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NOTE

From: Presidency
To: Permanent Representatives Committee/Council
Subject: Fight against terrorism

The Council strongly condemns the recent terrorist attacks in Barcelona and Turku and reaffirms its commitment to fight terrorism by all available means. Substantial progress has already been made at Member State and EU level to enhance the EU's ability to fight terrorism. The recent events have shown that the EU needs to swiftly finalise the measures planned and implement existing ones to improve the security of its citizens. The Presidency proposes to focus the Ministers' discussion on the following items, which should also be treated as priority for our immediate action/for the coming months:

Radicalisation

Prevention of radicalisation is key. It is important to be better at detecting early signs of radicalisation and be able to react quickly and adequately.

The High-Level Commission Expert Group on Radicalisation (hereafter: HLCEG-R) set up by the Commission has just begun its work on 11 September 2017. The Council looks forward to the first report and recommendations of the HLCEG-R at the December Justice and Home Affairs Council.

Terrorist use of the Internet

The Council welcomes the recently set out action plan of the EU Internet Forum to address terrorist propaganda online. A first evaluation of the state of play is expected at the October Justice and Home Affairs Council following the senior officials' meeting of the EU Internet Forum scheduled for 29 September 2017. The cooperation with the major internet companies (Facebook, Google, Twitter and Microsoft) has already resulted in an important number of referrals and following take-downs of terrorist material. The announcement by the same internet companies on 26 June 2017, of the creation of a joint forum to counter terrorism is an important step that complements the efforts undertaken in the EU Internet Forum. The detection and removal of harmful terrorist content should however become swifter and more efficient by using machine learning and algorithms. In this context, it is important we also keep making progress on supporting civil society and enhancing positive narratives online. The Council will address challenges posed by systems that allow terrorists to communicate in ways that competent authorities cannot access at the October Justice and Home Affairs Council. The EU Internet Forum will meet at Ministerial level to take stock of progress and discuss next steps against terrorism online in December 2017.

Exchange of information

It is important that, in line with the Roadmap on enhancing information exchange and interoperability, effective responses are implemented, notably in the area of exchange of information between the Member States on foreign terrorist fighters and home-grown radicalised individuals. In line with the recommendations drawn from the threat assessments as set out in document 6699/2/17 the CTG will update the ministers on the options for practical cooperation between law enforcement and intelligence agencies during the October JHA Council.

Interoperability

As acknowledged by the European Council on several occasions, interoperability of EU information systems in the JHA area is crucial for increased security in the EU and for more effectively combating terrorism. Following up upon the recommendations made by the High Level Expert Group on information systems and interoperability, the Commission has been tasked to make a legislative proposal in order to implement interoperability solutions by 2020. To that end the DAPIX/Friends of the Presidency on interoperability of EU information systems, set up in June 2017, will continue to discuss various outstanding issues in this area in the coming months. The Presidency wants to reach a common understanding on the way forward to achieve interoperability of the relevant EU information systems in view of the upcoming legislative proposal. Tripartite discussions between the Council, the Commission and the European Parliament will be held in the coming months.

ETIAS

The Presidency is ready to start negotiations with the European Parliament on the European Travel Information and Authorisation System (**ETIAS**) file in order to reach a political agreement on this important file by December 2017, as requested by the European Council. It should be noted that ETIAS sets out several tools contributing to enhancing security and the fight against terrorism, in particular the watchlist developed and hosted by Europol and containing information related to terrorist offences or other serious criminal offences provided by Member States or by Europol, obtained through international cooperation. The Commission, together with Europol, should develop the modalities of the watchlist and information exchange between ETIAS and Europol data as soon as agreement on the system is reached to ensure a swift launch of this crucial tool.

SIS - new "inquiry check" alert

The SIS package, consisting of three legislative proposals, is currently under discussion by the Council with a view to reaching a general approach. An important feature proposed by the Commission is the introduction of a new type of action, the "inquiry check". This proposed tool would bridge the existing gap and would allow an in-depth questioning of the alert subject. The actions is going beyond a discreet check but without arresting the person and thus would be extremely beneficial in combatting terrorism. Certain issues remain open in relation to inquiry checks. The Council preparatory bodies have been tasked to resolve these issues swiftly.

Data retention

Retention and use of telecommunications data is a very important tool for prevention and investigation of terrorism and serious crime. In line with the European Council conclusions from June 22-23, 2017, it is necessary to ensure the availability of data. Member States, the Council and the Commission should continue working towards finding workable solutions to ensure the availability of retained communications data in line the EU law and the jurisprudence of the Court of Justice.

Protection of public spaces

The protection of public spaces should be strengthened and innovative operational responses should be developed to protect citizens in public spaces. Member States should exchange their good practices and lessons learned in order to develop a comprehensive and operational approach, which could include awareness raising, harnessing new technology, developing detection capacity, training and cooperation with the industry, private operators and local administrators. The cross border soft target exercise organised by the Belgian and the Netherlands Police special intervention forces on 29 June 2017 will allow to disseminate some best practices with the support of the Commission. The Commission Soft Targets Policy Group will hold two meetings related to soft targets on 18-19 September 2017 for both relevant policy makers as well as operational level experts. The outcome of these meetings should be reported to the Terrorism Working Party and COSI.

Law enforcement - military cooperation

It is necessary to strengthen the link between the internal and external dimension of internal security and terrorism. Following the discussions at the joint Home Affairs and FAC/Defence Ministerial lunch, progress was made in the law enforcement - military cooperation and more particularly in the discussions on strengthening military and law enforcement information exchange in countering terrorism. The cooperation between the CSDP missions and JHA actors, including EU JHA agencies, should be further enhanced. The JHA agencies together with the Commission, the EEAS and other relevant actors, should consider developing a model for dedicated crime information cells that could in the future be embedded in relevant CSDP missions and operations. In that regard, a pilot project could be established, where the said crime information cell is needed most. In that context, developing methods to avoid overclassification of relevant information collected by military actors and the rules and regulations for using such information in judicial procedures should be looked at.

Cross border police cooperation

Cross border police cooperation should be strengthened. An overview of existing instruments based on the provisions of Chapter 5 of the Prüm Decision, as well as an overview of similar existing instruments based on other forms of cooperation between Member States is being established. Possible legal obstacles or operational limitations that prevent these forms of cooperation should be solved, with the ultimate aim to establish new instances of such cooperation across the Member States. The LEWP is therefore invited to report to COSI by the end of September 2017.

EU PNR

The collection and processing of PNR data is an important law enforcement tool allowing to prevent, detect and investigate terrorism and serious crime. Member States must transpose the Directive (EU) 2016/681 ("PNR Directive") before 25 May 2018. Member States are called upon to ensure timely and full implementation of this Directive by adopting the necessary legislative, administrative and technical measures, making use of the offer by a number of Member States that are at an advanced stage of implementing the PNR Directive to support other Member States with their experience, knowledge and practices.

ATLAS

The ATLAS network offers an important capacity as first responders in case of terrorist attacks. The options and possibilities for strengthening the network will be discussed at a joint meeting of the Terrorism and Law Enforcement Working Party and the Presidency will prepare draft Council conclusions on enhancing the ATLAS network to be adopted before the end of 2017.
