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European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION authorising the European Commission to participate, on behalf of the European Union, in negotiations on the revision or amendment of the Council of Europe Convention on the prevention of terrorism (CETS No. 196), with a view to modifying the definition of terrorist offences included in that Convention

COUNCIL DECISION (EU) 2023/...

of ...

**authorising the European Commission to participate,
on behalf of the European Union, in negotiations on the revision
or amendment of the Council of Europe Convention
on the prevention of terrorism (CETS No. 196),
with a view to modifying the definition of terrorist offences
included in that Convention**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(1) in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) In 2022, the Council of Europe Committee of Ministers mandated the Council of Europe Committee on Counter-terrorism ('CDCT') to launch negotiations on the modification of the definition of terrorist offences to be applied among the Parties to the Council of Europe Convention on the Prevention of Terrorism ('Convention No. 196').
- (2) On 2 December 2022, the CDCT decided to modify the definition of terrorist offences and to open formal negotiations on the text of that definition at its meeting on 23-25 May 2023.
- (3) The Union is a party to Convention No. 196 and its additional protocol. It has exercised its competence through the adoption of Directive (EU) 2017/541 of the European Parliament and of the Council¹, establishing minimum rules concerning the definition of criminal offences and sanctions in the area of terrorist offences and offences related to terrorist activities.
- (4) The definition of terrorist offences is covered by Union law, notably by Article 3 of Directive (EU) 2017/541, which is founded on the legal basis provided for in Article 83(1) TFEU. The modification of the definition of terrorist offences in Convention No. 196 may affect common rules established by Directive (EU) 2017/541 or alter its scope.

¹ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

- (5) In order to protect the integrity of Union law and to ensure consistency between the rules of international law and Union law, it is necessary that the Commission participate in the negotiations on the modification of the definition of terrorist offences in Convention No. 196, for matters falling within the Union's competence, as defined by the Treaties, and in respect of which the Union has adopted rules.
- (6) This Decision should be without prejudice to the division of competences between the Union and its Member States as defined by the Treaties, to the participation of Member States in the negotiations, and to any subsequent decision to conclude, sign or ratify the revision or amendment of Convention No. 196.
- (7) The negotiating directives set out in the addendum to this Decision are addressed to the Commission and may be revised and further developed if appropriate depending on the evolution of the negotiations.
- (8) In view of the fact that all Member States are also Members of the Council of Europe, the Member States participating in the negotiations should support the Union negotiator in carrying out the tasks following from the Treaties, in accordance with the principle of sincere cooperation as referred to in Article 4(3) of the TEU, in full mutual respect.

- (9) In accordance with the principle of sincere cooperation, the Commission and the Member States should cooperate closely during the negotiation process, including via regular contact with the Member States' experts and their representatives in Strasbourg.
- (10) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (11) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

1. The Commission is hereby authorised to negotiate, on behalf of the Union, as regards matters falling within the Union's competence, as defined by the treaties, and in respect of which the Union has adopted rules, the revision or amendment of the Council of Europe Convention on the prevention of terrorism (CETS No. 196), with a view to modifying the definition of terrorist offences included in that Convention.
2. The negotiations shall be conducted on the basis of the negotiating directives set out in the addendum to this Decision, subject to any directives which the Council may subsequently issue to the Commission.

Article 2

The negotiations shall be conducted in consultation with the Council Working Party on Judicial Cooperation in Criminal Matters (COPEN), which is hereby designated as the special committee within the meaning of the Article 218(4) TFEU.

The Commission shall regularly report to the special committee referred to in the first paragraph on the progress of the negotiations and shall forward all negotiating documents to it as early as possible.

Whenever so requested by the Council, the Commission shall report to the Council on the conduct and the outcome of the negotiations, including in writing.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

For the Council

The President
