

San Sebastian, 15 June 2011

CODEXTER (2011) 7

# **COMMITTEE OF EXPERTS ON TERRORISM (CODEXTER)**

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## **LIST OF ITEMS DISCUSSED AND DECISIONS TAKEN ABRIDGED REPORT**

**20<sup>th</sup> meeting**

San Sebastian (Spain), 14 – 15 June 2011

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Secretariat of the Counter-Terrorism Task Force  
Public International Law and Anti-Terrorism Division

## LIST OF ITEMS DISCUSSED AND DECISIONS TAKEN ABRIDGED REPORT

1. The Committee of Experts on Terrorism (CODEXTER) held its 20<sup>th</sup> meeting in San Sebastian, Spain on 14-15 June 2011, with Mr. Andrea CANDRIAN (Switzerland) in the Chair. The list of participants is set out in **Appendix I** of the meeting report<sup>1</sup>.
2. The CODEXTER adopted its agenda as set out in **Appendix I** of the present document. The Committee also approved the report of the previous meeting, held in Istanbul (Turkey) on 15-16 December 2010 and authorised its publication on the CODEXTER website.
3. The Secretariat informed the Committee about recent developments within the Council of Europe. In particular, the CODEXTER took note of the Special meeting of the United Nations Security Council Counter-Terrorism Committee (CTC) with International, Regional and Sub-Regional Organisations, which was hosted by the Council of Europe on 19-21 April 2011. The CODEXTER underlined the importance of this initiative which permitted to discuss such topical counter terrorism issues as prevention policies, comprehensive and integrated strategies, and the role of law enforcement and the criminal justice system in prevention terrorism. The Committee also expressed its gratitude to the Council of Europe Counter Terrorism Task Force, which organised and co-ordinated internally this event on behalf of the Council of Europe, which permitted to raise visibility to the relevant Council of Europe standards, activities and initiatives.
4. The CODEXTER held an exchange of views on the Council of Europe activity on "Convention Review", and in particular on the draft classification of the counter-terrorism treaties, presented by the Secretariat in the frame of this activity. The Committee fully agreed with the presented draft classification of four counter-terrorism treaties as Key Conventions for the Council of Europe. In particular with regard to the *Council of Europe Convention on the Prevention of Terrorism* [CETS No. 196], the CODEXTER suggested to include in the comments, relevant to this instrument, the reference to the fact that this Council of Europe Convention served as a precursor to other relevant international instruments, in particular the *United Nations Security Council Resolution 1624 (2005)*.
5. The CODEXTER took note of the decisions of the Committee of Ministers relevant to its work which have been adopted since the 19<sup>th</sup> meeting of the Committee. The CODEXTER welcomed in particular the adoption by the Committee of Ministers on 30 March 2011 of the *Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations*, prepared by the Steering Committee for Human Rights (CDDH).
6. The CODEXTER further considered the implementation of the Council of Europe conventions against terrorism. The CODEXTER took note of the information by States on the signatures and ratifications of the Council of Europe counter-terrorism treaties and welcomed particularly the ratification by Germany on 10 June 2011 of the *Council of Europe Convention on the Prevention of Terrorism* [CETS No. 196]. The Committee called upon member States, which have not yet done so, to become Parties to these treaties at their earliest convenience.
7. Furthermore delegations held an exchange of views on the Factsheet regarding the European Convention on the Suppression of Terrorism [CETS No. 90] and its correlation with the latest United Nations treaties (document CODEXTER (2010) 20). The CODEXTER agreed not to include this item systematically on its agenda unless there are any further developments regarding the ratification process of the *Protocol amending the European Convention on Suppression of Terrorism* [CETS No. 190].

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<sup>1</sup> Document CODEXTER (2011) 8 prov

8. The CODEXTER took note of the progress made by the First meeting of the Group of Parties to the *Council of Europe Convention on the Prevention of Terrorism* [CETS No. 196], which took place in San Sebastian (Spain) on 13 June 2011. In this respect, the Committee took note of the outcome of the election of Mr Vladimir SALOV (Russian Federation) and Mr Iñigo FEBREL BENLLOCH (Spain) respectively as Chair and Vice-Chair to the Group of Parties. The CODEXTER also took note of the preliminary adoption of the draft Rules of Procedure of the Group of Parties. In respect of this item on the agenda, the Committee also noted that in accordance with the principles of sound management and in order to optimise financial and human resources available the group decided to hold its 2<sup>nd</sup> meeting on the day prior to the next meeting of the CODEXTER.

9. The CODEXTER further considered on-going activities relating to specific provisions of the *Council of Europe Convention on the Prevention of Terrorism* [CETS No. 196]. In this respect, delegations took note of the outcome of the Council of Europe Conference “Prevention of Terrorism: Prevention Tools, Legal Instruments and their Implementation” (Istanbul, Turkey, 16-17 December 2010) and welcomed the conclusions of this Conference, which were considered by the Committee of Ministers at its 1112<sup>th</sup> meeting on 19 April 2011.

10. Delegations further welcomed the information provided by the Secretariat on the upcoming Conference on “Victims of Terrorism”, co-organised by the Spanish authorities, the Council of Europe and the Organisation of American States (San Sebastian, Spain, 16-17 June 2011). This initiative was considered by members of the Committee as particularly valuable for the enhancement of the support and protection of victims of terrorism. Moreover, it was underlined that the practice of holding a joint event between two regional organisations and national authorities has a considerable added value for fostering international cooperation in this area.

11. Concerning the follow-up to the Synoptic and Analytical Report on the Questionnaire on “False Identity Information as a Challenge to Immigration Authorities”, the CODEXTER took note of the opinion on this report presented by the European Committee on Legal Co-operation (CDCJ), which has carried out important work on such relevant issues as data protection and nationality issues and the denial of residence in the context of the fight against terrorism. In this respect, the Committee also pointed out that other specialised entities dealing with migration issues exist within the Council of Europe and that the report has been transmitted to them. Taking these elements into account, the Committee agreed not to develop further its work in this area.

12. The Committee also considered the ongoing work of the Ad hoc Advisory Group on Cross-border Internet (MC-S-CI), where the CODEXTER has an observer status. In this respect the Committee took note of the conclusions of the 3rd meeting of the MC-S-CI which took place on 21-22 February 2011 and of the Interim Report of the MC-S-CI.

13. The CODEXTER held an exchange of views on the Council of Europe Technical Cooperation Assistance Project “*Bringing terrorists to justice: promoting the implementation of European standards and documenting good practices*”, which has been developed by the Council of Europe Counter Terrorism Task Force (document CODEXTER (2011) 3). Delegations welcomed the fact that this Project calls upon member States to implement the pioneering standards developed by the Council of Europe, foresees exchange of good practices between practitioners of different States and covers the most noteworthy developments in the case law of the European Court of Human Rights. The Committee underlined the usefulness of technical cooperation activities in the area of fight against terrorism, and the importance of this activity in addition to standard setting, evaluation and coordination activities in this area. The Committee encouraged the development of this initiative useful for national practitioners and called upon member States to support the development of this Project within the Council of Europe.

14. The CODEXTER held a preliminary exchange of views on the issue of the need to set up national coordinating bodies in the field of the fight against terrorism. In this respect, it was recalled that during the United Nations Security Council Counter Terrorism Committee Special Meeting on

Prevention of Terrorism – which was hosted by the Council of Europe on 19-21 April 2011 – Session 1 of Working Group II was devoted to the important issue of “National framework for comprehensive and integrated strategies and inter-agency coordination”. The CODEXTER agreed to resume the discussion of this issue at its next meeting on the basis of written observations made by the delegations.

15. The CODEXTER considered the updated Country Profiles on counter-terrorism capacity as submitted by Cyprus, Hungary and Ukraine, and authorised their publication in the CODEXTER database. The Committee further took note that Croatia will present a new Profile on its counter-terrorism capacity for the next meeting of the Committee. Moreover, States which have not yet done so, were invited by the Committee to submit their Country Profiles at their earliest convenience.

16. Moreover, the CODEXTER took note of the information on measures taken at national level against terrorism as provided by Croatia, Greece, Italy, Spain and Turkey.

17. The CODEXTER further took note of other relevant activities of the Council of Europe and especially of the Horizontal Review of the 3<sup>rd</sup> round of Mutual Evaluation Reports conducted by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

18. Furthermore, delegations took note of information concerning the work carried out in other international fora and particularly the work undertaken by the United Nations Security Council Counter-Terrorism Committee Executive Directorate (CTED), the Action against Terrorism Unit (ATU) and the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE); the Organisation of American States Inter-American Committee against Terrorism (CICTE) as well as the Anti-Terrorism Center of the Commonwealth of Independent States (CIS).

19. The delegations held an exchange of views on CODEXTER's Draft Specific Terms of Reference for 2012-2013 and adopted the Draft in order to submit it to the Committee of Ministers for approval. The draft Specific Terms of Reference adopted by the CODEXTER is set out in **Appendix II** to the present document.

20. Furthermore, delegations took note of the reform process undertaken by the Council of Europe, and especially the proposed new set-up for intergovernmental structures.

21. Following the resignation of Ms Anniken ENERSEN (Norway), as a member of the CODEXTER Bureau, and in conformity with Article 13.d. of Appendix 1 to Committee of Ministers Resolution (2005) 47, the CODEXTER elected Mr Tihomir LULIC (Croatia) as a new member of the Bureau to complete the term of office of Ms Enersen, which will expire on 31 December 2011.

22. The CODEXTER decided to hold its next 21<sup>st</sup> meeting in Strasbourg on 24-25 November 2011. It instructed the Secretariat, in consultation with the Chair of the Committee, to prepare in due course the provisional agenda of the meeting.

## APPENDIX I

### 20<sup>th</sup> meeting of the CODEXTER San Sebastian, 14 – 15 June 2011

## AGENDA

### I. INTRODUCTION

1. Opening of the meeting
2. Adoption of the draft agenda and approval of the report of the 19<sup>th</sup> meeting
3. Communication by the Secretariat
4. Decisions of the Committee of Ministers concerning the CODEXTER and terrorism-related issues

### II. IMPLEMENTATION OF THE COUNCIL OF EUROPE CONVENTIONS AGAINST TERRORISM

5. Information by States concerning the Council of Europe Conventions against terrorism
6. Follow-up of the effective use and implementation of the Convention on the Prevention of Terrorism [CETS No. 196] : Follow-up Mechanism
  - Outcome of the meeting of the Group of Parties
7. On-going activities of the CODEXTER related to the follow-up of the specific provisions of the Convention on the Prevention of Terrorism [CETS No. 196], in particular:
  - Outcome of the Council of Europe Conference “Prevention of Terrorism: Prevention Tools, Legal Instruments and their Implementation” (Istanbul, 16-17 December 2010): Conclusions
  - Information about the upcoming Conference on “Victims of Terrorism”

### III. IDENTIFICATION OF LACUNAE IN INTERNATIONAL LAW AND ACTION AGAINST TERRORISM

8. On-going activities regarding the identification of *lacunae* in international law and action against terrorism
  - Follow-up to the Synoptic and Analytical Report on the Questionnaire on “False Identity Information as a Challenge to Immigration Authorities”
  - Information on the work undertaken by the Ad hoc Advisory Group on Cross-border Internet (MC-S-CI)

9. Council of Europe Technical Cooperation Assistance Project “Bringing terrorists to justice”
10. National framework for comprehensive and integrated strategies and interagency coordination

#### **IV. NATIONAL AND INTERNATIONAL DEVELOPMENTS ON FIGHT AGAINST TERRORISM**

11. Country profiles on counter-terrorism capacity and information on measures taken at national level against terrorism
12. Information on other relevant activities of the Council of Europe and work carried out in other international fora
  - Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)
  - United Nations Security Council Counter-Terrorism Committee Executive Directorate (CTED)

#### **V. MISCELLANEOUS**

13. Exchange of views on CODEXTER’s Specific Terms of Reference for 2012-2013: adoption of the draft Specific Terms of Reference to be submitted to the Committee of Ministers for approval
14. Elections of a member of the Bureau of the CODEXTER
15. Date, place and agenda of the 21<sup>st</sup> meeting of the CODEXTER
16. Adoption of the List of items discussed and decisions taken

## APPENDIX II

**DRAFT TERMS OF REFERENCE OF THE COMMITTEE OF EXPERTS ON TERRORISM (CODEXTER) FOR 2012-2013**

1. **Name of Committee:** Committee of Experts on Terrorism (CODEXTER)
2. **Type of Committee:** Ad hoc Committee
3. **Source of terms of reference:** Committee of Ministers
4. **Terms of reference:**

Having regard to:

- the Resolution Res(2005)47 on committees and subordinate bodies, their terms of reference and working methods;
- the Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005), in particular Section II.1 – Combating Terrorism;
- the Declaration adopted by the Committee of Ministers on 12 September 2001 and its Decision of 21 September 2001;
- the relevant Recommendations of the Committee of Ministers to member states;
- the relevant texts of the Parliamentary Assembly;
- the relevant resolutions of the European Ministers of Justice;
- the standards of the Council of Europe in the fields of the rule of law and human rights;
- the reports of the Multidisciplinary Group on International Action against Terrorism (GMT) and the progress report on future priority areas for the work of the Council of Europe in the fight against terrorism: follow-up to the decision taken at the Deputies' 953rd meeting;
- the outcomes of the 1st Consultation of the Parties to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) (Madrid, 12 May 2009) and the decision of the Ministers' Deputies at its 1062nd meeting on 1 July 2009 instructing the CODEXTER to "*regularly monitor the effective use and implementation of the Convention on the Prevention of Terrorism (CETS No. 196) between Consultations of the Parties to the Council of Europe Convention on the Prevention of Terrorism*";
- the decision of the Ministers' Deputies at its 1090<sup>th</sup> meeting on 7 July 2010, which "*took note of the follow-up mechanism agreed by the Committee of Experts on Terrorism (CODEXTER) to follow-up the effective use and implementation of the Convention on the Prevention of Terrorism (CETS No. 196) between consultations of the Parties to the said Convention*";
- the work of the relevant Council of Europe intergovernmental committees and other monitoring bodies;
- the Council of Europe "road map" for the implementation of the United Nations Counter-Terrorism Strategy, adopted by the Ad hoc meeting of Chairs of relevant committees of the Council of Europe on terrorism (Strasbourg, 25 April 2007);
- the work of other international organisations active in this field including the United Nations, the OSCE, the OAS and the European Union.

Within the framework of the Programme of Activities for 2012-2013, under Pillar "Rule of Law", Sector "Threats to the Rule of Law", Programme "Organised Crime, Terrorism, Cybercrime and Trafficking in Human Beings", the Committee is instructed:

- a. to follow the implementation of the Council of Europe instruments applicable to the fight against terrorism, in particular *the effective implementation of the Convention on the Prevention of Terrorism (CETS No. 196) between Consultations of the Parties to the Council of Europe Convention on the Prevention of Terrorism*;
- b. to pursue ongoing activities, in particular the drawing up of country profiles on legislative and institutional counter-terrorism capacity and the exchanges of best practice concerning, *inter alia*, the protection and compensation of victims of terrorism;
- c. to co-ordinate the work of all Council of Europe committees as far as international law and action against terrorism are concerned; and
- d. to identify possible additional priority activities against terrorism and to make appropriate proposals to the Committee of Ministers with a view to intensifying the Council of Europe's action against terrorism, including preventive measures, while protecting and promoting human rights and fundamental freedoms.

## **5. Composition of the Committee:**

### **5.A. Members**

Governments of member states are entitled to appoint representatives of the highest possible rank with the following desirable qualifications: experts with an extensive knowledge of legal or financial questions concerning terrorism.

The Council of Europe budget will bear the travelling and subsistence expenses of one representative from each member state (two in the case of the state whose representative has been elected Chair).

### **5.B. Participants**

- i. The Parliamentary Assembly of the Council of Europe may send a representative to the meetings of the Committee, without the right to vote and at the charge of its administrative budget.
- ii. The following committees may each send one representative to meetings of the Committee, without the right to vote and at the charge of their respective administrative budgets:
  - the European Committee on Legal Co-operation (CDCJ);
  - the European Committee on Crime Problems (CDPC);
  - the Steering Committee for Human Rights (CDDH).
- iii. The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) may send a representative to the meetings of the Committee, without the right to vote and at the charge of its administrative budget.

### **5.C Other participants**

- i. The European Union may send representatives to meetings of the Committee, without the right to vote or defrayal of expenses.
- ii. The states with observer status with the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America) may send representatives to meetings of the Committee, without the right to vote or defrayal of expenses.



iii. The following intergovernmental organisations may send representatives to meetings of the Committee, without the right to vote or defrayal of expenses:

- United Nations (UN);
- International Criminal Police Organisation-Interpol (ICPO-Interpol);
- Europol;
- Eurojust;
- Organisation for Security and Co-operation in Europe (OSCE);
- Organisation of American States (OAS);
- Organisation for Democracy and Economic Development (GUAM)
- Commonwealth of Independent States (CIS).

#### **5.D. Observers**

The following non-governmental organisation may send (a) representative(s) to the meetings of the Committee, without the right to vote or defrayal of expenses:

- International Committee of the Red Cross (ICRC).

#### **6. Working methods and structures:**

##### **6.A. The Group of Parties to the Council of Europe Convention on the Prevention of Terrorism [CETS No. 196]**

According to the follow-up mechanism adopted by the CODEXTER at its 18<sup>th</sup> meeting (Strasbourg, 7-8 April 2010), “[the] Group of Parties – as the first stage of the follow-up mechanism - carries out follow-up work which is specific to the Parties to the Convention. Thus it makes assessments regarding use and implementation of the Convention by the individual Parties.”<sup>2</sup>

##### **6.B. The Bureau**

The CODEXTER elects a Chair and a Vice-Chair in accordance with Article 12 of Resolution Res(2005)47 on committees and subordinate bodies, their terms of reference and working methods;

The CODEXTER elects a Bureau in accordance with Article 13.a. of Resolution Res(2005)47 on committees and subordinate bodies, their terms of reference and working methods. The Bureau comprises following members:

- the Chair;
- the Vice-Chair;
- three members of the Bureau; and
- the Chair of the Group of Parties to the Council of Europe Convention on the Prevention of Terrorism [CETS No. 196]

**6.C** Within the limits of its budgetary appropriations, the Committee may have recourse to consultants and organise hearings and consultations.

#### **7. Duration:**

These terms of reference begin on 1 January 2012 and will expire on 31 December 2013.

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<sup>2</sup> See document CM(2010)78