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OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	9545/22
Subject:	Council conclusions: 'Protecting Europeans from terrorism: achievements and next steps'

Delegations will find attached the text of the conclusions on the above-mentioned subject, as agreed by the Council (Justice and Home Affairs) on 9 June 2022.

ANNEX

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 2020[1], 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 2020, such as the implementation of the Regulation to address the dissemination of terrorist content online[2], the strengthening of Europol's mandate and the preparation 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;

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;

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1. EUCO 22/20.
2. Regulation (EU) 2021/784 of 29 April 2021 (OJ L 172, 17.5.2022, p. 79). The Regulation applies as of 7 June 2022.

5. EMPHASISING that, as stated in the same conclusions, it is essential that investigative and judicial authorities are also able to exercise their lawful powers online and that, in general, it is essential for counter-terrorism authorities to have access to all the digital data and electronic evidence necessary for 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 2020[3], 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 terrorism and violent extremism;

9. RECALLING that these same conclusions identify the fight against arms trafficking an ‘absolute priority‘;

10. EMPHASISING the determination of the Council in its conclusions of 7 June 2021[4] 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;

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

[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).

11. RECALLING, in accordance with the Joint Declaration of the Ministers of the Interior of the European Union of 13 November 2020 on the terrorist attacks in Europe, that organisations that do not act in accordance with relevant legislation and support content that is contrary to fundamental rights and freedoms should not be supported by public funding, neither at national nor at 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 EU territory while preserving freedom of movement, given that terrorist fighters, who would attempt to return, can use complex routes in order to avoid security checks of the competent authorities of the Member States;

13. EMPHASISING that the deterioration of the security situation in several regions of the world, such as in Afghanistan and in Ukraine, is likely to continue and has already led to significant movements of people towards EU territory, increasing the risk of infiltration 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 experiencing mental health difficulties, whose actions have become more difficult to detect and prevent;

15. HIGHLIGHTING the dramatic shift in the security at the European eastern border and its impact on the EU´s global security, including for counterterrorism and countering violent extremism.

[5]. EU Threat Assessment in the field of counterterrorism (13682/21).

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, 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 further explore how to optimise existing tools for:

    a) ensuring that all available information is entered, in particular biometric data, while keeping a high level of data quality and completeness of data;

    b) using the current possibility of entering terrorists 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 in SIS, in order to enable their early detection and monitoring;

18. REFERRING TO the operational added value of developing the post-hit procedure for foreign terrorist fighters registered in SIS who constitute a serious threat, 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.;

19. RECALLING that operational information exchange on the identification and monitoring of foreign terrorist fighters is also held in other European fora.

III. Better coordination of entry ban and expulsion measures

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

21. RECOGNISING that the existence of varying national legal and institutional frameworks between Member States for issuing entry ban and expulsion measures should not limit the value of inserting national entry ban measures into the Schengen Information System, by relying on the provisions of Article 24 of Regulation EU 2018/1861, when possible;

22. NOTING that individuals involved in transnational terrorist networks may pose a danger to the security of 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 on individuals posing a terrorist threat

23. EMPHASISING the need for 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;

24. 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 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 asylum authorities,

    - counter-terrorism authorities;

    - counter-terrorism and migration and asylum authorities at the national level.

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

25. 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 Commission's Counter-Terrorism Agenda on 9 December 2020;

26. 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;

27. NOTING that the existing European counter-terrorism sanctions regimes[6] do not necessarily aim 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

28. RECALLING, following the conclusions of the European Council of 11 December 2020, that the retention of data is a major issue in the prevention and fight of terrorism, in light of the case law of the European Court of Justice and in full respect of fundamental rights and freedoms;

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

30. NOTING the importance of enabling 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 taking into account the need to develop an effective and proportionate Union legal framework for AI.

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[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:

31. TO CONTINUE discussions in the appropriate Council bodies on the effective sharing of information of SIS post-hits related to foreign terrorist fighters who constitute a serious threat, for the benefit of all Member States willing to receive SIS post-hits, while taking into account the existing workflow of the SIRENE Bureaux, measures adopted, and current available possibilities of entering terrorist flagged alerts in the SIS;

32. TO ISSUE, in accordance with their national legislation, national entry bans on third-country nationals who, based on information such as judicial convictions or intelligence of the competent security services, constitute a serious and reasonable threat to national security and/or public order and that their presence on EU territory would therefore constitute a threat. This information could concern the planning of a terrorist attack, residing in a conflict zone or the involvement in terrorist activities.

33. TO ALLOW, in accordance with national frameworks, the issuance of such measures at national level for foreign terrorist fighters, despite the absence of direct links between the issuing Member State and the individual concerned but provided those measures are in the interest of national security;

34. TO CONTINUE entering, as provided for in article 24 of Regulation (EU) 2018/1861, entry ban measures into SIS in order to restrict the entry into the territory of the European Union of individuals posing a terrorist threat;

35. TO ENCOURAGE cooperation at national and European level between:

- immigration and asylum authorities,
- counter-terrorism authorities;
- counter-terrorism and migration and asylum authorities at the national level

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;

36. TO CONTINUE discussions in the appropriate Council bodies on how to improve exchanges of information on the timing and state of progress of applications for international protection to counter-terrorism authorities, limited to those posing a terrorist threat, on a case-by-case basis and respecting fundamental rights;

37. TO EXPLORE the possibilities to limit at EU level the means of action of individuals and organisations promoting radicalisation and violent extremism that may lead to terrorism, in particular by freezing their financial resources, and pursue the discussions aimed at preventing them from acting without being held liable, within and outside the borders of the Union, with respect to national frameworks.

38. TO COORDINATE as much as possible their actions and restrictive measures, such as the freezing of assets and economic resources of the persons and organisations concerned, as well as measures to prohibit entry into the national territory of the Member States of the individuals concerned outside the territory of the European Union;

39. 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;

40. 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 national competent authorities;

41. 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:

42. 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 foreign terrorist fighters who constitute a serious threat, in order to improve the information exchange and obtain access to information, including the measures already adopted and currently awaiting implementation;

43. TO CONSIDER, in close cooperation with the Member States, the necessity and proportionality of possible legal developments in full respect of existing Union legal framework, 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;

44. TO EXAMINE different solutions that would allow counter-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;

45. 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;

46. 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;

47. TO ASSESS the interest and added value of the adoption of a legislative initiative aimed at establishing, 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 2020-2025[7];

48. 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.