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From: General Secretariat of the Council

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To: Delegations

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Subject: Council Conclusions on dealing with individuals released from prison who may represent a potential terrorist threat
– *Council Conclusions (4 December 2023)*

Delegations will find in the annex the Council Conclusions on dealing with individuals released from prison who may represent a potential terrorist threat, approved by the Council (Justice and Home Affairs) at its 3992nd meeting held on 4 December 2023.

COUNCIL CONCLUSIONS

on dealing with individuals released from prison who may represent a potential terrorist threat

REAFFIRMING that terrorism attacks the fundamental values of the European Union and human rights and continues to represent a serious threat to Member States.

STRESSING that the fight against terrorism continues to be a priority on the agenda of the Council of the European Union, as emphasised most recently in its conclusions on Protecting Europeans from terrorism: achievements and next steps, adopted on 9 June 2022¹.

TAKING INTO ACCOUNT that the European Council, in its conclusions of 11 December 2020², called on Member States to step up their efforts to make full use of European databases and information systems, in particular as regards entering in the databases relevant data on persons who are assessed by individual Member States as posing a serious terrorist or violent extremist threat.

TAKING NOTE that the Council of the European Union, in its conclusions on preventing and combating radicalisation in prisons and on dealing with terrorist and violent extremist offenders after release, adopted on 6 June 2019³, stated that further monitoring of radicalised individuals who, on the basis of a risk assessment, are deemed to pose a continued threat after release could be ensured on a case-by-case basis, in accordance with national law and respecting the principle of proportionality and the fundamental rights of the individual concerned.

RECALLING that the Council, in the same conclusions, underlined that post-release measures could also be useful, with a view to preventing terrorists or violent extremist offenders or offenders radicalised before or while serving time in prison from engaging in violent activities after release.

¹ 9997/22

² EUCO 22/20

³ 9727/19

RECALLING that the Council, in the same conclusions, stated that information exchange about radicalised inmates between EU Member States on a bi- or multilateral basis, to the extent permitted by national law could be a valuable tool, for example when the information shared pertains to former inmates returning or travelling to different Member States.

NOTING that these same conclusions point out that making better use of the existing information systems (including the Schengen Information System (SIS)) could be beneficial.

TAKING INTO ACCOUNT that the Council, in its Conclusions on Internal Security and the European Police Partnership adopted on 24 November 2020⁴, stated that particular attention should continue to be paid to returnees from conflict zones as well as to prisons and released prisoners.

STRESSING that the Council, in the same conclusions, called on Member States to pay special attention to persons assessed by Member States to be a terrorist or violent extremist threat, underlining that in a Europe without internal borders it must be ensured that information is shared reliably and fast when such persons travel or connect with individuals or networks in other Member States.

EMPHASISING that, as stated in the same conclusions, the Council deems it important to, in principle, enter persons who are assessed by individual Member States to pose a serious terrorist or violent extremist threat in the relevant European databases and information systems, unless legal or operational concerns demand otherwise.

TAKING NOTE that the Joint Statement by the EU Home Affairs Ministers on the recent terrorist attacks in Europe called for an exchange of information on those persons posing a terrorist or violent extremist threat.

⁴ 13083/1/20 REV 1

STRESSING that the efforts to increase the exchange of information and understanding of persons posing a terrorist or violent extremist threat, such as the *Gefährder* project⁵ are already ongoing, in the form of expert level discussions, the creation of a Compendium of Member States' law enforcement authorities' approaches to assessing persons regarded as potential terrorist or violent extremist threat and dealing with them, as well as the development of a shared understanding and non-binding indicative criteria for examining information on such persons and the entry thereof in in European databases and information systems. This work targets individuals regarded as potential terrorist or violent extremist threat including individuals convicted of terrorism or radicalised inmates of other criminal offences who are released or about to be released and, on the basis of an individual risk assessment, are deemed to pose a continued threat after release.

NOTING that Europol, in its most recent TE-SAT report⁶, underlined that the release of radicalised individuals from prisons remained a concern for Member States as they can continue actions of proselytism outside prisons and become involved in the preparation of terrorist attacks, adding that radicalised jihadists can pose risks of violence or plan attacks after being released.

TAKING INTO ACCOUNT that the Union have already suffered several jihadists attacks involving perpetrators who were released convicts or prisoners at the time they committed the attack⁷.

⁵ The development of non-binding common indicative criteria for a common understanding amongst the law enforcement authorities of the EU Member States on when a person should be regarded as a potential terrorist or violent extremist threat examining information on such persons and the entry thereof in in European databases and information systems.

⁶ Europol (2023), European Union Terrorism Situation and Trend Report (TE-SAT) https://www.europol.europa.eu/cms/sites/default/files/documents/Europol_TE-SAT_2023.pdf

⁷ Europol (2021), European Union Terrorism Situation and Trend Report (TE-SAT) https://www.europol.europa.eu/cms/sites/default/files/documents/tesat_2021_0.pdf

EMPHASISING the fact that, over the upcoming five years, across the Union, a considerable number of persons who have been convicted of terrorism offences or convicted of other criminal offences and subsequently radicalised in prison will be released. This specific aspect will require competent authorities to increase both their risk management and monitoring efforts, as allowed by existing capacities and the corresponding prioritisation, and disengagement and post-incarceration reintegration efforts.

RECALLING that the Council, on its conclusions on Protecting Europeans from terrorism: achievements and next steps, adopted on 9 June 2022, highlighted the crucial importance of SIS with all the possible capacities that the system offers, for the sharing of information that could support Member States in detecting and monitoring individuals posing a terrorist threat.

NOTING that Europol has been receiving SIS hit reports on terrorism-related alerts since March 2021 and is providing support to Member States.

FURTHER NOTING that the abovementioned conclusions referred 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.

RECALLING that the renewed SIS entered into operations on 7 March 2023, with an enlarged scope, including new additional categories of alerts and more data, in particular new types of biometric data and new functionalities, providing additional essential tools to combat terrorism and serious crime.

THE COUNCIL OF THE EUROPEAN UNION,

ACKNOWLEDGING the potential threat posed by released individuals convicted of terrorism offences or radicalised inmates convicted of other criminal offences.

HIGHLIGHTING the need to promote the exchange of information between the Member States with regard to data concerning individuals who may pose a terrorist threat, in accordance with national and European law and respecting the principle of proportionality and the fundamental rights of the individuals concerned.

EMPHASISING at the same time the importance of safeguarding the fundamental rights and freedoms of released prisoners, specifically of those who no longer pose a threat.

INVITES MEMBER STATES TO:

PROMOTE, in accordance with national law and respecting the principle of proportionality and the fundamental rights of the individuals concerned, the adoption of post-release measures on released individuals convicted of terrorism or radicalised inmates convicted of other criminal offences who pose a potential terrorist threat.

FURTHER DEVELOP the risk assessment and management or monitoring of released individuals, or individuals about to be released following a multi-agency approach that promotes the participation and coordination of all the stakeholders involved.

STRENGTHEN, within the framework of applicable law, the exchange of information, both bilaterally and at EU level, concerning individuals convicted of terrorism or of other criminal offences released or about to be released after having served their sentence, when a risk assessment shows that they are still radicalised and pose a terrorist threat.

SHARE, in accordance with national law, and in a timely manner before their possible release, information within the EU on prison inmates who are assessed as posing a terrorist threat, by entering their data into SIS, and if such inmates are monitored in a law enforcement framework, using the Europol Information System (EIS) and the Europol Analysis Projects. This should be done in accordance with EU and Members States' legal requirements, operational constraints, respect for the principle of proportionality and respect for fundamental rights to ensure that persons who pose a terrorist threat are included in the EU databases and in order to facilitate the checking of these persons in these systems including their biometric data.

EXPLORE the possibility to extend the discussions on the effective sharing of information of SIS post-hits related to alerts on terrorist offences, including on foreign terrorist fighters who constitute a serious threat, for the benefit of all Member States willing to receive SIS post-hits, to the sharing of information of SIS post-hits related to terrorists or violent extremist offenders or offenders radicalised while serving time in prison.

JOIN efforts and share best practices on how to strengthen relations with prioritised third countries to facilitate the expulsion, in accordance with the Member States national legislation, of foreign radicalised offenders released from prison who, based on information such as judicial convictions or intelligence of the authorities responsible for national security, pose a potential terrorist threat.

INVITES THE COMMISSION TO:

CONTINUE to support Member States, upon their request, in the development, implementation and standardisation of risk assessment tools, both for persons convicted of terrorism offences and for those radicalised inmates convicted of other criminal offences, taking into account the evolving terrorist threat and consequent need for adapting the tools as necessary, as well as in gathering of scientific data necessary for empiric validation of these tools and for evidence based decision making on management and monitoring of released offenders that pose a terrorist threat.

CONTINUE to facilitate, to the extent permitted by applicable law, the exchange of information on persons regarded as a potential terrorist or violent extremist threat, including persons convicted of terrorism or of other criminal offences and subsequently radicalised which are released or about to be released, also by encouraging the use of existing tools, especially the SIS, and, if such persons are monitored in a law enforcement framework, the Europol Information System (EIS) and the Europol Analysis Projects.

SUPPORT Member States in strengthening of relations with prioritised third countries to facilitate the expulsion of foreign radicalised inmates released from prison to their countries of origin.

PROMOTE, with the support of Europol within the limits of its mandate and in accordance with national and EU law, the exchange of good practices between Member States, especially on carrying out threat assessments prior to the release of convicted persons and on the imposition of probation or security measures after release.
