



EUROPEAN COMMISSION

*Brussels, 18.07.2016  
C(2016) 4216 final*

*Mr Pietro GRASSO  
President of the  
Senato della Repubblica  
Piazza Madama, 1  
IT – 00186 ROME*

*Dear President,*

*The Commission would like to thank the Senato della Repubblica for its Opinion on the 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 Senato della Repubblica 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 proposal for a Directive on combating terrorism is about creating a common definition of terrorist offences. Such common definitions will help facilitate the information exchange between the competent national authorities in the field of security and the fight against terrorism. The Commission is open to looking into ways in which this information exchange can be improved through the Directive on combating terrorism that aims to harmonise criminal law provisions.*

*Many steps have already been taken to improve the exchange of information, such as the launch of the European Counter Terrorism Centre at Europol this January. The Commission also proposed in January 2016 to amend the EU system for the exchange of information of criminal convictions to include the exchange of criminal records of third country nationals.<sup>1</sup> The recent Communication on Stronger and Smarter Information Systems for Borders and Security<sup>2</sup> analyses shortcomings in current systems, gaps in the architecture and interoperability.*

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<sup>1</sup> COM (2016) 7 final, 19 January 2016.

<sup>2</sup> COM (2016) 205 final, 6 April 2016.

*In response to the more detailed clarifications requested in the Opinion the Commission would like to refer to the attached Annex.*

*The Commission hopes that the clarifications provided address the issues raised by the Senato della Repubblica and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Dimitris Avramopoulos  
Member of the Commission*

## ANNEX

*The Commission has carefully considered the issues raised by the Senato della Repubblica and is pleased to provide the following clarifications:*

*Eurojust helps judicial authorities to coordinate and cooperate, including through the exchange of information. By rapidly solving legal problems and identifying competent authorities in other countries, Eurojust facilitates the execution of requests for cooperation and mutual recognition instruments. The Commission has proposed to reform Eurojust envisaging a bigger role in supporting national authorities, to reform its governance structure and to increase the democratic oversight of the European Parliament and national Parliaments.<sup>3</sup>*

*As to the Schengen Information System, the Commission has revised the Schengen Handbook to clarify the concept of "non-systematic checks" and provided guidance to help border guards seize invalidated documents. As a result, today there are more than 66 000 alerts for specific checks, a 300% increase compared to the situation in June 2013. The Commission has made legal and technical improvements to the Schengen Information System to provide for real-time communication from controls on the ground to the competent services in other Member States. The Commission is also evaluating a revision of the Schengen Information System and looking at the law enforcement aspect of the System and return and entry bans.*

*The Commission adopted in 2013 a proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office<sup>4</sup> to combat crimes affecting the financial interests of the Union. Negotiations on this proposal are ongoing. Article 86(4) on the Treaty on the Functioning of the European Union allows for the extension of the competence of the Office to serious crimes having a cross-border dimension. As the Senato della Repubblica notes, such extension of competences would require a unanimous decision of the European Council and consent of the European Parliament.*

*The Commission agrees with the Senato della Repubblica's suggestion that more needs to be done to effectively tackle the issue of 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 is noted in recital 11 of the Commission's proposal.<sup>5</sup> Furthermore, as announced in its Action Plan for strengthening the fight against terrorist financing,<sup>6</sup> the Commission will consider a wider response to combatting terrorism financing via illicit trafficking in cultural goods including a possible legislative proposal against illicit trade in cultural goods or the introduction of a*

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<sup>3</sup> COM 2013 (535) final, 17 July 2013.

<sup>4</sup> COM (2013) 534 final of 17 July 2013.

<sup>5</sup> 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".

<sup>6</sup> COM (2016) 50 final of 2 February 2016.

*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 encourages Member States to take measures to remove or to block access to webpages publicly inciting the commission of terrorist offences. The Commission would like to inform the Senato della Repubblica on the success of the EU Internet Referral Unit, which was launched in July 2015 at Europol. Within its first nine months, the Unit has assessed over 4 700 pieces of material across 45 platforms and made over 3 200 referrals, with a removal rate of 91%.*

*The Commission agrees with the Senato della Repubblica that the national authorities responsible for investigating and prosecuting terrorist offences should have the possibility to make use of all investigative tools such as those that are used in combating other serious crime. The Council reached a general approach on the Commission's proposal on 11 March 2016 which reflects some of Senato della Repubblica's suggestions.<sup>7</sup>*

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<sup>7</sup> See in particular the proposed amendments to recitals 7 (online content) and 11 (cultural goods) of the proposed Directive, as well as the introduction of recital 15a (investigative tools).