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Prosecuting Daesh fighters for genocide

Reply to Written question[1]: Written question No. 729 (Doc. 14547)
Committee of Ministers

1. The Committee of Ministers agrees with the Honourable Parliamentarian about the need for member States to take action to make foreign fighter returnees legally accountable for crimes they have committed abroad. It is the understanding of the Committee of Ministers that serious violations of international humanitarian law have been committed by Daesh against the Yezidi, Christian and Muslim communities in Iraq and Syria. The Committee underlines that irrespective of the nature of the offences committed, holding perpetrators criminally responsible should be done in the most efficient and effective manner, in accordance with applicable and relevant law, and taking account of the need to provide for a fair trial. The Committee notes that many of these foreign fighters may, by virtue of joining a terrorist organisation or travelling abroad for the purpose of terrorism, rightfully be investigated and prosecuted. It is for a court to determine whether complicity in acts that are not only considered acts of terrorism, but could also be qualified as gross violations of international humanitarian law, has been committed and the individual's criminal responsibility for such crimes.

2. It further notes that the Council of Europe Committee on Counter-Terrorism (CDCT) is a forum for member States to exchange best practice on these issues and that the Council of Europe Counter-Terrorism Strategy (2018-2022) includes a chapter on activities to facilitate the investigation and prosecution of suspected terrorism offences. These activities relate, *inter alia*, to the gathering of evidence from conflict zones for the purpose of criminal prosecution, the gathering of e-evidence in terrorism related cases and the conduct of criminal trials against, and the prosecution of foreign terrorist fighters, including returnees and re-locators.

3. In this context, the Committee would also like to emphasise the activities undertaken by the Council of Europe with a view to assisting and compensating victims of terrorism.

4. Finally, the Committee of Ministers recalls its reply to Parliamentary Assembly Recommendation 1581 (2002) on Risks for the integrity of the Statute of the International Criminal Court, in which it stated that universal adherence to the Rome Statute of the International Criminal Court (ICC) is crucial for the efficiency of the Court's operation in preventing impunity and ensuring justice for victims. The Committee of Ministers thus encourages those member States that have not yet done so to consider ratifying the Rome Statute and to co-operate with relevant international mechanisms, *inter alia,* the ICC, as appropriate.

1. Adopted at the 1345th meeting of the Ministers' Deputies (2 May 2019).