



EUROPEAN COMMISSION

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*Mr Demetris SYLLOURIS  
President of the  
Vouli ton Antiprosopon  
CY – 1402 NICOSIA*

*Dear President,*

*The Commission would like to thank the Vouli ton Antiprosopon for its Opinion on the Commission proposal for a Directive on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism {COM(2015) 625 final}.*

*The Commission appreciates the support of the Vouli ton Antiprosopon for the objectives of this proposal and agrees that in achieving this, it is crucial to ensure a fair balance between fundamental rights and security.*

*The Commission takes note of the Vouli ton Antiprosopon's concerns that this proposal is presented without an impact assessment. It was adopted on 2 December 2015 following the terrorist attacks on 13 November 2015 which prompted the urgent need to act. The objective of the Commission was to adopt this proposal as soon as possible, so that police and prosecutors have the legal tool to make Europe safer. Moreover, the Commission's Better Regulation guidelines envisage specific situations where no impact assessment is needed.*

*The Commission would like to stress that most of the proposed provisions constitute EU acquis as laid down in the Framework Decisions of 2002 and 2008<sup>1</sup> (cf. Articles 2-7 and 12-21).*

*Furthermore, several proposed provisions (see in particular Articles 8 – 11 and 15) aim to implement international obligations and standards, including in particular the Council of Europe Additional Protocol to the Convention on the prevention of terrorism which in turn transposed UN Security Council 2178(2014) regarding the criminalisation of Foreign Terrorist Fighters related conduct as well as relevant standards of the Financial Action Task Force (FATF) concerning the criminalisation of terrorist financing. Given the need to translate into EU law these obligations and standards there was only a limited margin of discretion.*

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<sup>1</sup> Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3). Amended by Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating terrorism (OJ L 330, 9.12.2008, p. 31).

*Finally, the proposal includes some new provisions going beyond international standards taking into account the evolving terrorist threat, as illustrated by recent attacks, as well as reports from Europol, Eurojust and the UN.*

*In this spirit, the Commission considered it necessary to require criminalisation of travel to any country with the purpose to commit terrorist offences, thus including travel to and within the EU where the purpose is for instance to carry out a terrorist attack or to participate in terrorist training. The proposal takes into account the evolving terrorist modus operandi and evolving terrorist threats resulting in particular from those returning from abroad instructed to carry out attacks on European soil. The explanatory memorandum of the Commission proposal explains in detail the rationale and objectives of these provisions.*

*The Commission also considered it necessary to enhance the protection of the victims of terrorism addressing their very specific needs.*

*As to the assessment of the impacts of these provisions, the Commission would like to inform the Vouli ton Antiprosopon that the amending Framework Decision of 2008 was preceded by an impact assessment. The implementation of the Framework Decision on combating terrorism has been systematically assessed and reported to the European Parliament and the Council, most recently in September 2014. The need of updating the existing EU legal framework in light of international standards and the evolving terrorist threat has been highlighted also by Eurojust reports.<sup>2</sup> Furthermore, the adoption of the Council of Europe's Additional Protocol was preceded by several rounds of experts' discussions also including with human rights organisations. The relevant fundamental rights considerations are also reflected in the Commission's proposal. Given the primacy of the EU Treaties and the applicability of the Charter of Fundamental Rights of the European Union, there is in the Commission's view and from a legal perspective no need to include a provision in the Directive stipulating the safeguard of fundamental rights as this is suggested by the Vouli ton Antiprosopon.*

*The Commission hopes that the clarifications provided in this reply address the issues raised by the Vouli ton Antiprosopon and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Dimitris Avramopoulos  
Member of the Commission*

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<sup>2</sup> Foreign Fighters: Eurojust's Views on the Phenomenon and the Criminal Justice Response, Updated Report of November 2014 (and follow up of November 2015). Dissemination of these reports is restricted, but the main findings of the 2014 report are mentioned in Council document 15715/2/14 of 2 December 2014.