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From:	House of the Representatives of the Republic of Cyprus
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
Subject:	Proposal for a Directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism [14926/15 DROIPEN 164 COPEN 343 JAI 968 CODEC 1644 - COM(2015) 625 final] - Opinion[1] on the application of the Principles of Subsidiarity and Proportionality

Delegations will find attached a copy of the above mentioned opinion.

[1] Translation(s) of the opinion may be available at the Interparliamentary EU information exchange site IPEX at the following address: http://www.ipex.eu/IPEXL-WEB/search.do

Opinion submitted by the Standing Committee on Legal Affairs of the House of Representatives of the Republic of Cyprus with regard to the Commission's proposal for a Directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism [COM (2015) 625] – executive summary in English

Legal framework

In assessing the substance of the proposal for a Directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism [COM (2015) 625], the Standing Parliamentary Committee on Legal Affairs (hereinafter "the Committee") took also into consideration the legal framework provided by the Treaty of the European Union with regard to the principle of subsidiarity [article 5(3) of the Treaty regarding the subsidiarity principle, article 5 of Protocol (No2) on the application of the principles of subsidiarity and proportionality and article12(b) on the role of national parliaments to ensure compliance with the principle of subsidiarity].

The Committee findings

The Committee examined the said proposal in two meetings. The Minister of Justice and Public Order and officials of the executive were invited to provide the Committee with the necessary information regarding the developments at the EU level as well as the position of the executive on the subject matter.

The Committee shares the opinion that there is a need to strengthen the existing framework on combating terrorism, especially in the light of the recent terrorist attacks in Paris. It also recognises the cross-border dimension of the terrorist threat. In this respect, the Committee fully supports the need to implement the UN Security Council Resolution (UNSCR) 2178 (2014) and the Additional Protocol to the Convention on the prevention of terrorism adopted by the Council of Europe. Furthermore, the Committee agrees that victims of terrorism require protection, support and assistance and therefore provisions should be set out in this respect.

The Committee expressed doubts whether the proposed Directive in its current form, constitutes the best possible option to address the threat of terrorism, taking into consideration that, as the European Commission states, "*this proposal is exceptionally presented without an impact assessment*". The absence of an impact assessment document precludes national Parliaments from

ascertaining the necessity for an action at the EU level, as provided for under Article 5 of Protocol (2) of the EU Treaty. Furthermore, no information is provided with regard to other options at the member states level. The Committee reiterates that the principle according to which the decisions are taken as closely as possible to the EU citizens, requires that the necessity to apply quite the opposite, needs to be sufficiently justified by convincing evidence. In this case, the need for an action at the EU level is not substantiated by qualitative and quantitative indicators nor is it based on a detailed statement. Even though the Committee takes note of the short reference to the safeguards for the protection of fundamental rights included in the explanatory memorandum, as well as in paragraphs (19) and (20) of the preamble of the proposal at hand, it is of the opinion that such an important proposal, having an impact on citizen rights and freedoms should be accompanied by a detailed *analysis* on the issues raised above.

In addition to the above, the Committee, being aware of the discussions in progress at the EU level, and particularly the measures discussed at the recent informal meeting of Ministers of Justice and Home Affairs, considers that the options pertaining the strengthening of existing structures and methods have apparently not been exhausted.

However, despite the lack of the necessary information and analysis, the Committee, having recognised the urgent need to take further action to tackle terrorism and improve the existing framework, thus increasing security for EU citizens, is not opposed to the idea of adopting a new directive on the subject matter, on the condition that *sufficient safeguards on fundamental rights shall be included in the normative part of the directive and the scope of the offences is limited to the maximum possible extent to avoid further criminalization of the life of EU citizens.*