implementation of operational measures agreed. In this context, COSI will examine the possibility to develop a methodology for a structured and multilateral approach for operational cooperation on countering terrorist threats. The EU Counter Terrorism Coordinator will monitor the overall implementation of these conclusions."

OTHER ITEMS APPROVED**JUSTICE AND HOME AFFAIRS****Criminal justice response to radicalisation leading to terrorism and violent extremism**

The Council adopted the following conclusions:

NOTING that radicalisation leading to terrorism and violent extremism, due to its multidimensional and dynamic character, raises significant and evolving challenges which must also be addressed at judicial level, primarily by the Member States, but also, where appropriate, by a coordinated support at European level in accordance with the Treaties;

RECALLING that, in the framework of the EU Counter Terrorism Strategy¹ the Council adopted a revised "EU Strategy for combating Radicalisation and Recruitment" in June 2014² and in December 2014³ and June 2015⁴ referred to the importance of preventing and countering the phenomenon as a priority for future action;

RECALLING that the European Council in its statement of 12 February 2015⁵ stressed the need to set up initiatives regarding the rehabilitation in the judicial context in order to address factors contributing to radicalisation leading to terrorism and violent extremism, including in prisons;

BASED UPON the discussions of the Ministers of Justice regarding an effective judicial response to radicalisation leading to terrorism and violent extremism, that were concluded by the Riga Joint Statement of 29 - 30 January 2015, as well as the debates at the Ministerial lunch of 13 March 2015, and mostly recently the results of the Ministerial Conference of 19 October 2015 dedicated to this subject;

TAKING INTO ACCOUNT that the Commission's Communication on "Preventing Radicalisation to Terrorism and Violent Extremism: Strengthening the EU's response"⁶, the European Agenda on Security of April 2015⁷, as well as the Council conclusions on the Renewed Internal Security Strategy of June 2015,⁸ consider the specific issues of disengagement, rehabilitation and de/anti-radicalisation as a priority for action in the next years;

¹ 14469/4/05

² 9956/14

³ 16526/14

⁴ 9951/15

⁵ SN 10/15

⁶ 5451/14

⁷ 8293/15

⁸ 9798/15

The Council of the European Union and the Member States meeting within the Council,

CONSIDER it necessary to adopt a cross-sectorial and multidisciplinary approach to effectively tackle radicalisation leading to terrorism and violent extremism, taking into account all different aspects: prevention, investigation, prosecution, conviction, rehabilitation and reintegration.

CONSIDER it necessary for this purpose to ensure appropriate coordination and synergies among all relevant public and private stakeholders, in particular prosecutors and judges, using the existing legal instruments and policies in full compliance with the Rule of Law and of the Charter of Fundamental rights of the European Union,

TAKING INTO DUE ACCOUNT risks to public security

AWARE of the need both for differentiation depending on actual needs and specific risks of each local situation, the national legal systems and judicial organisation, as well as the parties and stakeholders involved, and thus for a case-by-case approach

CONCLUDE therefore that the following actions would contribute to the criminal justice response to radicalisation leading to terrorism and violent extremism, URGE all relevant stakeholders to implement the appropriate actions whenever and wherever possible, and STRESS the essential role of local actors

1. Structure and organisation of detention regimes

- Member States to implement a considered and tailor-made policy to prevent radicalisation leading to terrorism and violent extremism in prisons, adapted to national circumstances and the needs of the individuals involved, which could include elements such as
 - developing risk assessment tools and tools to detect early signs of radicalisation, and strengthening information sharing between the various actors in the criminal justice chain
 - providing an adequate number of well-trained religious representatives in prisons and giving support to social workers and counsellors

- offering inmates opportunities for learning and developing critical thinking skills in prison
- enabling a secure prison environment to operate effective rehabilitation and reintegration programmes with attention to the level of respect and interactions between prison staff and detainees
- in this context, continuing to work on the improvement of detention conditions in compliance with the rules developed and on-going work in this area within the Council of Europe
- in this context, Member States to draw on lessons learnt, best practices and recommendations proposed by the RAN, and in particular by the "RAN Prison and Probation" working group, most recently in its stocktaking paper of October 2015 "Dealing with radicalisation in the prison and probation context"
- RAN to continue providing a platform for the exchange of good practices on this subject, and to feed into the review of the 2008 Handbook drafted by Austria, France and Germany on how to deal with radicalisation leading to terrorism and violent extremism, in particular in prisons
- Member States to develop, as appropriate, de-radicalisation/disengagement/rehabilitation programmes in prison, in preparation of release, and programmes after release to promote reintegration
- Member States to make use of the RAN Centre of Excellence and the latter's offer to support them to set up such programmes where requested.

2. Alternative or additional measures to prosecution and/or detention

- Member States to address their dealings with foreign terrorist fighters in a multi-disciplinary and holistic way, including, where appropriate, sharing of relevant information between law enforcement, security services and prosecution and, where applicable, with local authorities and social workers; this could be done by setting up multi-disciplinary bodies or working methods or otherwise ensuring that the follow-up of the cases is done in an integrated way

- Member States to use ECRIS to its full potential and the Commission to submit a proposal for the extension of ECRIS to cover third country nationals
- Member States to consider, within the framework of their national judicial organisation and using the flexibilities of their criminal (juvenile) justice system, a tailor-made, case-by-case approach, based on a proper risk assessment taking due account of security and public safety concerns, including, where appropriate, alternative or additional measures to prosecution and/or detention in all stages of the procedure, among which rehabilitation, including as a condition for, probation or suspension of prison sentences
- Member States to consider using and further developing a risk assessment tool for judiciary, to be used when considering the above-mentioned alternative or additional measures, based on an individual approach, including the possibility to re-evaluate the risk at regular intervals, taking into account that de-radicalisation is a dynamic process; in this context use the work done already by the Council of Europe and the International Centre for Counter-Terrorism (ICCT).

3. Integration, rehabilitation and re-integration

- Member States to lead efforts to address the underlying factors of radicalisation leading to terrorism and violent extremism through targeted preventive measures, by developing cohesion-inductive actions and programmes, including in the education field, that promote Fundamental Rights, the Rule of Law and democracy and encourage inclusive, tolerant and pluralistic societies
- local, national, European and international authorities, together with civil society, to develop methods and tools on how to break stereotypes and develop counter-narratives reaching out to different target groups, including through the creation of networks and public spaces for dialogue
- - in this context, Member States with the support of the Commission and the concerned EU agencies, to address in particular the use of the Internet for terrorism radicalisation and recruitment purposes as well as for on-line hate speech that fuels fear, spreads misconceptions and stereotypes targeting specific communities and groups, and incites to violence and hatred, notably by developing , including with Internet Service Providers, cooperation on strategic communication and, where appropriate, internet referral units, for instance continuing support to the Europol Internet Referral Unit and to the Syria Strategic Communications Advisory Team

- Member States to implement measures allowing for rehabilitation, de-radicalisation or disengagement both inside and outside prisons and the re-integration of returnees and those prevented from travel into society, tailored to the local situation and individual case
- Member States to involve victims and rehabilitated former foreign terrorist fighters as well as social workers, communities and family
- Member States to exchange among them experiences and best practices in rehabilitation, de-radicalisation and disengagement, inside or outside prisons
- Member States to make use of the RAN Centre of Excellence's expertise and the latter's offer to support them in setting up such programmes where requested.

4. Training

- Member States to provide the resources for adequate training of all actors (prison staff, probation officers, judiciary etc.) involved in dealing with radicalised violent extremists or those at risk of becoming radicalised, in a sustained and multi-disciplinary way and using the support available at EU and international level
- the European Judicial Training Network (EJTN), CEPOL, and using the expertise of Eurojust, the RAN Centre of Excellence, and, where appropriate the Confederation of European Probation (CEP) and Europris, to support Member States with a variety of training (traditional courses, webinars, exchange of staff, ...) for the whole chain of criminal justice actors dealing with terrorism; in this context, a special focus should be given to risk assessment methodology and to the development of rehabilitation programmes, the use of alternatives to detention, as well as similar training possibilities for non judicial actors involved in dealing with radicalised persons.

5. Learning from monitoring and exchange of practices

- Eurojust to continue monitoring trends and developments, by use of its Terrorism Conviction Monitor (TCM), of the applicable legislative framework and relevant jurisprudence in the Member States as regards terrorism and violent radicalisation, including the use of alternatives to prosecution and detention, and thus contribute to the further development of criminal policy with regard to foreign terrorist fighters

- Eurojust, RAN (through its working groups as well as via its Centre of Excellence), the EJTN, and, where appropriate, Europol, as well as CEP and Europris, to foster the exchange of existing national practices and the lessons learnt thereof, using also the work done in other relevant bodies (in particular UNICRI¹ and GCTF²) on the criminal justice response to radicalisation leading to terrorism and violent extremism, in particular the issues addressed under points 1 to 4:
 - the structure and organization of detention facilities
 - the risk assessment tools to be used by judges and prosecutors and by prison staff for assessing the level of threat posed by foreign terrorist fighters and returnees
 - the "triage" systems, aimed at assessing the most appropriate "strand" for each individual case
 - alternative or additional measures to prosecution and/or detention, and in particular rehabilitation programs both in and outside prisons
 - cooperation among relevant actors involved, both within and outside the judicial context, including training
 - criminal policy with regard to foreign terrorist fighters
 - the use of Internet and social platforms

6. Funding

- the Commission to facilitate the above via EU funding for training programmes for the different stakeholders involved and for specific projects, in accordance with the rules of the relevant funding programmes,
- the Commission to make available funding for Member States to develop de-radicalisation/rehabilitation programmes both in prisons and to be used in criminal proceedings, in particular by replicating useful best practice examples from Member States as a priority, as well as to support the establishment of such programmes by the RAN Centre of Excellence

¹ United Nations Interregional Crime and Justice Research Institute

² Global Counter Terrorism Forum

- Member States to carry out specific projects aimed at better implementing legislation on racism and xenophobia, including through training of judges, prosecutors and police; the Commission will make targeted funding available for this purpose
- Member States to support civil society organizations to promote tolerance and counter hate crime and hate speech, including by developing counter-narratives online, with a contribution from the Commission to this endeavour
- the Commission to foster the uptake of social integration policies via the European Social Fund
- the Member States to encourage the different stakeholders involved, including criminal justice actors, local authorities and civil society to make full use of the available funding
- the above actions should be done within the financial resources set out in the Multiannual Financial Framework, and these issues to be integrated into the mid-term review of this Framework.

7. External dimension

- the EU to promote criminal justice response measures to radicalisation leading to terrorism and violent extremism, internationally and to assist third partners in this respect, duly taking into account the local circumstances and security and public safety concerns
 - INVITE the Presidency, the Commission and the EU Counter-Terrorism Coordinator to report, as and when appropriate, to the Council about progress in the implementation of these conclusions.
-