



Statement by Carlo Chiaromonte Head of Counter-terrorism

Workshop on the conduct of criminal trials against, and the prosecution of,
foreign terrorist fighters, including returnees and relocators

11-12 June 2019, Madrid

Introduction – Acknowledgements:

Excellences, Ladies and Gentlemen, colleagues,

Good morning, my name is Carlo Chiaromonte, Head of Counter-Terrorism at the Council of Europe. On behalf of my Organisation, it is a great honour to welcome you today.

Señora Ministra, Dear Ms Delgado, Minister of Justice, thank you for hosting this important meeting in wonderful Madrid and for being here in person to open the Workshop and for addressing encouraging words for the successful outcome of this meeting, I am confident that our expectations will be met.

Allow me also to express my gratitude to all Spanish authorities, notably the Ministry of Justice and the Ministry of Foreign Affairs, European Union and Co-operation of Spain, co-organisers of this important event, but also to the colleagues of the Centro de Estudios Jurídicos for providing the venue and for their kind assistance.

Participants – International dimension:

Today, I must say, I am extremely satisfied and pleased to see such a remarkable participation. We count amongst you member States of the Council of Europe, observer States, the Council of Europe's closest partners and international organisations. I am sure that our discussions will greatly benefit from it.

Above all, I am happy to take note of the great level of expertise in this room. It was of utmost importance to enable a discussion amongst those practitioners who deal in their everyday job with issues related to the conduct of criminal trials and the prosecution of foreign terrorist fighters, including returnees and relocators. I believe we have succeeded; actually, no better result could have been achieved in this respect.

Main topic / Importance and relevance:

Such a positive response to our invitation is surely to be attributed to the important topics figuring on our agenda. As you all perfectly know, while the self-proclaimed "Islamic caliphate" has lost its territories in Syria and Iraq, the threat terrorism poses is still very high and remains significant. It is estimated that, since 2014, ISIS/Da'esh has attracted over 40,000 foreign terrorist fighters from 120 countries. While some of these terrorists have died on the battlefield or have been imprisoned, others have already returned to their home country, or relocated elsewhere.

This situation calls for swift, pragmatic action and effective response. Amongst these, the successful prosecution of foreign terrorist fighters is one of the most crucial. To be effective, the conduct of criminal trials and the prosecution of FTFs require building solid cases on strong admissible evidence as well as an efficient international co-ordination and co-operation.

However, due to the high levels of complexity relating to cases of terrorism and to the variety of legal approaches taken by different States, the prosecution of foreign terrorist fighters remains a difficult task. Moreover, while States are urged to find legal ways of bringing to justice those

responsible for the commission of atrocious crimes, it is imperative that the fundamental values on which our democracies and judicial systems are based, the rule of law and human rights are always fully respected. In such a sensitive context, this is an additional challenge that cannot be underestimated.

CT Strategy – Aim of the Workshop:

The Council of Europe acknowledged the importance of how best to conduct criminal trials and prosecute alleged foreign terrorist fighters, including returnees and relocators, in its Council of Europe Counter-Terrorism Strategy, adopted last year and covering the period 2018-2022. The Strategy identifies three thematic strands (prevention, prosecution, and protection), each containing concrete activities. The very organisation of this Workshop figures as a time-sensitive activity, identified by States as being of particular use to them and of particular relevance to the Council of Europe's mandate.

Through the Workshop, the Council of Europe aims at providing a suitable platform for judicial practitioners involved in these cases to listen to the presentation of case studies and to hold open discussions.

CoE CT policy – Additional Protocol:

Such an activity well reflects the political line of the Council of Europe. It is our everyday job to adapt our work to the needs of the States with which we co-operate and work. When it comes to counter-terrorism, we are committed to playing a significant role in the global and regional fight against terrorism, through both intergovernmental co-operation mechanisms alongside standard-setting work.

In this respect, I am proud to say that we have conducted some pioneering work that is worth celebrating. Some of you probably remember the timely adoption of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, opened for signature on 22 October 2015, a moment characterised by the major flux of foreign terrorist fighters travelling abroad from all over Europe and beyond. The Protocol

strategically aimed at the criminalisation in national legislations of new offences, such as: participating in an association or group, receiving training, travelling/ funding travelling / organising or otherwise facilitating travelling abroad - for the purpose of terrorism.

Current challenges – Agenda:

Today, we are all well aware that we are not facing these challenges anymore, but rather the focus has shifted on how to efficiently prosecute those who have committed these offences. And again, our wish is to propose ground-breaking solutions.

For this reason we have gathered together those who, working on this subject, are the most involved. Through your testimonies and exchanges, today we will have the opportunity to hear case studies, and extrapolate and identify the key elements for an effective prosecution. We will then focus on how to conduct criminal trials in respect of human rights and the rule of law. The discussion will bring us to the treatment of the crucial subject of fair-trial rights and flexible procedural safeguards. Tomorrow you'll be dealing with other equally important challenges, such as: the collection and gathering of evidence, a topic urgently requiring further scrutiny; and, last but not least, the sensitive issue of children involved with terrorism-related offences, in particular focusing on whether States have enacted any specific juvenile justice response on the return and/or repatriation of very young children, victims of something surely greater than their comprehension.

Closing remarks – give the floor:

These issues require a complex analysis and a multi-dimensional response. It is therefore with great pleasure that I look forward to listening to your presentations and learning from your inputs.

To end, allow me to thank the moderators and key speakers who have agreed to guide our work and amongst whom I note with pleasure a high presence of women judges and prosecutors, an additional reason for all of

us and the Council of Europe to be proud and grateful as well as satisfied and pleased.

I wish you a successful Workshop,

Thank you.