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NOTE

from: EU Counter-Terrorism Coordinator (CTC)
to: Council/European Council

Subject: Annual report on the implementation of the EU Counter-Terrorism Strategy:
- Evaluation by the CTC and questions for discussion

PREVENT

Since the launch of the EU Strategy and Action Plan to Combat Radicalisation and Recruitment in 2005, many PREVENT initiatives have been taken across Europe.

The EU Strategy and Action Plan have offered a valuable framework for Member States (MS) to draft their own PREVENT strategies and share information about national policies and responses. In 2007, I asked a number of MS to develop their thinking on a particular strand of work in the field of prevent. 6 MS accepted this challenge and their efforts resulted in 6 works streams. These generated many new ideas and projects (such as the community policing project COPPRA, de-radicalisation initiatives for young people, Check the Web, etc.) which inspired other MS to develop similar initiatives. Some of them also received follow-up in a wider EU context. I very much welcome any ideas for new work streams.

Over the past years, the EU's thinking on PREVENT has evolved considerably, not only because of new experiences and insights into the complex phenomenon of radicalisation, but also because of the evolving nature of the threat. New threats stemming from lone actor terrorism or the continuous flow of European citizens or residents, the so-called 'foreign fighters', travelling abroad to seek training or to fight, pose huge challenges in terms of preventing radicalisation. They have triggered questions as to whether our current strategies for tackling radicalisation and recruitment are still valid or whether new aspects need to be added to make them more effective. In this respect, I believe that it would be useful to revise both the EU Strategy on Radicalisation and Recruitment and the Media Communication Strategy to bring them more into line with our current thinking. Today, most of our PREVENT work is based on the belief that radicalisation can best be contained at a level closest to the most vulnerable individuals. That is also why the EU and its MS fully recognise that the challenge of countering radicalisation will not be met by governments working alone, but by collaboration with communities, diasporas, civil society, non-governmental organisations, the private sector and frontline workers. Many of these actors are in contact with vulnerable individuals on a daily basis, and hence are well placed to inform policy-makers of the most appropriate policy responses. In order to benefit from this knowledge, Commissioner Malmström last year inaugurated the Radicalisation Awareness Network (RAN). The results of this network will be presented during a high-level symposium in January 2013.

In conclusion, I believe that in recent years the EU and its MS have made huge efforts to counter radicalisation and recruitment and all forms of violent extremism. Key to success, however, is to sustain the effort. This will require patience, a long time horizon and above all strong political will.

PROTECT

The EU has continued its activities through FRONTEX and other instruments to improve border security while ensuring the free movement of citizens. The EU is still facing the problem of travel movements by foreign fighters and would-be jihadists leaving for or returning from hot spots such as the Afghanistan/Pakistan border area and other regions such as Yemen, Somalia, Syria, Libya and the Sahel. As the terrorist threat is evolving, the structures of terrorist networks are getting more difficult to detect and the threat from lone actors is increasing, we have to make full use of existing instruments and connect the dots better. PNR and other relevant data have to be used in an appropriate and proportionate manner. Proposals made in the past such as better EU-US cooperation, or joint analysis by Frontex/Europol should be followed up; steady implementation of the instruments already agreed (SIS II, VIS etc.) is necessary.

The Commission in cooperation with the Member States has undertaken an assessment of the Critical Infrastructure Protection (CIP) Directive. CIP remains a central element for any successful counter terrorism policy, but also faces challenges as to what to regulate at EU level and what at Member State level. The outcome of the evaluation has been diverse. Some Member States are hesitant about additional EU measures. Therefore a political agreement on how to move forward jointly is essential - in particular to address key challenges such as the protection of critical information infrastructure. In this regard I expect that the Commission Communication in 2013 will give guidance on how to move ahead and to stimulate a political debate on what the next steps should be.

The EU has reacted in an exemplary manner to threats against civil aviation. Excellent work has been done in the field of passenger and cargo security - through new legislation, risk assessment management and new area of cooperation among the different sectors (transport, law enforcement, customs, industry). This provides a model for other fields of public transport. As the most serious attacks after 9/11 on European soil have targeted land transport, further efforts are necessary and swift implementation of suggested measures is needed. In May 2012 the Commission presented further ideas in a staff working paper on transport security. These provide a good basis for stepping up activity in this field.

In the area of the security of explosives and CBRN materials, the Commission is working towards a new CBRNE Agenda by streamlining, prioritising and creating synergies between the Action Plan on Enhancing the Security of Explosives and the CBRN Action Plan.

In the field of security-related research and security industrial policy the Commission has presented a communication on security industrial policy. This field creates a challenge for the JHA sector: we need better involvement of end users, increased use of pre-commercial procurements and better foresight on emerging technologies. The discussion on the budget for the new Framework Programme continues. We have to secure a level of funding at least similar to the final level planned in FP 7.

PURSUE

Given the more diverse nature of the terrorist threat, collection and analysis of passenger name record and SWIFT data is a crucial tool to prevent terrorist attacks. I welcome the progress made with the creation of an EU system for collecting and processing Passenger Name Record (PNR) data, and I hope that the legislation can be adopted soon. I look forward to the upcoming impact assessment by the Commission on the Terrorist Financing Tracking System.

I believe that the EU needs to move away from regarding data collection/data sharing and data protection as a zero sum game. I recommend discussing innovative approaches to privacy by design, which helps to integrate and address both privacy and security concerns early on, as for example pioneered by the Information and Privacy Commissioner of Ontario, Canada. The concept of Privacy by Design is included in the EU data protection reform proposals¹ currently under discussion.

In this context, I await the Commission's communication on the European Information Exchange Model (EIXM) to define an EU policy on information exchange that is well-tailored and proportionate to our needs but also innovative and adapted to the challenges.

¹ COM(2012)10 final and COM(2012)11 final, both adopted on 25.1.2012.

The implementation of the CTC's recommendations regarding the judicial aspects of the fight against terrorism (13318/1/10 Rev 1) should be stepped up. The EU is promoting a criminal justice approach to the fight against terrorism and therefore has to deal with improving the judicial dimension as a priority, both by taking EU internal measures and by supporting and working more closely with third countries. However, counter-terrorism is often wrongly perceived as a task only for the Ministries of the Interior. Many third countries facing serious terrorism challenges have weak criminal justice systems, and hence they need support in improving their capacity to investigate and try terrorist suspects based on the rule of law and human rights. This aspect should be integrated into the EU's justice support projects. Internationally, the EU should try to provide more leadership on the judicial dimension and strive to ensure respect for human rights and the rule of law, including legislation implementing these rights at all levels. The Global Counter-Terrorism Forum's rule of law/criminal justice working group and the planned International Institute on Justice and the Rule of Law - Tunisia provide opportunities the EU should seize.

The creation of COSI should be an opportunity to step up the EU's work on counter-terrorism. COSI has already discussed counter-terrorism once, in the context of the fight against the PKK. In the future, it would be good if COSI could do this more often.

RESPOND

The Commission and the High Representative of the Union for Foreign Affairs and Security Policy have indicated that the draft Decision implementing Art. 222 TFEU (Solidarity Clause) will be issued soon, which is very much welcome.

The new Crisis Coordination Arrangements (CCA) are currently under preparation in the Council. A well functioning mechanism is needed for the EU to react in the event of an internal or external crisis.

The agreement on the Civil Protection Mechanism has to be achieved

EXTERNAL

One of the challenges the EU counter-terrorism work has faced since the entry into force of the Lisbon Treaty is to better integrate the internal and external dimension (cf report presented to the Council, 14819/1/12 REV 1). A lot of progress has been made, for example with the adoption of comprehensive strategies, such as for the Sahel. Some challenges remain: the EU still needs to find better ways to use the expertise of Member States' counter-terrorism, security, justice and police officials in EU capacity building projects, and to take political and security considerations into account when programming development assistance. Most counter-terrorism challenges are complex, hence internal and external expertise has to be brought together even more systematically. In addition, the working method for implementing the Roadmap for Strengthening Ties between CSDP and FSJ should be improved so as to yield more results in the short to mid-term.

Radicalisation and recruitment is a major problem in many countries; without addressing this, security cannot be achieved. However, we are still learning. So far, the EU does not have a vision of how best to do this, whether as to the direction of regular development assistance, or with a view to specific PREVENT projects. I welcome the effort of EEAS/DEVCO to define a vision of how to address radicalization and recruitment abroad. It would make the EU's development assistance more effective if addressing the underlying factors of radicalisation and recruitment was taken into account. The OECD-DAC best practices on the development contribution to the prevention of terrorism are of particular interest in this context.

In addition, it remains important to ensure that the programmable element of the Instrument for Stability (IfS long-term component) is kept at an adequate level. A significant decrease in funding would have direct implications for CT activities regionally in the period 2014 -2020.

The threat in the Sahel and in Nigeria is growing. In addition to supporting the Malian army and ECOWAS with a view to re-establishing government control over the North of Mali, the EU should work on counter narratives and PREVENT in all of Mali and in the camps for internally displaced persons and refugees around Mali. As in Afghanistan, a "civilian surge" needs to be prepared now to show the population immediate benefit and services after regaining territory ("clear, hold and build"). EUCAP Sahel should be extended as soon as possible to Mali and Mauretania in order to beef up the criminal justice system, so that they will be able to try the terrorist suspects who are likely to be arrested in the context of re-establishing control in the North. Given the risk of destabilisation and infiltration the EU should provide security and development support for the neighbouring countries as well (2nd circle of the European Strategy for Security and Development in the Sahel: Senegal, Burkina Faso etc.). In my next discussion paper I will present more detailed suggestions with view to discussion at the March JHA Council.

The citizens of Arab Spring countries have called for a rule of law and human rights based security sector, responsive to the needs of the people. This is a core part of a democratic, rule-of-law based state. The EU and its Member States have experience in this context, for example in the transformations which the EU assisted in after the end of the Cold War. It is crucial that the EU help the "Arab Spring" countries to reform their security sectors, taking a comprehensive approach. Security agencies have been dismantled in some countries, which provides greater operational freedom for terrorist groups. The EU, using Member States' expertise, could share know-how in building efficient and human rights compliant security services.

Parliamentary oversight mechanisms, the legal and institutional framework and the criminal justice sector are key parts of security sector reform and also have to be addressed. One challenge is for transition countries to move from a confession-based to an evidence-based system in the criminal justice chain, which requires sophisticated techniques and capabilities.

I strongly believe that human rights issues form an integral part of our counter-terrorism work. Assisting third countries in developing counter-terrorism practices that are efficient and comply with the rule of law and human rights responds to prerequisites set by the EU Charter of Fundamental Rights as well as to the wish of the citizens, allows for deeper and more efficient cooperation with the EU and its Member States and prevents radicalisation and recruitment to terrorism. Therefore, I welcome the Danish initiative to address the mainstreaming of human rights into counter-terrorism capacity building assistance, and look forward to the forthcoming guidelines on this issue, to which I will contribute. However, too often, EU human rights and security dialogues are separate and these inherently interlinked issues are discussed by separate experts and taken forward by different projects. If we want to be effective, we need joint counter-terrorism/security and human rights dialogues and to integrate the security sector in human rights projects and vice versa.

Questions for the debate:

- Are we on the right track ?
- What more needs to be done?
- What are Member States' priorities ?
- Where can and does the EU have most added value?
