



EUROPEAN COMMISSION

*Brussels, 6.12.2016
C(2016) 7749 final*

*Ms Laura BOLDRINI
President of the
Camera dei Deputati
Piazza Montecitorio
IT – 00100 ROME*

Dear President,

The Commission would like to thank the Camera dei Deputati 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 Camera dei Deputati for the objectives of this proposal and agrees that it is necessary to strengthen the instruments available to the EU and its Member States to prevent and combat the terrorist threat.

People travelling to conflict zones continue to be of concern, but recent attacks involved both terrorists entering the EU and terrorists travelling within the EU. The Commission therefore welcomes the support of the Camera dei Deputati for the scope of the proposal regarding the travel offence.

The Commission considers that the effective and timely exchange of information is of utmost importance. By creating a common definitions of terrorist offences, the proposed Directive will also facilitate information sharing. The Directive does however not focus on the mechanism to exchange information: such mechanisms are provided for in other EU instruments.

The Commission agrees with the suggestion of the Camera dei Deputati that more needs to be done to tackle effectively the looting of cultural artefacts as a source of terrorist financing. To the extent that for instance trade in such goods is carried out with a view to financing terrorist activities, this could constitute a criminal offence as clarified in recital 11 of the Commission's proposal¹.

¹ Recital 11 reads as follows: "Furthermore, the provision of material support for terrorism through persons engaging in or acting as intermediaries in the supply or movement of services, assets and goods, including trade transactions involving the entry into or exit from the Union should be punishable in the Member States, as aiding and abetting terrorism or as terrorism financing if performed with the knowledge that these operations or the proceeds thereof are intended to be used, in full or in part, for terrorist purposes or will benefit terrorist groups".

Furthermore, as announced in its Action Plan for strengthening the fight against terrorist financing², the Commission will consider a wider response to combatting terrorism financing via the fight against illicit trafficking in cultural goods, including a possible legislative proposal against illicit trade in cultural goods or the introduction of a certification system for the import of cultural goods into the EU coupled with guidance to stakeholders, such as museums and the art market.

The Commission considers that the authorities competent for counter-terrorism investigations should have the appropriate investigative tools at their disposal, such as interception of telecommunications and covert surveillance. The Commission supports the proposed provisions of the Council and the European Parliament to ensure that effective investigative tools such as those used in organised crime and other serious crime cases are available in investigations regarding the crimes defined in the proposed Directive.

The Commission welcomes measures by Member States to remove or to block access to webpages that incite the carrying out of terrorist offences. The Commission would like to inform the Camera dei Deputati about the success of the EU Internet Referral Unit, which was launched in July 2015 at Europol. In its first year of operation, the Unit assessed and processed for the purpose of referral towards concerned internet service providers over 11,000 messages across some 31 platforms. More than 91% of the total content was successfully removed from the platforms by the social media and online service providers³.

As to conflicts of jurisdiction, Article 21(2) of the Commission proposal requires Member States to cooperate in order to decide which of them will prosecute the offenders with the aim, if possible, of centralising proceedings in a single Member State. The details of such cooperation are governed by Framework decision 2009/948/JHA on the prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings, which is of horizontal application to all criminal proceedings.

The observations made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Camera dei Deputati and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Dimitris Avramopoulos
Member of the Commission*

² COM(2016) 50 final.

³ <https://www.europol.europa.eu/print/content/europol-internet-referral-unit-one-year>