

REVIEW OF THE FRAMEWORK DECISION ON TERRORISM

[➔ ARRIVED]

- > ■■■ EUROPEAN AGENDA ON SECURITY
- > ■■■ TERRORISM AND RADICALISATION

CONTENT

The recent terrorist attacks in France, Belgium, Denmark and Germany have highlighted the need for a strong European response to terrorism, and for measures to address the phenomenon of returning foreign fighters.

On 28 April 2015, the Commission proposed a new European agenda on security 2015-2020, in which counter-terrorism is a high priority. The agenda provided for a review of the Framework Decision 2002/475/JHA on combating terrorism, last updated in 2008.

The Commission put forward its new proposal for a directive on combating terrorism on 2 December 2015. 'Given the urgent need to improve the EU framework to increase security in the light of recent terrorist attacks', the draft legislation was finally presented without an impact assessment.

The proposal aimed at better terrorist attack prevention by criminalising new preparatory activities, including receiving training and travelling abroad for terrorist purposes, as well as at strengthening provisions that criminalise recruitment, providing training for terrorist purposes and the spread of terrorist propaganda, including on the internet. The goal was to enhance the deterrent effect across the EU and ensure that perpetrators are effectively sanctioned.

Revision of the Framework Decision was also required, to implement international obligations into EU law. These include the provisions of the UN Security Council Resolution (UNSCR) No 2178(2014) on foreign terrorist fighters, and the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism adopted in May 2015, as well as Financial Action Task Force standards on terrorist financing. UNSCR 2178(2014) requires states to criminalise international travel for terrorist purposes to and from conflict zones, helping to build a common understanding of foreign fighter related offences.

On 11 March 2016, the Council adopted a general approach on the proposed directive on combating terrorism, adding several changes to the Commission proposal, notably on public provocation to commit a terrorist offence, on attacks against information systems, on investigative tools and on victims' specific needs.

The European Parliament has expressed its views on the foreign fighters' phenomenon and the criminal justice response on several occasions, notably in its resolution of 11 February 2015 on anti-terrorism measures, the resolution of 9 July 2015 on the European

agenda on security, and the 25 November 2015 resolution on the prevention of radicalisation. The Parliament requested the review of the Framework Decision on combating terrorism in order to harmonise the criminalisation of foreign-fighter related offences across the EU. Parliament stressed the need to ensure adequate legal prosecution and advocated effective and dissuasive criminal justice measures in all Member States.

The European Parliament's Civil Liberties, Justice and Home Affairs Committee (LIBE) adopted its report on the proposal (rapporteur: Monika Hohlmeier, EPP, Germany) on 4 July 2016, together with a mandate for opening inter-institutional negotiations.

The main amendments proposed to the draft legislation concern:

- new provisions on fundamental rights safeguards, as well as on proportionality, non-discrimination, procedural rights and effective remedies;
- a new article on 'measures against illicit terrorist content on the internet', requiring removal of terrorism-related content, or that access is blocked when removal is not feasible, while respecting transparent procedures and adequate safeguards;
- a provision on the freezing of terrorist assets, together with recommendations on financial information sharing and setting up of specialised national units;
- an obligation to share information on terrorist offences, including alerts in the Schengen information system (SIS II) on suspected or convicted offenders, as well as relevant passenger name record (PNR) data;
- provisions aiming at reinforced protection and support for victims of terrorism;
- measures to address radicalisation and prevent recruitment for terrorism, with a focus on education, awareness-raising and counter-narratives.

After seven trilogue negotiations, which took place from July to November 2016, the co-legislators have come to an agreement on the draft text.

The agreed directive adds a new terrorist offence to the existing list, i.e. illegal system interference and illegal data interference (cyber-attacks), when committed against a critical infrastructure information system. Moreover, it will criminalise the following preparatory acts:

- travelling for terrorist purposes, both abroad or to an EU country in order to commit a terrorist offence, to join a terrorist group or for terrorism-related training;
- recruiting for terrorism;
- providing or receiving training, such as on using or making explosives or weapons, including independent learning;
- public incitement to commit terrorist offences or advocating terrorism, including online;
- providing funds to commit or contribute to terrorism.

The agreed text specifies that a preparatory act must have been carried out intentionally or knowingly to be criminalised. It contains

provisions on procedural rights, non-discrimination, proportionality and a dedicated article on fundamental rights and freedoms, as introduced by the EP negotiators. On the EP's initiative, the new directive will also impose an obligation on Member States to exchange relevant information in relation to criminal proceedings on terrorist offences, .

Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA was published in Official Journal on 31 March 2017 and entered into force on 20 April 2017. Member States have to transpose it into national legislation by 8 September 2018.

References:

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- European Commission, [Communication on the European Agenda on Security](#), COM(2015)0185
- UN Security Council, [Resolution 2178\(2014\) on Foreign Terrorist Fighters](#), 24 September 2014
- Council of Europe, [Additional Protocol to the Council of Europe Convention on the Prevention of terrorism](#), 19 May 2015
 - Financial Action Task Force (FATF), [International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation](#), FATF 2012, updated June 2016
- European Parliament, [Resolution of 11 February 2015 on anti-terrorism measures](#), 2015/2530(RSP)
- European Parliament, [Resolution of 9 July 2015 on the European Agenda on Security](#), 2015/2697(RSP)
- European Parliament, [Resolution of 25 November 2015 on the prevention of radicalisation and recruitment of European citizens by terrorist organisations](#), 2015/2063(INI)
 - [Directive \(EU\) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA](#)

Further reading:

- European Parliament, EPRS, [Combating terrorism](#), EU legislation in progress, September 2017
- European Parliament, EPRS, [Framework Decision 2002/475/JHA on combating terrorism](#), Implementation Appraisal, May 2016

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HYPERLINK REFERENCES

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