

Special meeting of the Counter-Terrorism Committee with international, regional and subregional organizations on “International Judicial and Law Enforcement Cooperation in Counter-Terrorism Matters pursuant to Security Council resolution 2322 (2016) and Other Relevant Council resolutions”

Technical consultations of the Counter-Terrorism Committee Executive Directorate (CTED)

United Nations Headquarters, New York, 20 and 21 June 2017

Summary of discussions

Participants in the technical consultations urged the Counter-Terrorism Committee to continue its efforts to promote international cooperation in counter-terrorism matters, noting that the development of international law enforcement and judicial cooperation would be a long-term process, which would require sustained engagement and dialogue and the development of new partnerships.

A. Consultations on international judicial cooperation

1. Participants noted that the major challenges in this area were common to many regions of the world. This suggested that common solutions could be identified in many instances. The common challenges and gaps in international judicial cooperation included:

- Uneven harmonization of counter-terrorism legislation: in particular, lack of criminalization of terrorist and special acts (e.g., acts of foreign terrorist fighters (FTFs)).
- Differing standards for the protection of procedural rights, fair trial, and the right to defence.
- Lack of understanding of the importance of ensuring human rights protection in countering terrorism.
- Lack of knowledge, in the criminal-justice sector, of the international legal framework and international judicial cooperation mechanisms.
- Lack of awareness of the importance of ensuring expeditious processing.
- Lack of central authorities and reluctance of Member States to designate such an authority. Designated central authorities must overcome other challenges, including, inter alia, legal competence, legal powers, resources and training, language barriers, lengthy and complicated procedures through diplomatic channels, poor domestic coordination, absence of focal point, etc.
- Scepticism on the part of governments, which prefer to pursue national procedures without recourse to international cooperation.
- Lack of capacity to cooperate (especially States in conflict areas).
- Lack of political will, mutual trust, and confidence between Member States and practitioners.
- Concerns about personal data protection.
- Difficulty of collecting and processing digital evidence (lack of knowledge and expertise; disconnection between various actors).

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- Difficulty of gathering battlefield evidence in terrorism cases (including FTF cases) to be heard in ordinary criminal courts, using information obtained from military sources.
 - Lack of knowledge about how to handle terrorist cases involving juveniles.
2. Participants identified a number of good practices in regional, subregional and cross-regional cooperation within the framework of extradition and mutual legal assistance (MLA). Two sessions were devoted specifically to challenges and good practices in international cooperation in gathering digital evidence and battlefield evidence.
3. In this regard, the participants noted that the Security Council and the Committee might wish to take the following action:
- Assist Member States affected by FTFs to designate central authorities and, where appropriate, use their political leverage to encourage Member States to designate a central authority. (Member States are sometimes reluctant to do so. Global bodies engaged in supporting central authorities noted that the designation process could greatly benefit from the Council's support).
 - Facilitate Member State's efforts to gather battlefield evidence in accordance with the rule of law and international law.
 - Promote the role of parliaments and regional parliamentary forums in countering terrorism.
 - Apply lessons learned from fighting transnational organized crime and promote cooperation between United Nations bodies engaged in combating transnational organized crime and those engaged in counter-terrorism.
 - Continue to expand the role of supreme court justices in international cooperation.
 - Increase engagement between judicial networks and help strengthen their cooperation.
 - Redouble their efforts to support Member States in the collecting and processing of digital evidence and continue to promote their development of partnerships with the private sector and civil society.

B. Consultations on international law enforcement cooperation

4. Participants identified the following main obstacles and persisting challenges and areas in which the necessary tools for international law enforcement cooperation were already available, but not fully utilized.
- Member States are not equally able to implement mechanisms and systems for strengthening law enforcement cooperation in general and countering terrorism, in particular. The Security Council and the Committee can encourage States and relevant entities to increase the level of technical assistance delivered to States in need.
 - The lack of common priorities (i.e., shared perception of a criminal threat) can create obstacles to effective cooperation.
 - In order to obtain operational cooperation in a timely manner, States should utilize properly trained law enforcement personnel who are familiar with the relevant international law, the structure of the counterpart entity, and contact procedures.
 - The delays, expenses and technicalities involved in extraditing persons and evidence from one jurisdiction to another can present major obstacles to cooperation.

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- Joint or coordinated police operations in different States can be undermined by differences in police powers, police-judiciary relationships, criminal procedures and organizational structures.
 - Operational difficulties often derive from lack of effective communications equipment or lack of a common language.
5. The participants also noted the following key elements of successful law enforcement cooperation:
- *Time* (need for fast and timely flow of information and designation of contact points acting on a 24/7 basis).
 - *Trust* (without which no sharing of information can be expected).
 - *Common language* (both literally and with respect to agreed concepts and priorities).
6. The Security Council and the Committee could facilitate global law enforcement cooperation and dialogue by promoting capacity-building in the following areas:
- Making full use of existing tools and instruments that are under-utilized and / or poorly understood.
 - Many good practices and regional initiatives are being enhanced, but there is a need to build trust and between regional organizations and entities, including through the sharing of liaison officers, the creation of joint investigation teams and regional arrangements that can help overcome the challenges posed by complex and time-consuming legal mechanisms and bureaucracies.
 - Partnerships between public and private sectors should be strengthened and used to enhance the joint development of innovative solutions to existing challenges.
 - Utilizing female law enforcement networks, including in addressing issues relating to female FTF returnees.
 - Promoting the development of shared responses to the constantly evolving security landscape.
 - International and regional law enforcement organizations should engage in joint operations, including within the framework of regional operations of the International Criminal Police Organization (INTERPOL).
 - INTERPOL is the primary agency for global law enforcement cooperation. Its various tools and instruments provide a unique system for the multilateral communication of police information. States should step up efforts to feed information to INTERPOL databases; ensure their connectivity and active use; and consider extending access to INTERPOL I-24/7 beyond the National Central Bureaus to frontline border, customs and immigration officers. Compatibility between regional databases and INTERPOL databases should be enforced.
 - Ways to enhance information-sharing between the military and law enforcement should be further explored.
 - There is a need to increase States' awareness and knowledge of the benefits of collecting, using and sharing biometrics, taking into account appropriate human rights safeguards, measures to protect privacy, and personal data. States must be provided with technical assistance in this regard. There is a need to encourage public-private partnerships in this area.