



TEXTS ADOPTED

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Setting up a special committee on terrorism, its responsibilities, numerical strength and term of office

European Parliament decision of 6 July 2017 on setting up a special committee on terrorism, its responsibilities, numerical strength and term of office (2017/2758(RSO))

The European Parliament,

- having regard to the proposal for a decision of the Conference of Presidents,
 - having regard to Rule 197 of its Rules of Procedure,
 - A. whereas the European Union has clear competences in ensuring a high level of security under Article 67 TFEU, and the national authorities have competences in the fight against terrorism, as stated in Article 73 of the TFEU; and there are wider obligations in respect of cross border cooperation as stated in Title V of the TFEU on police and judicial cooperation related to the internal security of the European Union;
 - B. whereas the outcome of the special committee hereby set up should be to address the practical and legislative deficiencies in the fight against terrorism across the European Union and with international partners and actors, with a particular focus on cooperation and exchange of information;
 - C. whereas addressing the deficiencies and gaps in cooperation and information exchange between national law enforcement authorities, as well as the interoperability of European information sharing databases is of the utmost importance for both ensuring the good functioning of the Schengen Area and for the protection of EU's external border, and should constitute the core of the mandate of the special committee;
 - D. whereas respect for fundamental rights is an essential element in successful counter-terrorism policies;
1. Decides to set up a special committee on terrorism, vested with the following strictly defined responsibilities:
 - (a) to examine, analyse and evaluate with impartiality facts provided by law enforcement authorities of the Member States, competent EU agencies and recognised experts and the extent of the terrorist threat on European soil and to propose appropriate measures to enable the European Union and its Member States to help prevent, investigate and prosecute crimes related to terrorism;

- (b) to identify and analyse, with impartiality and according to an evidence based approach, the potential faults and malfunctions that have allowed recent terrorist attacks in different Member States to occur, in particular by collecting, compiling and analysing all information available to Member States' intelligence services or law enforcement and judicial authorities about perpetrators prior to their terrorist offence;
- (c) to examine and assess the implementation of existing measures and instruments in the fields of external border management, including the malfunction of external border checks that have allowed individuals to enter Europe with false documents, and to assess the causes for the failure by some Member States to fully implement their obligations as set out in Regulation (EC) No 1987/2006 of the European Parliament and of the Council¹ (the Schengen Information System Regulation); to collect and analyse information on possible Member States and Commission shortcoming in ensuring the full implementation of the related provisions of Regulation (EU) 2016/399 of the European Parliament and of the Council² (the Schengen Borders Code) and to propose appropriate measures to close the identified gaps;
- (d) to identify deficiencies in the sharing of judicial, law enforcement and intelligence information among Member States; to investigate in particular alleged widespread failures in the collection, analysis and communication of information that could help prevent attacks, in particular by:
- analysing and evaluating the performance of EU databases such as the Schengen Information System (SIS), Visa Information System (VIS) and common European Information Exchange Model (EIXM), and Member States possible failures in the implementation of existing legal instruments such as Council Decision 2008/615/JHA³ or Council Framework Decision 2006/960/JHA⁴; analysing in particular the causes of some Member States' failure to contribute to feeding information to these databases, notably with regard to their obligations as set out in the Schengen Information System Regulation and Council Decision 2007/533/JHA⁵;
 - analysing the alleged failure of Member States to comply with the

¹ Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

² Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

³ Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 1).

⁴ Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (OJ L 386, 29.12.2006, p. 89).

⁵ Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007, p. 63).

obligation imposed by Article 2(3) of Council Decision 2005/671/JHA¹ ensuring that at least the information referred to in paragraphs 4 and 5 of that Article gathered by the relevant authority is transmitted to Europol and Eurojust;

- collecting information on, and analysing Member States' authorities compliance with, obligation imposed by Article 3 and 7 of Framework Decision 2006/960/JHA, in particular ensuring that competent law enforcement authorities provide, to the competent law enforcement authorities of other Member States concerned, information and intelligence in cases where there are factual reasons to believe that the information and intelligence could assist in the detection, prevention or investigation of offences referred to in Article 2(2) of Council Framework Decision 2002/584/JHA²;
- examining whether Europol has fully complied with its duty to notify, imposed by Article 17 of Council Decision 2009/371/JHA³, repealed by Regulation (EU) 2016/794 of the European Parliament and of the Council⁴;
- examining whether Member States' national units have fully complied with the obligation imposed by Article 8(4)(a) of Decision 2009/371/JHA, repealed by Regulation (EU) 2016/794, supplying Europol on their own initiative with the information and intelligence necessary for it to carry out its tasks;
- investigating possible deficiencies in exchange of information between EU agencies, as well as legal means and need for these agencies to access the Schengen Information System and other relevant EU information systems;
- evaluating existing informal cooperation among Member States' intelligence services and assessing the level of effectiveness in terms of information exchange and practical cooperation;
- examining the relationship of the European Union with third countries and international agencies in the fight against terrorism, including existing international cooperation and instruments in the fight against terrorism, including the exchange of best practice, and the effectiveness of the current level of exchange of information;

(e) to assess the impact of the EU anti-terrorism legislation and its implementation on

¹ Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences (OJ L 253, 29.9.2005, p. 22).

² Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

³ Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) (OJ L 121, 15.5.2009, p. 37).

⁴ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

fundamental rights;

- (f) to assess the availability and the effectiveness of all resources allocated to competent authorities involved in the fight against terrorism (police, army, justice, budget, intelligence, surveillance, information, IT, etc.) in the Member States and at EU level; to analyse possible deficiencies in police cooperation and obstacles to practical cross-border law enforcement cooperation in investigations related to the fight against terrorism, identifying technical, structural and legal limitations to investigation capacities;
- (g) to investigate the deficiencies in the judiciary systems and judicial cooperation at EU level, as well as cooperation on cross border investigations, notably through Eurojust, the European Judicial Network, Joint investigation teams, and the European Arrest Warrant (EAW), and the European Investigation Order; to identify technical, structural and legal limitations to investigation and prosecution capacities;
- (h) to examine the current exchange of best practice and collaboration between national authorities and relevant EU bodies with regard to the protection of soft targets, including areas of transit, such as airports and train stations, as well as the protection of critical infrastructures as provided for in Council Directive 2008/114/EC¹;
- (i) to investigate the current mechanisms available for victims of terrorism, particularly Directive 2012/29/EU of the European Parliament and of the Council², identifying existing good practices to be exchanged;
- (j) to collect information and to analyse the process of radicalisation, and the effectiveness of the de-radicalisation programmes set in a limited number of Member States; to identify existing good practices to be exchanged and to ascertain whether the Member States have taken the appropriate measures in that regard;
- (k) to assess the efficiency of cooperation between Member States, as well as the efficiency of cooperation between competent authorities, obliged entities and law enforcement authorities, in fighting money laundering and terrorism financing under Directive 2005/60/EC of the European Parliament and of the Council³, and to exchange views with the relevant actors in the banking sector and fraud investigation and law enforcement authorities in order to identify the new forms of financing of terrorism, including its links with organised crime;

¹ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p. 75).

² 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 (OJ L 315, 14.11.2012, p. 57).

³ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).

- (1) to make any recommendations that it deems to be necessary in all the above-mentioned matters and, to those ends, to establish the necessary contacts, make visits and hold hearings with the EU institutions and relevant agencies and with the international and national institutions, the national parliaments and governments of the Member States and of third countries, and with officials involved in the daily fight against terrorism such as law enforcement agencies, police authorities, intelligence services, judges and magistrates and representatives of the scientific community, business and civil society, including victims' organisations;
2. Stresses that any recommendation of the special committee shall be followed-up by the competent standing committees;
3. Decides that the powers, staff and available resources of Parliament's standing committees with responsibility for matters concerning the adoption, monitoring and implementation of EU legislation relating to the area of responsibility of the special committee shall remain unchanged;
4. Decides that, whenever the special committee work includes the hearing of evidence of a classified nature, testimonies comprising personal data or secrets, or includes the exchange of views or hearings with authorities and bodies on secret, confidential, classified or sensitive information for national security or public security purposes, the meetings should be held *in camera*; decides that witnesses and experts shall have the right to make a statement or to provide testimony *in camera*;
5. Decides that secret or confidential documents which have been received by the special committee shall be examined under the procedure set out in Rule 210a of its Rules of Procedure to ensure that only the Chair, rapporteur, shadow rapporteurs, coordinators and designated officials have personal access to them, and that such information shall be used exclusively for the purposes of drawing up the mid-term and final reports of the special committee; decides that meetings shall be held on premises equipped in such a way as to make it impossible for any non-authorised persons to listen to the proceedings;
6. Decides that, prior to accessing the classified information, or hearing evidence that risks damaging national security or public security, all Members and officials shall receive security clearance in accordance with the existing internal rules and procedures;
7. Decides that the information obtained by the special committee shall be used solely for the performance of its duties and shall not be disclosed to third parties; decides that such information shall not be made public if it contains material of a secret or confidential nature or names persons;
8. Decides that the special committee shall have 30 members;
9. Decides that the term of office of the special committee shall be 12 months, except where Parliament extends that period before its expiry, and that its term of office shall start running from the date of its constituent meeting; decides that the special committee shall present to Parliament a mid-term report and a final report containing factual findings and recommendations concerning the measures and initiatives to be taken.

