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#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2026) 137 final
Subject:	Recommendation for a Council Decision on the conclusion, on behalf of the European Union, of the Protocol amending the Council of Europe Convention on the prevention of terrorism

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Delegations will find attached document COM(2026) 137 final.

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Encl.: COM(2026) 137 final



Brussels, 19.3.2026  
COM(2026) 137 final

Recommendation for a

**COUNCIL DECISION**

**on the conclusion, on behalf of the European Union, of the Protocol amending the  
Council of Europe Convention on the prevention of terrorism**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

##### Objectives of the proposal

The present proposal aims to obtain from the Council of the European Union ('the Council') the authorisation for the European Commission ('the Commission') to sign the Protocol amending the Council of Europe Convention on the prevention of terrorism ('the Protocol') on behalf of the European Union.

The Commission will also submit a proposal for a Council Decision authorising the Commission to conclude the Protocol on behalf of the European Union. Together, these proposals follow up on the Commission's commitment in the ProtectEU: Agenda to prevent and counter terrorism<sup>1</sup>.

Terrorism is a global phenomenon and represents a growing threat to fundamental rights, democracy and the rule of law in Europe and all over the world. The terrorist attacks perpetrated in the last years in the European Union and elsewhere in the world were unacceptable infringements of the values and principles which underpin democratic societies.

While the EU has seen fewer large-scale coordinated attacks, the threat has not gone away - it has evolved. Between 2019 and 2023, the number of terrorist incidents more than doubled (from 57 to 120), before dropping to 58 in 2024<sup>2</sup>. Lone actors and small cells have been predominantly responsible for recent attacks. The overall threat level remains high, and it is shaped by multiplying threat drivers.

In the face of such an enduring and evolving threat, decisive action against terrorism is necessary, not only at national level, but also at European, pan-European level and beyond. The often cross-border nature of terrorism requires strong international cooperation based on a common understanding of terrorist offences.

The purpose of the Protocol is to modify the definition of 'terrorist offences' in the Council of Europe Convention on the prevention of terrorism in order to reflect the fact that contemporary terrorists have moved beyond the more traditional targets and the *modus operandi* which are the subjects of the UN counter-terrorism treaties currently referred to in Article 1 of the Convention. These UN counter-terrorism treaties cover specific offences such as unlawful seizure of aircraft, terrorist bombings or hostage taking. However, the scope of offences covered therein are exhaustive and unable to reflect the reality of the modern terrorism landscape.

The Protocol will modernise the Council of Europe legal framework on counter-terrorism and ensure that the definition of terrorist offences reflect the extensive *modus operandi* deployed by contemporary terrorists. Moreover, the definition which will be introduced by the Protocol will ensure legal certainty by introducing legal conditions which have to be met in order for a criminal act to amount to a terrorist offence, such as intent, gravity threshold and commission of the act with terrorist aims ('specific intent').

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<sup>1</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ProtectEU: Agenda to prevent and counter terrorism COM(2026) 101 final

<sup>2</sup> TE-SAT 2025: Europol, European Union Terrorism Situation and Trend Report 2025 (TE-SAT), June 2025.

Once entered into force, the Protocol will also establish a pan-European definition of terrorist offences which is compatible with the EU definition found in Article 3 of the Directive (EU) 2017/541 on combating terrorism. The new pan-European definition of terrorist offences will offer substantive added value for judicial cooperation, mutual legal assistance and extradition requests in the area of counter-terrorism among Council of Europe States which sign and ratify the Protocol.

## Background

The European Union signed the Council of Europe Convention on the prevention of terrorism ('Convention No. 196') and the Additional Protocol to the Council of Europe Convention on the prevention of terrorism ('Convention No. 217') on 22 October 2015 and ratified them on 26 June 2018. Both the Convention and its Additional Protocol entered into force in the European Union on 1 October 2018. As of 21 January 2026, 25 EU Member States<sup>3</sup> have ratified the Convention No. 196.

Convention No. 196 relates to the criminalisation of terrorist and terrorism-related activities, as well as international cooperation regarding such offences and the protection, compensation and support for victims of terrorism. Article 1 of the Convention No. 196 defines "terrorist offences" by referring to acts listed in the Appendix I to Convention No. 196. The Appendix I lists a number of UN counter-terrorism treaties, namely:

- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
- Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;
- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted in New York on 14 December 1973;
- International Convention Against the Taking of Hostages, adopted in New York on 17 December 1979;
- Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 3 March 1980;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988;
- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;
- Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;
- International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997;
- International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999;
- International Convention for the Suppression of Acts of Nuclear Terrorism, adopted in New York on 13 April 2005.

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<sup>3</sup> All EU Member States except Greece and Ireland have ratified the Convention No. 196.

In the EU, the Directive (EU) 2017/541 establishes minimum rules concerning the definition of criminal offences and sanctions in the area of terrorist offences; offences related to a terrorist group and offences related to terrorist activities in the European Union. Article 3 of Directive (EU) 2017/541 lists the intentional criminal acts that may seriously damage a country or an international organisation which qualify as “terrorist offences” when committed with one of the terrorist aims specified in the Article. In comparison, the definition in Article 1 of Convention No. 196 does not provide an explicit list of criminal acts considered “terrorist offences” and makes a general reference to the acts found in the UN counter-terrorism treaties listed in the Appendix to the Convention, which is not a comprehensive or clear legal definition. Moreover, the definition in Convention No. 196 does not include the terrorist aims. Thus, there are considerable differences between the definition of “terrorist offences” in Article 1 of Convention No. 196 and the definition in Article 3 of Directive (EU) 2017/541.

In 2017, in order to reflect the evolving terrorist threat moving beyond traditional targets and the *modi-operandi*, which are the subjects of the UN counter-terrorism treaties referred to in Article 1 of the Convention No. 196, the Council of Europe Committee on Counter-Terrorism (“CDCT”) formed a working group tasked with assessing the need and feasibility of elaborating a legal definition of “terrorist offences” to be applied among the Parties to the Convention No. 196. The working group developed a series of alternative formulations of the definition and presented its final report<sup>4</sup> to the CDCT Plenary, composed of Parties to Convention No. 196, in November 2019. In its final report, the working group recommended the CDCT Plenary to decide that it is feasible and necessary to elaborate a legal definition of “terrorist offences” in the Convention No. 196, and proposed textual elements for a potential future legal definition.

During 2020 and 2021, experts from Parties to the Convention submitted written comments on the final report. The European Union did not submit written comments. However, in their written comments, a number of EU Member States pointed out the need for aligning the elements of a potential future legal definition of “terrorist offences” at Council of Europe level with the definition of “terrorist offences” laid down in the Directive (EU) 2017/541 on combating terrorism<sup>5</sup>.

In 2022, the Council of Europe Committee of Ministers mandated the CDCT to reach a decision on the feasibility of elaborating a legal definition of “terrorist offences” and to launch the negotiations on the text of the new legal definition. On 2 December 2022, at the 9<sup>th</sup> CDCT Plenary meeting, the Plenary agreed that a new legal definition is feasible and unanimously decided to open formal negotiations at the 10<sup>th</sup> CDCT Plenary meeting on 23-25 May 2023<sup>6</sup>.

On 15 May 2023, the Council authorised the 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, with a view to modifying the definition of terrorist offences included in that Convention. The Commission participated in line with the Council Decision and was guided by negotiating directives set out therein. The Commission

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<sup>4</sup> Final Report of the CDCT Sub-group for the purpose of examining the feasibility of elaborating a definition of terrorism 26 September 2019 [CDCT-DEF \(2019\)03rev](#)

<sup>5</sup> Directive (EU) 2017/541 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, (OJ L 88, 31 March 2017, p. 6).

<sup>6</sup> CDCT 9<sup>th</sup> Plenary Meeting Abridged Report and List of Decisions 2 December 2022, p.4 [CDCT\(2022\)16](#)

consistently consulted the Council's special committee for the negotiations on the Union position and ensured the Protocol's compatibility with relevant EU acquis.

The negotiating sessions took place in the context of biannual CDCT Plenary meetings. There were four negotiating sessions in total between 23 May 2023 and 14 November 2024. On 14 November 2024, the CDCT Plenary approved the draft Protocol amending the Council of Europe Convention on the prevention of terrorism and the accompanying draft Explanatory Report. On 25 June 2025, the Council of Europe Parliamentary Assembly adopted its opinion on the draft Protocol<sup>7</sup>. On 9 July 2025, at their 1534<sup>th</sup> meeting, the Council of Europe Committee of Ministers adopted the Protocol and took note of its Explanatory Report<sup>8</sup>. On 10 December 2025, at their 1546<sup>th</sup> meeting, the Committee of Ministers agreed to open the Protocol for signature on 26 May 2026 in Strasbourg (France).

The Protocol will enter into force on the first day of the month following the expiration of a period of three months after the date on which all Parties to Convention No. 196 have expressed their consent to be bound by the Protocol. If this does not take place, following the expiry of a period of three years after the date on which the Protocol has been opened for signature, the Protocol will enter into force for those States which have expressed their consent to be bound, provided that the Protocol has been ratified by at least two thirds of the Parties to Convention No. 196.

The European Union can sign and ratify the Protocol as an international organisation that is party to Convention No. 196.

### **Reasons for the proposal**

The Protocol is in line with EU's goal of enhancing international cooperation taking into account the EU's security interests, as set out in the ProtectEU European Internal Security Strategy<sup>9</sup>. As highlighted in the ProtectEU: Agenda to prevent and counter terrorism<sup>10</sup>, the Protocol will contribute to the pan-European fight against terrorism and facilitate international cooperation on counter-terrorism, by virtue of harmonising the definition of terrorist offences among Council of Europe States that will sign and ratify the Protocol.

First, the Protocol, by introducing a legal definition of terrorist offences, will offer substantive added value for judicial cooperation, mutual legal assistance and extradition requests among States Parties to the Protocol and the Convention No. 196.

Second, by adopting a wider and comprehensive legal definition of terrorist offences, the Protocol will ensure that the Council of Europe legal framework on counter-terrorism, to which the Union is a Party to, alongside its Member States, is adapted to address the contemporary and future counter-terrorism challenges. This modernisation will allow to close the gaps in terms of the terrorist offences committed using *modus operandi* and based on criminal acts which are not covered by the UN counter-terrorism treaties found in Appendix I of Convention No. 196.

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<sup>7</sup> Council of Europe Parliamentary Assembly Opinion 307 (2025)

<sup>8</sup> Council of Europe Committee of Ministers CM/Del/Dec (2025)1534/10.3

<sup>9</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on ProtectEU: a European Internal Security Strategy COM/2025/148 final.

<sup>10</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ProtectEU: Agenda to prevent and counter terrorism COM (2026) 101 final

Third, the legal definition in the Protocol respects legal certainty and brings considerable improvement compared to the old definition which referenced a number of UN counter-terrorism treaties defining criminal acts as terrorist offences in an unharmonised way. The new legal definition is drafted in a clear and precise manner, which is formulated in general terms and is clearly understandable by those who are subject to the law. The new definition more clearly identifies the conditions that need to be met for an act to qualify as a terrorist offence.

Fourth, the definition of terrorist offences in the Protocol is aligned and compatible with the EU definition of terrorist offences found in the Directive (EU) 2017/541 on combating terrorism. This will allow the EU to preserve its legal framework and ensure the continued application of Union law amongst EU Member States. Moreover, once entered into force, the Protocol will ensure legal convergence and a common understanding of terrorism among Council of Europe States at pan-European level. The acceptance of a pan-European definition could also contribute to the furtherance of ongoing discussions on a definition of “terrorist offences” in the context of negotiations on the Draft Comprehensive Convention on International Terrorism at UN level<sup>11</sup>.

Fifth, the Preamble of the Protocol reaffirms that all measures taken to prevent or suppress terrorist offences should be in accordance with human rights and fundamental freedoms, as well as other obligations under international law, including where applicable, international humanitarian law. This is in line with the high level of safeguards for protection and respect of human rights, fundamental rights and international law in counter-terrorism policies under EU law.

- **Consistency with existing policy provisions in the policy area**

The subject-matter of the Protocol directly relates to common EU rules to combat terrorism. The Protocol has only one substantive provision which establishes a legal definition of terrorist offences by intending to modify the definition found in Article 1 of the Council of Europe Convention on the prevention of terrorism.

On 15 March 2017, the Union adopted Directive (EU) 2017/541 on combating terrorism. The Directive sets harmonised definitions for terrorist offences and offences related to terrorist activities which serve as a benchmark for cooperation and information exchange between national authorities. EU Member States applying the Directive<sup>12</sup> need to ensure that the offences set out in the Directive are criminalised under their national laws. The definition of terrorist offences is laid down in Article 3 of the EU Directive on combating terrorism. In line with the negotiating directives, the Commission, alongside EU Member States, aimed to achieve consistency and coherence between the Protocol and the EU definition.

The legal definition found in the Protocol is of a “hybrid” nature, where the first part of the definition refers to the offences within the scope of and as defined in one of the UN counter-terrorism treaties listed in the Appendix of Convention No.196 and the second part provides an exhaustive list of acts which qualify as terrorist offences where they meet cumulative conditions. The treaties listed in the Appendix of Convention No. 196 are well established and long-standing global instruments in the fight against terrorism. The State Parties to these treaties have accordingly criminalised the acts specified therein as offences in their national legal frameworks. It is important to preserve their continued application by the parties to Convention No. 196 in the future, therefore it is justified to pursue a hybrid definition.

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<sup>11</sup> Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 – [Product of the Ad Hoc Committee’s work](#) Last updated: 22 May 2025

<sup>12</sup> The Directive (EU) 2017/541 does not apply to Denmark and Ireland.

The second part of the definition largely mirrors the EU definition of terrorist offences with the exception that criminal acts already covered by the treaties in the Appendix of Convention No. 196 have been excluded from the exhaustive list of acts. Notably these criminal acts are: hostage-taking; causing extensive destruction to a fixed platform located on the continental shelf likely to endanger human life or result in major economic loss; seizure of aircraft and ships; manufacture, possession, acquisition, transport, supply or use of explosives.

The exhaustive list of criminal acts qualify as terrorist offences where (i) the act is intentional; (ii) the act is defined as an offence under national law; (iii) the act, given its nature or context, may seriously damage a country or an international organisation; (iv) the act is committed with a terrorist aim. The terrorist aims are ‘seriously intimidating a population’, ‘unduly compelling a government or an international organisation to perform or abstain from performing any act’ and ‘seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation’. In regards these cumulative conditions, the second part is fully compatible with Article 3 of the EU Directive on combating terrorism.

In conclusion, the Protocol is consistent with EU rules and policies, notably EU criminal law measures to combat terrorism.

- **Consistency with other Union policies**

The Protocol is consistent with relevant European Union rules and policies in the areas which will be covered by it (as described under Section ‘*Consistency with existing policy provisions in the policy area*’). In the wider context, the Protocol is consistent with EU legal instruments and policies adopted in the area of freedom, security and justice, under Title V of Part Three of the TFEU which contribute to EU’s fight against terrorism, as well as the Union’s commitments under other relevant multilateral agreements. Other Union policy areas remain unaffected.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Substantive legal basis**

The substantive legal basis for a decision under Article 218(6) TFEU depends primarily on the objective and content of an international agreement to be signed. If an international agreement pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(6) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

Given that the main objective and component of the Protocol is establishing the definition of criminal offences in the area of terrorism, notably the definition of terrorist offences, the substantive legal basis is Article 83(1) TFEU.

- **Procedural legal basis**

In accordance with Article 218(6) TFEU, where the agreement relates to matters outside of the common foreign and security policy (CFSP), the Council is to adopt a decision concluding the agreement on a proposal by the Commission as negotiator.

Given that Article 83(1) TFEU is the substantive legal basis, the Council is to adopt the decision concluding the Protocol after obtaining the consent of the European Parliament, in accordance with Article 218(6), point (a) TFEU.

Therefore, the procedural legal basis for the proposed decision on concluding the Protocol is Article 218(6), second subparagraph, TFEU

- **Union competence**

Article 3(2) of the Treaty on the Functioning of the European Union (TFEU) provides that the Union has exclusive competence ‘for the conclusion of an international agreement (...) in so far as its conclusion may affect common rules or alter their scope.’ In particular, an international agreement may affect common rules or alter their scope where the area covered by the agreement overlaps with Union legislation or is covered to a large extent by Union law. The European Union has exercised its competence in this area through the adoption of the Directive (EU) 2017/541 on combating terrorism. The substance of the Protocol, the definition of terrorist offences, is covered by Union law in the field of combating terrorism, notably by Article 3 of the Directive (EU) 2017/541. Since there is an almost identity of definitions of terrorist offences between the Protocol and Directive (EU) 2017/541, the Protocol may affect the Directive (EU) 2017/541 due to the overlap between the the Protocol and Directive (EU) 2017/541. Additionally, the Amending Protocol expands the scope of terrorist offences under the Convention, to which the Union is a party, to new situations (which are already recognised under EU law as terrorist offences). In such a way, the EU’s commitments under the Convention would be extended to cover those new activities. Therefore, the Union has exclusive competence to conclude the Protocol.

- **Subsidiarity (for non-exclusive competence)**

Not applicable.

- **Proportionality**

This initiative does not go beyond what is necessary to achieve the policy objectives at stake. The Union is best placed to sign the Protocol as the Union has already exercised internal competence in this area through the adoption of Directive (EU) 2017/541 on combatting terrorism. The Directive provides for an EU definition of terrorist offences constituting minimum rules to be uniformly applied by EU Member States. As the Protocol amends the definition of terrorist offences at the level of Council of Europe and the definition of terrorist offences is covered by EU law, the Union should sign the Protocol.

- **Choice of the instrument**

This proposal for a Council decision is submitted in accordance with Article 218(6) TFEU, which envisages the adoption by the Council of a decision concluding the agreement. There exists no other legal instrument that could be used in order to achieve the objective pursued by this proposal.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

During the negotiations, the Commission, as the Union representative, consulted the Council’s special committee for the negotiations in line with the Decision of the Council of 15

May 2023 authorising the Commission to participate in the negotiations on behalf of the Union. As Council of Europe members, EU Member States were able to attend all negotiation sessions. The Commission consulted their representatives on its formulation of the Union's position throughout the negotiations.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

In line with the negotiating directives set by the Council, the Commission ensured that the negotiations ensured 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.

The Preamble to the Protocol (paragraph 5) reaffirms that all measures taken to prevent or suppress terrorist offences in this Protocol shall be in accordance with relevant human rights and fundamental freedoms, particularly those enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), as well as other obligations under international law, including, where applicable, international humanitarian law.

Moreover, the Protocol amends the Convention No. 196. When entered into force, it will amend Article 1 of Convention No. 196 and be integrated within the Convention for States Parties who sign and ratify the Protocol. Thus, the Protocol must be read within the context of the Convention. Convention No. 196 provides for strong human rights and international humanitarian law safeguards, notably in Article 12 paragraph 1 and Article 26 paragraphs 4 of that Convention. Article 12 paragraph 1 of the Convention sets that implementation and application of criminalisation provisions should respect human rights and other obligations under international law. Article 26 paragraph 4 states that nothing in the Convention shall affect other rights, obligations and responsibilities of a Party and individuals under international law, including international humanitarian law. These safeguards are compatible with and match the high level of fundamental rights, human rights and international law safeguards provided for in EU law, in particular the Directive (EU) 2017/541 on combating terrorism (Recital 35, 37).

#### **4. BUDGETARY IMPLICATIONS**

There are no budgetary implications for the Union budget.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

There is no implementation plan, as no action is needed by the European Union to implement the Protocol. The EU definition of terrorist offences is compatible with the definition of terrorist offences introduced by the Protocol.

With regard monitoring, the Commission will take part in the meetings of the Conference of the States Parties to Convention No.196 that will also monitor the implementation of the Protocol once it enters into force and amends Article 1 of Convention No. 196.

- **Detailed explanation of the specific provisions of the proposal**

The aim of the Protocol is to modify the definition of terrorist offences in Article 1 of Convention No.196 in order to adopt a wider and more suitable legal definition of terrorist offences in the Council of Europe level to address contemporary and future counter-terrorism challenges. This Protocol will offer substantive added value for judicial cooperation, mutual legal assistance and extradition requests among States Parties to the Protocol and the Convention No. 196.

Article 1 is the principal and only substantive provision of the Protocol. It aims to replace Article 1 of Convention No. 196 with a new legal definition of terrorist offences. Article 1 of Convention No. 196 is the ‘terminology’ provision, it is not a criminalisation provision. It sets the definition of ‘terrorist offences’ for the purposes of the Convention. This definition is consistent with Article 3 of Directive (EU) 2017/541 on combating terrorism. The legal definition found in the Protocol is of a “hybrid” nature, where the first part of the definition refers to the offences within the scope of and as defined in one of the UN counter-terrorism treaties listed in the Appendix of Convention No.196 and the second part provides an exhaustive list of acts which qualify as terrorist offences where they meet cumulative conditions. The second part of the definition provides an exhaustive list of criminal acts that qualify as terrorist offences where (i) the act is intentional; (ii) the act is defined as an offence under national law; (iii) the act, given its nature or context, may seriously damage a country or an international organisation; (iv) the act is committed with a terrorist aim. *(for detailed comparison with the EU definition please see above section ‘Consistency with existing policy provisions in the policy area’)*

Article 2 governs signature and ratification. It clarifies that the Protocol shall be open for signature by Parties to Convention No. 196 which the Protocol amends. It shall be subject to ratification, acceptance or approval, and the instruments for these actions shall be deposited with the Secretary-General of the Council of Europe.

Article 3 sets out how and when the Protocol will enter into force. There are two ways in which the Protocol shall enter into force: (i) on the first day of the month following the expiration of three months after the date on which all Parties to the Convention have expressed their consent to be bound by the Protocol *or* (ii) following the expiration of three years after the date on which it has been opened for signature, the Protocol shall enter into force in respect of those States which have expressed their consent to be bound by it, provided that the Protocol has been ratified by at least two thirds of the Parties to the Convention. This Article also lays down rules as to provisional application of the Protocol. Prior to entry into force of the Protocol, any Party may declare (either at the signature or at any later moment) that it will apply the Protocol on a provisional basis. In such cases, the provisions of the Protocol shall apply only with respect to the other Parties to the Convention which have made a declaration to the same effect.

Article 4 lays down that from the date of entry into force of the Protocol, the declarations made by Parties pursuant to Article 1 of Convention No.196 will lapse. Article 1 paragraph 2 of the Convention allows a State Party or the European Union which is not a party to a treaty listed in the Appendix I to Convention No. 196 to declare that treaty is deemed not included in the Appendix for the purposes of application of the Convention to concerned Party. The European Union has not issued a declaration pursuant to Article 1 of Convention No. 196, therefore this provision has limited relevance for the Union.

Article 5 clarifies that no reservations are allowed with respect to the provisions of the Protocol.

Article 6 requires the Secretary-General of the Council of Europe to notify the member States of the Council of Europe and any other Party to Convention No.196 of (i) any signature, (ii) the deposit of any instrument of ratification, acceptance or approval, (iii) the date of entry into force of the Protocol and (iv) any other act, notification or communication relating to the Protocol.

The Protocol is accompanied by an Explanatory Report which the Council of Europe Committee of Ministers took note of when they adopted the Protocol on 9 July 2025. The Explanatory Report does not constitute an instrument providing an authoritative interpretation of the Protocol, however it is intended to facilitate the application of the provisions contained in the Protocol by Parties.

- **Text of the Agreement and notifications**

The text of the Protocol is submitted to the Council together with this proposal.

In accordance with the Treaties, it is for the Commission to proceed to deposit the instrument of approval provide for in Article 2 of the Protocol, in order to express the consent of the Union to be bound by the Agreement.

Recommendation for a

## COUNCIL DECISION

### **on the conclusion, on behalf of the European Union, of the Protocol amending the Council of Europe Convention on the prevention of terrorism**

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(6) second subparagraph, point (a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) In accordance with Council Decision (EU) [signing decision]<sup>13</sup>, the Protocol amending the Council of Europe Convention on the prevention of terrorism ('the Protocol') was signed on [date], on behalf of the Union, subject to its conclusion at a later date.
- (2) The Protocol is in conformity with the security objectives of the European Union as referred to in Article 67(3) of the Treaty on the Functioning of the European Union, namely through approximation of criminal laws to ensure a high level of security to prevent and combat crime, including terrorism.
- (3) The Protocol amends the Council of Europe Convention on the prevention of terrorism by replacing the definition of 'terrorist offences' in Article 1 therein, with a modified definition introduced by the Protocol.
- (4) The modified definition of terrorist offences in the Protocol addresses the need to adopt a wider and more suitable legal definition of terrorist offences at the level of Council of Europe in order to address contemporary and future counter-terrorism challenges.
- (5) The Protocol, by introducing a legal definition of terrorist offences, will offer substantive added value for judicial cooperation, mutual legal assistance and extradition requests among States Parties to the Protocol and the Council of Europe Convention on the prevention of terrorism.
- (6) With its participation in the negotiations, on behalf of the Union, the Commission ensured the compatibility of the Protocol with relevant European Union rules. Notably, the legal definition of terrorist offences introduced by the Protocol is compatible and consistent with the EU definition of terrorist offences laid down in Article 3 of Directive (EU) 2017/541 on combating terrorism.
- (7) The Preamble of the Protocol reaffirms that all measures taken to prevent or suppress terrorist offences in this Protocol shall be in accordance with relevant human rights and fundamental freedoms, particularly those enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as other obligations

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<sup>13</sup> OJ L, ....

under international law, including, where applicable, international humanitarian law. This is in line with human rights, fundamental freedoms and international law safeguards and protection measures under EU law.

- (8) As the European Union is a Party to the Council of Europe Convention on the prevention of terrorism, the Protocol is open for signature and ratification by the Union.
- (9) The swift conclusion of the Protocol by the European Union will highlight the European Union's support for a common pan-European common definition of 'terrorist offences' which will enhance regional and international counter-terrorism efforts. The swift conclusion of the Protocol will also facilitate the timely entry into force of the Protocol.
- (10) During the first three years following the signing of the Protocol, all parties to the Convention need to express their consent to be bound. After those three years, the Protocol shall enter into force for those parties having expressed their consent to be bound, provided that the number of those parties is at least equal to 2/3 of the parties to the Convention. Given that the Member States are also parties to the Convention, it means that the Protocol would never enter into force should they not express their consent to be bound by it. Since the Protocol falls within the exclusive competence of the Union, Member States would not be able act without being empowered by the Union. It is therefore appropriate that the Member States should also be authorised to become parties to, alongside the Union, the Protocol in the interest of the Union.
- (11) [In accordance with Article 3 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, Ireland has notified [, by letter of ...] its wish to take part in the adoption and application of this Decision.”]
- (12) OR
- (13) [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, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.”]
- (14) 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.
- (15) The Protocol should be approved,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The Protocol amending the Council of Europe Convention on the prevention of terrorism ('the Protocol') is hereby approved<sup>14</sup>.

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<sup>14</sup> The text of the Agreement is published in OJ L, ....., ELI ...

*Article 2*

Member States are hereby authorised to conclude, alongside the Union, the Protocol in the interest of the Union and in full respect of its exclusive competence.

*Article 3*

The Decision shall enter into force on the date following that of its adoption.

Done at Brussels,

*For the Council  
The President*