COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

EUROPEAN COMMITTEE

ON CRIME PROBLEMS

(CDPC)

WORKING GROUP ON TERRORISM AND TRANSNATIONAL ORGANISED CRIME

Follow-up Activities to the 2nd Malaga Conference on Terrorism-TOC 2017

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Potential Action: Join working group on terrorism and transnational organised crime

Pillar: Rule of Law

Sector: Countering Threats to the Rule of Law

Programme: Terrorism (CDCT) and Organised Crime – Action Plan on Organised Crime

I.   Composition

National experts with extensive knowledge of terrorism and transnational organised crime. Other professionals with responsibility for planning and/or development and/or implementation of relevant policies and to examine the current crime-terror landscape and/or propose practical or operational responses to terrorism-transnational organised crime issues.

II.   Substantive Scope

Several core paradigms are worth exploring:

1.   Strategic, operational and logistical connections between organised crime and terrorist groups;
2.   Emulation: terrorist groups engaging in organised crime and organised crime employing terrorist tactics; and
3.   Criminality, radicalisation and violent extremism.

In relation to the first point, the Malaga Conference on terrorism and transnational organised crime concluded that there appears to be "no structural and systematic connection or shared strategies between terrorism and organised crime. Terrorism and organised crime pursue different objectives; the main links between the two are of a logistical nature: supply of arms, producing explosive devices, recruitment."

As such, based on available data, there does not appear to be consistent or regular cooperation between known organised crime entities and terrorist groups. Rather, where such a connection does exist, it tends to be of a more opportunistic nature where groups to work together on an ad-hoc basis.

In terms of emulating behaviour, several terrorist groups may emulate organised criminal groups by seeking financial and/or material benefits (directly or indirectly) through criminal activities such as trafficking, smuggling, extortion, kidnapping for ransom, and the illicit trade of natural resources. Unlike terrorist groups (which generally seek political or ideological change), organised criminal groups seek personal financial or material benefits as the ultimate goal of their activities. For terrorist groups, mobilising financial or other resources is generally viewed as an instrument to achieve their particular aims rather than as a goal itself. Furthermore, organised criminal groups rarely seek to cause political change or further a particular ideology, but are more concerned with profiting from illicit activity. As such, any state disruption by organised crime is usually intended to create, expand or maintain conditions in order to benefit their operations.

On the third point, there has been a lot of research into individual criminal profiles of individuals who are at risk of radicalisation and violent extremism. The pathways from "ordinary" or low-level criminality to violent extremism and terrorism are complex, as individuals shift between largely financial or monetary motivations to ideological, political or religious motivations.

However, a number of European terrorists have a well-documented history of criminal behaviour as terrorist groups such as ISIS and affiliates - hybrid groups with characteristics of terrorist organisation, organised crime, and non-state armed groups - may be actively seeking out recruits with relevant criminal skills. For the purposes of preventing radicalisation leading to violent extremism and terrorism, identifying certain at-risk populations, including organised criminals, may be of benefit to broader counter-terrorism efforts.

III.   Potential Approaches

Multidisciplinary review of relevant existing regional instruments and mechanisms:

1.   Terrorist financing and money laundering:
    - MONEYVAL, Warsaw Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism no. 198, Convention no. 141
2.   Terrorism prevention and counter violent extremism:
    - CODEXTER, 2005 Warsaw Convention on the Prevention of Terrorism + Riga FTF Protocol
3.   Criminal law co-operation and mutual legal assistance in criminal matters:
    - CoE MLA framework, PC-OC database
4.   Penitentiary cooperation, prison radicalisation
5.   Training and education for relevant professionals: explore whether there is a need for greater subject-matter expertise

IV.   Thematic areas

1.   Prevention
    - Multi-sector: multidimensional approaches to preventing the formation of crime-terror nexus and address enabling factors and root causes of crime and terror
    - Understanding macro- and micro-interlinkage between organised crime and terrorist activity

2.   General intelligence and situation analysis
    - Evolution of organised crime and terrorism:
        - points of convergence and divergence
        - "new" means and methods of criminal activity,
        - instrumentalities: strategic use of criminal structures, networks, etc.
        - means to help assess and identify prospective terrorists from the known criminal population
            - Identifying risk factors leading to radicalisation among petty criminals (taking into account at-risk communities + individual characteristics, converts)

- Recruitment: addressing underlying factors and vulnerabilities enabling crime, radicalisation and terrorism
  - UN Comprehensive Plan of Action to Prevent Violent Extremism (2015): calls for essential security-based measures but also systematic preventive steps to address underlying conditions that drive individuals to become radicalised
  - includes good governance, inclusion, education, conflict resolution and community mobilisation

3. Disruption activities
   - Common dynamics, *modus operandi*, and/or business models of organised crime and terrorist groups
   - Common interlinkages: arms trade, explosives, recruitment
   - Sub-regional approach: examine and understand differences and contextual issues within and between different sub-regions of Europe
     - Especially those connected with third countries of concern in Middle East/North Africa
   - interception and interdiction of arms, oil, cultural property
   - suppressing cell formation

4. Countering abuse of the internet
   - Planning and execution of attacks
   - radicalisation and recruitment
   - fundraising and money laundering activities

5. Disengagement
   - Concept is familiar to both organised crime and terrorism: actions that provide alternative routes for at-risk individuals to explore other than crime and violent extremism, encouraging them to "disengage" before they commit serious offences
   - Disengagement practices vary from state to state, can involve direct or indirect interventions by law enforcement or security services

6. Investigation and prosecution
   - JITs:
     - practical coordination and logistical challenges,
     - international and inter-institutional coordination issues and opportunities
     - exchange of Best practices and model cooperation guidelines
     - legal framework issues: Encouraging ratification and implementation of Second Additional Protocol to 1959 MLA Convention
   - Special Investigative Techniques and financial intelligence
     - lessons learnt from fight against organised crime and terrorism
     - following the flow of money: money laundering techniques and fundraising activities
     - surveillance and monitoring techniques

- potential avenue: implementing and operationalising the Recommendation on SITs as applied to both terrorism and TOC
  - Specialisation and training of investigators, prosecutors and judges
    - classified intelligence and sensitive material:
    - conversion of intel to criminal evidence,
    - procedural or substantive obstacles,
    - national or transnational legal framework issues
    - maintaining secrecy of sources while ensuring proper evidentiary standards
  - Electronic and digital evidence
    - Cloud Evidence Group, working with private internet companies and telecoms

7. Post-conviction
   - Prison recruitment and radicalisation
   - Prison monitoring and prison intelligence

8. Rule of Law and Oversight (national and international)
   - Transparency, monitoring, complaints mechanisms
   - Human rights and criminal procedures, surveillance

V.   Potential Output

1. Legislative Guide to TOC-Terrorism

2. Recommendation on Investigative Measures for TOC-Terrorism

3. Professional Training Courses/ Training Handbook for TOC-Terrorism

4. Terrorism-Organised Crime Toolkit: compilation of best practices and approaches from CoE member States

5. Alternatively: Implementing the Recommendation on Special Investigative Techniques in relation to Terrorism and TOC