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Memorandum of Understanding between the EU and the League of Arab States to cooperate on counter-terrorism

Greens/EFA motion for resolution

Tabled by Alyn Smith, Barbara Lochbihler, Judith Sargentini, Eva Joly on behalf of the Greens/EFA Group

The European Parliament,

- having regard to its previous resolutions concerning countries of the League of Arab States (LAS),
- having regard to its resolutions on the European involvement in the transportation and illegal detention of prisoners by the CIA,
- having regard to the Foreign Affairs Council conclusions on counter-terrorism, in particular those of 9 February 2015,
- having regard to the European Union–League of Arab States Foreign Affairs Ministerial Meetings, in particular that of Athens in June 2014,
- having regard to the statements by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) on the fight against extremism and counter-terrorism,
- having regard to the Memorandum of Understanding between the European External Action Service (EEAS) and the General Secretariat of the LAS signed on 19 January 2015 in Brussels, and to the statements by the VP/HR following her meeting with the Secretary-General of the LAS, Dr Nabil El Araby,
- having regard to the EU guidelines on international humanitarian law, on human rights defenders, on the fight against torture and ill-treatment and on the promotion and protection of freedom of religion or belief,
- having regard to the EU Syria and Iraq and Counter-Terrorism/Foreign Fighters Strategy (adopted on 20 October 2014), with particular reference to foreign terrorist fighters and the EU's Maghreb

Communication,

- having regard to the Joint Communication on EU regional strategy for Syria and Iraq as well as the Da'esh threat,
 - having regard to the statements by the members of the European Council, in particular that following the informal meeting of the Heads of State and Government of 12 February 2015,
 - having regard to the relevant UN Security Council resolutions, in particular Resolutions 2170 and 2178 (2014),
 - having regard to the Arab Charter on Human Rights, adopted in 2004 and ratified in 2008,
 - having regard to the UN Global Counter-Terrorism Strategy,
 - having regard to UN Security Council Resolution 2178 (2014) condemning violent extremism,
 - having regard to Rule 123(2) of its Rules of Procedure,
- A. whereas terrorism and violent extremism are major threats to security and freedoms at global level;
- B. whereas lack of democratic and inclusive governance, widespread human rights violations, pervasive corruption and socio-economic marginalisation provide an enabling environment for terrorism;
- C. whereas terrorism targets not just the security of people, but also freedom of speech and the diversity of societies;
- D. whereas respect for fundamental rights is an essential element in successful counter-terrorism policies;
- E. whereas in its resolution of 11 February 2015 on anti-terrorism measures, the Parliament explicitly 'emphasised, in particular, the need for the EU, its Member States and its partner countries to base their strategy for combating international terrorism on the rule of law and respect for fundamental rights';
- F. whereas the security situation in Europe has changed dramatically in recent years owing to new conflicts and upheavals in the EU's immediate neighbourhood and the rise of radicalisation that is leading to violence and terrorism both within the EU and in neighbouring countries and at global level; whereas several countries of the LAS have been affected by terrorism for a protracted period;
- G. whereas the recent terrorist attacks in Europe and the rise of Da'esh in the EU's southern neighbourhood are to be seen as a renewed wave of terrorism after the 9/11 terrorist attacks in the US, but also those in Madrid and London;
- H. whereas the post-9/11 counter-terrorism measures have led to multiple and serious violations of human rights and humanitarian law, also committed and facilitated by European governments and their secret services. as revealed in the context of Parliament's Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners and by similar investigative initiatives by the Council of Europe;
- I. whereas the EU's external relations must also contribute to countering the global terrorist threat; whereas prevention strategies to combat terrorism should rely on a plural approach aiming at directly

countering the preparation of attacks on Union territory, but also integrating the need to address the root causes of terrorism;

J. whereas in February 2015, the EU Foreign Affairs Council decided to step up, as a matter of urgency, its external action on countering terrorism, in particular in the Mediterranean, the Middle East and North Africa; whereas the Foreign Affairs Council has also decided on a range of initiatives, including launching or strengthening security and counter-terrorism dialogues and counter-terrorism action plans with a number of countries of the region;

K. whereas a Memorandum of Understanding (MoU) between the EEAS and the General Secretariat of the LAS was signed on 19 January 2015, aimed inter alia at strengthening cooperation on political and security matters in the areas of early warning and crisis response, combating terrorism and transnational organised crime, and countering the proliferation of weapons of mass destruction; whereas this MoU is not publicly available;

L. whereas the Commission and Member States are currently providing assistance to a number of LAS members in the field of counter-terrorism and criminal justice reform; whereas Member States are involved in or are submitting bids for the provision of services to prison or other security services in countries that are known to be overseeing ill-treatment on a systematic scale or to be responsible for a range of human rights abuses, an example being the bid recently made by the UK Justice Ministry to the Saudi Arabian Prison Service; whereas this cooperation continues to lack public transparency;

M. whereas the EU is facing the threat posed by the so-called 'EU foreign fighters', namely individuals who travel to a state other than their states of residence or nationality for the purpose of the perpetration or planning of terrorist acts, or providing or receiving terrorist training, including in connection with armed conflicts; whereas up to 3 000 EU nationals are reported to have left their homes to become foreign fighters with the outbreak of war and violence in Syria, Iraq, and Libya, posing an additional challenge to EU citizens' security; whereas the recent terrorist acts in Paris and Copenhagen were committed by EU nationals;

N. whereas none of the members of the LAS, with the exception of Tunisia, are classified as 'free countries' in the Freedom in the World 2015 report published by the international NGO Freedom House; whereas the LAS region continues to be marred by serious and systematic violations of human rights, including heavy restrictions on freedom of expression, mass state surveillance and harassment of human rights defenders and opposition activists, abusive law enforcement practices, the absence of an independent judiciary and due process violations;

O. whereas the fight against terrorism is widely exploited in the countries of the LAS as the blanket justification for stifling dissent and the legitimate activities of human rights defenders and political activists, as in Egypt or Bahrain; whereas local and international human rights groups report regularly on serious violations committed by security bodies in LAS countries in the course of counter-terrorism operations; whereas abusive counter-terrorism operations in those countries often contribute to fuelling the enabling factors of terrorism;

P. whereas parliamentary and public scrutiny of security services and other law enforcement bodies in the countries of the LAS is, at best, extremely limited;

Q. whereas a global consensus on the scope and application of anti-terrorism legislation has yet to be reached;

1. Strongly believes that the recent terrorist acts in Paris and Copenhagen underscore the need to strengthen the security of all EU citizens and to reinforce counter-terrorism efforts, including through

bilateral and multilateral initiatives at the global level, notably with the Arab region;

2. Welcomes in the regard, the efforts to enhance dialogue between the EU and the LAS on political and security matters; notes the signature of a Memorandum of Understanding between the EEAS and the General Secretariat of the LAS on 19 January 2015, aiming at enhancing dialogue and cooperation with a view to promoting the EU-LAS Strategic Dialogue, inter alia, in the field of combating terrorism and transnational organised crime;
3. Emphasises the need for this enhanced EU-LAS cooperation on counter-terrorism to be based on the rule of law and respect for fundamental rights;
4. Calls on the Council to work on a harmonised, unambiguous definition of terrorism with all the member states of the LAS;
5. Underlines the need to prevent the repetition of serious mistakes of the post-9/11 approach to counter-terrorism, in particular cooperation and complicity in torture, illegal renditions, kidnappings and extra-judicial killings, which have seriously undermined core EU values and norms including human rights, the rule of law, privacy and humanitarian law principles;
6. Stresses that the EU's international efforts to combat terrorism should properly identify and focus on the profound socio-economic, cultural and political root causes of this phenomenon, as well as being linked to the promotion of inclusive, accountable and democratic regimes and to the settlement of protracted conflicts in its neighbourhood, notably the occupation of Palestine and the war in Syria, and should take into account the interests of all the populations concerned;
7. Warns against the temptation to revert to the earlier short-sighted and ineffective practices of collusion with authoritarian regimes in the region in the name of security and stability; urges the EU to drastically revise its strategy towards the southern Mediterranean as part of the ongoing European Neighbourhood Policy review, and to focus on supporting those countries and actors who are genuinely committed to shared values and to reform, notably Tunisia;
8. Is deeply concerned about the total lack of reference in the EEAS-LAS MoU to basic European and universal norms and values such as human rights with regard to the planned reinforced exchange of experience, information and best practices; recalls the severely authoritarian nature of most of the LAS countries, and reiterates its strong condemnation of the continued and widespread human rights abuses and other violations committed by a number of those countries, often under the misleading justification of the fight against terrorism;
9. Is equally concerned that the envisaged transfer of know-how and information in the security field between the EU and LAS countries risks further undermining the situation of civil society organisations, journalists, opposition activists and other actors in these countries;
10. Reminds the Member States and EU agencies, including Europol and Eurojust, of their obligations under the Charter of Fundamental Rights and international human rights law and of the EU's external policy objectives, which forbid them to share intelligence data which might lead to human rights violations in a third country or to use information obtained as a result of torture outside the EU; insists that when EU Member States or agencies do share information on a suspect with a third country, they effectively follow up on the fate of the individual concerned in order to avoid the risk of incommunicado detention or torture;
11. Stresses Parliament's demand in its first reading position on the Europol regulation that 'any information which had been obtained by a third country, international organisation or private party in

violation of fundamental rights, as enshrined in the EU Charter of Fundamental Rights, shall not be processed’;

12. Insists that any counter-terrorism cooperation of the EU and Member States with the LAS countries must comply with human rights and, where applicable, international humanitarian law, in particular with regard to due process requirements, in order to prevent possible European complicity in human rights violations;

13. Recalls the commitment made by the EEAS and the Commission in their joint communication of 6 February 2015 on the EU Strategy on Dae’sh to ‘take into consideration the partner countries’ capacity to meet benchmarks on human rights and civil and political freedoms’ when providing EU capacity-building support in the field of counter-terrorism; calls on VP/HR Mogherini to clarify those benchmarks and the consequences for cooperation should they not be met;

14. Calls for the EU and its Member States to ensure that assistance programmes in the field of criminal justice reform with the LAS states contribute to human rights-compliant investigations and prosecutions; deplores the lack of transparency of certain EU and Member State programmes in this field, and calls for the EU and Member States to make public information on what steps have been taken to ensure that European support for such schemes does not contribute to human rights abuses in their target countries, and to publish the text of bilateral agreements such as the MoU between the EEAS and the LAS and that between the UK Justice Minister and his Saudi counterparts;

15. Recalls the EU’s long-standing position against the death penalty, and calls for the EU and its Member States to strictly refrain from providing any form of assistance to foreign judicial systems which might contribute to expediting the handing-down of death sentences for acts of terrorism; calls for the suspension of all ongoing Commission programmes aiming at increasing the capacity of criminal justice systems to investigate and prosecute terrorism cases, notably in the Maghreb countries, pending the introduction by the beneficiary countries of a moratorium on the death penalty;

16. Stresses the need to focus on preventing and countering radicalisation in the action plans and political dialogues between the EU and its LAS partner countries, including by increasing international cooperation, making use of existing programmes and capacities, and working with civil society actors in countries of interest on countering terrorist and radical propaganda using the internet or other means of communication;

17. Insists on the importance of expanding the civil society component of the Euro-Arab dialogue as the indispensable counterweight to the enhanced intergovernmental EU-LAS engagement; expresses its deep concern that independent civil society organisations are being subjected to increasing intimidation and harassment by security officials in a number of LAS member states, notably Egypt; recalls that an independent and strong civil society is paramount for reinforcing state institutions;

18. Recalls that most of the Union’s external counter-terrorism measures and programmes are being developed and implemented under Article 5 of the Instrument contributing to Stability and Peace (IcSP), which entered into force on 1 January 2014; reminds that Article 10 of the IcSP regulation obliges the Commission to develop operational human rights guidance for projects related to the fight against terrorism; deeply deplores the fact that the Commission and the EEAS have failed to implement Article 10 IcSP almost one year after the entry into force of the IcSP regulation (15 March 2014); expresses serious concerns about the absence of basic human rights safeguards in past IfS and present IcSP counter-terrorism projects with institutions such as the African Centre for the Study and Research on Terrorism (ACSRT/CAERT) in Algiers and the Hedayah Centre of Excellence in Abu Dhabi;

19. Calls on the VP/HR to provide a report on the ex ante and ex post assessments carried out by the

Commission services on the human rights impact of its counter-terrorism programmes with LAS countries, as well on the safeguards built into those programmes to ensure their compliance with human rights standards;

20. Decides to carry out an assessment of the human rights safeguards and guidance applied by the EU and its Member States in counter-terrorism projects, notably with the countries of the Arab region; decides to organise a hearing on parliamentary oversight of counter-terrorism activities and legislation with parliaments and civil society actors from the Euro-Mediterranean region;

21. Reminds the EEAS, the EU Counter-Terrorism Coordinator and the Member States of their commitment, under the EU Action Plan on Human Rights and Democracy adopted in June 2012, to ensure that human rights are raised in all forms of counter-terrorism dialogue with third countries;

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