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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	22 March 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 151 final - ANNEX
Subject:	ANNEX to the Recommendation for a COUNCIL DECISION authorising the European Commission to participate, on behalf of the European Union, in negotiations on the amendment of the Council of Europe Convention on the prevention of terrorism (CETS No. 196) or an additional protocol thereto regarding the revision of the definition of terrorist offences

Delegations will find attached document COM(2023) 151 final - ANNEX.

Encl.: COM(2023) 151 final - ANNEX

Brussels, 22.3.2023
COM(2023) 151 final

ANNEX

ANNEX

to the

Recommendation for a COUNCIL DECISION

**authorising the European Commission to participate, on behalf of the European Union,
in negotiations on the amendment of the Council of Europe Convention on the
prevention of terrorism (CETS No. 196) or an additional protocol thereto regarding the
revision of the definition of terrorist offences**

ANNEX

Regarding the process of the negotiations, the Union should aim to achieve that:

- (1) The negotiation process is open, inclusive and transparent, and based on cooperation in good faith.
- (2) Inputs received from all the States Parties to the Convention are considered on an equal basis to ensure an inclusive process.
- (3) The negotiation process is based on an effective and realistic work programme.

Regarding the general objectives for the negotiations, the Union should aim to achieve that:

- (4) The definition of terrorist offences in the Convention is, as far as possible, compatible with Union law and Member States' obligations under Union law, in particular Directive (EU) 2017/541.
- (5) The definition of terrorist offences adequately and comprehensively reflects the scope of terrorist offences, taking into account the evolving terrorist threat moving beyond traditional targets and modus operandi.
- (6) The definition of terrorist offences laid down in Article 3 of Directive (EU) 2017/541 is preserved in the European Union and continues to be applied in the mutual relations among the European Union Member States applying the Directive.
- (7) The negotiations ensure respect for the fundamental rights, freedoms and general principles of Union law as enshrined in the European Union Treaties and the Charter of Fundamental Rights of the European Union.

Regarding the substance of the negotiations, the Union should aim to achieve that:

- (8) The definition of terrorist offences in the Convention is defined in a manner that ensures clarity and legal certainty.
- (9) The definition of terrorist offences should be formulated in general terms. The wording should, as far as possible, be compatible with relevant Union law and UN counter-terrorism treaties listed in the Appendix to the Convention.
- (10) As far as possible, there are no discrepancies between the definition of terrorist offences in the Convention and the definition of terrorist offences laid down in Article 3 of Directive (EU) 2017/541.
- (11) The elements of the definition of terrorist offences in the Convention are coherent with the two-limb approach in Article 3 of Directive (EU) 2017/541, its paragraph 1 listing the intentional acts that may seriously damage a country or an international organisation which qualify as terrorist offences when committed with one of the terrorist aims listed in its paragraph 2.
- (12) In the case of an update to the Appendix to the Convention, with new counter-terrorism treaties, offences defined by these treaties and their scope should be compatible with the list of criminal offences in Article 3(1) of Directive (EU) 2017/541.

Regarding the functioning of the Convention, the Union should aim to achieve that:

- (13) The amended Convention preserves existing global and regional instruments, and ongoing international cooperation in the global fight against terrorism.
- (14) The amended Convention preserves its implementation mechanism and final provisions, including on the settlement of disputes, signature, ratification, acceptance, approval and accession, entry into force, amendment, suspension and denunciation.