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**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(GDPC)**

**Council for Penological Co-operation**  
**(PC-CP)**

**DRAFT EXPLANATORY MEMORANDUM**  
**TO THE GUIDELINES**  
**FOR THE PRISON AND PROBATION SERVICES**  
**FACING RADICALISATION AND VIOLENT EXTREMISM**

**Comentado [1]:** [Remove when complete] Note to self: Ref  
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Document prepared by the Directorate General  
Human Rights and Rule of Law

## INTRODUCTION

In the Declaration on Terrorism (1978) the Committee of Ministers stated that "The prevention and suppression of terrorism is indispensable to the maintenance of the democratic structure of member States". Over the past forty years, the Council of Europe has addressed in numerous documents and instruments the issue of terrorism and radicalisation, among them, the Declaration on the Fight against International Terrorism (2001), the Guidelines on Human Rights and the Fight against Terrorism (2002); the Convention on the Prevention of Terrorism (2005) and the Guidelines on the Protection of Victims of Terrorist Acts (2005).

Since the Madrid bombings of March 2004, the London bombings of July 2005 and most recently the attack of the Charlie Hebdo newspaper in Paris in January 2015 the interconnection between international conflicts and socio-political processes taking place at the core of the societies of the Council of Europe member states has come to light with urgency. Such events have shifted the attention from an understanding of terrorism as an outside threat, conceived as the result of the actions of transnational networks located outside of the boundaries of Europe, to that of a domestic socio-political process of "radicalization", seen as the process through which certain members of society come to accept and support violence as a legitimate means of obtaining their political goals. The Council of Europe has followed this evolution, in particular with the Declaration "United around our principles against violent extremism and radicalisation leading to terrorism" (2005), and more recently the the Action Plan on the fight against violent extremism and radicalisation leading to terrorism (2015) as well as the Additional Protocol to the Convention on the Prevention of Terrorism (2015).

The high political impact of the terrorist acts of the recent years has pushed governments across the West to substantially modify their approach to deal with the issue. To a set of policies primarily based on law enforcement, and policing borders the focus has moved towards addressing the domestic drivers that might cause individuals to embrace violent views. The objective, therefore, is not only of to prevent terrorist acts, but to prevent individuals from becoming terrorists in the first place. In order to turn such a perspective into practice, in several european countries schools, universities, hospitals, social and youth institutions and finally prison and probation services have been asked to participate to the effort.

Prison and probation services have come to the attention of governments in at least three ways. First, failed or successful terrorist plots in the recent years have pointed out that several of the perpetrators have passed through prison and probation services. Such institutions have therefore been pointed out as specific "places of radicalization" - a view which needs to be qualified, and which the guidelines addresses. Second, and relatedly, prison and probation services has been identified as governments as one institutions in which individuals might be susceptible to benefit from programs and interventions helping them become resilient to joining violent movements and ideologies. Finally, many prison and probation staff have expressed their concern and their lack of training in dealing with such matters. These are some of the main reasons that have led the PC-CP to work on the Guidelines for the Prison and Probation services Facing Radicalisation and Violent Extremism: in order to provide a framework for national member states to devise appropriate policies to tackle violent extremism.

The work started in **XXX** 2015 and was concluded in **XXX** 2015. During this period, the PC-CP was composed of the following members **XXXX**. They were assisted by the following scientific experts: **XXXX**. The PC-CP listened to the presentations by the following external consultants (in chronological order): **XXX**.

### I. COMMENTS TO THE TERMINOLOGY

**Dynamic security** [comments / contributions welcome.]

**Radicalisation.** The term radicalisation, understood in the guidelines as "a dynamic process whereby an individual increasingly accepts and supports violent extremism" emerged approximately around 2004-2005. Over the past ten years approximately, a growing body of scientific literature has tried to establish and

describe the process of radicalisation, with however little agreement<sup>1</sup>. One of the main reasons for academic scepticism is that the term originated first in policy circles and was only later submitted to scientific inquiry. As Peter Neumann has argued, the term served a specific political function: it offered a vocabulary to discuss what had been known in the literature for several years as the “root causes” of terrorism - i.e. “everything that happens before the bomb goes off”. Such an analysis, after the 9/11 attacks had been made politically delicate as several commentators claimed that trying to analyse terrorism as the outcome of a social and political process, rather than “hatred”, “irrationality” or “barbarism” was a way to justify or excuse such acts<sup>2</sup>. After the Madrid bombings of 2004 and the London bombings of 2005, it however became a necessity to be able to speak about these processes again. There are many controversies around the use of the term, but the main point of contention between the policy definition of radicalisation and the critical academic positions concerns the possible sense of ineluctability and determinism that can sometimes be contained in the term. Some key policy documents, the most famous of which being the New York Police Department’s document “Radicalisation in the West” (2007)<sup>3</sup> suggests for example that radicalisation happens in “steps” with one stage leading to the other. Panels of eminent experts on Radicalisation have shown that there is little evidence for this idea<sup>4</sup>. Scholars such as John Horgan have shown that there is no social scientific evidence to support this idea<sup>5</sup>. Radicalisation, his work shows, is a messy process, which depends a lot of circumstances, chance and ultimately a person’s unpredictable ability to make specific choices. This document does not take a position on these debates. While it refutes the simplistic conception of radicalisation as a deterministic process, it uses a narrow understanding of radicalisation as the passage of a symbolic red line constituted by the acceptance and support of political violence.

**Violent extremism:** Violent extremism is understood in this document as “Promoting, supporting or committing acts which may lead to terrorism and which are aimed at defending an ideology advocating racial, national, ethnic or religious supremacy and opposing the core democratic principles and values.” While this definition can also be subjected to criticism, it works with the previous definition of radicalisation in order to signal that the concern of this document is not with the adoption of political views, no matter how radical they are; instead it is the adoption, promotion and support of violent means to obtain demands. While in principle not all violent political action is per se morally illegitimate - one can think for example about the acts of the resistance to Nazi occupation during World War II - this document holds that it is an illegitimate form of political action in states where regimes allow for political dissenting voices to express their views and conduct peaceful political activities.

## II. COMMENTS TO THE SCOPE

The objective of the “Scope” section is to clarify aims, as well as the range of activities, institutions and persons concerned by the present guidelines. It specifies that they concern both prison and probation services in as much as they can play a role in (a) the prevention of the diffusion of violent views as well as (b) the management of individuals who hold violent extremist views and (c) the resettlement of such individuals, with the hope that the contact with probation and/or prison services might be the occasion to disengage from violent extremism<sup>6</sup>.

<sup>1</sup> For a critical review, see Githens-Mazer, J. and Lambert, R. (2010) ‘Why Conventional Wisdom on Radicalization Fails: the Persistence of a Failed Discourse’. *International Affairs*, Vol. 86, No. 4, pp. 889–901; Kundnani, A. (2012) ‘Radicalisation: the Journey of a Concept’. *Race & Class*, Vol. 54, No. 2, pp. 3–25; Alex Schmid, I. T. H. (2013) ‘Radicalisation, De-Radicalisation, Counter-Radicalisation: a Conceptual Discussion’ (The Hague: International Centre for Counter-Terrorism).

<sup>2</sup> Peter Neumann, *Perspectives on Radicalisation and Political Violence: papers from the first International Conference on Radicalisation and Political Violence, London, 17–18 January 2008* (London, International Centre for the Study of Radicalisation and Political Violence, 2008), p. 4. cited in Kundnani, 2012, p.5

<sup>3</sup> Silber, M. and Bhatt, A. (2007) ‘*Radicalization in the West: the Homegrown Threat*’ (New York City Police Department).

<sup>4</sup> See for example the unpublished report European Commission’s Expert Group on Violent Radicalisation (2008) ‘*Radicalisation Processes Leading to Acts of Terrorism*’. (Brussels: European Commission)

<sup>5</sup> Horgan, J. (2009) *Walking Away From Terrorism* (Oxon and New York: Routledge).

<sup>6</sup> Disengagement is preferred to the vague and misleading term of “de-radicalisation”. As John Horgan has convincingly argued, individuals might retain radical views but at the same time disengage from organized groups or from the support for violence. See Horgan, J. and Braddock, K. (2010) ‘Rehabilitating the Terrorists?: Challenges in Assessing the Effectiveness of De-Radicalization Programs’. *Terrorism and Political Violence*, Vol. 22, No. 2, pp. 267–291.

The section specifies that it is not only prisoners, but also pre-trial detainees, probationers and recently released prisoners that are concerned. The idea behind this is that any contact with police, probation or prison institutions should be the occasion to carry out preventive work.

It also specified that the work of prevention, management and assistance to the disengagement of individuals is the primary responsibility of prison and probation staff. It however recognizes that tackling radicalisation is a comprehensive, pluridisciplinary effort which might crucially involve other actors, such as religious figures, family members and other individuals who can help in the process of disengagement and resettlement.

The next paragraph expresses a concern of the prison and probation institutions, namely that the media attention on trajectories of individuals responsible for terrorist acts, and in particular the frequent mention of their passage through prison and probation services might stigmatize these institutions as having a key role in the radicalisation process. The document therefore highlights that radicalisation is a complex social and political problem that concerns all state and non-state institutions that might compose the trajectories of such institutions: schools, universities, professional environments, religious environments, law enforcement etc. Therefore only a comprehensive approach to the root causes of the problem, which are more often than not linked to issues of exclusion, marginalization, resentment, identity-seeking can be successful. Prison and probation services are in this respect only one of the links of the chain.

The guidelines then reinstate what should be a self-evident fact, yet needs to be repeated: nothing in the present guidelines questions or contradicts previous key legal instruments and standards in terms of respect of Fundamental Rights and Liberties.

Finally, the guidelines state that they should not be considered in isolation, but within a set of Council of Europe rules and regulations that concern prison and probation services, namely the European Prison Rules (Recommendation Rec (2006)2 of the Committee of Ministers), in the Council of Europe Probation Rules (Recommendation CM/Rec (2010) 1 of the Committee of Ministers), and in the European Rules for juvenile offenders subject to sanctions or measures (Recommendation Rec (2008)11). **[+ Missing doc to be added here (Ilina)?]**

### III. COMMENTS TO THE BASIC PRINCIPLES

#### a. Respect of Human Rights and Fundamental Principles

##### Paragraph 1

The aim of this paragraph is to specify that tackling radicalisation that might lead to violent extremism can never justify the use of measures that are derogatory to the basic principles of human rights and fundamental freedoms. The troubled history of the "War on Terror" as it has been enacted after the event of September 11, 2001, but in similar ways to previous historical episodes in which states have had to deal with the issue of terrorism, has shown that the use of exceptional measures that might contradict basic democratic principles of Human Rights and Fundamental freedoms can at times be considered as a legitimate policy option.

There have indeed been cases in which the treatment of prisoners accused of "terrorism" has been equiparated with torture. The aim of this article is to repeat that torture and inhuman or degrading treatment can never form part of a counter-radicalisation or counter-terrorism policy that complies with the principles and values shared by the members of the Council of Europe.

Finally, the paragraph reiterates the fact that key principles such as freedom of expression and freedom of religion shall be respected. Measures aimed at tackling radicalisation shall indeed never infringe on the ability for individuals to hold and express their political views (within the boundaries of the law), nor to practice their religion.

## **b. Good Prison Management**

### Paragraphs 2 & 3

This paragraph states that good prison management is not just a general principle of good prison order. It is a key and integral part of any meaningful strategy to tackle radicalisation. This statement is based on the social scientific understanding of the mechanisms that lead individuals or groups to commit acts of political violence. The academic literature on terrorism and political violence generally distinguishes two categories of factors which lead to political violence: (1) root causes and (2) trigger causes<sup>7</sup>.

- (1) Root causes (or structural factors) are the factors which the literature considers as necessary but not sufficient factors to understand the passage to political violence. They correspond to those structural issues which produce collective feelings of injustice, exclusion or marginalization. Among such factors, one generally finds (a) foreign policy and international relations: for example, the revelations around the incarceration conditions in the prison of Abu Ghraib in Iraq, the CIA torture program, the US drone program in Pakistan, Afghanistan or Yemen or the war crimes committed by the occupying forces in Afghanistan and Iraq; (b) Domestic policy aspects, such as the lack of integration of minorities: racism, islamophobia; (c) Economic factors, such as the exclusion from the labour market or poverty.
- (2) Precipitating factors are factors which can trigger the passage to violence. They are generally found in personal histories of exclusion; they can be grafted onto the root causes to build coherent narratives of legitimization of violence. While never a sufficient predictor of violence, they are specific to each individual and are very much linked to specific circumstances. They can fall under (a) the desire to belong to a group, the social influence of a charismatic figure and peer pressure from the group (this is the "bunch of fiends theory" of Marc Sageman for example<sup>8</sup>) or (b) personal experiences of discrimination, rejection or marginalization. Here the experience of excessive force of state authorities (police, army, prison staff), and the experience of torture, can be a key factor (what Quintan Wiktorowicz has defined as "cognitive openings"<sup>9</sup>). They can also relate to (c) what Tedd Gurr has conceptualized through the concept of "relative deprivation"<sup>10</sup>, namely the frustration related to unmatched or frustrated expectations in economic, social or political circumstances.

Holding political views, even quite radical, about international and domestic politics should not concern probation and prison staff. At any given time, they will be shared by broad sections of the population. What prison and probation services should do, however, is to avoid providing further sources of resentment to individuals who might use them to further convince themselves or others of the legitimacy of violent methods to achieve their personal or political goals.

Tackling radicalisation therefore implies tackling both root and trigger causes of political violence. While trigger factors that belong to individual histories of single individuals that might provoke individual suffering might be best addressed, if necessary, by personalized psychological care, counselling and mentorship; good prison management is the best way to address some of the root causes. In particular avoiding overcrowding, violence, racism islamophobia or other forms of discrimination allows to counter the narrative of exclusion that justifies violence.

## **c. Respect of Data Protection and Privacy**

### Paragraph 4

<sup>7</sup> Crenshaw, M. (1981) 'The Causes of Terrorism'. *Comparative politics*, Vol. 13, No. 4, pp. 1–24.

<sup>8</sup> Sageman, M. (2004) *Understanding Terror Networks* (Philadelphia: University of Pennsylvania Press).

<sup>9</sup> Wiktorowicz, Q. (2004) *Islamic Activism: a Social Movement Theory Approach* (Bloomington, IN: Indiana University Press).

<sup>10</sup> Gurr, T. R. (1970) *Why Men Rebel* (Princeton, N.J., : Princeton University Press).

- d. Alternatives to incarceration
- e. Measures to avoid structural factors facilitating radicalisation
- f. Tools for preventing radicalisation
- g. Inter-agency Cooperation
- IV. PRISON MANAGEMENT
  - a. Good prison management
  - b. Assessment
  - c. High-security Prisons or Quarters and Transfers
  - d. Cultural and Religious Traditions
- V. IDENTIFICATION AND PREVENTION
  - a. Dynamic Security
  - b. Procedures for detection
  - c. Mentoring Programmes
  - d. Education and Training
- VI. POST-RELEASE WORK
  - a. Inter-agency Cooperation
  - b. Continuity of attention