



AMNESTY INTERNATIONAL INTERNATIONAL SECRETARIAT
Peter Benenson House, 1 Easton Street
London WC1X 0DW, United Kingdom
T: +44 (0)20 7413 5500 F: +44 (0)20 7956 1157
E: amnestyis@amnesty.org W: www.amnesty.org



P.O. Box 91
Rue des Bains 33
CH 1211 Geneva 8
Switzerland

t +41 22 979 38 00
f +41 22 979 38 01
www.icj.org



To the members of the
Committee on Foreign Terrorist Fighters and Related Issues (COD-CTE)
of the Council of Europe

20 February 2015

Re: Access to information in the proceedings of the Committee on Foreign Terrorist Fighters and Related Issues (COD-CTE)

Dear members of the COD-CTE,

On behalf of Amnesty International, the International Commission of Jurists (ICJ), and the Open Society Justice Initiative, we are writing to you in advance of your first meeting on 23-26 February 2015, regarding the mandate provided to you by the Committee of Ministers on 21 January 2015 to "prepare a draft Additional Protocol supplementing the Council of Europe Convention on the Prevention of Terrorism."¹ We understand that the development of this protocol will proceed very quickly, and that it is intended to finalise a draft for consideration by the Committee of Ministers at the COD-CTE's third meeting on 23-26 March 2015. Our organisations are writing to encourage greater transparency in the drafting process and inquire about how we can contribute to this process.

According to the terms of reference, the COD-CTE will include in the new protocol provisions requiring the criminalisation of certain actions, including "being recruited, or attempting to be recruited, for terrorism; receiving training, or attempting to receive training, for terrorism; travelling, or attempting to travel, to a State other than the State of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training; providing or collecting funds for such travels; organising and facilitating (other than 'recruitment for terrorism') such travels."² Your Committee has further been entrusted with examining "whether any other act relevant for the purpose of effectively combating the phenomenon of foreign terrorist fighters, in the light of Resolution 2178 of the UN Security Council, should be included in the draft Additional Protocol."³

¹ CM/Del/Dec(2015)1217, 23 January 2015, Item 1.7.

² CM(2015)19 final.

³ CM(2015)19 final.

The ICJ, Amnesty International, and the Justice Initiative stress the importance of transparency in the process of negotiation of this protocol, given that it concerns matters that have significant consequences for the protection of human rights, including the rights to freedom of movement, expression, privacy and association; the right to leave and enter one's own country; the right to liberty; and accompanying procedural safeguards to ensure fairness. Transparency is especially required given that the process of adopting the protocol is to be expedited, which will limit the possibility for public scrutiny and debate. We are therefore concerned that the working documents of the Committee have not yet been made public. As non-governmental organisations with an interest and expertise in the protection of human rights in the counter-terrorism context, the ICJ, Amnesty International, and the Justice Initiative would appreciate the opportunity to analyse the draft protocol and to contribute to the drafting process.

We recall that transparency and access to information is an essential element of Article 10 of the ECHR, according to the jurisprudence of the European Court of Human Rights.⁴ The Committee of Ministers has itself urged governmental and quasi-governmental mechanisms to "ensure the effective participation of NGOs without discrimination in dialogue and consultation on public policy objectives and decisions" and has recommended that "this participation and co-operation should be facilitated by ensuring appropriate disclosure or access to official information."⁵

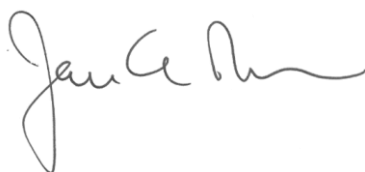
The ICJ, Amnesty International, and the Justice Initiative therefore invite you to consider, at the first meeting of your committee, making public your working documents so that civil society may appropriately be involved. We believe that our organisations, and others, can make a valuable contribution to this important discussion.

Yours sincerely,



pp. Gauri van Gulik

Deputy Programme Director, Europe and Central Asia Programme
Amnesty International



Jim Goldston

Executive Director,
Open Society Justice Initiative



Róisín Pillay

Director, Europe Programme
International Commission of Jurists

⁴ See, among others, *Társaság a Szabadságjogokért v. Hungary*, Application no. 37374/05.

⁵ *Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe*, adopted by the Committee of Ministers on 10 October 2007 at the 1006th meeting of the Ministers' Deputies, para 76.

cc:

Mr Nicola Piacente

Chair of the Committee of Experts on Terrorism (CODEXTER)

Mr Dirk Van Eeckhout,

Ambassador Extraordinary and Plenipotentiary of Belgium

Chair of the Committee of Ministers of the Council of Europe

Secretariat of the Terrorism Division

Information Society and Action against Crime Directorate, DG I

Secretariat of the Committee of Ministers