



Strasbourg, 14 November 2014

CODEXTER (2014) 11

# **COMMITTEE OF EXPERTS ON TERRORISM (CODEXTER)**



## **ABRIDGED REPORT LIST OF ITEMS DISCUSSED AND DECISIONS TAKEN**

**27<sup>th</sup> Plenary Meeting**

Strasbourg (France), 13 – 14 November 2014



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

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The Committee of Experts on Terrorism (CODEXTER) meeting in Strasbourg on 13 and 14 November 2014 under the Chairmanship of Mr Nicola PIACENTE (Italy) decided to:

### **1. Opening of the meeting**

- take note of the opening remarks of Director Jan KLEIJSSSEN, Information Society and Action against Crime Directorate, in particular about the importance of the tasks of CODEXTER in 2015 concerning radicalisation, foreign terrorist fighters and terrorists acting alone. Moreover, Mr KLEIJSSSEN underlined the recent successful cooperation between CODEXTER and CDPC on the links between terrorism and organised crime which has resulted in the International Conference on Terrorism and Organised Crime which was held in Malaga (Spain) on 25 and 26 September 2014. This cooperation should be continued and, where possible, further deepened;

### **2. Adoption of the agenda**

- adopt the agenda and decide on the order of business;

### **3. Communication by the Chair and by the Secretariat**

- take note of the information provided by the Chair, Mr Nicola PIACENTE, notably that 1) the meeting, in line with the decision taken by the Committee at its 25<sup>th</sup> Plenary Meeting (Istanbul, 23 – 24 October 2013) will in the main be devoted to agenda item 6 and 2) Mr Vladimir SALOV (Russian Federation) informed the Bureau members that due to his new functions he had to withdraw from his positions as member of the Russian Federation to CODEXTER and consequently as member of its Bureau and Vice-Chair of the Committee;
- thank Mr SALOV for his outstanding work carried out in CODEXTER, in particular as Vice-Chair of the Committee and Chair of the Group of the Parties and Member of the Bureau and wish him success in his new job;
- agree with the proposal by the Chair to proceed with the election of a new member of the Bureau in replacement of Mr SALOV, in addition to the already planned election of one member of the Bureau and also with election of the new Vice-Chair of CODEXTER;
- take note of the information provided by the Chair about the outcome of the 5<sup>th</sup> meeting of the Bureau (Venice, 15 September 2014), in particular the proposal from the Bureau to set up a roster of Members of CODEXTER who are willing to represent the Committee in seminars and similar, more technical, events;
- call on interested Members to indicate to the Secretariat their willingness to be listed on the aforementioned roster;
- take note of the information provided by the Counter-Terrorism Coordinator, Mr Ivan KOEDJIKOV, and the Secretary to CODEXTER, Mr Carlo CHIAROMONTE, concerning activities and developments in relation to issues of interest for CODEXTER since the last Plenary Meeting;

- agree that the Directorate of Communication of the Council of Europe can film and take photographs at the meeting;

#### **4. Exchange of views with Mr Thorbjørn JAGLAND, Secretary General of the Council of Europe**

- welcome the Secretary General to the Plenary Meeting;
- take note of the address delivered by the Secretary General concerning the seriousness and urgency of the threat posed by terrorism to peace and security, and of the responsibility of the Council of Europe, in close cooperation with the United Nations and other international Organisations, to contribute actively to the efforts for preventing and suppressing terrorism in a comprehensive manner which respects human rights and the rule of law and does not undermine democracy. In this context, the Secretary General underlined the importance of the proper and timely implementation of UNSCR 2178 and called on CODEXTER to play a key role in this regard by adopting the draft terms of reference for two ad hoc committees to elaborate and negotiate a draft additional protocol to the Council of Europe Convention on the Prevention of Terrorism and a draft recommendation on radicalisation leading to terrorism and “foreign terrorist fighters” respectively.
- hold an exchange of views with the Secretary General, deliberating in particular the role of the Council of Europe in preventing and suppressing terrorism;
- thank the Secretary General for addressing the Committee and give its full support for the positions expressed by the Secretary General in his address;

#### **5. Special investigation techniques**

- take note of the information provided by the Secretariat concerning the organisation of the future work of the Committee on revising Recommendation Rec(2005) 10 of the Committee of Ministers on the use of “special investigation techniques” in relation to serious crimes including acts of terrorism;
- Confirm the decision of the Bureau to appoint Mr Nicola PIACENTE (Italy) as Chair of the drafting group;
- Appoint Mr Antonios PAPAMATTHAIYOU (Greece), Mr Dermot WOODS (Ireland), Ms Lucia LING KET ON (the Netherlands), Ms Ileana VISOIU (Romania), [Swiss Expert], as representatives of CODEXTER in the drafting group. One place still needs to be filled by CODEXTER;

#### **6. Radicalisation via the Internet, the receiving of training for terrorism and foreign terrorist fighters**

- take note of the presentations by Mr Damien MARTINELLI, Head of Office of the Fight against Organised Crime, Terrorism and Money-laundering (France), Mr David SCHARIA, Legal Officer, UN CTED, and Mr Jonathan RUSSELL, Political Liaison Officer at the Quilliam Foundation (United Kingdom);

- thank the Coordinator of the Sub-Group, Mr Mats BENESTAD (Norway), and its Members for their work;
- take note of the Discussion Paper on Radicalisation via the Internet and on Foreign Terrorist Fighters and to hold an exchange of views on the basis thereof;
- endorse the proposals of the Sub-Group contained in the Appendix to the aforesaid document;
- instruct the Sub-Group and the Secretariat to amend historical background of chapter 3 of the Discussion Paper;
- examine and adopt the draft terms of reference for two ad-hoc committees to be tasked with the elaboration and negotiation of 1) a draft additional protocol on foreign terrorist fighters to supplement the Council of Europe Convention on the Prevention of Terrorism (CETS No 196) and 2) a draft recommendation of the Committee of Ministers on radicalisation leading to terrorism and foreign terrorist fighters. The draft terms of reference, as adopted, are appended to the Abridged Report and List of Items discussed and Decisions taken;
- submit the aforementioned draft terms of reference to the Committee of Ministers for adoption;
- subject to the final adoption by the Committee of Ministers of the aforementioned draft terms of reference, hold the first meeting of the Ad Hoc Committee on “Foreign Terrorist Fighters” and related issues in the first week of March 2015;
- subject to the final adoption by the Committee of Ministers of the aforementioned draft terms of reference, invite member States to inform the Secretariat of their willingness to participate in the Ad Hoc Drafting Group on a Recommendation on Radicalisation Leading to Terrorism and “Foreign Terrorist Fighters” by 15 December 2014;
- subject to the final adoption by the Committee of Ministers of the aforementioned draft terms of reference, instruct the Bureau to decide on the composition of the Ad Hoc Drafting Group on a Recommendation on Radicalisation Leading to Terrorism and “Foreign Terrorist Fighters” subject to confirmation by CODEXTER;
- subject to the final adoption by the Committee of Ministers of the aforementioned draft terms of reference, consider to schedule the meetings of the Drafting group on revising Recommendation Rec(2005) 10 of the Committee of Ministers on the use of “special investigation techniques” in relation to serious crimes including acts of terrorism after the aforementioned decisions have been taken;

## **7. Future work of CODEXTER Sub-Groups in 2015**

- take note of the information provided by the Coordinator of the Sub-Group on Terrorists Acting Alone, Mr Alexandros STAVROPOULOS, and by the Secretariat on the Sub-Group on Assessment of Possible Gaps in the Legal Framework Provided by Council of

Europe International Legal Instruments in the Area of the Prevention and Suppression of Terrorism;

- appoint Mr Daniil MOKIN (Russian Federation) as Coordinator for the Sub-Group on Assessment of Possible Gaps in the Legal Framework Provided by Council of Europe International Legal Instruments in the Area of the Prevention and Suppression of Terrorism;

#### **8. Monitoring of the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196)**

- take note of the Summary of the Thematic Assessment Report on the implementation of Article 7 “Training for terrorism” of the Council of Europe Convention on the Prevention of Terrorism;
- take note of the information provided by the Vice-Chair of the Group of Parties, Mr Tobias KAPPELMANN (Germany), notably that the Group of Parties wishes to refer the question of criminalisation of the receiving of training for terrorism to CODEXTER for more in-depth examination;
- note that the question of criminalisation of the receiving of training for terrorism will now be dealt with by the Ad Hoc Committee on “Foreign terrorist Fighters” and related issues which is expected to be established by the Committee of Ministers, cf. agenda item 6 (above);

#### **9. Classification of CODEXTER documents**

- Examine and adopt the document CODEXTER (2014) 8, noting that, in order to provide some flexibility, in certain cases documents could be temporarily marked as “for internal use only”, until the Committee takes a final decision on their classification;

#### **10. Database on the case law of the European Court of Human Rights relevant for counter-terrorism measures**

- take note of the information provided by the Secretary to CODEXTER, Mr CHIAROMONTE, with regard to the state of play of the establishment of the database and the issues still to be dealt with by the Committee;
- thank Mr Ergin ERGÜL (Turkey) for his excellent work for the Committee and nominate a Member to replace Mr ERGÜL as responsible for reviewing and selecting cases for the database together with Mr Zdzisław GALICKI (Poland) at its next meeting;

#### **11. Elections**

- renew the mandate of Mr Nicola PIACENTE (Italy) as Chair for one year;
- elect Mr Alexandros STAVROPOULOS (Greece) as Vice-Chair for one year to replace Mr Vladimir SALOV (Russian Federation)

- elect Mr Mario JANEČEK (Bosnia and Herzegovina) and Mr Tobias KAPPELMANN (Germany) as Members of the Bureau;

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

- Consider the updated country profile on counter-terrorism capacity submitted by Albania and authorise its publication on the website of CODEXTER;

## **13. Information by the Gender Equality Rapporteur of CODEXTER**

- examine and take note of the Discussion Paper on Possible Gender-Related Priorities prepared by the Gender Equality Rapporteur, Ms Tanja KIKEREKOVA (“the former Yugoslav Republic of Macedonia”);
- endorse the proposals contained in the aforesaid document;
- take note of the information provided by Ms KIKEREKOVA concerning her participation in the OSCE-GCTF Workshop on advancing women’s role in countering VERLT which took place in Vienna on 21 and 22 October 2014;

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

- take note of the following presentations concerning other relevant activities of the Council of Europe and work carried out in other international fora:

Presentation by Mr Enrico BONINSEGNA, Human Rights Officer on Anti-Terrorism Issues, OSCE Office for Democratic Institutions and Human Rights (ODIHR)

Presentation by Mr Mehdi KNANI, Counter-Terrorism Network Co-ordinator, Programme Manager on Countering Violent Extremism and Radicalization that lead to Terrorism, OSCE Secretariat, Transnational Threats Department, Action against Terrorism Unit

Presentation by Ms Maria LORENZO SOBRADO, Programme Officer, Terrorism Prevention Branch, UNODC

## **15. Date and place of the 28th Plenary Meeting of CODEXTER**

- hold its next meeting in Strasbourg on 6 and 7 May 2015;

## **16. Adoption of the Summary Report and List of Items Discussed and Decisions Taken**

- adopt the Summary Report and List of Items Discussed and Decisions Taken.

## APPENDIX I

|                           |  |
|---------------------------|--|
| <b>Name of Committee:</b> | <b>Ad Hoc Committee on Foreign Terrorist Fighters and related issues</b> |
|---------------------------|--|

**Category:** **Subordinate body**

*Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods*

**Duration:** **[Date of approval by the Deputies 2014/2015] until 31 December 2015**

### Main tasks

Under the authority of the Committee of Experts on Terrorism (CODEXTER) the Ad Hoc Committee shall prepare an Additional Protocol supplementing the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196).

The Ad Hoc Committee shall, when preparing the draft Additional Protocol examine, inter alia, the following issues:

The criminalisation of the acts of:

- intentionally being recruited, or attempting to be recruited, for terrorism.
- intentionally receiving training, or attempting to receive training, for terrorism.
- travelling, or attempting to travel, to a State other than the State of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training.
- intentionally providing or collecting funds for such travels.
- intentionally organising and facilitating (other than "recruitment for terrorism") such travels.

The Ad Hoc Committee shall moreover examine whether any other act relevant for the purpose of effectively combating the phenomenon of foreign terrorist fighters, in the light of UNSCR 2178, should be included in the draft Additional Protocol.

The Ad Hoc Committee shall also examine whether the wording "for terrorism", which is used throughout the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) to describe the purpose of the criminal acts enumerated in Articles 5 to 7 of that Convention, is still considered adequate in terms of legal precision, or if any other wording should be used in the draft Additional Protocol.

In its work, the Ad Hoc Committee should take into account the relevant jurisprudence of the European Court of Human Rights, human rights and rule of law standards of the Council of Europe, as well as the best practices of member States and other international Organisations and initiatives.

### Pillar / Sector / Programme

Pillar : Rule of Law

Sector : Common standards and policies

Programme : Development and implementation of common standards and policies

### Expected results

Draft Additional Protocol supplementing the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196).

### Composition

#### Members:

Governments of member States are invited to designate one or more representatives with recognised expertise in the relevant field of criminal law and terrorism. The Secretary General will appoint 1 scientific expert to the Committee.

The Council of Europe will bear the travel and subsistence expenses of one representative from each member State (two in the case of the State whose representative has been elected Chair) and of the scientific expert appointed by the Secretary General.

Members of the Committee appointed by Governments of member States shall have one vote each. Where a government designates more than one member, only one of them is entitled to take part in the voting. The scientific expert appointed by the Secretary General shall not have the right to vote.

#### Participants:

The following may send representatives without the right to vote and at the charge of their corresponding administrative budgets:

- The Parliamentary Assembly;
- The European Court of Human Rights;
- The Office of the Commissioner for Human Rights;
- The European Committee on Criminal Problems (CDPC);
- The Steering Committee on Media and Information Society (CDMSI);
- The Steering Committee for Human Rights (CDDH).

The following may send representatives without the right to vote and without defrayal of expenses:

- The European Union;
- States with observer status with the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America);
- The United Nations Counter-terrorism Executive Directorate (CTED);
- The United Nations Office for Drugs and Crime (UNODC);
- The Organization for Security and Co-operation in Europe (OSCE);
- The Commonwealth of Independent States (CIS);
- The Organization for Democracy and Economic Development (GUAM).

#### Observers:

States having been invited by decision of the Committee of Ministers to participate in the negotiations may send representatives without the right to vote or defrayal of expenses.

### Working methods

49 members, 3 meetings, 4 days per meeting

The Ad Hoc Committee shall report to the Bureau of CODEXTER on a regular basis. The Bureau of CODEXTER may issue instructions to the Ad Hoc Committee with regard to its work.

The rules of procedure of the Ad Hoc Committee are governed by Resolution CM/Res(2011)24 on



intergovernmental committees and subordinate bodies, their terms of reference and working methods.

### Financial information

| Meetings per year | Number of Days | Members | Plenary | Secretariat (A B) |
|-------------------|----------------|---------|---------|-------------------|
| 3 (2015)          | 4              | 49      |         |                   |

**This activity will be carried out within the existing budgetary appropriations.**

## APPENDIX II

Name of Committee: **Ad Hoc Drafting Group on a Recommendation on Radicalisation Leading to Terrorism and on Foreign Terrorist Fighters**

Category: **Subordinate body**

*Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods*

Duration: **[Date of approval by the Deputies 2014/2015] until 31 December 2015**

### Main tasks

Under the authority of the Committee of Experts on Terrorism (CODEXTER) the Ad Hoc Drafting Group on a Recommendation on Radicalisation Leading to Terrorism and on Foreign Terrorist Fighters shall prepare a draft Recommendation of the Committee of Ministers to member States on Radicalisation Leading to Terrorism and on Foreign Terrorist Fighters.

The Ad Hoc Drafting Group shall, in particular, examine the following issues:

- Radicalisation, including via the Internet.
- Preventive measures aimed at Foreign Terrorist Fighters.
- How to handle Foreign Terrorist Fighters returning from abroad.
- Any other measure of preventive or protective nature.

In its work, the Ad Hoc Drafting Group should take into account the relevant jurisprudence of the European Court of Human Rights, human rights and rule of law standards of the Council of Europe, as well as the best practices of member States and other international Organisations and initiatives.

The Ad Hoc Drafting Group should also take into account gender related aspects.

### Pillar / Sector / Programme

Pillar : Rule of Law

Sector : Common standards and policies

Programme : Development and implementation of common standards and policies

### Expected results

Draft Recommendation of the Committee of Ministers to member States on Radicalisation Leading to Terrorism and on Foreign Terrorist Fighters.

### Composition

#### Members:

The Ad Hoc Drafting Group shall be composed of up to 15 representatives of member States with recognised expertise in the relevant field of criminal law and terrorism, designated by the Governments of the respective member States and appointed by the Committee of Experts on Terrorism (CODEXTER), and 1 scientific expert with established experience in the same field appointed by the Secretary General.

The composition of the Group will reflect an equitable geographic distribution amongst the member States.

The Council of Europe will bear the travel and subsistence expenses of each member.

Members of the Group appointed by Governments of member States shall have one vote each. The scientific expert appointed by the Secretary General shall not have the right to vote.

Other member States may designate representatives without defrayal of expenses.

#### Participants:

The following may send representatives without the right to vote and at the charge of their corresponding administrative budgets:

- The Parliamentary Assembly;
- The European Court of Human Rights;
- The Office of the Commissioner for Human Rights;
- The European Committee on Crime Problems (CDPC);
- The Steering Committee on Media and Information Society (CDMSI);
- The Steering Committee for Human Rights (CDDH).

The following may send representatives without the right to vote and without defrayal of expenses:

- The European Union;
- States with observer status with the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America);
- The United Nations Counter-terrorism Executive Directorate (CTED);
- The United Nations Office for Drugs and Crime (UNODC);
- The Organization for Security and Co-operation in Europe (OSCE);
- The Commonwealth of Independent States (CIS);
- The Organization for Democracy and Economic Development (GUAM).

#### Observers:

The following may send representatives without the right to vote and without defrayal of expenses:

- Relevant International Organisations;
- Representatives of civil society, professional and academic communities.

### Working methods

The Ad Hoc Drafting Group shall report to the Bureau of CODEXTER on a regular basis. The Bureau of CODEXTER may issue instructions to the Ad Hoc Drafting Group with regard to its work.

The rules of procedure of the Ad Hoc Drafting Group are governed by Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

### Financial information

| Meetings per year | Number of days per meeting | Members | Plenary | Secretariat (A B) |
|-------------------|----------------------------|---------|---------|-------------------|
| 3 (2015)          | 3                          | 16      |         |                   |

**This activity will be carried out within the existing budgetary appropriations.**