

**Delegation of Romania**  
**Ministerial High Level Meeting „Stemming the Flow of Foreign Terrorist Fighters”**  
**(Madrid, July 28, 2015)**

**Statement by Daniel Ionita, Secretary of State for Strategic Affairs, Romanian MFA**

**Mr. Chairperson,**

At the beginning, allow me to congratulate the Government of the Kingdom of Spain for organizing and hosting this important event at a very timely moment.

I would like to state that Romania strongly condemns the recent terrorist attacks and reiterates its unwavering support for the fight against terrorism, in all its forms. It is high time to strengthen international cooperation, both at European and global level.

We all agree that a coordinated, comprehensive and urgent response is needed, as the external risk posed to our security by the foreign terrorist fighters has become a domestic threat. Also, there is an urgent need for a better coordination and for fostering the link between the external and domestic aspects of the counter-terrorist activities.

We need to address not only the consequences, but also the root causes of terrorism, in particular in what concerns the phenomenon of the foreign terrorist fighters.

Preventing radicalization and attraction to violent extremism and recruitment for terrorism is the key in this regard. The focus should be on improving the social-economic conditions of people belonging to communities most vulnerable to radicalization and recruitment for violent extremism and terrorism.

Against this plaque we need to use combined and sophisticated instruments, from foreign policy tools to judicial initiatives and domestic measures. And in this respect, cooperation – both internally and externally - and coherence are the magic words.

**Mr. Chairperson,**

Romania, together with the vast majority of the members of the international community, considers both the need to deepen the cooperation with the key partners in the fight against violent extremism and terrorism, and to strengthen the relations with the moderate Muslim states and populations, in order to secure a better mutual understanding and to avoid radicalization.

Terrorism is neither a new phenomenon nor appeared out of the blue. There is a clear nexus between security and sustainable development. Therefore, we need to address not

only the issue of terrorism, but also the pressing challenges that accompany and aggravate the current situation, such as illicit trafficking of arms, organized crime and, most visible and urgent these days, the growing pressure of trafficking of human beings and illegal migration.

**Mr. Chairperson,**

Last September, the UN Security Council adopted its Resolution 2178 (2014) aimed at addressing the issue of penalizing the foreign terrorist fighters and those who provide any support to these individuals for joining terrorist groups or organizations. Romania supports implementation of this important Resolution, as well as other relevant UNSC Resolutions aimed at preventing and combating violent extremism and terrorism.

In our view, at the core of our approach for countering and penalizing the foreign fighters phenomenon should remain the need to safeguard and enhance our values and principles, respect of human rights and fundamental freedoms and promotion of democracy.

In this logic, Romania and Spain have recently launched a joint initiative concerning the setting up of an International Court against Terrorism, which is to be competent to investigate, judge and punish crimes of terrorism. We have already engaged at expert level in discussions on the outline of such an international Court.

Such an initiative would acknowledge the transnational nature of terrorism and the grave effects on the international community as a whole. It is a fact that some States are unable or unwilling to bring to justice the persons within their jurisdiction that committed terrorist acts. Allow me, please, in the coming minutes to provide you with five arguments why we need such a Court.

First, why a new Court – and why not enlarging the jurisdiction of the ICC? I am optimistic about the perspective that this new and fresh idea would help States to overcome the difficulties that prevented them twice, in 1998 and 2009, to include the crime of terrorism in the ICC Statute. We think that a new instrument, focused on terrorism, may benefit from the support of certain important States that are not yet parties to the ICC Statute. Thus, the largest international legitimacy could be ensured.

Second, what would be architecture of the new Court? We envisage a flexible and efficient Court. Outmost attention would be paid to cost-efficiency, providing for: a minimum number of judges that would be required for ensuring the adequate representation of the different legal cultures of the world, chambers before which decisions can be duly reviewed, and a Prosecutor's Office. As an element of novelty, an ICCT could benefit of a "multinational police or security force", embedded in its Office of the Prosecutor.

Third, how about its jurisdiction? The jurisdiction of the Court shall be characterized by double subsidiarity: in relation to national Courts and to the ICC. However, a Security Council referral might be envisaged, which would trigger primacy of the jurisdiction of the International Court against Terrorism over that of the national Courts.

Forth, what legal means should be used to create the International Court against Terrorism? Of course, the ideal solution would be an international treaty, negotiated within a conference of plenipotentiaries, under the auspices of the United Nations. However, it would take years to put this solution into practice, with the risk of deadlock on matters such as the definition of terrorism and, more importantly, of failing to respond to the immediate need for more decisive action. A more pragmatic option would be the establishment of the Court by a Security Council Resolution, following the practice of the tribunals set up for the former Yugoslavia and Rwanda. The resolution would be grounded on Chapter VII of the Charter, having in mind that the Security Council has already determined, several times, that acts of terrorism represent a threat to international peace and security. The advantages of such an option: speed and universality of the Court's jurisdiction. The challenges: demonstrating that the Security Council has the competence to adopt such a resolution and obtaining the largest support within the international community.

Fifth, do we foresee any legal difficulties? The greatest challenge might be the definition of the jurisdiction *ratione materiae*: the crime of terrorism. A definition based on two segments can thus be imagined: (i) a *de minimis* „open definition, founded on elements recognized in customary international law and also from the case-law of the Special Tribunal for Lebanon, and (ii) an indicative list of crimes enumerated in sectorial UN conventions against terrorism.

In conclusion, I am confident that further efforts are needed, but we have already started work on expert level. The hardest part of the job still remains to be done: refine the legal text and ensuring the largest support of the international community. The success of the initiative depends on the genuine will of the States to fight terrorism with the weapons of law. However, we must have the necessary ambition and determination to succeed. And I do hope to have all of you on board on this endeavor.

**Mr. Chairman,**

In the end, allow me to state that we remain confident and optimistic that the international community can take further the work for fighting violent extremism and terrorism. For its part, Romania stands ready to bring its contribution to this end and supports the adoption of the Declaration of our Ministerial High Level Meeting. Thank you for your attention.