Council of Europe Convention on the Prevention of Terrorism (CETS No 196)

2017/0265(NLE) - 18/10/2017 - Preparatory document

PURPOSE: to approve, on behalf of the Union, the conclusion of the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196).

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) was signed by the Union on 22 October 2015, subject to its conclusion. Article 23 of the Convention provides that the latter is open for the approval of the European Union.

Following the sixth ratification, of which four were by Member States of the Council of Europe, Convention No. 196 came into force on 1 June 2007. As of 21 February 2017, 23 EU Member States have ratified the Convention, and all EU Member States have signed it.

In view of the continuing threat of terrorism to fundamental rights and the global nature of terrorism, the **European Union must act united** to promote and uphold the principles of democracy and the rule of law in Europe.

Given the global nature of terrorism, a **common understanding of terrorist and terrorism-related offences**, complemented with provisions to facilitate cooperation between national authorities as laid down in Convention No. 196 contributes to further enhancing the effectiveness of the criminal justice instruments and cooperation at Union and international level.

The Union has already adopted measures in the different areas covered by Convention No. 196 on the basis of provisions of Title V of Part Three of the TFEU.

With the adoption of the Directive on combating terrorism, the European Union is ready to complete its commitment to be a party to the Additional Protocol by conclusion of that instrument. This can only be done by concluding Convention No. 196, at the latest simultaneously with conclusion of its Additional Protocol.

CONTENT: this proposal concerns the decision to **conclude Convention No. 196 on behalf of the Union** . It must be read together with a proposal concerning a decision to conclude the Additional Protocol (Convention No. 217) that supplements the Convention on the Prevention of Terrorism (Convention No. 196).

Objectives of the Convention: Convention No. 196 defines criminal offences related to terrorism, an area for which the Union has competence under Article 83(1) TFEU. It covers areas to which the ordinary legislative procedure applies, including the setting of minimum rules for the definition of criminal offences in the area of terrorism, as well as police and judicial cooperation in criminal matters.

The purpose of Convention No. 196 is to **enhance the efforts of the parties in preventing terrorism** and its negative effects on the full enjoyment of human rights, in particular the right to life, both by measures taken at national level and through international co-operation.

It thus **criminalises** the following acts when committed intentionally:

- public provocation to commit a terrorist offence;
- recruitment for terrorism;
- training for terrorism;
- aiding and abetting, inciting and attempting the aforementioned offences.

In addition, the Convention:

- contains provisions establishing the liability of legal entities for the aforementioned offences and setting out conditions for sanctions and penalties;
- establishes jurisdictional rules for its offences;
- establishes an obligation to investigate and to prosecute or extradite;
- contains provisions on the protection, compensation and support for victims of terrorism; national prevention policies and international co-operation on prevention.

Convention No. 196 also contains several provisions aiming at strengthening international co-operation in criminal matters through mutual legal assistance, including spontaneous exchange of information and extradition, being subject to a non-discrimination clause.

An Additional Protocol (Convention No. 217) was adopted by the Council of Europe on 19 May 2015. The Additional Protocol supplements Convention No. 196 and came into force on 1 July 2017. It is not possible to be a party to the Additional Protocol without also being a party to Convention No. 1963. The European Union has signed Convention No. 196, as well as its Additional Protocol.

Territorial application: Convention No. 196 signed and eventually concluded by the European Union is binding upon and applies in all EU Member States with the exception of **Denmark**. Convention No. 196 signed and eventually concluded by the European Union is binding upon and applies in the **United Kingdom** only insofar as this Member State notifies the Council of its wish to take part in the adoption and application of this instrument. **Ireland** is bound by Framework Decision 2002/475/JHA and is therefore to take part in the adoption of this Decision.