

Strasbourg, 25 November 2011

CODEXTER (2011) 14

COMMITTEE OF EXPERTS ON TERRORISM (CODEXTER)

LIST OF ITEMS DISCUSSED AND DECISIONS TAKEN ABRIDGED REPORT

21st meeting

Strasbourg (France), 24 – 25 November 2011

Secretariat of the Counter-Terrorism Task Force
Public International Law and Anti-Terrorism Division

LIST OF ITEMS DISCUSSED AND DECISIONS TAKEN ABRIDGED REPORT

1. The Committee of Experts on Terrorism (CODEXTER) held its 21st meeting in Strasbourg, France, on 24-25 November 2011, with Mr. Andrea CANDRIAN (Switzerland) in the Chair. The list of participants is set out in Appendix I of the meeting report¹.
2. The CODEXTER adopted its agenda as set out in the **Appendix** of the present document. The Committee also approved the report of the 20th meeting, held in San Sebastian (Spain) on 14-15 June 2011 and authorised its publication on the CODEXTER website.
3. The Secretariat informed the Committee about the recent developments within the Council of Europe, including the administrative reorganisation in virtue of the reform of the Council of Europe structures. According to this 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, will be 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. The CODEXTER thanked its outgoing Secretary, Ms Marta REQUENA, for the valuable work carried out for the Committee as well as for strengthening the visibility of Council of Europe counter-terrorism activities through the organisation of the United Nations Security Council Counter-Terrorism Committee Special Meeting hosted by the Council of Europe in April 2011 as well as the joint Council of Europe/OAS/Spain Conference on "Victims of Terrorism", held in San Sebastian in June 2011. The CODEXTER also welcomed its new Secretary, Mr Carlo CHIAROMONTE, Head of the Criminal Law Division (DG I).
4. The CODEXTER took note of the decisions of the Committee of Ministers relevant to its work, which have been adopted since the 20th meeting of the CODEXTER. The Committee welcomed in particular the outcomes of the 14th meeting of the Co-ordination Group between the Council of Europe and the OSCE which was held in Vienna on 21 October 2011. This meeting was chaired by Ambassador Renatas NORKUS (Lithuania), Chairperson of the OSCE Permanent Council, and co-chaired by Ambassador Mykola TOCHYTSKYI (Ukraine), Chairperson of the Ministers' Deputies of the Council of Europe. The CODEXTER welcomed in particular the Report prepared by the Chairs. It also welcomed the information provided by the Secretariat on the statement made by Ambassador Emil KUCHAR (Slovak Republic), the Council of Europe Focal Point for the fight against terrorism.
5. The CODEXTER further considered the implementation of the Council of Europe Conventions against Terrorism. The Committee took note of oral presentations of the delegations concerning the developments of the national process of becoming Parties to the Council of Europe Conventions against Terrorism. It welcomed in particular that since its last meeting the *Council of Europe Convention on the Prevention of Terrorism* [CETS No. 196] entered into force for Hungary and Germany, respectively on 1st July 2011 and 1st October 2011.
6. Moreover, the CODEXTER took note of the information provided by Mr Vladimir SALOV (Russian Federation), Chair of the Group of Parties to the Council of Europe Convention on the Prevention of Terrorism [CETS No. 196], on the outcome of the Second meeting of the Group of Parties, which took place in Strasbourg (France) on 23 November 2011. In this respect, the CODEXTER welcomed the provisional adoption of the Rules of Procedure of the Group of Parties to the Council of Europe Convention on the Prevention of Terrorism [CETS No. 196], which will be sent to the Parties for adoption by silent procedure. If there are no objections by 2nd January 2012, the provisionally adopted Rules of Procedure will be considered as finally adopted.

¹ Document CODEXTER (2011) 15 prov

7. The CODEXTER welcomed the publication of the proceedings of the Council of Europe Conference “Prevention of Terrorism: Prevention Tools, Legal Instruments and their Implementation” (Istanbul, Turkey, 16-17 December 2010) as well as of the Conference on “Victims of Terrorism”, co-organized by the Spanish authorities, the Council of Europe and the Organization of American States (San Sebastian, Spain, 16-17 June 2011).

8. The CODEXTER proceeded further with its on-going activities on the identification of *lacunae* in international law and action against terrorism. On the basis of written contributions of Croatia, Finland, Spain, Switzerland, Turkey and Ukraine, as well as oral contributions of other delegations, the Committee exchanged views on national coordinating bodies in the field of the fight against terrorism. Taking into account the importance of these discussions, the CODEXTER decided to keep this item on the agenda of its next meeting and invited in this regard the delegations - which have not done so - to send their written contributions to the Secretariat. It instructed the Secretariat to prepare – in close cooperation with the Bureau and interested States – a draft list of items regarding national counter-terrorism coordination, containing *inter alia* information about the legal basis for setting-up of national coordinating bodies, their composition, competences on national and international level, as well as experiences collected by such bodies.

9. As for other future discussions, the CODEXTER also took note of the proposal by the delegation of Norway to conduct discussions on how to draft effective legislation aimed to criminalise preparatory acts conducted by terrorists acting alone, that also ensures the protection of fundamental human rights.

10. Mr Michael KOWALSKI (the Netherlands), representative of the CODEXTER in the Ad hoc Advisory Group on Cross-border Internet (MC-S-CI), also briefed the CODEXTER about his participation in the fourth meeting of the MC-S-CI, which took place on 13-14 October 2011 in Paris (France).

11. The Committee further took note of the information provided by experts and the Secretariat, who participated in the International Conference “Bringing terrorists to justice: promoting the implementation of European standards and documenting good practices” (Kyiv, Ukraine, 25-26 October 2011). This International Conference was organised by the Council of Europe Counter-Terrorism Task Force and the Security Service of Ukraine within the framework of the Ukrainian Chairmanship of the Committee of Ministers of the Council of Europe, and brought together national and international judges, prosecutors and law enforcement representatives. The CODEXTER strongly supported this initiative aimed at exchanging practical experience on ways and means employed by prosecutors and judges for the adoption of investigative measures in the light of increasing complexity of terrorist networks, and on difficult case-management issues in counter-terrorism affairs. Taking into account the support expressed by the CODEXTER for this Project, States were invited to express their interest to host in the near future a third meeting within the framework of this Project.

12. 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 Croatia, Germany and Serbia and authorised their publication in the CODEXTER database. The Committee further took note of an oral presentation by Finland. The Committee also took note that Finland, France, Liechtenstein, Serbia and Spain will present an update to their country profiles on counter-terrorism 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.

13. In addition, the representative of the Netherlands provided the CODEXTER with an evaluation of the *Counterterrorism measures in the Netherlands in the First Decade of the 21st Century*. The representative of the Netherlands also informed the Committee of the Dutch antiterrorism provisions and measures from the perspective of fundamental rights while analyzing

whether these measures meet the absolute minimum standard for the protection of human rights as set out in the European Convention on Human Rights.

14. Moreover, the CODEXTER took note of the information on measures taken at national level against terrorism as provided by Greece, Norway and Spain.

15. Furthermore, the Committee took note of information about work carried out in other international fora. In particular, it was informed of the work undertaken by the Action against Terrorism Unit (ATU) and the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE), the Anti-Terrorism Center of the Commonwealth of Independent States (CIS) and the Organisation for Democracy and Economic Development (GUAM). The CODEXTER was also informed of the work undertaken within the framework of the European Union by the Office of the EU Counter-Terrorism Coordinator, the European Commission and EUROJUST.

16. The delegations took note of the adoption by the Committee of Ministers of the CODEXTER's Specific Terms of Reference for 2012-2013. In accordance with its new Specific Terms of Reference, the CODEXTER should appoint a Gender Equality Rapporteur from amongst its members. The CODEXTER held an exchange of views on the role and possible tasks to be performed by this new Gender Equality Rapporteur. Following this exchange of views, the CODEXTER concluded that the main competences and tasks of this Gender Equality Rapporteur were not clear and therefore the Committee agreed that it will appoint this Gender Equality Rapporteur at its next meeting when more information will be available.

17. Moreover, the Committee was informed that on 9th November 2011, at its 1125th meeting, the Committee of Ministers adopted the *Resolution CM/Res (2011) 24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods*. This Resolution replaced the Resolution Res(2005)47 on committees and subordinate bodies, their terms of reference and working methods.

18. In accordance with its statutory provisions, the CODEXTER elected Mr Aaron BUGEJA (Malta) and Mr Tihomir LULIĆ (Croatia) respectively as Chair and Vice-Chair of the Committee for one year as from 1st January 2012.

19. The CODEXTER further elected Mr Vladimir SALOV (Russian Federation) and Ms Riina-Riikka HEIKKA (Finland) as members of the Bureau for two years as from 1st January 2012.

20. The CODEXTER also elected Mr Martin ROSENBAUM (Germany) as member of the Bureau for one year as from 1st January 2012.

21. The CODEXTER decided to hold its next 22rd meeting in Strasbourg on **12-13 April 2012**. Before the closing of the meeting, the CODEXTER instructed the Secretariat to prepare, in agreement with the Bureau, the provisional draft agenda for its 22rd meeting.

APPENDIX

21st meeting of the CODEXTER Strasbourg (France), 24 – 25 November 2011

AGENDA

I. INTRODUCTION

1. Opening of the meeting
2. Adoption of the draft agenda and approval of the report of the 20th meeting
3. Communication by the Secretariat
4. Decisions of the Committee of Ministers concerning the CODEXTER and terrorism-related issues

II. IMPLEMENTATION OF THE COUNCIL OF EUROPE CONVENTIONS AGAINST TERRORISM

5. Information by States concerning the Council of Europe Conventions against terrorism
6. Follow-up of the effective use and implementation of the Convention on the Prevention of Terrorism [CETS No. 196] : Follow-up Mechanism
 - Outcome of the 2nd meeting of the Group of Parties
7. On-going activities of the CODEXTER related to the follow-up of the specific provisions of the Convention on the Prevention of Terrorism [CETS No. 196]

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

8. On-going activities regarding the identification of *lacunae* in international law and action against terrorism
 - Exchange of views on national coordinating bodies in the field of the fight against terrorism
 - Information on the work undertaken by the Ad hoc Advisory Group on Cross-border Internet (MC-S-CI)
9. Council of Europe Technical Cooperation Assistance Project “Bringing terrorists to justice”

IV. NATIONAL AND INTERNATIONAL DEVELOPMENTS ON FIGHT AGAINST TERRORISM

10. Country profiles on counter-terrorism capacity and information on measures taken at national level against terrorism
11. Information on other relevant activities of the Council of Europe and work carried out in other international fora
 - Organization for Security and Co-operation in Europe (OSCE: ATU and ODIHR)
 - The Commonwealth of Independent States Anti-Terrorism Center (CIS ATC)

-
- Organisation for Democracy and Economic Development (GUAM)
 - European Union: EUROJUST, European Commission and Council of Europe of the European Union

V. MISCELLANEOUS

12. Examination of the CODEXTER's Specific Terms of Reference for 2012-2013 by the Committee of Ministers
13. Elections of the Chair, Vice-Chair and members of the Bureau of the CODEXTER
14. Date and place of the 22nd meeting of the CODEXTER
15. Adoption of the List of items discussed and decisions taken