

Combating terrorism

2015/0281(COD) - 02/12/2015 - Legislative proposal

PURPOSE: to reform the legal framework in force in the EU on the criminalisation of behaviours linked to terrorist activities.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND : acts of terrorism constitute one of the most serious violations of the universal values of human dignity, freedom, equality and solidarity, the enjoyment of human rights and fundamental freedoms on which the European Union is founded. They are serious attacks on the principles of democracy and the rule of law on which the European Union is founded.

The terrorist threat has grown and evolved in recent years. Individuals referred to as "foreign terrorist fighters" travel abroad for terrorism purposes. Returning foreign terrorist fighters pose a heightened security threat to all EU Member States. In addition, the European Union and its Member States face increased threats from individuals inspired or instructed by terrorist groups abroad but who remain within Europe.

By late 2014, the overall number of people who have departed from the EU to conflict areas was estimated to have exceeded 3000 and is now assessed to have reached 5000 while at the same time the number of returnees was reported to have increased in some Member States.

As emphasised by Europol, "individuals who have travelled to conflict zones will continue to pose a heightened threat to all EU Member States. The attacks carried out on European soil in the course of 2014 and 2015, culminating in the recent attacks in Paris on the night of 13 November 2015, tragically illustrated that this risk can materialise

[Framework Decision 2002/475/JHA](#) already criminalises certain terrorist acts, including in particular the commission of terrorist attacks, participation in the activities of a terrorist group, including financial support to these activities, public provocation, recruitment and training to terrorism as well as rules on aiding and abetting, incitement and attempt of terrorist offences.

However, Framework Decision 2002/475/JHA needs to be reviewed to implement new international standards and obligations taken by the EU and to tackle the evolving terrorist threat in a more effective way, thereby enhancing the security of the EU and the safety of its citizens. Victims of terrorism also require protection, support and assistance that respond to their specific needs.

IMPACT ASSESSMENT: given the urgent need to improve the EU framework to increase security in the light of recent terrorist attacks including by incorporating international obligations and standards, the proposal is exceptionally presented without an impact assessment.

CONTENT: the proposal replaces Framework Decision 2002/475/JHA and seeks to put in place updated EU level legislation establishing minimum rules on the definition of terrorist offences, offenses related to a terrorist group or terrorist activities and penalties in this area. It also provides specific measures on protection, support and assistance to the victims of terrorism.

The proposed directive transposes into EU law international law obligations, such as those flowing from the provisions of UN Security Council Resolution (UNSCR) 2178(2014) on foreign terrorist fighters, the Additional Protocol to the Council of Europe Convention on the prevention of terrorism and the Financial Action Task Force (FATF) Recommendations concerning terrorist financing.

Terrorist offences: the proposal defines which offences should be considered as terrorist offences in Member States. This provision was contained in Framework Decision 2002/475/JHA and remained unchanged since then. The main aim of this key provision is to approximate the definition of terrorist offences in all Member States by introducing a specific and common qualification of certain acts as terrorist offences.

Offences relating to a terrorist group: the proposal requires Member States to criminalise the running of or participation in the activities of a terrorist group, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.

Offences relating to terrorist activities: the proposal requires Member States to criminalise:

- a public provocation to commit a terrorist offence, where this is committed intentionally (e.g. the glorification of suicide bombers, encouragement to join violent jihad, direct invitations to kill non-believers, justification of terrorism or the dissemination of messages or images of brutal assassinations);
- recruitment for terrorism: the aim is to provide adequate criminal justice tools to stem extensive recruitment activities by individuals or recruitment networks;
- providing training for terrorism, e.g. providing instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, for the purpose of committing a terrorist offence. This is meant to capture the dissemination of instructions and (online) manuals intended for training or planning of attacks and more specifically the dissemination (through the internet) of information on terrorist methods, thus functioning as a virtual training camp;
- receiving training: this will provide law enforcement and prosecutors with additional tools to tackle the threats resulting from potential perpetrators, including those ultimately acting alone, by offering the possibility to investigate and prosecute training activities having the potential to lead to the commission of terrorist offences;
- travelling abroad for terrorism: this offence targets primarily the phenomenon of foreign terrorist fighters by criminalising travelling to another country for terrorist purposes. The provision covers both the travel to third countries, as well as to EU Member States, including those of the nationality or residence of the perpetrator. The travel to the State of destination may be direct or by transiting other States en route;
- organising or otherwise facilitating travelling abroad for terrorism, e.g. by purchasing tickets and planning of itineraries, or any other conduct which assists the traveller in reaching his or her destination, including by assisting the traveller in unlawfully crossing a border. In addition to acting intentionally, the perpetrator must know that the assistance is rendered for the purpose of terrorism;
- terrorist financing: it is not necessary that the offence is actually committed or that a link is established to a specific terrorist offence.

The funds may come from a single source, e.g. as a loan or a gift which is provided to the traveller by a person or legal entity, or from various sources through some kind of collection organised by one or more persons or legal entities.

- other offences, such as aggravated theft, extortion and fraud to commit terrorist offences, and drawing up false administrative documents to committing a terrorist offence.

Aiding or abetting, inciting and attempting: Member States are required to criminalise aiding or abetting, inciting and attempting to commit a terrorist offence, such as providing the financial resources for the execution of a terrorist attack, to the provision of supportive services or material such as (means of) transportation, weapons, explosives or shelter. A person instigating another person to actively recruit others or to travel abroad for terrorist purposes would therefore be covered.

Protection of and assistance to victims of terrorism: the proposal sets out new rules complementing [Directive 2012/29/EU](#) on victims rights so that victims of terrorism have access to a long-term emotional and psychological support and assistance, whether legal, practical or financial, in the place where they live.