EUROPEAN
COMMISSION

Brussels, 12.10.2016
COM(2016) 670 final

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL

First progress report towards an effective and genuine Security Union

I. INTRODUCTION

Security has been a constant theme since the beginning of this Commission's mandate from President Juncker's Guidelines of July 2014 to the latest State of the Union address of September 2016. The Bratislava Declaration and Roadmap of September 2016 took this up by underlining the important function of the European Union as a guarantor of the security of its people and called on the Union to do everything necessary to support Member States in ensuring internal security and fighting terrorism.[1] In the past months, sustained progress has been made in implementing the April 2015 European Agenda on Security[2] and in paving a way towards an effective and genuine Security Union as proposed by the Commission in its Communication of April 2016.[3] In this context, President Juncker created a specific Commissioner portfolio for the Security Union assisted by a cross cutting Task Force drawing on the expertise of the whole Commission to drive work forward and to ensure implementation.

This is the first of a monthly series of reports on the progress made towards an operational and effective Security Union. The monthly reports will track the implementation of the various Commission work-streams[4] in the area of security and will identify where more efforts are needed. These reports will be based around two broad pillars: tackling terrorism and organised crime and the means that support them; and strengthening our defences and building resilience against them. The reports will encompass the full range of policy in the area of security and will highlight action taken by EU Institutions and EU Agencies in this area. In parallel, the Commission will be conducting a comprehensive evaluation of the effectiveness of existing EU counter-terrorism instruments.

As the Commission has noted previously, in today's world the internal security of one Member State is the internal security of all. Only by working together will we be able to achieve the level of collective security that our citizens demand and expect. Full respect of fundamental rights must be at the heart of this work, as the security of the Union can only be ensured when citizens are confident that their fundamental rights are fully respected.

This report draws together what has been achieved since the April 2016 Communication. The focus of future reports will be on deliverables and will reflect the security dimension of the full range of Union policies, highlighting their contribution to building an effective and genuine Security Union.

II. STRENGTHENING OUR FIGHT AGAINST TERRORISM AND ORGANISED CRIME, AND MEANS TO SUPPORT THEM

a) Legal framework for combatting terrorism and cutting access to financing and firearms

Strengthening the fight against terrorism requires effective action to cut off the support that terrorists benefit from and deprive them of the means to commit attacks.

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[1] The Bratislava Declaration and the Bratislava Roadmap of 16 September 2016, SN 73/16.
[2] Communication COM(2015) 185 final, of 28 April 2015 The European Agenda on Security.
[3] Communication COM(2016) 230 final, of 20 April 2016 Delivering on the European Agenda on Security to fight against terrorism and pave the way towards an effective and genuine Security Union.
[4] See also Communication COM(2016) 602 final, of 14 September 2016 Enhancing security in a world of mobility: improved information exchange in the fight against terrorism and stronger external borders.

The Commission proposal for a **Directive on combatting terrorism**[5] is designed to implement swiftly international standards and obligations while making sure that the revised criminal law framework at EU level adequately addresses emerging challenges, including those posed by returning foreign terrorist fighters. Providing housing, transport or material support to terrorists or public provocation to commit a terrorist offence are also terrorism-related offences, which should be severely sanctioned. Since September 2016, three trilogue meetings have taken place on this proposal and have established common ground on a number of key issues. The Commission welcomes the shared objective of the co-legislators that agreement needs to be reached on the proposed Directive before the end of the year.

As regards the financing of terrorism, as announced in its Action Plan on terrorist financing[6] of February 2016, the Commission adopted on 5 July 2016 a proposal for targeted amendments to the Fourth **Anti-Money Laundering Directive**. The changes proposed aim to tackle new means of terrorist financing (e.g. virtual currencies, pre-paid cards) and increase transparency to combat money laundering. The European Parliament and the Council have started to work on their position on the proposal, and this work should advance swiftly for trilogues to begin by early 2017. On 14 July 2016, the Commission adopted a list of third countries that have strategic deficiencies in their regimes on anti-money laundering and countering terrorist financing.[7] Banks will now have to carry out additional checks ('enhanced due diligence measures') on financial flows from these 11 countries.

The Commission has accelerated the implementation of its **Action Plan** of December 2015 on reinforcing operational cooperation at EU level **against the illicit trafficking and use of firearms and explosives**.[8] The majority of measures in the Action Plan have now been implemented or are underway. Work is ongoing to accelerate and intensify the exchange of information on firearms at European as well as at international level. In addition, dialogues with countries in the Middle East and North Africa region and in the Western Balkans have been launched to improve the exchange of information and operational cooperation in the fight against firearms trafficking along these two key routes.

On 18 November 2015, in the wake of the Paris attacks, the Commission adopted an implementing Regulation on common minimum standards for **deactivation of firearms**.[9] The implementing Regulation entered into force on 8 April 2016 and provides that deactivated firearms are rendered irreversibly inoperable. The Committee responsible for implementation on deactivation of firearms met in September 2016 to assess the need for further revisions of the deactivation standards. The Commission also tabled a proposal to revise the **Firearms Directive** (Directive 477/91) to limit access to the most dangerous categories of firearms for civilian ownership.[10] The Council reached a general approach on the Commission's proposal on 10 June 2016, and the European Parliament Committee for Internal Market and Consumer Protection voted on the proposal on 19 July 2016. Discussions between the co-legislators began at political level on 27 September 2016,

[5] COM(2015) 625 final.
[6] COM(2016) 50/2.
[7] C(2016) 4180 final.
[8] COM(2015) 624 final.
[9] Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable.
[10] Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons.

and are now being pursued in a series of technical discussions. It is important to reach an agreement before the end of the year. The Commission will continue to urge the co-legislators to maintain the level of ambition, particularly the objective to ban the most dangerous semi-automatic firearms.

Terrorists have exploited **homemade explosives** to carry out attacks in Europe. The Commission is working actively to reduce access to **precursors** that can be used to manufacture homemade explosives, and to strengthen the detection capabilities of law enforcement and other personnel who secure public areas, mass transit, and critical infrastructures. This work has included the financing of a research project[11] to neutralise the explosive properties of products available over the counter in hardware stores. The project led to the filing of patents to be used by industry. The Commission together with Member States need to look urgently at how to roll this research out to deny terrorists access to this potential source of bomb making ingredients.

At the same time, policy action against explosives also needs to address the constantly evolving nature of the threat. In collaboration with Member States, the Commission has recently identified additional precursor substances of concern that should be subject to enhanced controls. In November, the Commission will adopt three separate delegated acts adding these substances to Annex II of **Regulation on the marketing and use of explosives precursors**.[12] The additions will require the reporting of suspicious transactions, disappearances and thefts involving these substances to law enforcement authorities.

In parallel, the Commission is taking action to ensure the full implementation of this Regulation by the Member States. On 29 September 2016, the Commission launched infringement procedures against Cyprus, France, Luxembourg and Spain as not all provisions of have yet been fully implemented by these Member States. The Commission will report in early 2017 on the implementation of and whether further strengthening of European rules is required.

b) Preventing and fighting radicalisation

Preventing radicalisation, both at the local level and via the Internet, is a central pillar of the Union's efforts to counter terrorism. In June 2016, the Commission presented a comprehensive Communication on how work at EU level can support Member States in **preventing radicalisation leading to violent extremism**.[13] EU institutions should urgently implement the proposed actions. Since the adoption of a Code of Conduct in May 2016, the Commission has monitored the implementation of the commitments by IT companies, notably the commitment to remove illegal hate speech in less than 24 hours. The Commission will report to the 8 December 2016 Justice and Home Affairs Council on progress. Following the October 2015 High-Level Conference on the Criminal justice response to radicalisation, and the 20 November 2015 Council Conclusions, Member States are currently submitting proposals in response to a call for projects to address radicalisation in prison. In parallel, Member States and their local authorities should make full use of the various support measures and cooperative tools to prevent and tackle radicalisation, notably through the support offered by the **Radicalisation Awareness Network** (RAN). In September 2016, the RAN launched the "Exit Hate" campaign to provide alternative narratives to extremist propaganda based on personal testimony.

[11] A research project financed within the "security research" priority of the 7th EU Framework Programme for Research.

[12] Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors.

[13] COM(2016) 379 final.

Thanks to its recent reinforcement, the RAN can now also reach out to third countries. The RAN organised visits to Turkey and Jordan by local youth workers and academics to establish a list of concrete actions that will be implemented with local communities. On 9 November 2016, the Commission will organise the RAN High Level Conference on radicalisation, bringing together national and local policy-makers and front line practitioners to discuss effective ways to tackle radicalisation. The Commission is also preparing the second high level meeting of the **EU Internet Forum** scheduled for 8 December 2016 to allow Member States, industry and civil society actors to take stock of progress made and steer further work on preventing online radicalisation and tackling terrorist propaganda on the internet. The Bratislava Roadmap underlines the importance of EU support to Member States' actions in preventing radicalisation.

c) Improving operational cross-border cooperation with the support of EU Agencies

Relying on the strengthened support provided by EU Agencies, Member States should make full use of the mechanisms in place at EU level to ensure operational cooperation across borders. **Eurojust** plays a key role; after the recent terrorist attacks in France and Belgium, Eurojust has been supporting French and Belgian prosecutors by providing advice and coordinating complex investigations.

The current **Policy Cycle** 2013-2017, which aims at tackling the most important criminal threats in a coherent manner through cooperation between the relevant services of the Member States, EU institutions and EU Agencies as well as relevant third countries and organisations, is coming to an end. It should be renewed and strengthened given its positive impact on increased cooperation between law enforcement authorities across borders. For example, law enforcement authorities from Member States and partner countries have arrested suspects found in possession of airline tickets bought using stolen or fake credit card details. Many of these suspects were also found to be involved in other forms of crime, including human trafficking, drug trafficking, cybercrime and terrorism. Serious and organised cross-border crime is constantly looking for new opportunities, be that through exploiting would-be migrants through human trafficking or the illicit trade in wildlife and other environmental crime. Our response also needs to evolve.

In order to remain effective in the fight against terrorism and organised crime, the EU must be ready to adapt to the new trends in criminality and the increased use of cyber-means to commit crime. The European Cybercrime Centre at Europol already supports cross-sector and cross-border cooperation against **cybercrime**. In July 2016, the European Cybercrime Centre together with the Dutch National Police, Intel Security and Kaspersky Lab launched the "NoMoreRansom" campaign. This public private partnership aims to combat ransomware, a type of malware that infects computers by encrypting files that are only decrypted after a ransom is paid. So far, they have helped 2.400 users to decrypt their files without paying a ransom. Given the increased relevance of **electronic evidence** for criminal investigations, the Commission is improving the efficiency of current mechanisms to obtain cross-border access to electronic evidence such as Mutual Legal Assistance. In line with the June 2016 Justice and Home Affairs Council Conclusions, the Commission has launched an expert consultation on a common EU approach on the use of investigative measures on the internet. Three expert group meetings took place between July and October 2016 with practitioners from law enforcement, academia and Internet service providers. A fourth workshop will take place in November 2016 to assess the feasibility of a platform solution for the transmission of requests on e-evidence. These expert meetings will feed into a mid-term report to be delivered to the Justice and Home Affairs Council in December 2016.

III. STRENGTHENING OUR DEFENCES AND RESILIENCE

a) Improving information exchange

Sharing information is central to strengthening our defences against terrorism. The first challenge is to make the best use of existing tools and systems. They need to be fully implemented and applied.

The **Prüm Framework** on the exchange of DNA, fingerprints and national vehicle registration data is a case in point. It has been successful in identifying criminals who operate across borders. However, not all Member States have yet implemented it, at the expense of the benefits it can bring in enhancing security. To close this gap, the Commission has initiated infringement procedures against Croatia, Greece, Ireland, Italy and Portugal for failing to comply with the Prüm Decisions.[14] These are the first infringement procedures for a so-called 'former third pillar instrument' in the field of police cooperation and judicial cooperation in criminal matters. In parallel, the Commission continues to support Member States in fully implementing the Prüm framework, and will organise a conference to share best practices in January 2017.

Implementation of what has been agreed is also a key challenge facing the EU **Passenger Name Record** (PNR) Directive.[15] Following the cooperation between the European Parliament, Council and Commission to adopt the Directive, progress risks being undermined by the lack of processing capacity in the majority of Member States for the data collected. Member States now need urgently to build their Passenger Information Units (PIUs). So far, only one Member State (the United Kingdom) has set up a fully functioning PIU, two more Member States (France and Hungary) should achieve this by the end of 2016, and others have projects underway. However, on the basis of information provided by Member States to the Commission, eleven Member States have yet to start work. The Commission stands ready to provide further legal assistance, expertise and financial support to achieve this. The Commission will present an implementation plan by November 2016 with milestones that Member States will need to meet in order to have their PIUs up and running by the deadline for full implementation of the Directive, namely May 2018. In order to support the setting up of PIUs, the Commission has proposed to the budgetary authorities to provide an additional amount of EUR 70 million of funding for the period 2017-2020. In addition, the Commission will provide EUR 3.8 million to facilitate the exchange of PNR data between Member States and Europol. Following consultations with Member States and airline associations, the Commission will also present implementing rules on data formats and transmission protocols for the transfer of PNR data. The Commission stands ready to adopt the implementing rules before the end of this year. Air carriers would then use standard data formats and transmission protocols established through this implementing decision within a year of adoption.

EU Agencies play an important role in supporting information exchange between national authorities, and this support should be stepped up. In the context of the new legal basis of **Europol** that was adopted in May 2016[16] and will enter into force in May 2017, the Agency will be reinforced with up to 90 extra posts. Further to that and

[14] Council Decisions 2008/615/JHA and 2008/616/JHA.

[15] Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

[16] Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA.

following the announcement in the State of the Union address 2016 to reinforce Europol, the Commission is currently conducting a thorough needs assessment with information provided by Europol. Based on the result of this assessment, the Commission will take the necessary steps to enable the European Counter-Terrorism Centre at Europol to provide the necessary 24/7 support to Member States.

The Bratislava Roadmap calls for intensified cooperation and information-exchange among **security services** of the Member States. This is in line with the Commission Communication of 14 September 2016 that stressed the importance of finding a practical solution to allow for enhanced cooperation between the law enforcement community and the intelligence community. The Commission invited Member States to share their best practices at national level in establishing information exchange structures between law enforcement authorities and national security services, and a first exchange of views took place in the Council's Standing Committee on Operational Cooperation on Internal Security (COSI) on 28 September 2016. The Commission will approach individual Member States to foster this exchange.

b) Strengthening information systems and closing information gaps

In addition to implementing existing systems, there is a need to improve the **overall architecture of information in the field of security**. The current arrangements for data management in the EU for security are fragmented. This has allowed criminals and terrorists to use different identities and escape detection. While fully respecting data protection principles and in particular purpose limitation, options are being considered on how to make best use of existing information at EU level and improve identity management.

The Commission has set up a **High Level Expert Group** to address legal, technical and operational aspects of different options to achieve interoperability of information systems in the area of border management and security.[17] Following a launch meeting on 20 June, the High Level Expert Group met on 20 September with the participation of the Fundamental Rights Agency and the European Data Protection Supervisor. The Group discussed possibilities to improve the way Member States implement and use existing systems, and in particular the added value that a single search interface can bring. The Group also discussed the Commission's work on an **EU Travel and Information Authorisation System (ETIAS)**, including its rationale and objective as well as legal, technical and operational challenges. The Commission will provide an update on these discussions to Council (Justice and Home Affairs Council meeting of 13 October) and the European Parliament (LIBE Committee meeting of 8 November).

Given the security challenges and the vital importance of better information exchange in addressing them, the work of the Group needs to be accelerated. The Commission will deliver interim findings by December 2016, with a focus on how to better implement and use existing systems and the role that the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (EU-LISA) can play in supporting that. Also, as announced in the State of the Union address and envisaged in the Bratislava Roadmap, the Commission will present a legislative proposal to establish **ETIAS** by November to provide prior checks for visa-exempt third-country nationals travelling to the Schengen area.

[17] See Commission Communication COM(2016) 205 final, of 6 April 2016 Stronger and Smarter Information Systems for Borders and Security.

c) Enhancing security at the external border

The Commission Communication of 14 September 2016 was clear that to enhance internal security within the Union, we must improve the management of the external border. The launch of the **European Border and Coast Guard** on 6 October with a substantial deployment of border guards and technical equipment at the Bulgarian external borders is a milestone in strengthening external border management. **Europol** should further enhance its presence in the migration hotspots through the deployment of guest officers to allow for security checks as part of our efforts to reinforce security at the external border.

Checks at the external border are a key way to detect returning foreign terrorist fighters. To achieve this, all persons crossing the EU's external borders must be checked against relevant databases. In December 2015, the Commission presented a proposal to amend the **Schengen Borders Code** to introduce systematic checks of EU citizens crossing the external border.[18] The Council reached a general approach at the Justice and Home Affairs Council of 25 February 2016 while the European Parliament's LIBE Committee adopted its Report on 21 June 2016. So far there has been one trilogue meeting on 13 July 2016 and a number of technical meetings, but there is no agreement yet in the European Parliament on the principle of systematic checks. Both co-legislators need now to re-double their efforts and to accelerate the discussions on this proposal in order to reach an agreement by the end of 2016.

The proposed **EU Entry-Exit-System** tabled by the Commission in April 2016[19] will further improve the effectiveness of border checks, as it will record where and when a third-country national enters or exits the EU. While technical discussions are on-going in both the European Parliament and the Council, neither Institution has yet adopted its position for trilogues. It is important that work on this proposal is accelerated and completed.

d) Protecting citizens and critical infrastructures

Terrorists aim to create fear and are ready to cause mass casualties by striking 'soft' targets. There is a clear need urgently to strengthen our resilience, to protect citizens and infrastructures, and to reduce vulnerabilities. Through risk analysis, security research and systematic cooperation between law enforcement agencies and the private sector, the Union can contribute to removing vulnerabilities in the protection of both soft targets and critical infrastructures.

The Commission is working closely with Member States and industry to address the issue of protecting critical infrastructure. An EU **Insider Threat** workshop was held on 15 June 2016 to develop ideas on how industry and public authorities can develop a more practical approach and effective mitigation measures against insider threats. Proposals for further work include establishing a working group with Member States on vetting and developing an insider threat toolbox for both Member States and industry. On 20-21 September, the Commission organised a workshop in Brussels on "Challenges and Lessons learned for **Civil Protection and Emergency Services** from recent terrorist attacks". Proposals included: delivering faster intervention by Emergency Services in the "red zone" during an attack in order to limit the casualties, better equipment for emergency services, improved disaster victim identification and public awareness raising by providing reaction/first-aid training to citizens. In the coming months, the

[18] COM(2015) 670 final.
[19] COM(2016) 194 final, 6 April 2016.

Commission will take further action to strengthen **transport security**, with a focus on rail and maritime security as well as soft target protection and land side security.

On 7 September 2016, the Commission tabled a proposal to establish a common EU **certification system for all aviation security screening equipment**.[20] This proposal aims to simplify and harmonise EU procedures for the certification of such equipment. This initiative will help the private sector by lowering certification costs for the security industry, strengthening the competitiveness of the EU security industry and improving aviation security across Europe. The proposal demonstrates the importance that the Commission gives to the development of a competitive EU security industry that can contribute to the EU's autonomy in meeting security needs. The Commission invites the co-legislators to start working on this proposal.

IV. CONCLUSION

As this report shows, concrete progress, including on operational measures, is being made on the implementation of the European Agenda on Security and towards an effective and genuine Security Union. The complex, cross-border threat requires a concerted and multi-layered response. This can only be achieved through trust and joint work by all institutions and Member States. Terrorists do not target one Member State or another; they target our way of life, our openness, our future. Serious crime, especially cybercrime, operates in the same space and targets the weakest links in our societies. We need to reinforce our responses: tackling these threats; the means that support them; and their causes by working together to strengthen our security and resilience. The Commission will continue to drive forward work on this crucial agenda and will report on progress in November.

[20] COM(2016) 491 final.

KEY ISSUES AND EVENTS IN THE MONTHS TO COME:

STRENGTHENING OUR FIGHT AGAINST TERRORISM AND ORGANISED CRIME, AND MEANS TO SUPPORT THEM

a) Legal framework for combatting terrorism and cutting access to financing and firearms

- The European Parliament and the Council should continue the intense work on the proposal for a **Directive on combatting terrorism** to adopt the legislation before the end of the year.
- The European Parliament and the Council should continue the discussions on the proposal to revise the **Firearms Directive** to reach an agreement before the end of the year.
- The Commission will adopt in November three delegated acts on additional **explosive precursors** subject to enhanced controls.

b) Preventing and fighting radicalisation

- Member States should make full use of the support offered by the **Radicalisation Awareness Network** (RAN).
- The Commission will organise on 9 November 2016 the **RAN High Level Conference** on radicalisation.

STRENGTHENING OUR DEFENCES AND RESILIENCE

a) Improving information exchange

- Member States should urgently take the necessary steps to build their **Passenger Information Units** (PIUs) to ensure that they are able to implement fully the EU PNR Directive by May 2018 at the latest.
- The European Parliament and the Council should take the necessary steps to provide additional funding for the **implementation of the EU PNR Directive**.
- The Commission will support the implementation of the EU PNR Directive and present an **implementation plan** by November 2016 with concrete milestones to gauge progress.

b) Strengthening information systems and closing information gaps

- The Commission will provide an update to the European Parliament and the Council on the on-going work of the **High Level Expert Group** on Information Systems and Interoperability with a view to accelerating on-going work.
- The Commission will table a proposal to establish an **EU Travel and Information Authorisation System (ETIAS)** by November 2016.

c) Enhancing security at the external border

- The European Parliament and the Council should accelerate the discussions on the proposal to amend the **Schengen Borders Code** in order to reach an agreement by the end of 2016.
- **Europol** should further enhance its presence in the migration hotspots through the deployment of guest officers.

d) Protecting citizens and critical infrastructures

- Member States should implement best practices on **insider threat** and lessons learned from recent terrorist attacks for **civil protection and emergency services**.