



Brussels, 26 September 2014
(OR. en)

13416/14

LIMITE

**JAI 695
PESC 959
COSI 85
COPS 218
ENFOPOL 284
COTER 64
SIRIS 58
FRONT 198**

NOTE

From: Presidency
To: COREPER/Council

Subject: Foreign fighters: follow-up on the Conclusions of the European Council of 30 August 2014

In August 2014, the European Council recognised that the rise of the Islamic State of Iraq and the Levant (ISIS) is a major threat to European security and that determined action to stem the flow of foreign fighters from Europe who join ISIS in Iraq and Syria is needed. The European Council, therefore, called for an accelerated implementation of the June 2013 package of 22 measures¹ in 4 priority areas: prevention of radicalisation, detection of suspicious travel, investigation and prosecution and cooperation with third countries. It also requested the Council to propose additional action, as required. The European Council will review this issue at its meeting in December 2014.

On 24 September 2014, the UN Security Council adopted Resolution 2178(2014) which calls on members of the UN to reinforce their engagement against terrorism, by, inter alia, making it a criminal offense to travel abroad for terrorist purposes.

¹ 9946/13 . See also 16768/13 and 9280/1/14

The objective of this paper is (1) to give political guidance on two topics where further progress must be achieved; and (2) to ask the Council to decide on a number of specific actions that will help to speed up the implementation of the already agreed measures.

These actions do not only relate to the work at EU level so far, they also include the conclusions of the work of the Ministers of Interior of the Member States most affected by the foreign fighters phenomenon. These countries regularly met in 2013 and 2014, under the leadership of the Belgian Minister, to exchange information on the threat, compare notes on policy measures and discuss areas where intensified cooperation was needed. The results of these discussions were approved during the meeting of the Ministers of BE, DK, FR, DE, PL, ES, NL and the UK on 7 July 2014 in Milan², and presented to the relevant working parties.

I. The Council is invited to give political guidance on the following two topics:

1. EU PNR

The European Council called on the Council and the European Parliament to finalise work on the EU PNR proposal before the end of the year. What should our strategy be regarding engagement with Parliament. For example, are Member States willing to brief the Parliament, on a confidential basis, on why an EU PNR is needed and provide examples? Could Member States support the Presidency in its efforts to revive the discussion on EU PNR within the EP?

2. Checks at external borders

- a) It is essential to detect people returning to Europe after having fought in Syria, Iraq or any other conflict zone. SIS alerts could be particularly useful in this respect because the people involved could be submitted to a check of the SIS when crossing the external borders to come back to Europe. Today, with regard to persons enjoying the Community right of free movement, the Schengen Borders Code allows only non-systematic **checks on persons against the national and EU databases, including the SIS** in order to ensure that they do not represent a genuine, present and sufficiently serious threat to the internal security or public policy.

² 12757/14 EU RESTRICTED

Is the possibility of non-systematic checks of persons enjoying the Community right of free movement against the SIS being used to the maximum extent possible? In the short term, should we invite the Commission to update the Schengen Borders Handbook regarding the circumstances of non-systematic checks under the existing legal framework to have a common interpretation? Should we consider developing common risk indicators for non-systematic checks? How do we guarantee an equal level of border control at all external borders?

In addition, should the Schengen Borders Code be amended to allow for systematic checks at external borders for persons enjoying the right of free movement to fully ensure that they do not represent a threat to internal security?

- b) With regard to persons enjoying the right to free movement, the Schengen Borders Code allows for systematic controls of the validity of travel documents in order to establish the identity of a person, including, where appropriate, by consultation of the relevant databases such as Interpol's Stolen and Lost Travel Documents (SLTD) database as well as the document section of the SIS. To respond to the increasing threat from foreign fighters / returnees and make effective the measures recently announced by some Member States to invalidate travel documents, should a consultation of the aforementioned databases be carried out systematically? Given that this is possible, but not required, under the current legislation, the Council could agree that Member States will undertake systematic checks of the relevant databases without changing the legislation. Technical adaptations may be necessary in some Member States.

To be effective, systematic feeding of data to INTERPOL, as described in the draft Council Conclusions on strengthening the use of the SLTD database, as well as to the document section of the SIS, is also required.

II. The Council is invited to agree on following issues:

The Council

- Welcomes the Conclusions of the meeting of the Ministers of BE, DK, FR, DE, PL, ES, NL and the UK in Milan and encourages their implementation at EU level.
- Welcomes the Commission's decision to grant EUR 1 million to assist Member States in the area of strategic communications and supports the creation of the EU Syria Strategic Communications Advisory Team with a view to gathering, exchanging and making available expertise to Member States and EU bodies.
- Invites Europol to provide by the December Council 2014 figures for the contributions of Member States and third countries to the Focal Point TRAVELLERS so far, encourages Member States to contribute to the Focal Point to the maximum extent, and invites the Commission, the High Representative and the CTC, in their dialogues with third countries, to encourage association to the Focal Point.
- Invites Europol and Frontex to conclude an agreement on sharing of personal data by December 2014.
- Invites Eurojust to produce, in view of the Council meeting in December 2014, a report regarding investigation and prosecution of foreign fighters and share its views on the effectiveness of the Framework Decision on Combating Terrorism of 2008,
- Invites the Commission, also in light of the adoption of the UNSC Resolution 2178(2014), to further monitor the effectiveness of the responses provided under the Framework Decision, and explore ways to address possible shortcomings, based on the implementation report adopted in September 2014, the report produced by Eurojust, and any relevant information.

- Invites the Schengen/SIS Working Party, together with CT experts, to discuss the conclusions of the meeting of the Ministers of BE, DK, FR, DE, PL, ES, NL and the UK in Milan³ on the better use of SIS II and make specific recommendations on their implementation in view of their approval at the December Council.
- Invites Member State to make full use of the provisions of the 'cash control' regulation (Regulation No 1889/2005) with a view to counter the financing of terrorism, including facilitation networks.
- Encourages the setting up, between the Member States concerned, in the form of a multinational ad hoc team and on a strictly voluntary basis, of a network of counter-terrorism contact points specialised in the phenomenon of foreign fighters.
- Invites Europol to further reinforce its cooperation with Interpol and invites COSI to explore before the December Council the possibilities to reinforce the analytical capacities of Interpol's fusion centre on foreign fighters and promote a more systematic use of its diffusion system to improve the exchange of information with third countries.
- Acknowledges the efforts of the Commission to address the terrorist use of the internet, most notably through the cooperation with internet companies and the civil society, as announced in its Communication of 15 January 2014 and invites the Commission to present to the Council as a matter of priority a set of recommendations on how the EU should engage with Internet companies on countering the use of the Internet for terrorist purposes.
- Invites the Commission to report by the December Council on the modalities of future airport/aviation security assessment missions to countries neighbouring Syria and Iraq, and in particular on how to mobilise the AirPol network in this context.

³ 12575/14.

- Invites the High Representative, the Commission and the CTC to finalise by December 2014 a package of CT capacity building projects in the MENA-region, in particular to deal with the problem of foreign fighters and prevent the spill over from the Iraq/Syria crisis. Specific attention should be given to improving the flow of information, PREVENT work, including in refugee camps, as well as border management projects.
 - Invites the EU CTC, in close collaboration with the services of the Commission and the High Representative, to submit a report to the December Council in which progress is assessed and where appropriate suggestions for the Council to decide about further work will be made.
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