

Strasbourg, 15 November 2012

CODEXTER (2012) 9

COMMITTEE OF EXPERTS ON TERRORISM (CODEXTER)

MEETING REPORT

22nd meeting

Strasbourg (France), 12 – 13 April 2012

Document prepared by the Secretariat

Secretariat of the Terrorism Division
Information Society and Action against Crime Directorate, DG – I

I. INTRODUCTION

1. Opening of the meeting by the Chair, Mr. Aaron BUGEJA (Malta)

1. The Committee of Experts on Terrorism (CODEXTER) held its 22nd meeting in Strasbourg (France) on 12 - 13 April 2012, under the Chairmanship of Mr Aaron BUGEJA (Malta). The list of participants is set out in **Appendix I** to this report.

2. In this opening session, the Chair expressed his deep sympathy with the victims of terrorism in general and his thoughts go in particular to the innocent victims and their families of the recent terrorist attacks around the world, and here in France, where another assault by a terrorist acting alone occurred.

2. Adoption of the draft agenda and approval of the report of the 21st meeting

3. The CODEXTER adopted the draft agenda as set out in the **Appendix II** to this report.

3. Communication by the Secretariat

4. Mr. Jan KLEIJSSSEN, Director of Information Society and Action against Crime Directorate, informed delegations about the recent developments within the Council of Europe since the CODEXTER's 21st meeting. In particular, Mr Kleijssen informed the delegations about the proposal to create synergies with other bodies within the Directorate. Mr Kleijssen also recalled that with the reorganisation, as of 1st January 2012, the Group of Parties, the Council of Europe Committee of Experts on Terrorism (CODEXTER) and other counter-terrorism activities, were shifted under the responsibility of the Directorate General of Human Rights and Rule of Law (DG I), Directorate of Information Society and Action against Crime, Action against Crime Department. He also informed that Mr Carlo Chiaromonte is the new Secretary to the Codexter and Head of the Terrorism Division.

5. The Secretary General has appointed Mr Ivan KOEDJIKOV as Counter-Terrorism Coordinator of the Council of Europe. In this capacity, Mr Koedjikov will be tasked with the co-ordination of the Council of Europe co-operation activities relevant to prevention and suppression of terrorism.

II. IMPLEMENTATION OF THE COUNCIL OF EUROPE CONVENTIONS AGAINST TERRORISM

4. Information by States concerning the Council of Europe Conventions against terrorism

6. The CODEXTER welcomed the fact that since its last meeting, the *Council of Europe Convention on the Prevention of Terrorism* [CETS No. 196] has been ratified by Turkey on 23 March 2012 and therefore becomes Party to the named convention.

7. There are now 29 State Parties to the *Council of Europe Convention on the Prevention of Terrorism* [CETS No. 196].

5. Exchange of views on future CODEXTER activities pertinent to the monitoring of the Council of Europe Convention on the Prevention of Terrorism [CETS No. 196]

a) **Information provided by the Chair of the Group of Parties to the Council of Europe Convention on the Prevention of Terrorism on the outcomes of the 3rd meeting of the Group of Parties (Strasbourg, 11 April 2012)**

8. The CODEXTER proceeded with a discussion on its future activities pertinent to the monitoring of the *Council of Europe Convention on the Prevention of Terrorism* [CETS No. 196] and took note of the information on recent developments within the Group of Parties to the said Convention provided by Mr Vladimir SALOV (Russian Federation), Chair of the Group of Parties.

9. The Group of Parties recalled that during its 1st and 2nd meetings, it discussed and prepared the draft of the Rules and Procedure of the Group. These draft Rules were sent to the Parties for adoption by silent procedure and, as no objections were received, they entered into force on 2 January 2012.

10. The Group of Parties recalled that according to Rule 10.3 of its Rules of Procedure: “*For each evaluation round the Group shall elect the specific provision(s) of the Convention relating to the chosen theme in order to provide an overview of implementation of the said provision(s) by the Parties*”.¹

11. In this respect, the Group of Parties discussed the first evaluation round of the Convention on the basis of a working document prepared by the Secretariat in close co-operation with the Chair (document GOP (2012) 3). It agreed that the first evaluation round of the Convention should be devoted to the theme “**Recruitment for terrorism**” and specifically to Article 6 of the Convention as well as other provisions of the Convention related to this issue.

12. Furthermore, the Group recalled that according to Rule 10.6 “*for each evaluation round, the Group – assisted by the Secretariat - shall prepare a Template for Parties’ use in the self-assessment of the implementation of the specific provision(s) of the Convention*”.²

13. In this respect, the Group of Parties considered a Preliminary Draft Template for the assessment of the implementation of Article 6 “Recruitment for terrorism”, prepared by the Secretariat in close co-operation with the Chair (document GOP (2012) 3 Appendix). It also considered written comments on this Preliminary Draft Template received from one delegation and agreed on the Draft Template.

14. The Group of Parties then instructed the Secretariat to send the provisionally agreed Draft Template to the Parties for adoption by silent procedure. Since there were no objections by **11 May 2012**, the provisionally agreed Draft Template will be considered as finally adopted.

15. After the adoption of the Draft Template on 11 May 2012 by silent procedure, the Secretariat will circulate the final adopted Template to delegations. The Parties to the Convention will then be invited to return the completed Template to the Secretariat by **31 October 2012**.

16. The Secretariat will subsequently prepare a compilation of replies received in view of preliminary discussions on the procedure and working methods of the first evaluation round on the theme “Recruitment for terrorism”, which will take place during the 4th meeting of the Group of Parties.

17. Following the resignation of Mr Iñigo FEBREL BENLLOCH (Spain) as the Vice-Chair of the Group of Parties, the Group was called upon to elect a new Vice-Chair to complete his term of office. It elected Ms Lucia LING KET ON (the Netherlands) as its new Vice-Chair to complete the term of office of Mr FEBREL BENLLOCH, which will expire on 31 December 2012.

b) Discussion on future CODEXTER activities, in particular in the frame of its functioning as an International Observatory active in the prevention and suppression of terrorism

¹ The Rules of Procedure of the Group of Parties to the Council of Europe Convention on the Prevention of Terrorism [CETS No. 196] (document GOP (2012) 1).

² *Ibid*

29. In all of the Mandates of the CODEXTER, the Committee of Ministers has underlined such important tasks as facilitating the implementation of the Council of Europe Conventions against Terrorism and identifying lacunae in international law and action against terrorism.

30. Within the framework of this initiative the CODEXTER examined a proposal by the Secretariat to conduct an exchange of information on judicial cases related to terrorism that were of particular interest to the activities of the CODEXTER and to elaborate on obstacles and achievements in the prosecution of these cases (document CODEXTER (2012) 5). The Committee agreed to carry out this activity and invited the delegations to present, on a voluntary basis, relevant national judicial cases.

31. The idea behind this proposal is to develop further the already existing valuable work that is being carried out on counter-terrorism measures and anti-terrorism legal instruments. It is suggested to the CODEXTER to conduct a regular analysis of specific terrorism related cases, both on a domestic, as well as on a European level, during its meetings. This activity will also constitute a concrete basis for further enhancement and development of the Council of Europe's action against terrorism.

32. In connection with this proposal, the CODEXTER also took note of the presentation by Ms Anita VAN DE KAR-BACHELET, Secretary of the Committee of Experts on the Operation of European Conventions on Co-Operation in Criminal Matters (PC-OC) on activities related to practical problems and concrete cases concerning the implementation of the Council of Europe conventions on international co-operation in criminal matters. The Committee considered to what extent the experience of PC-OC could be used as an example for the initiative within the CODEXTER.

III. IDENTIFICATION OF LACUNAE IN INTERNATIONAL LAW AND ACTION AGAINST TERRORISM

6. Exchange of views on national coordinating bodies in the field of the fight against terrorism

33. The CODEXTER proceeded with an exchange of views with Mr Gilles DE KERCHOVE, EU Counter-terrorism Coordinator on the occasion of his first visit to the Council of Europe. Mr Gilles DE KERCHOVE gave a comprehensive overview of the European Union's counter-terrorism strategies and challenges as well as possible areas of co-operation between the Council of Europe and the European Union. This exchange of views was considered important for the development of future ideas and possible action by the Committee.

34. During its 21st meeting (Strasbourg, 24-25 November 2011), the CODEXTER began discussions and exchanged views on national co-ordinating bodies in the field of the fight against terrorism on the basis of written and oral contributions made by some delegations.

35. The CODEXTER held a discussion on the topic of national co-ordinating bodies in the field of the fight against terrorism and took note of the presentations by the Russian Federation and the UN Security Council Counter Terrorism Committee Executive Directorate (CTED).

36. The CODEXTER instructed the Secretariat to prepare a draft list of items regarding national counter-terrorism co-ordination, containing *inter alia* information about the legal basis for the setting-up of national coordinating bodies, their composition, their competencies on both a national and international level, as well as experiences collected by such bodies.

7. Council of Europe Technical Cooperation Assistance Project "Bringing terrorists to justice"

37. The CODEXTER recalled its previous support to the Council of Europe Initiative "Bringing terrorists to justice" and discussed potential ways to develop this initiative further within the

framework of the Committee's future work, on the basis of the working document presented by the Secretariat (CODEXTER (2012) 3).

38. The Pilot Workshop of the Project "Bringing terrorists to justice: promoting the implementation of European standards and documenting good practices" took place in Skopje in December 2009, followed by an International Conference on the same subject, organised in October 2011.

39. During its 21st meeting, the CODEXTER supported the development of this initiative which is considered to be very valuable for the work of practitioners, and for judges and prosecutors in particular, and other relevant law enforcement authorities. a number of specific lacunae were identified within one of the four segments of the Initiative: Prevention of terrorism policies, the use of special investigation techniques in terrorism-related cases, the arrest, pre-trial detention and extradition of terrorism suspects and the Protection of victims, witnesses and collaborators of justice in terrorism-related cases.

40. During this 22nd meeting, the Committee agreed on the importance of the issue of detection and investigation of terrorism offences. As for the methodology of the work, the Committee instructed the Bureau to prepare – for its 23rd meeting - a first exchange of views on specific topics related to the issue of the use of special investigation techniques and other investigation tools in terrorism-related cases.

8. Exchange of views on national experience in drafting of effective legislation aimed to criminalise preparatory acts conducted by terrorists acting alone; that also ensures the protection of fundamental human rights

41. During the 21st meeting of the CODEXTER, the delegation of Norway informed the CODEXTER on national developments following the terrorist attacks in Norway on 22 July 2011 and underlined in particular that the Ministry of Justice was working on a proposal for legislative amendments focusing among other things on possible ways to criminalise preparatory acts of terrorists acting alone.³

42. On the basis of a working document prepared by the Secretariat (document CODEXTER (2012) 7) and a presentation made by Norway, the CODEXTER held a discussion on national experiences in the drafting of effective legislation aimed to criminalise preparatory acts conducted by terrorists acting alone, that also ensures the protection of fundamental human rights. It agreed to keep this item on the agenda of its next meeting and invited the delegations to present, on a voluntary basis, respective national experiences and practices in tackling this phenomenon of terrorists acting alone.

43. CODEXTER takes note that there is consensus that this item should be kept on the agenda for the next meeting and more detailed analysis should take place. CODEXTER will continue with the exchange of voluntary national contributions in relation of this topic.

IV. NATIONAL AND INTERNATIONAL DEVELOPMENTS ON FIGHT AGAINST TERRORISM

9. Country profiles on counter-terrorism capacity and information on measures taken at national level against terrorism

44. Concerning the national and international developments in the fight against terrorism, the CODEXTER considered the updated Country Profiles on counter-terrorism capacity as submitted by Finland, France, Liechtenstein, Poland and Serbia and authorised their publication in the CODEXTER database. The Committee also took note of the fact that Austria, Belgium, the Czech Republic, Greece and Hungary will present an update to their country profiles on counter-terrorism

³ See paragraph 61 of the report of the 21st meeting, document CODEXTER (2011) 15

capacity at the next meeting of the CODEXTER. Moreover, States, which have not yet done so, were invited by the Committee to submit their Country Profiles or updates at their earliest convenience.

10. Information on other relevant activities of the Council of Europe and work carried out in other international fora

45. Furthermore, the Committee took note of information on other relevant activities of the Council of Europe. The Committee was informed of the work undertaken by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe (PACE) and the Steering Committee for Human Rights (CDDH).

46. The CODEXTER then took note of the work carried out in other international fora, such as the United Nations Security Council Counter Terrorism Committee Executive Directorate (CTED), the Organization for Security and Co-operation in Europe (OSCE), the European Union (EU), the Inter-American Committee Against Terrorism of the Organization of American States (OAS/CICTE) and the Organization for Democracy and Economic Development (GUAM).

47. The CODEXTER also exchanged views with Ms Marta REQUENA, new Chief of the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime (UNODC) regarding the on-going and future activities of the Terrorism Prevention Branch and the co-operation between the two organisations.

V. MISCELLANEOUS

11. Decisions of the Committee of Ministers concerning the CODEXTER and terrorism-related issues

48. Referring to working paper CODEXTER (2012) 4, the Deputies took note of the abridged report of the 21st meeting of CODEXTER, as set out in document [CM\(2011\)170](#).

49. The deputies also adopted Resolution [CM/Res\(2011\)28 approving](#) the Programme for 2012-2013 and the Budget for 2012, as well as the Budget for 2013 on a provisional basis and approved the terms of reference of the steering and ad hoc committees, and their subordinate groups, as they appear in document CM(2011)131 final.

50. The Deputies adopted the Declaration of the Committee of Ministers on the protection of freedom of expression and freedom of assembly and association with regard to privately operated Internet platforms and online service providers (CM/Del/Dec(2011)1129E / 09 December 2011).

51. The Deputies took note of the situation report on the judiciary and judges in the different member States, as it appears in document CM(2011)173 add2⁴ and took note of Opinion No. 6 (2011) of the Consultative Council of European Prosecutors (CCPE) on “The relationship between prosecutors and the prison administration”, as it appears in document CM(2011)174 add.

52. The Deputies adopted the replies to Parliamentary Assembly Recommendation 1962 (2011) on “The religious dimension of intercultural dialogue, to Parliamentary Assembly Recommendation 1933 (2010) on the “Fight against extremism: achievements, deficiencies and failures” and to Parliamentary Assembly Recommendation 1950 (2011) on “The protection of journalists’ sources”.

12. Update of the Council of Europe website “Action against terrorism” www.coe.int/terrorism

⁴ See the document on the CCJE website : http://www.coe.int/t/DGHL/cooperation/ccje/default_en.asp

53. The case-law of the European Court of Human Rights, collected over the last 50 years, is used by practitioners to clarify the compatibility of national techniques, policies and strategies to combat terrorism, while ensuring the protection of fundamental human rights as enshrined in the European Convention on Human Rights and Fundamental Freedoms. This approach also forms the basis of the counter-terrorism activities of the Council of Europe and of the CODEXTER in particular.

54. For a number of years the CODEXTER has been working in cooperation with the European Court of Human Rights on documenting and analysing the case-law of the Court concerning counter-terrorism issues. Up until 2003 these issues were analysed by the Multidisciplinary Group on International Action against Terrorism (GMT), and since 2003 this work has been carried out by the Committee of Experts on Terrorism (CODEXTER) which replaced the GMT.

55. The European Court of Human Rights' own database system – HUDOC – presents a general collection of all the Court's cases but does not offer a thematic section, aside from a Factsheet, which gives a brief overview of the case-law directly relevant to counter-terrorism

56. Based on the proposal of the Secretariat (document CODEXTER (2012) 6), the Committee discussed the potential update of the Council of Europe website "Action against terrorism". In this respect, the Committee instructed its Secretariat to continue its work aimed at establishing – in cooperation with the Court – a centralised database for the case law relevant to counter-terrorism and to report back to the CODEXTER at its next meeting.

57. CODEXTER acknowledges that there is consensus among the Delegations and therefore will keep on working on this issue.

13. Elections of the Gender Equality Rapporteur from the members of the CODEXTER

58. In accordance with its statutory provisions, the CODEXTER elected Ms Tanja KIKEREKOVA ("The former Yugoslav Republic of Macedonia") as the Gender Rapporteur of the CODEXTER.

14. Date and place of the 23rd meeting of the CODEXTER

59. The CODEXTER decided to hold its next 23rd meeting in Strasbourg on **15-16 November 2012**. It instructed the Secretariat to prepare, in cooperation with the Bureau, the provisional draft agenda for its 23rd meeting.

60. Under this item, the CODEXTER also took note that the Group of Parties agreed that its 4th meeting was to take place in Strasbourg, on **14 November 2012**, a day prior to the 23rd meeting of the CODEXTER.

61. The Committee concluded the meeting by adopting the abridged report of the 22nd meeting.