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COUNCIL OF EUROPE

Reply to the questionnaire by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Counter-Terrorism Secretariat

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Purpose

The Special Rapporteur invites interested stakeholders to submit inputs for his forthcoming thematic report on the protection of human rights by regional organizations in counter-terrorism, to be presented at the United Nations General Assembly in October 2024.

Background

Dozens of regional and sub-regional organizations are involved in countering terrorism, including through standard setting; regional cooperation (in policing, border security, countering terrorist financing, sharing of information/intelligence/data, and mutual legal assistance and extradition); technical assistance and capacity building; the establishment of specialised counter-terrorism bodies; military activities; implementing international standards (including Security Council resolutions); and engagement with United Nations counter-terrorism bodies, other regional organizations, and third states.

Regional counter-terrorism regimes can have profound impacts on human rights, yet human rights law has often not been at their core. Regional regimes have historically had a law enforcement focus on repressing terrorism, rather than on holistically preventing it, addressing the conditions conducive to it or human rights issues or engaging civil society. The dominant political and legal cultures of some regions have also adversely influenced attitudes towards human rights. Weak national protection of human rights can be exacerbated by a lack of regional human rights mechanisms or ineffective ones.

More information about the role of regional organizations in countering terrorism can be found in the Special Rapporteur's report to the Human Rights Council A/HRC/55/48 (paragraphs 38 to 45).

Questions to guide inputs

1) *To what extent are the counter-terrorism and preventing/countering violent extremism (P/CVE) norms of the regional organization consistent with international human rights law, international humanitarian law, and international refugee law?*

Consider, for example, definitions of terrorism and extremism and exclusion clauses in definitions, terrorism offences, criteria for listing terrorist organizations, obligations to cooperate, duties of prevention, and P/CVE.

Do any counter-terrorism norms or instruments refer to human rights, either generally or in specific detail, or are human rights omitted?

Consider all relevant norms: treaties, internal laws, resolutions, standards, 'soft law', declarations, policies, strategies and plans.

Consider all of the actors in the regional organization, such as commissions, councils, parliaments, secretariats, regulatory authorities and executive bodies.

For over forty years, the Council of Europe has helped to develop and reinforce key legal standards to prevent and suppress acts of terrorism. Taking a comprehensive approach, the Council of Europe works to assist its member States strengthen and improve their measures and national legislation, as well as facilitate international co-operation to more efficiently coordinate their efforts to prevent and fight terrorism.

The main organs relating to counter-terrorism in the Organisation include the following:

- The [Committee of Ministers](#) is the executive body of the Council of Europe and is composed of the Ministers for Foreign Affairs of the 46 member States of the Council of Europe or their Permanent Representatives in Strasbourg. The Committee of Ministers is the Council of Europe's decision-making body.
 - o Under the authority of the Committee of Ministers, the [Committee on Counter-terrorism \(CDCT\)](#) is the intergovernmental body coordinating the Council of Europe's action against terrorism.
 - o Also under the authority of the Committee of Ministers, the [Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism \(MONEYVAL\)](#) is a monitoring body of the Council of Europe which assesses national compliance with international standards on countering money laundering and the financing of terrorism.
- The [Parliamentary Assembly of the Council of Europe](#) consists of a number of individual representatives from each member State, with a President elected each year from among them for a maximum period of two sessions.
- The [Commissioner for Human Rights](#) is an independent and impartial institution whose mandate is laid out in [Resolution \(99\) 50](#), with a primary objective of fostering the effective observance of human rights, and assisting member States in the implementation of Council of Europe human rights standards.
- The [European Court of Human Rights](#) ("the Court") is the main enforcement body of the Council of Europe, established by the [European Convention on Human Rights \(ECHR\)](#).

The **CDCT** is responsible for formulating the Council of Europe counter-terrorism policy, inclusive of its counter-terrorism strategy, and binding and non-binding legal instruments. It also provides a venue for exchanges between members on practices regarding implementation of different counter-terrorism tools. In accordance with its terms of reference, the CDCT pays particular attention to reflecting the human rights standards vested by the European Convention on Human Rights (ECHR) and Fundamental Freedoms and the case-law of the European Court of Human Rights (ECtHR) in its policy, standard- or guidance- setting, and cooperation activities. This is done by considering the human rights implication of discussed texts or actions and creation of direct obligations for members/parties to its instruments on implementation of Council of Europe counter-terrorism tools in full respect of applicable ECHR standards.

The **Consultation of Parties (COP) to CETS 196/217** monitors the implementation of the two key Council of Europe instruments in the field of counter-terrorism, [the](#)

[Convention on the Prevention of Terrorism \(CETS 196\)](#) and its [Additional Protocol \(CETS 217\)](#).

Council of Europe Treaties and Conventions

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

The Council of Europe Convention on the Prevention of Terrorism (hereafter referred to as "the Convention") is the main counter-terrorism instrument in the Council of Europe framework.

The Convention does not have an autonomous definition of terrorism, but instead defines terrorist offences in line with the sectoral treaties negotiated at the level of the United Nations (these treaties are listed in the Appendix to the Convention). The main substantive articles of the Convention concern prevention activities, at the national and international level, and also the requirement to criminalise acts conducive to terrorism (namely, public provocation to commit a terrorist offence, recruitment for terrorism, and training for terrorism). It also reinforces certain international cooperation principles in the field of anti-terrorism, such as the requirement of states to extradite or prosecute (Article 18), and the exclusion of the political exception clause (Article 20).

The Convention clearly frames human rights as central to the object and purpose of the instrument. From the outset, the drafters agreed on the need to strengthen legal action against terrorism while ensuring respect for human rights and fundamental values, and on the necessity of including provisions on appropriate safeguards and conditions securing these aims.

The Convention, starting with the Preamble, contains several provisions concerning the protection of human rights and fundamental freedoms, both in respect of internal and international co-operation on the one hand and as an integral part of the new criminalisation provisions (in the form of conditions and safeguards). The Explanatory Memorandum further highlights that that human rights are "a crucial aspect of the Convention, given that it deals with issues which are on the border between the legitimate exercise of freedoms, such as freedom of expression, association or religion, and criminal behaviour."

The Preamble to the Convention states that:

"Recalling the need to strengthen the fight against terrorism and reaffirming that all measures taken to prevent or suppress terrorist offences have to respect the rule of law and democratic values, human rights and fundamental freedoms as well as other provisions of international law, including, where applicable, international humanitarian law;"

Within the substantive articles, Article 2 frames the Convention as one whose aims are designed to operate with and for the advancement of human rights principles, stating that:

“The purpose of the present Convention is to enhance the efforts of Parties in preventing terrorism and its negative effects on the full enjoyment of human rights, in particular the right to life, both by measures to be taken at national level and through international co-operation, with due regard to the existing applicable multilateral or bilateral treaties or agreements between the Parties.”

Article 3 on national prevention policies further stipulates some of the primary international legal instruments which are to be respected in this manner:

“Each Party shall take appropriate measures, particularly in the field of training of law enforcement authorities and other bodies, and in the fields of education, culture, information, media and public awareness raising, with a view to preventing terrorist offences and their negative effects while respecting human rights obligations as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other obligations under international law.”

Article 12 further establishes that certain conditions and safeguards are also in place with respect to the implementation of the substantive offences in Article 5 to 7 and 9 of the Convention. Paragraph 1 notes that Parties must respect:

“the right to freedom of expression, freedom of association and freedom of religion, as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other obligations under international law.”

Continuing, Article 12, paragraph 2 recalls key human rights principles and requires that:

“the establishment, implementation and application of the criminalisation under Articles 5 to 7 and 9 of this Convention should furthermore be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.”

The Explanatory Memorandum clarifies that particularly European states should interpret the principle of proportionality in line with the principles of the ECHR and applicable case-law of the Court, as well as national legislation and relevant precedents. In line with this case law, this would require that any power or procedure established under the Convention should be proportional to the nature and circumstances of the offence.

The Convention also contains two IHL savings clauses (exclusion clauses) which relate to international humanitarian law and the applicability of the Convention to armed forces. Article 26 (paras 4 & 5). This clause is based on Article 19, paragraph 2 of the International Convention for the Suppression of Terrorist Bombings. The Convention is intended to be consistent and coherent with international humanitarian law in its application and is not intended to justify or legitimise any behaviour by armed forces or militaries.

Additional Protocol to the Convention on the Prevention of Terrorism (Riga Protocol) (CETS No. 217)

The Protocol supplements the Council of Europe Convention on the Prevention of Terrorism. The Additional Protocol is aimed at “the threat posed by persons travelling abroad for the purpose of committing, contributing to or participating in terrorist offences, or the providing or receiving of training for terrorism in the territory of another State”. It requires Parties to ensure that criminalised offences are in place and sufficient to be able to prosecute acts covered by the provisions of the Protocol, namely “Participating in an association or group for the purpose of terrorism” (Article 2), “Receiving training for terrorism” (Article 3), “Travelling abroad for the purpose of terrorism” (Article 4), “Funding travelling abroad for the purpose of terrorism” (Article 5) and “Organising or otherwise facilitating travelling abroad for the purpose of terrorism” (Article 6).

Article 8 of the Protocol on Conditions and Safeguards is similar to Article 12 of the Convention and would thus remain applicable to the substantive provisions of Articles 2 to 6 of the Protocol. However, the Explanatory Report notes that “the drafters considered that there was a need to further strengthen the visibility of the human rights and the rule of law principles stated in that provision in the Protocol itself.” The main addition in Article 8 of the Protocol is the addition of the “right to freedom of movement”, which was considered essential given the context and purpose of the Protocol.

Council of Europe Strategic framework

The first Council of Europe Counter-terrorism Strategy was adopted in 2018. The aims of the Strategy can be summarised as “the three P’s”: **Prevention, Prosecution and Protection**, which were chosen to frame specific activities and “further improve the ability of member States to prevent and combat terrorism while respecting human rights, the rule of law and democracy.”

The Counter-terrorism Strategy is composed of both a strategic document outlining current terrorism-related issues as well as an Action Plan built around three pillars: Prevention, Prosecution and Protection.

It noted that:

“the CDCT will take into account the human rights and rule of law standards of the Council of Europe, the relevant jurisprudence of the European Court of Human Rights, as well as the work and the best practices of member States and other international organisations and initiatives.”

Following up on the previous Strategy, the Council of Europe [Counter-terrorism Strategy for 2023-2027](#) retained “the three Ps” of the previous Strategy but was expanded to include several key Areas of Focus, including the changing modus operandi of terrorist attacks, a rise in terrorist attacks by the violent far-right, increased abuses of technology for terrorist purposes, the return and relocation of foreign terrorist fighters, disengagement and reintegration of women and children with ties to

terrorist groups/networks, and the interaction between terrorism and the laws of armed conflict.

Furthermore, a new “Cross-cutting issues” section was added to the Strategy, namely Human Rights and the Rule of Law, Victims of Terrorism, and Co-Operation and Coordination with internal and external partners. On human rights issues, the Strategy states that:

“Respect for human rights for all and the rule of law constitutes the fundamental basis of the prevention and fight against terrorism. Ensuring broader coherence and consistency between the Strategy and relevant Council of Europe human rights standards is essential. States are obliged to respect the human rights of persons suspected of committing, accused or convicted of having committed terrorist offenses. This includes the right to privacy, the right to data protection and the adherence to fair trial rights – notably in the context of FTFs. Within human rights law, States are furthermore obliged to take measures to protect the fundamental rights of everyone within their jurisdiction from terrorism. Terrorist violence and the threat of terrorism, including the physical and mental harm suffered by victims of terrorism, as well as the wider damage terrorism inflicts on affected communities and populations constitutes a human rights’ violation. The positive obligation to respect the rights and fundamental freedoms of its citizens is the cornerstone of the Council of Europe’s approach towards terrorism. The Preamble to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) explicitly recalls the “obligation of all Parties to prevent [terrorist] offences and, if not prevented, to prosecute and ensure that they are punishable by penalties which take into account their grave nature.”

Countering terrorism is a legitimate aim to take actions in the interests of national security, preventing disorder and ensuring the protection of the rights and freedoms of others. Notwithstanding, both the Convention on the Prevention of Terrorism (CETS No. 196) and human rights law requires that all measures taken should be non-discriminatory, prescribed by law, necessary in a democratic society and proportionate to achieving this aim. This also entails a duty to respect the rule of law, particularly by ensuring that no measures are taken arbitrarily by national authorities, and that all counter-terrorism legislation and measures are subject to appropriate supervision by empowered national structures and bodies, including legislatures and judicial bodies. These requirements will be reflected in practical terms across actions taken under the new Strategy, through consideration of the impact that possible solutions may have on individual human rights and the rule of law and related formulation of new counter-terrorism standards and guidelines in line with applicable human rights and rule of law standards.”

Specific Council of Europe instruments

Committee of Ministers

Recommendation on the use of information from conflict zones as evidence in terrorism criminal proceedings

[Recommendation CM/Rec\(2022\)8](#) of the Committee of Ministers to member States on the use of information collected in conflict zones as evidence in criminal proceedings

related to terrorist offences provides guidance to states on when and under which conditions they could use battlefield information collected by state and non-state actors outside of formal evidence gathering procedures in court when considering terrorism charges.

One such condition is that the information in question is collected in line with relevant human rights standards, namely those in the ECHR, and that when using such information in proceedings against alleged perpetrators of terrorist offences states follow their obligations under the ECHR, namely Article 6. The Recommendation also clearly underlines the inadmissibility of any information collected in conflict zones in violation of Article 3 of the ECHR.

Recommendation on the risk assessment of individuals indicted or convicted for terrorist offences

The CDCT began its work on the (draft) Recommendation in March 2021 and approved the draft Recommendation at the 7th CDCT Plenary in November 2021 where it was eventually adopted by the Committee of Ministers on 30 March 2022 as [Recommendation CM/Rec\(2022\)7](#) of the Committee of Ministers to member States on the risk assessment of individuals indicted or convicted for terrorist offences. The initial text was based on pre-existing Council of Europe Recommendations in this area, notably Recommendation [CM/Rec\(2014\)3](#) of the Committee of Ministers to member States on dangerous offenders, as well as relevant international instruments such as United Nations Security Council [Resolution 2396\(2017\)](#).

The Recommendation provides guidance to member States on methodological aspects of the risk assessment process in order to provide objective, valid and reliable outcomes. The Recommendation covers all phases where such an assessment may be used, from the judicial stage to the potential execution of sentences and release from prison, providing guidance on how to properly carry out risk assessments and use the results of this process to support judicial decisions or security measures. It further articulates the need for States to always strike a balance between safeguarding the rights of the individuals concerned by the risk assessment, particularly in relation to the presumption of innocence under Art 6§2, with the obligation to prevent acts of terrorism.

Recommendation on measures aimed at protecting children against radicalisation for the purpose of terrorism

[Recommendation CM/Rec\(2021\)7](#) is aimed at guiding member States in determining which measures may be the most efficient to protect children against radicalisation for the purpose of terrorism, while respecting the rights of children.

Article 3 of the Recommendation notes:

“When addressing the phenomenon of radicalisation of children in their domestic law and practices, member States should act in accordance with the requirements of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, “the Convention”) and the relevant case law of the European Court of Human Rights, as well as other relevant international human rights standards, in particular

the United Nations Convention on the Rights of the Child. All measures taken under this recommendation should be proportionate, in accordance with the rule of law and should defend the best interests of the child. No measure should be applied in a way that is discriminatory as regards sex, race, ethnic origin, colour, age, disability, health, including mental health, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status, or in any other way breaches the principle of the rule of law. All measures aimed at protecting children against radicalisation should respect the basic principles of democracy and the rights of the child.”

The Explanatory Report to the Recommendation also states the following:

“When taking actions encouraged by the present Recommendation, member States are reminded of their obligation to act in accordance with the human rights and children rights guarantees set forth by the Convention for the Protection of Human Rights and Fundamental Freedoms and the related case law of the European Court of Human Rights, as well as the United Nations Convention on the Rights of the Child. This particularly pertains to actions that may impede upon the child’s ability to exercise his/her right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of association, and prohibition of discrimination.”

Compilation of Good Practices with regard to Deradicalisation, Disengagement and Social Reintegration

The [Compilation of Good Practices with regard to Deradicalisation, Disengagement and Social Reintegration](#) were adopted in October 2023. The Compilation is intended to provide an overview of current programmes operating in both custodial and non-custodial settings aimed at deradicalisation, disengagement or reintegrating individuals who have been convicted of terrorism-related offences or those at risk of becoming involved in terrorism or violent extremism. As such, the Compilation aims to support member States in developing their own programmes by learning from what has been shown to be effective in other member States while drawing attention to crucial considerations and practices related to human rights, gender aspects, and social exclusion.

In terms of specific human rights concerns, the Compilation notes that several member States balance the rights of the individual and the rights of the wider public who may be threatened by terrorist activity. In particular, the Compilation identifies the risks posed by such programmes to participants’ right to freedom of thought, conscience and religion, as well as privacy and human dignity. The Compilation notes that there is a risk that failing to uphold these rights or to address specific social aspects such as discrimination and marginalisation, could lead to further radicalisation.

The Compilation of Good Practices also highlighted that there is a need for additional progress and investment with regards to preventing post-incarceration social exclusion and marginalisation.

Guidelines for public and private sector authorities on preparedness and emergency responses to the immediate aftermath of terrorist attacks.

The Guidelines are designed as a practical tool for member States to strengthen their preparedness and emergency responses to terrorist attacks through greater interoperability of responders, including multi-agency co-operation, co-ordination, and management.

The Guidelines recall the obligation to take a human rights-based approach to countering terrorism and supporting victims, thereby aiming to ensure the right to life is upheld in all circumstances and that victims of terrorist attacks are treated with respect and receive adequate assistance and support.

The Guidelines also provide important resources for national competent authorities on training and exercising plans, public outreach, provision of medical and psychological support and resource management, protection of soft targets and critical infrastructure, including in the context of chemical, biological, radiological, and nuclear terrorism.

Parliamentary Assembly of the Council of Europe

The Parliamentary Assembly has addressed terrorism-related issues for decades. The following examples are drawn from more recent Resolutions and recommendations.

Resolution 2221 (2018) Counter-narratives to terrorism

The Assembly condemned all acts of hate speech and noted that all measures taken to combat terrorism must comply with States' obligations under national and international law and the fundamental principles of democracy, respect for human rights and the rule of law.

This resolution recognises that radicalisation processes are ever-evolving alongside the terrorist threat and technology, yet the ““real world” threat of exposure to violent extremist discourse...should not be overlooked” either. Acknowledging that security-based measures alone are insufficient to counter the spread of violent extremist ideologies, it calls on states to develop “effective and positive alternative narratives, aimed at specific target audiences, which confront, challenge and contradict the themes intrinsic to the terrorist narrative through ideology, logic, fact or humour” in cooperation with members of the target audience where possible.

Above all, the Recommendation “deems of the utmost importance the articulation the ““overlapping consensus” to unite diverse communities on the basis of common values” such as non-violence, tolerance and democracy to expose the hypocrisy of terrorist discourse.

Resolution 2091 (2016) Foreign fighters in Syria and Iraq

This Resolution calls on States to raise public awareness on the phenomenon of foreign fighters, “and to understand and address it, including the problems related to the return of these fighters to their home countries, which is a major and growing threat to domestic and international security.” It calls on States to develop a comprehensive response which strikes “the right balance between repression of criminal behaviour, protection of populations and human rights, prevention of radicalisation,

deradicalisation and reintegration of returnees into their home communities after appropriate punishment has been served, and to address the root causes of radicalisation”

First, the resolution notes the obligation for States to deny refugee status to fighters who have committed serious crimes punishable under international law and to “share information about such persons with other member States”.

The Assembly highlighted the “essential” need for States to understand underlying factors driving radicalisation, and develop long-term prevention, deradicalisation and reintegration strategies. It calls for partnerships between governments, local authorities, the private sector and civil society to enhance the coordination of responses to the violent extremist threat.

The Assembly noted that “the United Nations must continue to play the leading role in shaping a global strategy to counter this dangerous trend” given the “ever-broadening dimension of the terrorist-fighter problem stretching over national, regional and even continental borders.

Resolution 2090 (2016) Combating international terrorism while protecting Council of Europe standards and values

The Assembly condemns all acts of terrorism and its threat to individuals and societies, noting the “tragedy of innocent people losing their lives, being injured and traumatised, growing unrest, mistrust and fear destabilise our societies.” While it is recognised that States have an “inalienable right, and inseparable obligation” to defend the freedom and security of its citizens when attacked, a “fine balance” must be struck to ensure that counterterrorism measures equally ensure full respect for human rights, the rule of law and the Council of Europe’s values, adding that “combating terrorism and protecting Council of Europe standards and values are not contradictory but complementary”.

The Resolution rejects the abuse of ‘Islamic’ by jihadist organisations to justify terrorist attacks and recognises “the invidious position in which these attacks place Muslims”. As such, it calls on political leaders to “avoid making stigmatising generalisations that portray whole groups of the population as responsible for the acts of individuals” in their condemnations of terrorist acts and on “Muslim leaders and intellectuals to publicly, clearly and continually condemn the shameful abuse of their religion by fanatical murderers” to reiterate the alignment of Islam’s values and principles with those enshrined in the European convention of Human Rights (ETS No. 5).

To ensure State compliance with the ECHR, Resolution 2090 calls on the Secretary General to provide effective democratic oversight of counterterrorism measures “to evaluate their necessity and proportionality, as appropriate...and keep the Assembly regularly informed”. It calls on member States to ensure that “a state of emergency is limited to the strict minimum in both time and space, regardless of whether such a state is declared under Article 15”, and to ensure appropriate training for law enforcement, security and intelligence services to avoid issues such as ethnic or

racial profiling and indiscriminate mass surveillance. It emphasises the importance of international cooperation to combat terrorism, such as sharing records on terrorist offenses and information on airline passengers, “subject to data protection guarantees”. Additionally, it urges States to cut off financial lifelines to terrorist organisations by implementing relevant UN and Council of Europe conventions against the financing of terrorism.

Resolution 1840 (2011) Human rights and the fight against terrorism

Resolution 1840 states that:

“Terrorism has a direct impact on human rights, with consequences for the enjoyment of the right to life, liberty and physical integrity of individuals, especially victims of terrorism. It can destabilise and undermine entire societies, jeopardise peace and security and threaten social and economic development. It seeks to impose upon the majority the views of a minority and stops at nothing in the pursuit of its aims. Terrorism attacks the pillars of democracy and the rule of law upon which the respect of human rights is based.”

It further notes that *“There is a danger that temporary measures to combat terrorism, even if considered necessary at the time of their introduction, become permanent even when circumstances have changed. The need for any restrictions placed on individual freedoms must be assessed continuously as long as the restrictions remain in place.”*

The Resolution calls for several measures to improve compliance with the ECHR and its protocols, notably that “no exception whatsoever is made to the non-derogable rights to life and to the prohibition of torture and inhuman or degrading treatment” and that “any limitation must be strictly necessary to protect the public and be proportionate to the legitimate aim pursued, in line with the case law of the Court. In particular, administrative detention should be limited to rare exceptions and subject to appropriate control. Surveillance, interception and related measures must be available to the state, but be clearly circumscribed by law and subject to judicial or appropriate political supervision.”

2) Have counter-terrorism sanctions of the organization respected human rights?

The Council of Europe does not directly apply counter-terrorism sanctions.

3) To what extent has the regional organization acted consistently with international human rights law in its operational activities and practices, including legal and technical cooperation, sanctions, training, joint investigations, and joint exercises?

As human rights are one of the core values of the Council of Europe, human rights standards and principles are interwoven in all activities of the Organisation organised with member States.

In terms of open training course, the Human Rights Education for Legal Professionals (HELP) Programme features a wide variety of online courses for lawyers, judges, and other legal practitioners. These courses cover a wide variety of subjects, but in the counter-terrorism sphere include:

- Radicalisation Prevention :
<https://help.elearning.ext.coe.int/course/view.php?id=2974>
- Human Rights in the Armed Forces :
<https://help.elearning.ext.coe.int/course/view.php?id=5865>
- International Humanitarian Law and Human Rights:
<https://help.elearning.ext.coe.int/course/view.php?id=7228>

4) *To what extent do the specialized counter-terrorism bodies of regional organizations (such as counter-terrorism committees, centres, units and working groups) have: a mandate to consider human rights issues in their counter-terrorism work (e.g. in their constituent instruments or resolutions, terms of reference etc)?*

human rights expertise, including dedicated human rights personnel or other personnel with training and knowledge in human rights?

sufficient resources, including necessary staff, to address human rights issues?

adequate coordination on human rights protection with other actors within the regional organization engaged in counter-terrorism?

The Terms of Reference for the Council of Europe Committee on counter-terrorism (CDCT) for 2024 – 2027 are explicit that the CDCT must bear in mind “the Council of Europe legal standards, the case law of the European Court of Human Rights and the findings and recommendations of the relevant monitoring mechanisms” in the conduct of its activities.

5) *Does the regional organization have a human rights due diligence policy that applies to its counter-terrorism activities (including in relations with third states) and does it use – and fully respect – it in practice? Does the regional organization include human rights (a) training and (b) monitoring and evaluation in its counter-terrorism activities, whether for member states or third states?*

The Council of Europe does not have such a policy, though in practice human rights aspects are the starting point for most training and cooperation activities in this area. With regards to monitoring and evaluation, this is done through internal audits as well as reporting to donors for cooperation projects.

6) *Has the regional organization taken adequate measures to prevent the conditions conducive to terrorism, including ‘prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and exclusion, socio-economic marginalization and lack of good governance’?*

While the CDCT is the only body with the mandate to address terrorism-related matters directly, there are a number of organs and bodies within the Council of Europe that work on addressing issues related to the rule of law, socio-economic marginalisation and good governance.

This includes the following entities:

- The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's main body to provide legal advice and opinions to states in the fields of democracy, human rights and the rule of law.
- The [European Commission against Racism and Intolerance](#) (ECRI) is a human rights monitoring body which specialises in questions relating to the fight against racism, discrimination (on grounds of "race", ethnic/national origin, colour, citizenship, religion, language, sexual orientation, gender identity and sex characteristics), xenophobia, antisemitism and intolerance in Europe.
- The [Steering Committee on Anti-discrimination, Diversity and Inclusion](#) (CDADI) leads intergovernmental work to promote equality for all and build more inclusive societies that offer effective protection from discrimination and hate.
- The [European Committee on Crime Problems \(CDPC\)](#) coordinates the Council of Europe's activities in the field of crime prevention and crime control, and issues Recommendations in the criminal law area based in human rights and the rule of law.
- Additionally, the Council of Europe has Special Representatives on topics such as [Migration and Refugees](#)

7) *How has the regional organization addressed gender equality and non-discrimination in its counter-terrorism norms and activities?*

[Gender mainstreaming](#) at the Council of Europe is one of the strategic objectives of the Council of Europe Gender Equality Strategy. It is an approach to policy-making that takes into account both women's and men's interests and concerns. Gender rapporteurs are often requested at the level of every committee and gender equality and non-discrimination matters are always considered in the substantive outputs of the Organisation.

8) *How has the regional organization assisted and protected victims of terrorism and has this been consistent with human rights and best practice on victims?*

The Council of Europe Network of Single Contact Points for the Exchange of Procedural Information Regarding the Legal Standing of Victims of Terrorism was established in 2020 and has held six meetings since its inception. Its main purpose is to provide an intergovernmental venue for the exchange of legal information on victims of terrorism, particularly when such victims are nationals of countries other than the territory where the attack took place. The Network has so far collected and shared a wide number of Fact Sheets with procedural information (contact details of relevant government offices and responsible persons, among other aspects), and provided these to all members of the Network to facilitate international cooperation efforts.

The Council of Europe does not have a direct instrument on the victims of terrorism. However, on 15 March 2023, the Committee of Ministers of the Council of Europe adopted a Recommendation on Rights, Services and Support for Victims of Crime. The Recommendation updates and replaces Recommendation [Rec\(2006\)8](#) of the Committee of Ministers to member States on assistance to crime victims, which, at that time, proved a useful tool in furthering the issue of victims' rights across Council of Europe member States. The Recommendation sets a number of standards relating to victims of crime and provides guidance on means to support them in accessing their

rights and services, and to be recognised and treated with respect, professionalism and non-discrimination. States should take into account that victims of crime may also have a range of needs that require individual recognition to receive the appropriate information, support and protection.

The Recommendation draws upon existing Council of Europe Standards including the Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention, CETS No.210) and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No.201) and other international standard-setting instruments in this field.

9) *To what extent have member states of the regional organization implemented regional counter-terrorism standards in national law? Is national implementation consistent with international human rights law?*

Does the regional organization actively monitor and assess national implementation of its counter-terrorism standards, including for consistency with human rights? Does the organization seek to remedy non-compliance?

The [Consultation of the Parties](#) (CoP) to the Council of Europe Convention on the Prevention of Terrorism (CETS No.196) and its Additional Protocol (CETS No.217) conduct assessment rounds which report on the implementation of the Convention and Additional Protocol. These assessments are based on a questionnaire distributed to all States Parties to the respective instrument, with the results collated and discussed by the CoP on regular basis. As part of these assessment rounds, conditions and safeguards are regularly assessed, which also includes information on relevant international human rights instruments, as well as relevant national human rights structures and institutions.

The most recent assessment round was launched by the CoP in 2021 and focused on Article 2 of the Additional Protocol. This Article was considered key as it concerns participation in an association or group for the purpose of terrorism and obliges Parties to criminalise the activities of individuals recruited to terrorist associations or groups. The questionnaire looked at the transposition of the Article, condition and safeguards, jurisdictional matters, implementation of the Article, and additional information. The thematic assessment report on the implementation of Article 2 was prepared and approved by the CoP in December 2023.

10) *Have any particular member states, or groups of member states, within a regional organization: (a) shown particular leadership on protecting human rights with the organization's counter-terrorism work, or (b) sought to undermine protection of human rights within the organization in relation to counter-terrorism?*

N/A

11) *How have the national political and legal systems of the member states of the regional organization shaped its attitude towards protecting human rights in counter-terrorism?*

As an intergovernmental organisation, the Council of Europe draws from the legal and political systems of its member States in all activities and outputs. The origins of the Council of Europe legal framework regarding terrorism are largely based in the Continental and Common Law traditions of its membership and their experience tackling terrorism-related offences in recent decades.

The Organisation is also responsive to contemporary manifestations of terrorism and supports its member States in addressing legal aspects of terrorism in light of an ever-changing terrorism threat. The first Council of Europe Counter-terrorism Strategy was adopted in 2018 and focused mostly on terrorism-related threats considered most serious at that time, notably terrorism inspired by ISIL (Daesh), Al-Qaida and affiliated organisations. Following up on the previous Strategy, the Council of Europe [Counter-terrorism Strategy for 2023-2027](#) is intended to address a wider scope of terrorism phenomena, including violent extremism conducive to terrorism.

Regional military operations

12) Have military operations to counter-terrorism by regional organizations (such as NATO and the AU), and ad hoc regional arrangements (such as various missions in the Sahel) complied with human rights law and international humanitarian law? To what extent has human rights and humanitarian law been included in the training, orders, and rules of engagement of such missions?

To what extent are the disciplinary and accountability processes and mechanisms of such missions consistent with international law?

The Council of Europe is not involved in any military or security operations.

Civil Society Participation

13) How has the regional organization engaged with civil society (including international, regional, national or local civil society organizations) on counter-terrorism and P/CVE issues? Does the regional organization provide sufficient information to the public about its counter-terrorism activities?

Does the regional organization provide opportunities for effective and regular consultation with civil society on counter-terrorism issues, including input into standard setting as well as operational activities?

Most counter-terrorism related activities at the Council of Europe are closed meetings and thus only approved civil society organisations would be allowed to participate. However, civil society perspectives are regularly present in public-facing events, such as workshops, seminars and conferences. Generally, civil society presence is not sought in terrorism-related standard-setting circumstances.

Accountability

14) Does the regional organization have any oversight and accountability mechanisms (specific or general) in relation to its counter-terrorism norms, bodies and activities?

The Council of Europe Directorate of Internal Oversight (DIO) is the independent body for auditing and evaluating activities of the Council of Europe. Its evaluation reports and activities can be found at <https://www.coe.int/en/web/internal-oversight/evaluation-reports>

15) *How has any regional human rights mechanism (such as a court, commission, agency, or commissioner) contributed to: (a) the protection of human rights in individual cases involving counter-terrorism; and (b) more general standard setting and development of jurisprudence on human rights in counter-terrorism? To what extent have the regional human rights mechanisms been: (a) more, or (b) less progressive than international human rights jurisprudence (e.g. United Nations human rights bodies, International Court of Justice).*

The European Court of Human Rights (“the Court”) adjudicates cases related to the fundamental rights and freedoms set out in the ECHR, including the right to life, prohibition of torture, prohibition of slavery and forced labour, right to liberty and security, right to a fair trial, no punishment without law, right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association, right to marry, right to an effective remedy, prohibition of discrimination.

More rights are granted by additional protocols to the Convention (Protocols 1 (ETS No. 009), 4 (ETS No. 046), 6 (ETS No. 114), 7 (ETS No. 117), 12 (ETS No. 177), 13 (ETS No. 187), 14 (CETS No. 194), 15 (CETS No. 213) and 16 (CETS No. 214)).

The first ever judgment of the Court, *Lawless v. Ireland* (no. 1), was also the first of many cases concerning terrorism. A complete case law guide on terrorism is available online at https://ks.echr.coe.int/documents/d/echr-ks/guide_terrorism_eng

16) *How has the regional organization assisted and protected victims of counter-terrorism and has this been consistent with human rights law and best practice?*

See answer to question 8 above.

International Issues

17) *Have regional organizations respected human rights and humanitarian law when implementing United Nations Security Council counter-terrorism resolutions?*

The Additional Protocol to the Convention on the Prevention of Terrorism (CETS No. 217) directly draws from Resolution 2178 (2014) adopted by the Security Council of the United Nations at its 7272nd meeting on 24 September 2014, in particular paragraphs 4 to 6 thereof. In the Resolution, the Security Council called on member states of the United Nations to take a series of measures aimed at preventing and curbing the flow of foreign terrorist fighters to conflict zones. In particular, all States are called to ensure that their domestic laws and regulations establish serious criminal offences sufficient to provide the ability to prosecute and to penalise in a manner duly reflecting the seriousness of the offence, those travelling abroad for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training, as well as the wilful provision or collecting of funds for, and the wilful organisation or other facilitation of, such travels.

The main aim of the Additional Protocol is thus to supplement the Convention with a series of provisions aimed at implementing the criminal law aspects of UNSCR 2178.

However, Article 8 of the Protocol provides further safeguards and conditions to this effect.

18) *To what extent has the engagement of United Nations counter-terrorism bodies with regional organizations enhanced or undermined regional human rights protection?*

The Council of Europe regularly co-operates and coordinates with UN counter-terrorism bodies such as UNOCT and UNCTED. Fostering and advancing relevant human rights standards and principles are an intrinsic part of any cooperation activities with UN partners in counter-terrorism matters.

19) *To what extent have regional counter-terrorism standards or practices influenced (a) international standards or practices and (b) the standards or practices of other regional organizations; and what have been the impacts on human rights?*

The Council of Europe has played a key role in shaping regional counter-terrorism standards through legally-binding instruments such as the Convention and its Additional Protocol, through soft law instruments such as Recommendations and Guidelines, as well as through the execution and implementation of Court case law relating to counter-terrorism.

One key example of this is how the Additional Protocol, and indeed the Convention itself, played a role in inspiring similar provisions and legal standards in EU Directive 2017/541, as is noted in para 5 of its preamble.

20) *How have regional organizations contributed to (a) enhancing or (b) undermining the protection of human rights at the international level, for example in their advocacy or voting in the United Nations or other multilateral bodies?*

N/A

21) *Where a state is a member of multiple regional organizations engaged in counter-terrorism (e.g. overlapping memberships of the EU, CoE and OSCE; or of the Arab League, OIC and AU), have any inconsistencies arisen in relation to the counter-terrorism obligations owed to the different organizations, including in national implementation, and particularly in relation to adverse impacts on human rights?*

N/A