Basic information

2015/0281(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Combating terrorism Repealing JHA act 2002/475/JHA 2001/0217(CNS) Amending JHA act 2005/671/JHA 2004/0069(CNS) **Subject** 7.30.20 Action to combat terrorism	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	HOHLMEIER Monika (PPE)	11/01/2016
	Shadow rapporteur CHINNICI Caterina (S&D) MACOVEI Monica (ECR) JEŽEK Petr (ALDE) ERNST Cornelia (GUE/NGL) JOLY Eva (Verts/ALE) AGEA Laura (EFDD) FONTANA Lorenzo (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	
FEMM Women's Rights and Gender Equality	The committee decided not to give an opinion.	

Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
JURI Legal Affairs	CAVADA Jean-Marie (ALDE)	24/01/2017

Council of the

Council configuration	Meetings	Date

European Union	General Affairs	3526	2017-03-07
	Justice and Home Affairs (JHA)	3455	2016-03-10
	Justice and Home Affairs (JHA)	3508	2016-12-09

European Commission	Commission DG	Commissioner
	Migration and Home Affairs	AVRAMOPOULOS Dimitris

Key events

Date	Event	Reference	Summary
02/12/2015	Legislative proposal published	COM(2015)0625	Summary
18/01/2016	Committee referral announced in Parliament, 1st reading		
10/03/2016	Debate in Council		
04/07/2016	Vote in committee, 1st reading		
04/07/2016	Committee decision to open interinstitutional negotiations with report adopted in committee		
12/07/2016	Committee report tabled for plenary, 1st reading	A8-0228/2016	Summary
09/12/2016	Debate in Council		
15/02/2017	Debate in Parliament		
16/02/2017	Decision by Parliament, 1st reading	T8-0046/2017	Summary
16/02/2017	Results of vote in Parliament		
07/03/2017	Act adopted by Council after Parliament's 1st reading		
15/03/2017	Final act signed		
15/03/2017	End of procedure in Parliament		
31/03/2017	Final act published in Official Journal		

Technical information

Procedure reference	2015/0281(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealing JHA act 2002/475/JHA 2001/0217(CNS) Amending JHA act 2005/671/JHA 2004/0069(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 082-p2 Treaty on the Functioning of the European Union TFEU 083-p1-a1
Other legal basis	Rules of Procedure EP 165

Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/05240

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE577.046	09/03/2016	
Amendments tabled in committee		PE580.621	08/04/2016	
Amendments tabled in committee		PE580.626	12/04/2016	
Committee report tabled for plenary, 1st reading/single reading		A8-0228/2016	12/07/2016	Summary
Specific opinion	JURI	PE597.753	02/02/2017	
Text adopted by Parliament, 1st reading/single reading		T8-0046/2017	16/02/2017	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00053/2016/LEX	15/03/2017	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2015)0625	02/12/2015	Summary
Commission response to text adopted in plenary	SP(2017)156	14/03/2017	
Follow-up document	COM(2020)0619	30/09/2020	
Follow-up document	COM(2021)0701	18/11/2021	
Follow-up document	SWD(2021)0324	18/11/2021	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	CY_PARLIAMENT	COM(2015)0625	16/02/2016	
Contribution	AT_BUNDESRAT	COM(2015)0625	29/03/2016	
Contribution	IT_SENATE	COM(2015)0625	29/03/2016	
Contribution	PT_PARLIAMENT	COM(2015)0625	29/03/2016	

Contribution	RO_SENATE	COM(2015)0625	29/03/2016	
Contribution	CZ_SENATE	COM(2015)0625	21/04/2016	
Contribution	RO_CHAMBER	COM(2015)0625	13/05/2016	
Contribution	IT_CHAMBER	COM(2015)0625	18/07/2016	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0019/2016	16/03/2016	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2017/0541
OJ L 088 31.03.2017, p. 0006 Summary

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.

Combating terrorism

2015/0281(COD) - 12/07/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted a report by Monika HOHLMEIER (EPP, DE) on 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.

The committee recommended that the European Parliament's position adopted at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Purpose: the committee recalled that although the fight against terrorism remains primarily a matter for Member States, the terrorist attacks in Europe in 2015 and 2016 have highlighted the need for **coordinated action on the part of the Member States** to combat terrorism and address the threat which foreign fighters pose within the Union.

Members stipulated that the Directive establishes specific measures of **protection of and assistance and support to victims** of terrorism. A definition of the term 'victim' has been introduced.

Terrorist offences: intentional acts shall include:

- using violence or the threat of violence to compel or seek to compel a government or international organisation to perform or abstain from performing any act;
- attacks upon a persons' life which may cause death or injury;
- attacks upon the physical and psychological integrity of a person;
- manufacture of radiological weapons, as well as research into nuclear;
- release, or threatened release, of dangerous substances, including radiological or biological material;
- attacks against information systems.

Aggravating circumstances: Member States shall take the necessary measures to ensure that it is regarded as an aggravating circumstance when the commission of a criminal offence targets **vulnerable natural persons, including children**.

Punishable offences shall include:

- receiving training or instruction, including by obtaining knowledge, documentation or practical skills, in the making or use of explosives, firearms or other weapons or noxious or hazardous substances;
- any travel to a country or a Member State, either directly or by transiting through one or several Member States, when it can be objectively demonstrated that it was made for the purpose of the commission of or contribution to a terrorist offence.

Financing terror: Member States shall take the necessary measures to ensure the **freezing or seizure and confiscation of any funds and other assets** used or allocated for the purpose of committing or attempting to commit any of the offences referred to in this Directive.

Measures against illegal terrorist content on the internet: Member States shall take the necessary measures to: (i) ensure the prompt removal of illegal content publicly inciting others to commit a terrorist offence that is hosted in their territory; (ii) **obtain the removal of such content** hosted outside of their territory. Measures on removal and blocking shall be subject to judicial review.

Jurisdiction and prosecution: each Member State shall take the measures required to establish its jurisdiction in respect of the offences in cases where the perpetrator is present on its territory.

Member States shall ensure cooperation and information sharing with the Member State that established its jurisdiction over the offences through established channels, including Union agencies.

Duty to investigate: upon receiving information that a person who has committed or who is alleged to have committed an offence set out in this Directive may be present on its territory, the Member State concerned shall take measures **to investigate the facts contained in that information**. Upon being satisfied that the circumstances warrant it, it shall take the appropriate measures to **ensure that person's presence for the purpose of prosecution or extradition**.

Prevention: Member States shall:

- take appropriate measures to **prevent the radicalisation** and recruitment of citizens of the Union by terrorist organisations;
- take appropriate action, including online, such as providing information and education, undertaking awareness-raising campaigns and developing **alternative narratives** to counter terrorist propaganda;
- promote regular **training for staff** likely to come into contact with persons vulnerable to radicalisation, including front-line police officers and prison guards.

Member States shall work together with the Commission and internet service providers to develop a **joint European strategy** to combat online radicalisation and incitement to terrorism.

Obligation to exchange information concerning terrorist offences: each Member State shall take the necessary measures to ensure that its competent authorities **transmit** to the competent authorities of the Member State concerned any relevant information in cases where there are reasons to believe that the information could assist in the detection, prevention, investigation or prosecution of offences referred to in this Directive. Member States shall systematically forward to **Europol** details of any person who is suspected of having committed or who has been convicted of at least one of the offences referred to in the Directive.

Member States shall guarantee their border and coast guard services access to the relevant databases, in particular the Europol Information System.

Protection and assistance to victims of terrorism: Member States shall ensure that measures are available to protect victims of terrorism and their family members. Particular attention shall be paid to the risk of intimidation and retaliation and to the need to protect the physical and psychological integrity of victims of terrorism, including during questioning and testifying. In addition, Members States shall ensure that free legal aid is provided to victims of terrorism who are parties to criminal proceedings.

Member States shall:

- establish a **coordination centre** to bring together those organisations and experts competent to provide information, support and practical services to the victims and to their families and relatives;
- take the necessary measures in the framework of their **emergency-response infrastructure** to include victim support specialists in emergency planning and to facilitate and improve the process of identifying victims immediately in the aftermath of a terrorist attack.

Emergency situations and fundamental rights: Member States shall ensure that criminalisation is proportionate to the legitimate aims pursued and necessary in a democratic society, and shall exclude any form of arbitrariness or discrimination.

In a time of war or other public emergency threatening the life of the nation, Member States may take measures to derogate from certain rights, such circumstances shall not relieve the authorities from demonstrating that the measures undertaken are applied solely for the purpose of combating terrorism.

Combating terrorism

2015/0281(COD) - 15/03/2017 - Final act

PURPOSE: to strengthen the legal framework in force in the EU on tackling terrorism.

LEGISLATIVE ACT: Directive (EU) 2017/541 of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA.

CONTENT: in light of evolving terrorist threats and taking into account the cross-border nature of terrorism, the Directive establishes:

- **minimum rules** concerning the definition of: (i) criminal offences and sanctions in the area of terrorist offences, (ii) offences related to a terrorist group and offences related to terrorist activities;
- measures of protection of, and support and assistance to, **victims** of terrorism.

Terrorist offences: the Directive lists exhaustively a number of **serious offences**, such as the attacks upon a person's life, the manufacture or use of chemical, biological, radiological or nuclear weapons, as **intentional acts** which may be classified as terrorist offences when committed for a particular terrorist purpose, namely:

- seriously intimidating a population;
- unduly compelling a government or an international organisation to perform or abstain from performing any act;
- seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.

Offences related to terrorist activities: the Directive establishes that a criminal offence shall include:

- the **distribution, whether online or offline**, of a message with the intention of inciting a terrorist offense, for example by glorifying terrorist acts;
- soliciting and **recruiting** another person to commit a terrorist offence;
- **providing or receiving training** for terrorist purposes, for example, in the making or use of explosives, firearms or hazardous or noxious substances;
- **travelling** inside, outside or to the EU for purposes of terrorism, for example to participate in the activities of a terrorist group or to carry out a terrorist attack;
- the **organisation and facilitation of such travel**, including logistical or material support, such as ticket purchases or route planning;
- **providing or collecting funds** with the intention that they be used or in the knowledge that they be used to commit terrorist offences.

Penalties and sanctions should be provided for natural and legal persons being liable for such offences, which reflect the seriousness of such offences.

Online provocative content: Member States should take measures to (i) promptly **remove illegal online content** constituting a public provocation to commit a terrorist offence, that is hosted in their territory; (ii) obtain the removal of such content hosted outside their territory.

Measures to remove content and block access should be established through **transparent procedures** and provide adequate safeguards.

Rights of victims of terrorism: the Directive provides for a range of services to meet the special needs of victims of terrorism, such as the right to immediate access to professional support services providing medical and **emotional and psychological support**, legal or practical advice, and assistance with **claims**.

Member States shall ensure that victims of terrorism who are residents of a Member State other than that where the terrorist offence was committed have access to information regarding their rights, the available support services and compensation schemes in the Member State where the terrorist offence was committed.

Emergency response mechanisms have also been strengthened to assist victims of terrorism immediately after a terrorist attack.

ENTRY INTO FORCE: 20.4.2017.

TRANSPOSITION: no later than 8.9.2018.

Combating terrorism

2015/0281(COD) - 16/02/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 498 votes to 114 with 29 abstentions, a legislative resolution on 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.

Parliament's position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Purpose: Parliament stressed that the cross-border nature of terrorism requires **a strong coordinated response** and cooperation within and between the Member States, as well as with and among the competent Union agencies and bodies to counter terrorism, including Eurojust and Europol.

It also stipulated that the Directive establish specific measures of protection of and assistance and support to victims of terrorism.

Terrorist offences: the draft Directive exhaustively lists a number of serious crimes, as **intentional** acts that can qualify as terrorist offences when and insofar as committed with **a specific terrorist aim,** namely:

- to seriously intimidate a population;
- to unduly compel a government or an international organisation to perform or abstain from performing any act, or
- to seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation.

Such intentional acts include: (i) **attacks** upon a person's life which may cause death; (ii) manufacture, possession, acquisition, transport, supply or use of explosives or weapons, including **chemical, biological, radiological or nuclear** weapons, as well as research into, and development of these weapons; (iii) illegal system interference.

Offences linked to terrorist activities: the offence of **public provocation** to commit a terrorist offence act comprises, inter alia, the glorification and justification of terrorism or the dissemination of messages or images **online and offline**, including those related to the victims of terrorism as a way to gather support for terrorist causes or seriously intimidating the population.

Furthermore, each Member State shall take the necessary measures to ensure that **travelling to a country** other than that Member State is punishable as a criminal offence where the aim is to (i) commit, or contribute to the commission of, a terrorist offence; (ii) participate in the activities of a terrorist group with knowledge of the fact that such participation will contribute to the criminal activities of such a group; (iii) provide or receive training for terrorism.

When recruitment and training for terrorism are directed towards **a child**, Member States should ensure that judges can take this circumstance into account when sentencing offenders.

Measures against illegal terrorist content on the internet: Member States shall take the necessary measures to: (i) ensure the **prompt removal of illegal content** publicly inciting others to commit a terrorist offence that is hosted in their territory; (ii) **obtain the removal of such content hosted outside of their territory.**

Measures of removal and blocking must be set following **transparent procedures and provide adequate safeguards**, in particular to ensure that those measures are limited to what is necessary and proportionate and that users are informed of the reason for those measures. Safeguards relating to removal or blocking shall also include the possibility of judicial redress.

Investigative tools and confiscation: Member States shall take the necessary measures to ensure that effective investigative tools, such as those which are used in organised crime or other serious crime cases, are available to persons responsible for investigating or prosecuting the offences and to ensure that their competent authorities freeze or confiscate the proceeds derived from criminal offences.

Assistance to victims of terrorism: Member States shall:

- ensure that measures are available to **protect victims of terrorism and their family members.** Such measures include medical and psychological support, and assistance regarding compensation claims or access to legal aid;
- ensure that a **comprehensive response** to the specific needs of victims of terrorism immediately after a terrorist attack and for as long as necessary is provided within the national emergency-response infrastructure;
- ensure that **victims of terrorism, who are residents of a Member State other** than that where the terrorist offence was committed, have effective access to information about victims' rights, available support services and compensation schemes in the Member State where the terrorist offence was committed.

Radicalisation: Member States should pursue their efforts to **prevent and counter radicalisation leading to terrorism** by coordinating, by sharing information and experience on national prevention policies, taking into account their own needs, objectives and capabilities building on their own experiences. The Commission should, where appropriate, provide support to national, regional and local authorities in developing prevention policies.

Fundamental rights: the Directive shall not have the effect of modifying the obligations to respect fundamental rights and fundamental legal principles, as enshrined in Article 6 TEU.