



Council of the
European Union

Brussels, 11 April 2022
(OR. fr)

7227/1/22
REV 1

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NOTE

From: Presidency
To: Delegations

Subject: Draft Council conclusions: "Protecting Europeans from terrorism:
achievements and next steps"

Courtesy translation

Please find attached a set of draft Council conclusions to be discussed at the TWP-meeting of 20 April.

Protecting Europeans from terrorism:
achievements and next steps

THE COUNCIL OF THE EUROPEAN UNION,

1. REAFFIRMING that terrorism attacks the fundamental values of the European Union and human rights and that the European Council, in its conclusions of 11 December 14-2020¹, welcomed the Counter-Terrorism Agenda for the European Union presented by the European Commission, and called for further work in this regard;
2. NOTING in particular that further progress has been made since the conclusions of 11 December 14-2020, such as the implementation of the Regulation to address the dissemination of terrorist content online², the strengthening of Europol's mandate or the ongoing negotiation of legislation strengthening the prevention of money laundering and terrorist financing;
3. RECALLING that the same conclusions state that it is important that all persons crossing the external border of the European Union are checked in the relevant information systems, as required by EU legislation, and that Member States are invited to increase their efforts to make full use of European information systems by entering relevant information on persons posing a serious threat of terrorism or violent extremism, including foreign terrorist fighters;

1. EUCO 22/20.

2. Regulation (EU) 2021/784 of 29 April 2021 (OJ L 172, 17.5.2022, p. 79). The Regulation will apply as of 7 June 2022.

4. RECALLING that these conclusions underline the importance of combating incitement to hatred and violence and intolerance and, with particular reference to radicalisation, of addressing the ideologies underlying terrorism and violent extremism as well as foreign influence on civil and religious organisations through non-transparent funding;
5. EMPHASISING that, as stated in the same conclusions, it is essential that investigative and judicial authorities are also able to exercise their legal powers online and that, in general, it is essential for counter-terrorism services to have access to all the digital data and electronic evidence necessary for ~~the exercise of~~ accomplishing their mission, while respecting fundamental rights and freedoms;
6. RECALLING that the Council of the European Union, in its conclusions on internal security and the European Police Partnership adopted on 14 December ~~14~~ 2020³, stated that the terrorist threat to the European Union and its Member States remained serious and that particular attention should continue to be paid to terrorist fighters returning from conflict zones and to prisons and released prisoners;
7. RECALLING that the Council, in the same conclusions, encouraged Member States to pay particular attention to persons posing a terrorist or violent extremist threat and emphasised that, in a Europe without internal borders, it should be ensured that information is exchanged reliably and rapidly when such persons travel or enter into contact with individuals or networks in other Member States;
8. NOTING that the Council, in the same conclusions, underlined that all efforts should be made to prevent further online and offline radicalisation and to combat all forms of violent extremism and terrorism;

³. Council conclusions on internal security and the European Police Partnership (13083/1/20 REV 1).

9. RECALLING that these same conclusions make the fight against arms trafficking an "absolute priority";
10. EMPHASISING the determination of the Council in its conclusions of 7 June 2021⁴ to ensure that the authorities responsible for combating terrorism and violent extremism in the Member States can have the appropriate means and tools to respond continuously and effectively to the evolving terrorist and extremist threats;
11. RECALLING, in accordance with the Joint Declaration of the Ministers of the Interior of the European Union of November 13 2020 on the terrorist attacks in Europe, that organisations ~~which~~ that do not act in accordance with ~~the applicable relevant~~ legislation and ~~which~~ support content that is contrary to fundamental rights and freedoms should not ~~receive~~ be supported by public funding, ~~either at neither on~~ national ~~or at nor on~~ European level;
- I. A persistent high level of terrorist threat, fostered by an unstable international environment*⁵
12. RECALLING that the return or arrival of terrorist fighters in Europe still poses a significant threat to European citizens and that there is a need to ensure the security of the ~~Schengen area~~ EU territory while preserving freedom of movement, ~~while some~~ given that terrorist fighters, who would attempt to return, can use complex routes in order to avoid ~~the controls of the~~ security forces checks of the competent authorities of the Member States ~~when returning to the~~ territory of the European Union, as it is ~~the case since 2015 with individuals who have been in~~ Syria, for example;

⁴. Council Conclusions "The impact of the COVID-19 pandemic on the threat posed by terrorism and violent extremism, including the impact on counter-terrorism and counter-violent extremism authorities and their activities" (-9586/21).

⁵. EU Threat Assessment in the field of counterterrorism (See-13682/21).

13. EMPHASISING that the deterioration of the security situation in several regions of the world, such as in Afghanistan and in Ukraine, may lead to significant movements of people towards the ~~Schengen area~~ EU territory and infiltration attempts by individuals posing a terrorist threat;
14. NOTING that the level of the terrorist threat also remains high within the European Union, in particular due to isolated and radicalised individuals as well as individuals with mental health problems, whose actions have become more difficult to detect and prevent;
15. HIGHLIGHTING the dramatic shift in the security area in Eastern Europe and its impact on EU's security, including for counterterrorism and countering violent extremism.

II. Improving the use of the Schengen Information System to monitor and detect individuals posing a terrorist threat

16. EMPHASISING that the implementation of systematic checks in the national and EU systems at the external border as provided for in the Schengen Borders Code, ~~including the use of biometrics~~, as well as the registration in the relevant systems of persons crossing the border irregularly, including by using biometrics such as photographic and dactyloscopic data, are essential to prevent undetected arrivals of terrorists on the territory of the European Union;

17. RECALLING the crucial importance of the Schengen Information System (SIS) for the sharing of information that could support Member States in detecting and monitoring individuals posing a terrorist threat, and the need to ~~optimise~~ further explore how to optimise existing tools for: ~~improving the exchange of information between Member States for certain categories of terrorists reported to the SIS, in order to enable early detection and monitoring of foreign terrorist fighters;~~
- a) ensuring that all available information is entered, in particular biometric data, while keeping high level of data quality and completeness of data;
 - b) using the current possibility of entering terrorist flagged alerts in SIS, which has already proved its effectiveness and should be further used;
 - c) improving the exchange of information between Member States for foreign terrorist fighters reported to SIS, in order to enable their early detection and monitoring;
18. ~~EMPHASISING REFERRING TO~~ the operational added value of developing the post-hit procedure for ~~the most dangerous individuals linked to international~~ foreign terrorist ~~networks fighters~~ registered in ~~the~~ SIS, based on the voluntary reception of hit notifications, in order to effectively process this information and further improve the identification and monitoring of the routes used by these same individuals;

III. Better coordination of entry ban and expulsion measures

19. RECALLING that national entry ban measures are important tools for the internal security of the ~~Schengen area~~ EU territory, in particular in the context of the fight against terrorism, and that they must be enforced, ~~even~~ after consultations at a national level, if an individual succeeds in entering the ~~Schengen area~~ EU territory illegally and is checked by a Member State other than the one which issued the measure;

20. RECOGNISING that the existence of varying national legal and institutional frameworks between Member States for issuing entry ban and expulsion measures ~~and~~ shall not limit the value of inserting national entry ban measures into the Schengen Information System, ~~including~~ by relying on the provisions of Article 24 of Regulation EU 2018/1861, when possible;
21. NOTING that individuals involved in transnational terrorist networks may pose a danger to the security of the ~~Schengen area~~ EU territory and thus to all Member States, even without having a direct link with each of these Member States;

IV. Strengthening the exchange of information between administrations on individuals posing a terrorist threat

22. EMPHASISING the ~~interest~~ need for ~~operational services~~ counter-terrorism authorities to obtain more administrative information on the state of progress of applications for international protection submitted by individuals posing a terrorist or violent extremist threat, both at national level and between Member States, in order to better adapt the administrative or judicial measures and operational measures aimed at these persons, while respecting fundamental rights;

23. AGREEING, with due regard for fundamental individual rights, including the protection of personal data of the individuals concerned, on the usefulness of enhancing the dialogue ~~at national and European level between immigration and asylum authorities and investigative services~~ with regard to the timing and state of progress of applications for international protection lodged by such individuals at national and European level:

- between immigration and/or asylum authorities,
- between counter-terrorism authorities;
- between counter-terrorism and migration/asylum authorities at the national level.

V. **Combating the threat stemming from actors contributing to radicalisation leading to terrorism**

24. ENCOURAGING the continuation of the work carried out by the European Radicalisation Awareness Network, particularly on the early detection of weak signals of radicalisation, online and offline, as well as the establishment of an EU knowledge hub on the prevention of radicalisation, as announced in the Counter-Terrorism Agenda of the Commission on 9 December 2020;

25. EMPHASISING the need to respond to the increasingly widespread phenomenon of "rapid radicalisation" of individuals who act very soon after the first weak signals of behavioural change, sometimes under the influence of individuals or organisations spreading violent extremist ideologies and developing radical "ecosystems" in the heart of European societies;

26. NOTING that the existing European counter-terrorism sanctions regimes⁶ do not easily and normally permit to target organisations or individuals not directly involved in the commission of terrorist acts, even if they are active in the propagation of radical and violent extremist rhetoric leading to terrorism;

VI. Ensuring access to essential data for the fight against terrorism

27. RECALLING, following the conclusions of the European Council of 11 December 2020, that the retention of connection data is a major issue in the prevention and fight of terrorism, while respecting fundamental rights and freedoms;

28. EMPHASISING in general that access to digital information and evidence has become essential for ~~investigative and judicial~~ national competent authorities in particular in counter-terrorist matters, and that their access to digital information, including encrypted data, ~~should~~ therefore needs to be guaranteed addressed;

29. NOTING the importance of enabling ~~investigative services~~ national competent authorities to use artificial intelligence (AI) technologies in their work, including in the processing of mass data, particularly in the fight against serious crime, violent extremism and terrorism.

⁶. Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism (2001/931/CFSP) (OJ L 344, 28/12/2001, p. 93); Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (OJ L 344, 28/12/2001, p.70); Council Decision (CFSP) 2016/1693 of 20 September 2016 concerning restrictive measures against ISIL (Daesh) and Al-Qaida and associated individuals, groups, undertakings and entities (OJ L 255, 21.9.2016, p. 25); Council Regulation (EU) 2016/1686 of 20 September 2016 imposing additional restrictive measures directed against ISIL (Daesh) and Al-Qaida and associated natural and legal persons, entities or bodies (OJ L 255, 21.9.2016, p. 1).

THE COUNCIL OF THE EUROPEAN UNION,

INVITES THE MEMBER STATES:

30. TO CONTINUE discussions in the appropriate fora Council bodies on the ~~dissemination~~ effective sharing of information of SIS ~~post-hits for the most dangerous categories of terrorists linked related to international foreign terrorist networks fighters~~, for the benefit of all Member States willing to receive them, while taking into account the existing workflow of the SIRENE Bureaux and current available possibilities of entering terrorist flagged alerts in the SIS;
31. TO ISSUE, in accordance with their national legislation, national entry bans on third-country nationals ~~with respect to whom there are serious grounds for believing that they may be planning a terrorist project, have been in a conflict zone or have been involved in terrorist activities, who, based on information such as judicial convictions or statements of the security and intelligence services, constitute a serious and reasonable threat to national security and/or public order~~ and that their presence on ~~European soil~~ EU territory would constitute a threat to ~~public order~~; This could concern the planning of a terrorist attack, residing in a conflict zone or the involvement in terrorist activities.
32. TO ALLOW the issuance of such measures at national level for foreign terrorist fighters, despite the absence of direct links but provided it is in the interest of national security between the issuing Member State and the individual concerned, in accordance with national frameworks;
33. TO ~~INSERT, as much~~ CONTINUE entering, as possible, national ~~provided for in article 24 of Regulation (EU) 2018/1861, entry ban measures into SIS in particular under Article 24,~~ in order to restrict the entry into the territory of the European Union of individuals posing a terrorist threat;

34. TO ENCOURAGE cooperation at national and European level between immigration and asylum authorities and ~~investigative and counter-terrorism services~~ authorities, in accordance with their respective competences and respecting that national security remains the sole responsibility of each Member State, in order to improve CT authorities' knowledge of the timing and state of progress of applications for international protection lodged by individuals posing a terrorist threat and thus to enable appropriate measures to be taken against them;
35. TO CONTINUE discussions in the appropriate ~~European fora~~ Council bodies on ~~changes to improve the availability~~ how to improve exchanges of information on the timing and state of progress of applications for international protection to ~~investigative and counter-terrorism services~~ authorities, only for individuals limited to those posing a terrorist threat, on a case-by-case basis and respecting fundamental rights;
36. TO ~~LIMIT~~ EXPLORE the possibilities to limit at EU level the means of action of persons and organisations promoting radicalisation and violent extremism that may lead to terrorism, in particular by freezing their financial resources, and pursue the ~~European reflection~~ discussions aimed at preventing them from acting ~~with impunity~~ without being held liable, within and outside the borders of the Union, with respect to national frameworks.
37. TO COORDINATE as much as possible their actions and restrictive measures, such as the freezing of assets and economic resources of persons and organisations concerned, as well as measures to prohibit entry into the national territory of the Member States of the ~~aetors~~ individuals concerned outside the territory of the European Union;
38. TO MAINTAIN their vigilance to ensure that organisations acting against the EU's common fundamental values, by promoting violence, hatred or intolerance, cannot benefit from public funds;

39. TO CONTINUE the exchanges with all stakeholders necessary for the establishment of a balanced framework for access to digital data, whether on the retention of connection data, access to encrypted content or the impact of new technologies such as artificial intelligence on the missions of the ~~investigating services~~ national competent authorities;
40. TO CONTINUE to assess the impact of the military aggression of Ukraine by the Russian Federation on the terrorist and violent extremist threat;

INVITES THE COMMISSION :

41. ~~TO CONSIDER~~ TO ASSESS the proportionality and the necessary legal and technical changes that would allow voluntary Member States to be informed of a hit in SIS on ~~the most dangerous foreign terrorist alerts linked to international terrorist networks~~ fighters, in order to improve the information ~~flow~~ exchange and obtain access to information;
42. TO CONSIDER, in close concertation with the Member States, possible legal developments allowing mutual recognition of entry bans on terrorist suspects in all willing Member States, which may include a process for mutual consultation about the underlying reasons for issuing an entry ban;
43. TO EXAMINE different solutions that would allow ~~investigative and counter-terrorist services~~ terrorism authorities to be informed about the timing and state of progress of certain procedures of international protection application lodged by an individual posing a terrorist threat;

44. TO EXPLORE the possibilities offered by the existing European legal framework to limit the financial resources of individuals or entities promoting radicalisation and violent extremism that may lead to terrorism, and consider any useful amendments to this framework;
45. TO CONTINUE efforts to ensure that organisations which do not respect the common rules and values of the EU and which support content contrary to fundamental rights and freedoms are not eligible for EU public funding;
46. TO ASSESS the interest and added value of the adoption of a legislative initiative aimed at establishing, ~~on the basis of Article 83 TFEU~~, minimum rules on the definition of criminal offences and sanctions in the field of illicit arms trafficking, as announced in the EU action plan on firearms trafficking 2020-2025⁷;
47. TO CONTINUE efforts to carry out, in close cooperation with the Member States, the necessary preparatory work for the establishment of an EU knowledge hub on the prevention of radicalisation.
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⁷ COM/2020/608 final.