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From: General Secretariat of the Council
To: Council

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Subject: Draft Conclusions of the Council of the European Union and of the Member States meeting within the Council on enhancing the criminal justice response to radicalisation leading to terrorism and violent extremism

1. On 19 October 2015, the Commission and Presidency organised a Ministerial conference on the criminal justice response to radicalisation. As a follow-up to this Conference, the Presidency proposed draft Council conclusions on enhancing the criminal justice response to radicalisation leading to terrorism and violent extremism, as set out in doc 14192/15.
2. These draft conclusions were discussed at the CATS meeting of 10 November 2015. Based on the comments at this meeting and written contributions received afterwards, the Presidency revised the document. The revision was examined by the JHA Counsellors on 18 November 2015.
3. Taking into account suggestions made at this meeting and during a subsequent brief written procedure, Coreper approved document 14192/2/15 REV 2 in its meeting of 19 November subject to one minor amendment.
4. Council is therefore invited to adopt the draft Conclusions of the Council of the European Union and of the Member States meeting within the Council on enhancing the criminal justice response to radicalisation leading to terrorism and violent extremism, as set out in the Annex.

DRAFT

CONCLUSIONS OF THE COUNCIL OF THE EUROPEAN UNION AND OF THE MEMBER STATES MEETING WITHIN THE COUNCIL ON ENHANCING THE CRIMINAL JUSTICE RESPONSE TO RADICALISATION LEADING TO TERRORISM AND VIOLENT EXTREMISM

NOTING that radicalisation leading to terrorism and violent extremism, due to its multidimensional and dynamic character, raises significant and evolving challenges which must also be addressed at judicial level, primarily by the Member States, but also, where appropriate, by a coordinated support at European level in accordance with the Treaties;

RECALLING that, in the framework of the EU Counter Terrorism Strategy¹ the Council adopted a revised "EU Strategy for combating Radicalisation and Recruitment" in June 2014² and in December 2014³ and June 2015⁴ referred to the importance of preventing and countering the phenomenon as a priority for future action;

RECALLING that the European Council in its statement of 12 February 2015⁵ stressed the need to set up initiatives regarding the rehabilitation in the judicial context in order to address factors contributing to radicalisation leading to terrorism and violent extremism, including in prisons;

BASED UPON the discussions of the Ministers of Justice regarding an effective judicial response to radicalisation leading to terrorism and violent extremism, that were concluded by the Riga Joint Statement of 29 - 30 January 2015, as well as the debates at the Ministerial lunch of 13 March 2015, and mostly recently the results of the Ministerial Conference of 19 October 2015 dedicated to this subject;

1 14469/4/05
2 9956/14
3 16526/14
4 9951/15
5 SN 10/15

TAKING INTO ACCOUNT that the Commission's Communication on "Preventing Radicalisation to Terrorism and Violent Extremism: Strengthening the EU's response"⁶, the European Agenda on Security of April 2015⁷, as well as the Council conclusions on the Renewed Internal Security Strategy of June 2015,⁸ consider the specific issues of disengagement, rehabilitation and de/anti-radicalisation as a priority for action in the next years;

The Council of the European Union and the Member States meeting within the Council,

CONSIDER it necessary to adopt a cross-sectorial and multidisciplinary approach to effectively tackle radicalisation leading to terrorism and violent extremism, taking into account all different aspects: prevention, investigation, prosecution, conviction, rehabilitation and reintegration.

CONSIDER it necessary for this purpose to ensure appropriate coordination and synergies among all relevant public and private stakeholders, in particular prosecutors and judges, using the existing legal instruments and policies in full compliance with the Rule of Law and of the Charter of Fundamental rights of the European Union,

TAKING INTO DUE ACCOUNT risks to public security

AWARE of the need both for differentiation depending on actual needs and specific risks of each local situation, the national legal systems and judicial organisation, as well as the parties and stakeholders involved, and thus for a case-by-case approach

CONCLUDE therefore that the following actions would contribute to the criminal justice response to radicalisation leading to terrorism and violent extremism, URGE all relevant stakeholders to implement the appropriate actions whenever and wherever possible, and STRESS the essential role of local actors

⁶ 5451/14
⁷ 8293/15
⁸ 9798/15

1. Structure and organisation of detention regimes

- Member States to implement a considered and tailor-made policy to prevent radicalisation leading to terrorism and violent extremism in prisons, adapted to national circumstances and the needs of the individuals involved, which could include elements such as
 - developing risk assessment tools and tools to detect early signs of radicalisation, and strengthening information sharing between the various actors in the criminal justice chain
 - providing an adequate number of well-trained religious representatives in prisons and giving support to social workers and counsellors
 - offering inmates opportunities for learning and developing critical thinking skills in prison
 - enabling a secure prison environment to operate effective rehabilitation and reintegration programmes with attention to the level of respect and interactions between prison staff and detainees
 - in this context, continuing to work on the improvement of detention conditions in compliance with the rules developed and on-going work in this area within the Council of Europe
- in this context, Member States to draw on lessons learnt, best practices and recommendations proposed by the RAN, and in particular by the "RAN Prison and Probation" working group, most recently in its stocktaking paper of October 2015 "Dealing with radicalisation in the prison and probation context"
- RAN to continue providing a platform for the exchange of good practices on this subject, and to feed into the review of the 2008 Handbook drafted by Austria, France and Germany on how to deal with radicalisation leading to terrorism and violent extremism, in particular in prisons
- Member States to develop, as appropriate, de-radicalisation/disengagement/rehabilitation programmes in prison, in preparation of release, and programmes after release to promote reintegration
- Member States to make use of the RAN Centre of Excellence and the latter's offer to support them to set up such programmes where requested.

2. Alternative or additional measures to prosecution and/or detention

- Member States to address their dealings with foreign terrorist fighters in a multi-disciplinary and holistic way, including, where appropriate, sharing of relevant information between law enforcement, security services and prosecution and, where applicable, with local authorities and social workers; this could be done by setting up multi-disciplinary bodies or working methods or otherwise ensuring that the follow-up of the cases is done in an integrated way
- Member States to use ECRIS to its full potential and the Commission to submit a proposal for the extension of ECRIS to cover third country nationals
- Member States to consider, within the framework of their national judicial organisation and using the flexibilities of their criminal (juvenile) justice system, a tailor-made, case-by-case approach, based on a proper risk assessment taking due account of security and public safety concerns, including, where appropriate, alternative or additional measures to prosecution and/or detention in all stages of the procedure, among which rehabilitation, including as a condition for, probation or suspension of prison sentences
- Member States to consider using and further developing a risk assessment tool for judiciary, to be used when considering the above-mentioned alternative or additional measures, based on an individual approach, including the possibility to re-evaluate the risk at regular intervals, taking into account that de-radicalisation is a dynamic process; in this context use the work done already by the Council of Europe and the International Centre for Counter-Terrorism (ICCT).

3. Integration, rehabilitation and re-integration

- Member States to lead efforts to address the underlying factors of radicalisation leading to terrorism and violent extremism through targeted preventive measures, by developing cohesion-inductive actions and programmes, including in the education field, that promote Fundamental Rights, the Rule of Law and democracy and encourage inclusive, tolerant and pluralistic societies
- local, national, European and international authorities, together with civil society, to develop methods and tools on how to break stereotypes and develop counter-narratives reaching out to different target groups, including through the creation of networks and public spaces for dialogue
- in this context, Member States with the support of the Commission and the concerned EU agencies, to address in particular the use of the Internet for terrorism radicalisation and recruitment purposes as well as for on-line hate speech that fuels fear, spreads misconceptions and stereotypes targeting specific communities and groups, and incites to violence and hatred, notably by developing , including with Internet Service Providers, cooperation on strategic communication and, where appropriate, internet referral units, for instance continuing support to the Europol Internet Referral Unit and to the Syria Strategic Communications Advisory Team
- Member States to implement measures allowing for rehabilitation, de-radicalisation or disengagement both inside and outside prisons and the re-integration of returnees and those prevented from travel into society, tailored to the local situation and individual case
- Member States to involve victims and rehabilitated former foreign terrorist fighters as well as social workers, communities and family
- Member States to exchange among them experiences and best practices in rehabilitation, de-radicalisation and disengagement, inside or outside prisons
- Member States to make use of the RAN Centre of Excellence's expertise and the latter's offer to support them in setting up such programmes where requested.

4. Training

- Member States to provide the resources for adequate training of all actors (prison staff, probation officers, judiciary etc.) involved in dealing with radicalised violent extremists or those at risk of becoming radicalised, in a sustained and multi-disciplinary way and using the support available at EU and international level
- the European Judicial Training Network (EJTN), CEPOL, and using the expertise of Eurojust, the RAN Centre of Excellence, and, where appropriate the Confederation of European Probation (CEP) and Europris, to support Member States with a variety of training (traditional courses, webinars, exchange of staff, ...) for the whole chain of criminal justice actors dealing with terrorism; in this context, a special focus should be given to risk assessment methodology and to the development of rehabilitation programmes, the use of alternatives to detention, as well as similar training possibilities for non judicial actors involved in dealing with radicalised persons.

5. Learning from monitoring and exchange of practices

- Eurojust to continue monitoring trends and developments, by use of its Terrorism Conviction Monitor (TCM), of the applicable legislative framework and relevant jurisprudence in the Member States as regards terrorism and violent radicalisation, including the use of alternatives to prosecution and detention, and thus contribute to the further development of criminal policy with regard to foreign terrorist fighters

- Eurojust, RAN (through its working groups as well as via its Centre of Excellence), the EJTN, and, where appropriate, Europol, as well as CEP and Europris, to foster the exchange of existing national practices and the lessons learnt thereof, using also the work done in other relevant bodies (in particular UNICRI⁹ and GCTF¹⁰) on the criminal justice response to radicalisation leading to terrorism and violent extremism, in particular the issues addressed under points 1 to 4:
 - the structure and organization of detention facilities
 - the risk assessment tools to be used by judges and prosecutors and by prison staff for assessing the level of threat posed by foreign terrorist fighters and returnees
 - the "triage" systems, aimed at assessing the most appropriate "strand" for each individual case
 - alternative or additional measures to prosecution and/or detention, and in particular rehabilitation programs both in and outside prisons
 - cooperation among relevant actors involved, both within and outside the judicial context, including training
 - criminal policy with regard to foreign terrorist fighters
 - the use of Internet and social platforms

6. Funding

- the Commission to facilitate the above via EU funding for training programmes for the different stakeholders involved and for specific projects, in accordance with the rules of the relevant funding programmes,
- the Commission to make available funding for Member States to develop de-radicalisation/rehabilitation programmes both in prisons and to be used in criminal proceedings, in particular by replicating useful best practice examples from Member States as a priority, as well as to support the establishment of such programmes by the RAN Centre of Excellence

⁹ United Nations Interregional Crime and Justice Research Institute

¹⁰ Global Counter Terrorism Forum

- Member States to carry out specific projects aimed at better implementing legislation on racism and xenophobia, including through training of judges, prosecutors and police; the Commission will make targeted funding available for this purpose
- Member States to support civil society organizations to promote tolerance and counter hate crime and hate speech, including by developing counter-narratives online, with a contribution from the Commission to this endeavour
- the Commission to foster the uptake of social integration policies via the European Social Fund
- the Member States to encourage the different stakeholders involved, including criminal justice actors, local authorities and civil society to make full use of the available funding
- the above actions should be done within the financial resources set out in the Multiannual Financial Framework, and these issues to be integrated into the mid-term review of this Framework.

7. External dimension

- the EU to promote criminal justice response measures to radicalisation leading to terrorism and violent extremism, internationally and to assist third partners in this respect, duly taking into account the local circumstances and security and public safety concerns

INVITE the Presidency, the Commission and the EU Counter-Terrorism Coordinator to report, as and when appropriate, to the Council about progress in the implementation of these conclusions.