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*Plenary sitting*

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4.2.2015

B8-0124/2015

## **MOTION FOR A RESOLUTION**

to wind up the debate on the statement by the Commission

pursuant to Rule 123(2) of the Rules of Procedure

on anti-terrorism measures  
(2015/2530(RSP))

**Cornelia Ernst, Barbara Spinelli, Marie-Christine Vergiat, Marina Albiol  
Guzmán**  
on behalf of the GUE/NGL Group

**B8-0124/2015**

**European Parliament resolution on anti-terrorism measures  
(2015/2530(RSP))**

*The European Parliament,*

- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to Articles 2, 3 and 6 of the Treaty on European Union (TEU),
- having regard to the relevant articles of the Treaty on the Functioning of the European Union (TFEU),
- having regard to its resolution of 14 December 2011 on EU counter-terrorism policy: main achievements and future challenges<sup>1</sup>,
- having regard to its resolution of 10 October 2013 on alleged transportation and illegal detention of prisoners in European countries by the CIA<sup>2</sup>,
- having regard to its resolution of 27 February 2014 on the situation of fundamental rights in the European Union (2012)<sup>3</sup>,
- having regard to resolution of 12 March 2014 on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs<sup>4</sup>,
- having regard to the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA<sup>5</sup>,
- having regard to the European Union Agency for Fundamental Rights (FRA) report of 27 October 2010 entitled 'Experience of discrimination, social marginalisation and violence: A comparative study of Muslim and non-Muslim youth in three EU Member States',
- having regard to the judgment of 8 April 2014 of the Court of Justice of the European Union (ECJ) annulling the Data Retention Directive,
- having regard to its recent referral to the ECJ of the EU-Canada PNR Agreement,
- having regard to Rules 115(5) and 110(4) of its Rules of Procedure,

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<sup>1</sup> OJ C 168 E, 14.6.2013, p. 45.

<sup>2</sup> Texts adopted, P7\_TA(2013)0418.

<sup>3</sup> Texts adopted, P7\_TA(2013)0173.

<sup>4</sup> Texts adopted, P7\_TA(2014)0230.

<sup>5</sup> OJ L 315, 14.11.2012, p. 57.

- having regard to Rule 123(2) of its Rules of Procedure,
- A. whereas respect for fundamental rights and civil liberties is an essential element in successful counter-terrorism policies;
- B. whereas the recent rise in racism, including Islamophobia and anti-Semitism, is extremely worrying and does not fuel a constructive debate of inclusiveness, but instead serves only to feed further polarisation;
- C. whereas research has shown that the fact of being discriminated against and being socially marginalised is one of the main factors that leads to violent behaviour; whereas recent research indicates that religious background does not play a part in explaining violent behaviour<sup>1</sup>;
- D. whereas there is an urgent need for a clear legal definition of the concept of ‘profiling’ based on the relevant fundamental rights and data protection standards in order to reduce uncertainty as to which activities are prohibited and which are not;
- E. whereas the ECJ has just recently declared the Data Retention Directive invalid on the grounds of a lack of proportionality, setting out in its judgment clear conditions with which any large-scale data collection and retention measure must comply in order to pass the legality test;
- 1. Condemns all terrorist attacks occurring all over the world; expresses its deep condolences with the victims of the recent terrorist attacks in Paris and their families, and the victims of terrorism worldwide;
- 2. Calls on all Member States to properly implement Directive 2012/29/EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime;
- 3. Reaffirms its commitment to upholding the freedom of expression, fundamental rights, democracy, tolerance and the rule of law and other core principles reflected in the UN Charter and international law;
- 4. Calls on all Member States to halt their political, economic or military support of regimes or terrorist groups which engage in or condone terrorist activity; emphasises, in particular, the need for the EU, its Member States and its partner countries to base their strategy for combating international terrorism, as with all other forms of crime, on the rule of law and respect for fundamental rights; underlines, furthermore, that the Union’s external actions to combat international terrorism should in the first place be aimed at prevention, and at a policy which opposes all kinds of military intervention, thoroughly rethinking the EU’s position in international negotiations, and highlights the need to promote dialogue, tolerance and understanding among different cultures and religions;

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<sup>1</sup> See the FRA report entitled ‘Experience of discrimination, social marginalisation and violence: A comparative study of Muslim and non-Muslim youth in three EU Member States’.

5. Points out that, as with previous attacks, the perpetrators of the Paris attacks were already known to security authorities and had been the subject of investigations and supervision measures; insists that this raises questions regarding the extent to which these authorities could have better used existing data on these individuals already in their possession;
6. Reiterates its call on the Commission and the Council to conduct a comprehensive evaluation of the EU's existing counterterrorism and security measures, in particular as regards their respect for human rights and civil liberties, as enshrined in the Treaties, the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights, making use of the procedure provided for under Article 70 TFEU, and to publish this evaluation together with the European Agenda on Security;
7. Reiterates its firm demand for democratic and judicial oversight and accountability mechanisms as regards counterterrorism policies, stressing that measures that, in retrospect, were not necessary, effective and proportionate for combatting terrorism need to be repealed; stresses also that violations of fundamental rights need to be investigated and redressed and new forms of democratic scrutiny need to be developed based on the powers granted to the European Parliament and national parliaments by the Lisbon Treaty;

***A comprehensive approach to anti-radicalisation and counterterrorism***

8. Is convinced that, in order to prevent violent radicalisation, the primary goal of any society should be to work towards inclusiveness and the mutual understanding of cultural, ethnic and religious beliefs, thus fostering enduring tolerance;
9. Calls on the Member States to invest in educational schemes which respect the equality of opportunities, reducing social discrimination starting from the early-schooling stage onwards, including by training teachers on social issues and diversity;
10. Warns that the lack of long-term perspectives due to poverty, unemployment, ghettoisation in suburbs and the alienation of entire suburban neighbourhoods might lead to individuals feeling disempowered and even turning to destructive self-empowering behaviour, through joining either jihadist organisations or far-right movements; calls on the Member States to step up their efforts in reducing poverty, providing employment perspectives, empowering and respecting the individual, halting the cuts in social welfare and public services, which have drastically affected the ability of local, regional and state authorities to work towards resocialisation, and to provide proper social assistance to individuals and families living in the most neglected suburban areas;
11. Underlines the fact that discrimination reinforces radicalisation and violence patterns; stresses that equality and non-discrimination standards must be complemented by specific policy strategies to address all forms of racism, including anti-Semitism and Islamophobia;
12. Rejects all uses of racial, ethnic and religious profiling to single out specific groups in connection with counterterrorism measures as running counter to the basic democratic

principles of equality before the law and non-discrimination; highlights the disproportionate effects on Muslim communities of the post-9/11 practices;

13. Expresses support for programmes financed by states in cooperation with local civil society associations which empower ethnic and religious minorities to contribute to improving the social and economic status of their respective communities in the medium to long term;

*Well targeted security measures which respect the rule of law*

14. Rejects the false dichotomy of security versus freedom; takes the view that individual freedom and respect for fundamental rights are a cornerstone of and a precondition for security within any society;
15. Recalls that any security measure, including those on counterterrorism, should be conceived with a view to guaranteeing individual freedom, must be fully compliant with the rule of law and subject to fundamental rights obligations, including those related to privacy and data protection, and must always enable judicial redress;
16. Emphasises that the test of the necessity and proportionality of any measure that limits fundamental rights and freedoms takes the form of legal requirements imposed by the Charter; opposes, in this context, the trend of blanket justifications of any security measure by general reference to its ‘usefulness’ in the fight against terrorism or serious crime;
17. Reiterates that all data collection measures must be based solely on a coherent legal data protection framework which offers legally binding personal data protection standards, especially with regard to purpose limitation, data minimisation, information, access, correction, erasure and judicial redress;
18. Opposes the current atmosphere of creating paranoiac fear in order to rush through more counterterrorism measures, such as those on EU PNRs, before assessing their legal necessity or having conducted an assessment of the current body of counterterrorism measures; highlights the fact that there is already a significant body of counterterrorism legislation and related measures in every Member State, involving:
  - Passport data from passengers, which is already checked against databases of known criminal and inadmissible persons;
  - Law enforcement authorities, which can access phone and passenger data of suspects or even groups of suspects when they are linked to a concrete threat;
  - The Schengen Information System, which allows for the surveillance of individuals and swift apprehension and extradition thereof in cases where they represent a threat to security or intend to commit a crime;
19. Underlines, therefore, the fact that law enforcement authorities need to make use of the possibilities that already exist and step up, as a priority, their cooperation;

20. Considers that combating the trafficking of firearms should be a priority for the EU in fighting serious and organised international crime; believes, in particular, that cooperation needs to be strengthened further as regards information exchange mechanisms and the traceability and destruction of prohibited weapons; stresses, in this regard, the despicable double standards of several Member States in selling arms and military equipment to specific groups in certain conflict areas, while at the same time condemning the use of force;
21. Calls for the swift implementation of the recently agreed Anti-Money Laundering Directive;
22. Underlines the fact that targeted checks can already be performed on individuals who enjoy the right to free movement as they cross external borders during certain time periods, on certain routes, or for certain border crossing points, depending the level of the threat; insists that Member States should make full and better use of the existing Schengen framework, instead of attempting to reintroduce border controls beyond the possibilities which exist already;
23. Calls on the Commission to formally review the EU PNR proposal against the criteria on necessity and proportionality set by the Court of Justice of the European Union in the Data Retention Directive judgment; instructs its legal service to conduct a similar review within six weeks of the adoption of this resolution;
24. Recalls, in this connection, that there is no common definition for terrorism, which only adds to the ambiguity of proposed counterterrorism measures;

### *IT security*

25. Recalls that measures limiting fundamental rights on the internet for counterterrorism purposes must be necessary and proportionate; emphasises that any removal of any alleged criminal content should be carried out solely on the basis of explicit criteria laid down by law, following judicial authorisation and in line with the appropriate procedural safeguards, and not through private policing by internet service providers; recalls, in this connection, the right to free speech provided for under the Charter and the dangerous use of censorship in third countries and Member States, which most likely results in a chilling effect on the free and open democratic involvement of citizens;
26. Underlines the fact that the use of encryption by governments, enterprises and citizens is a crucial pillar in European IT security; calls on the Commission, the Council and the Member States to refrain from any attempts to weaken IT security through the regulation of encryption usage; emphasises that banning the use of encryption risks lowering security and augmenting our vulnerability to cyberattacks;
27. Underlines the importance of free and open-source software in the context of IT security, whereby publicly available source code can be easily and independently scrutinised;
28. Recalls the dedication of the EU and its Member States to the implementation of the privacy-by-design principle in data protection legislation;

29. Calls for the swift adoption of the data protection package, including through the adoption of a general approach in the Council respecting the minimum standards laid down in Directive 95/46/EU;

### *Judicial dimension*

30. Calls on the Member States to step up judicial cooperation between them based on the available EU instruments, such as the European Criminal Records Information System (ECRIS), the European Arrest Warrant and the European Investigation Order, while respecting proportionality and fundamental rights; calls on the Member States to swiftly agree on all measures proposed, in accordance with the roadmap on procedural rights, and to address decisions on pre-trial detention and prison conditions as a next step;
31. Expresses its belief that the purpose of our criminal justice system should be to rehabilitate individuals so that they no longer pose a risk to society when they return; calls on Member States to invest the necessary human resources in order to help rehabilitate and resocialise individuals who have left imprisonment;
32. Calls on the Member States and the Commission to install or reinforce whistle-blower protection schemes, particularly in the field of national security and intelligence activities;

### *External dimension*

33. Warns against the temptation to revert to the previous, short-sighted and ineffective practices of collusion with authoritarian regimes in the name of security, stability and the fight against violent extremism;
34. Is highly critical of the role that the various Western interventions of in recent years have played in fostering the radicalisation of individuals, especially in the Middle East and in southern neighbourhood countries; stresses that such policies are promoting, not countering, terrorism and therefore should be abandoned;
35. Is concerned about the focus on military ‘solutions’ in the EU’s counterterrorism policies, resulting in numerous military assistance programmes for authoritarian regimes aimed at strengthening their military capacities and thereby supporting their repressive policies;
36. Points out that the deployment of military forces in-country is by and large forbidden in various Member States; stresses that the Solidarity Clause (Article 222 TFEU) must not be invoked as a tool to circumvent such national restrictions; points to the danger that the Solidarity Clause could also be used as a tool to deploy soldiers within a Member State under the guise of counterterrorism to fight ‘manmade disasters’, which could potentially also involve people who protest etc.; stresses that such an interpretation of the Solidarity Clause must be vehemently rejected;
37. Considers that the EU should drastically revise its external policy, in particular its strategy towards the southern Mediterranean, as part of the ongoing European Neighbourhood Policy (ENP) review, owing to its failure; calls for the EU to establish a

new framework of relations with these countries and regions based on non-intervention in their internal affairs and respect for their sovereignty, and aimed at supporting the development of neighbouring regions and promoting employment and education, rather than on 'association agreements' serving mainly to establish free trade areas that benefit corporate interests on the European side;

38. Reiterates that Member States and, where appropriate, the EU should address the root causes of violent extremism by addressing religious extremism in a manner that is compatible with human rights and international law, instead of encouraging or supporting repressive regimes or groups in these countries;
39. Insists that security cooperation – from intelligence sharing to rule of law, justice reform and criminal justice programmes to the externalisation of asylum politics, as in the Khartoum Process – should be strictly in line with international law;
40. Is convinced that in the security field, the EU should limit itself to cooperation programmes focusing on de-radicalisation and countering violent extremism, where deemed appropriate, but refrain from imposing its economic or political ideas onto sovereign states through its external dimension policies;
41. Recalls, in this connection, its rejection of the EU-Israel Association Agreement, given the double role that the EU and many of its Member States play in the Israel-Palestine conflict, which continues to fuel perceptions of double standards and the anti-Muslim/Arab agenda;
42. Demands increased transparency and accountability in foreign policy decisions related to counter-terrorism; underlines the need for appropriate judicial procedures for individuals or organisations to demand the judicial review of any Common Foreign and Security Policy (CFSP) decision which affects them;
43. Opposes firmly the use of drones in extrajudicial killings of terror suspects, and demands a ban on the use of drones for the purposes of surveillance and the policing of civilians;
44. Request that the Commission and the Member States investigate more thoroughly European participation in the US-devised programme of torture and rendition and to enable the public to know about the level of involvement and complicity of their governments in these horrendous illegal practices, following the example set by the US Senate Intelligence Report;
45. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.