Annex to the letter dated 28 December 2018 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

2018 Addendum to the 2015 Madrid Guiding Principles

Introduction

On 28 July 2015, the United Nations Security Council Counter-Terrorism Committee held a special meeting on stemming the flow of foreign terrorist fighters (FTFs). Hosted by the Government of Spain, in Madrid, the special meeting, and the accompanying series of technical sessions organized by the Counter-Terrorism Committee Executive Directorate (CTED), were attended by Member States of every region of the world, including those most affected regions by the FTF threat. Representatives of international and regional organizations, academia, and civil society also attended. In accordance with Security Council resolution 2178 (2014), participants discussed principal gaps in the capacities of Member States to implement Security Council resolutions 1373 (2001) and 1624 (2005) that might hinder States' abilities to stem the flow of FTFs. Pursuant to their discussions, participants identified a set of 35 guiding principles for stemming the FTF flow (S/2015/939).

Although Member States' application of the Principles helped slow the flow of FTFs,[1] a significant number of individuals did succeed in reaching the conflict zones in Iraq and the Syrian Arab Republic. *Since 2015, increasing numbers of* FTFs who had joined entities such as the Islamic State in Iraq and the Levant (ISIL, also known as Da'esh); the Al-Nusrah Front (ANF); and other cells, affiliates, splinter groups or derivatives of ISIL, Al-Qaida or other terrorist groups have attempted to return to their countries of origin or nationality or to relocate to third countries.

FTFs who have begun to return from conflict zones to their countries of origin or nationality or to relocate to third countries present an acute and growing threat. Some returning and relocating FTFs have attempted, organized, planned, or participated in attacks in their countries of origin or nationality or third countries, including against "soft" targets.[2] Some FTFs may be travelling with family members brought with them to conflict zones, with families that they have formed in the conflict zones, or with family members born in the conflict zones. [3]

In its resolution 2396 (2017), the Security Council requests the Committee, with the support of CTED, to review the 2015 *Madrid Guiding Principles* in light of the evolving threat posed by FTFs, particularly FTF returnees, relocators and their families, and other principal gaps that may hinder States' abilities to appropriately detect, interdict, and where possible, prosecute, rehabilitate and reintegrate FTF returnees and relocators and their families, as well as to continue to identify new good practices.[4]

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[1] S/2018/14/Rev.1*. S/2018/705

[2] S/RES/2396 (2017), preamble.

[3] S/RES/2396 (2017), preamble.

[4] S/RES/2396 (2017), para. 44.

At a further special meeting of the Committee, held at United Nations Headquarters, New York, on 13 December 2018, participants reaffirmed the relevance of the *Madrid Guiding Principles* and contributed to the development of the present *Addendum*, which includes 17 additional good practices to assist Member States in their efforts to respond to the evolving FTF phenomenon.

An effective response to this phenomenon requires that States strengthen international cooperation, including on information-sharing; border security; investigations; judicial processes; providing mutual legal assistance (MLA) and extradition cooperation; improving prevention of, and addressing, conditions conducive to the spread of terrorism; preventing and countering incitement to commit terrorist acts, consistent with international law; preventing radicalization to terrorism and recruitment of FTFs; disrupting and preventing financial support to FTFs; developing and implementing risk assessments on returning and relocating FTFs and their families; and prosecution, rehabilitation and reintegration (PRR) efforts, consistent with applicable international law.[5]

The present *Addendum to the Madrid Guiding Principles* is intended to provide guidance for an effective response to the evolving FTF phenomenon, focusing on measures to be taken in the areas of: border security and information-sharing; countering terrorist narratives; preventing and countering incitement and recruitment to commit terrorist acts, consistent with international law; countering violent extremism conducive to terrorism; risk assessments and intervention programmes; judicial measures, including PRR strategies; addressing the risks of terrorist radicalization and recruitment in prisons and ensuring that prisons can serve to rehabilitate and reintegrate; international cooperation; protecting critical infrastructure, vulnerable targets, "soft" targets, and tourism sites; and preventing and combating the illicit trafficking of small arms and light weapons (SALW).

Member States must ensure that any measures taken to counter terrorism comply with all their obligations under international law, in particular international human rights law, international refugee law, and international humanitarian law.[6] Comprehensive strategies should also take into account gender and age sensitivities,[7] the best interests of the child, and the differential impact of terrorism and violent extremism conducive to terrorism on the human rights of women and girls.[8] Respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counter-terrorism measures and are an essential part of a successful counter-terrorism effort. Failure to comply with these and other international obligations, including under the Charter of the United Nations, is one of the factors contributing to increased radicalization to violence and fosters a sense of impunity.

States are encouraged to ensure the effective participation and leadership of women in the design, implementation, monitoring, and evaluation of counter-terrorism strategies and to enable and empower young people and other members of civil society to participate voluntarily in efforts to implement such strategies.[9]

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[5] S/RES/2396 (2017), preamble.
[6] S/RES/2396 (2017), preamble.
[7] S/RES/2396 (2017), para. 31.
[8] S/RES/2242 (2015), preamble.
[9] S/RES/2396 (2017), para. 39. See also *Madrid Guiding Principle* 10.

The present guiding principles draw upon the Committee's (i) country assessments; (ii) ongoing dialogue with Member States; (iii) cooperation with the Analytical and Sanctions Monitoring Team of the 1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee; (iv) cooperation with international and regional organizations; (v) engagement with civil society, including members of CTED's Global Research Network (GRN) and other academic and research institutes; (vi) third-party intelligence; and (vii) engagement with the private sector.

Specific contributions were received from Member States, United Nations Offices, other international and regional organizations, and civil society, including members of CTED's Global Research Network, in advance of, and during, the special meeting of 13 December 2018.

As part of this review process, the Committee and CTED also held a number of events to exchange views and receive inputs with various stakeholders, including: (i) a workshop with members of the GRN and other academics and analysts, held during the World Counter-Terrorism Summit hosted by the International Institute for Counter-Terrorism – The Hague in Herzliya, Israel, from 3 to 6 September 2018; (ii) an expert forum organized by the State of Qatar, the Soufan Center and CTED in Doha on 30 and 31 October 2018; (iii) an interactive briefing for Committee members, United Nations agencies, civil society organizations and other non-governmental actors jointly organized by CTED and the Global Centre on Cooperative Security in New York on 19 November 2018; and (iv) an interactive open briefing organized by the Chair of the Committee for the wider membership of the United Nations in New York on 20 November 2018.

Many of the guiding principles set forth in this document build upon existing good practices, which Member States should also consider implementing, in particular those of CTED, the Office of the United Nation High Commissioner for Human Rights (OHCHR); the United Nations Office of Counter-Terrorism (UNOCT); the United Nations Office on Drugs and Crime (UNODC); United Nations University (UNU); the Financial Action Task Force (FATF) and FATF-style regional bodies (FSRBs); the International Air **Transport Association (IATA)**; the International Association of Prosecutors (IAP); the International Civil Aviation Organization (ICAO); the International Criminal Police Organization (INTERPOL); the International Institute for Justice and the Rule of Law (IIJ); the World Customs Organization (WCO); the African Centre for Studies and Research on Terrorism (ACSRT); the African Union; the Council of Europe; the European Union; the Global Counterterrorism Forum (GCTF)[10]; the Meeting of Heads of Special Services, Security Agencies and Law-Enforcement Organizations; the Organization for Security and Cooperation in Europe (OSCE); and the International Centre for Counter-Terrorism (ICCT).

CTED's *Technical Guide to the implementation of Security Council resolution 1373 (2001) and other relevant resolutions* (https://www.un.org/sc/ctc/wp-content/uploads/2017/08/CTED-Technical-Guide-2017.pdf) provides references to specific international guidelines and good practices relevant to the implementation of the principles set forth in the present *Addendum.*[11] It should be noted that the *Madrid Guiding Principles* remain highly relevant and should be implemented in conjunction with the

[10] S/RES/2396 (2017) notes the *Hague-Marrakech Memorandum Addendum on Good Practices for More Effective Response to the FTF Phenomenon with a focus on Returning FTFs* and its comprehensive set of good practices to address the FTF phenomenon.

[11] https://www.un.org/sc/ctc/wp-content/uploads/2017/08/CTED-Technical-Guide-2017.pdf

present *Addendum*. States should implement these measures in a comprehensive manner, as part of their overall counter-terrorism approaches.

Some Member States may face technical assistance and capacity-building challenges when applying the principles set forth in the *2015 Madrid Guiding Principles* and the present *Addendum*. The Committee therefore encourages the provision of assistance by donor States to help address such gaps and also encourages relevant United Nations entities, including UNODC and UNOCT, to further enhance, in close consultation with the Committee and CTED, the provision and delivery of technical assistance to States, upon request, to better support Member States' efforts to apply these principles and meet the requirements set forth in Security Council resolutions. Application of the principles relating to border security and information-sharing may be particularly resource-intensive. Many States have found that implementation of their obligations relating to advance passenger information (API), watch lists, databases, and biometric systems requires legal frameworks, skills, capacity, expertise and equipment that they do not currently possess. CTED has identified those as among the priority areas for capacity-building.

I. Border security and information-sharing

1. In its resolutions 1373 (2001), 2178 (2014) and 2396 (2017), the Security Council states that all Member States shall prevent the movement of terrorists or terrorist groups, through effective border controls and controls on the issuance of identity papers and travel documents and through measures to prevent counterfeiting, forgery or fraudulent use of identity papers and travel documents. All such measures must be undertaken in accordance with domestic law and international obligations with full respect for human rights and fundamental freedoms.

2. Appropriate information concerning the identity of existing, suspected or potential FTFs, without resorting to profiling based on any discriminatory grounds prohibited by international law**,** upon which border authorities can make informed decisions, should be made available in a timely manner to ensure FTFs are detected during routine border, immigration and police checks. Information on FTFs should be specific and could be supplemented by general information. Specific information includes information obtained from sources such as law-enforcement and intelligence agencies and the military; API; Passenger Name Records (PNR); biometrics; national and international watch lists; INTERPOL databases (including both the FTF and Stolen and Lost Travel Documents (SLTD) databases and the system of international notices and diffusion notices); analytical products; and informants. General information includes the results of trends analyses and risk assessments.

3. In order to maximize opportunities for the detection of FTFs and the prevention of their onward travel, information on FTFs should routinely be compared against information generated during all individual travel, including, but not limited to API, border-crossing information, biometrics, PNR and visa applications, and appropriately shared with all States concerned.

A. Improving capabilities for detecting and interdicting terrorist travel, including effective use of API and PNR

4. The implementation of risk assessments and appropriate targeting measures by law-enforcement agencies and border-control authorities at international airports and at other entry points is essential to the identification, detection and interception of suspected FTFs and other high-risk passengers. The flow of passenger-related information from carriers to

law-enforcement and border-control authorities can be divided into two streams: API and PNR. As noted in the *Madrid Guiding Principles*, an API system enables border authorities to determine passenger risk before flights arrive on their territories, before passengers are approved for boarding to detect the departure from their territories, or before the attempted entry into or transit of suspected FTFs through their territories. The *Guidelines* further note that the use of PNR can complement an API system and help inform decisions on potential FTFs. The introduction of API, supplemented by PNR, would greatly assist States to detect FTFs attempting to cross their borders.[12] Such measures are highly dependent on the validity of the travel data and other information provided to law-enforcement agencies and border-control authorities by carriers, shippers, freight forwarders and importers.

5. In its resolution 2396 (2017), the Council decides that, in furtherance of resolution 2178 (2014) and of the relevant standards of ICAO,[13] and for the purpose of preventing, detecting, and investigating terrorist offences and travel in full respect for human rights and fundamental freedoms, Member States shall: (i) establish API systems; and (ii) require airlines operating in their territories to provide API to the appropriate national authorities. The Council further calls upon Member States to share this information with the State of residence or nationality or with the countries of return, transit or relocation and relevant international organizations, as appropriate, and ensure that API is analysed by all relevant authorities.

6. In the same resolution, the Council decides that States shall develop the capability to collect and process PNR data and ensure that such data is used by, and shared with, all their respective competent national authorities. The Council also encourages States to share PNR with relevant or concerned States to detect FTFs returning to their countries of origin or nationality or travelling or relocating to a third country, with particular regard to all individuals designated by the 1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee. The Council emphasizes that all such measures must be undertaken in accordance with domestic law and international obligations, with full respect for human rights and fundamental freedoms.

7. The use of PNR systems in accordance with the recommended practices of ICAO[14] can complement API data and help inform decisions concerning potential FTFs. However, PNR systems require considerable technical capacity, expertise and skill, as well as adequate resources. PNR data is generated through the information provided by passengers as they book their airline tickets and check into their flights. This information is held in the carrier's reservation and departure control systems and may include a broad range of information, including the passenger's name, travel dates, ticket information, contact details, name of travel agent, means of payment, seat number, and baggage information. Many States already use PNR for law-enforcement purposes, whether on the basis of specific legislation or pursuant to general legal powers, including to combat cross-border crime. Since the use of PNR involves the processing of personal data, it is important that States incorporate proper oversight on collection and use of data and safeguards for personal information received and shared by Government to address the privacy and protection of personal data, while also ensuring that precautions are taken against the misuse or abuse of the data by State authorities.

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[12] WCO/IATA/ICAO Guidelines on Advance Passenger Information (API), 2014 and ICAO Guidelines on Passenger Name Record (PNR) Data, Doc. 9944 and PNR reporting standards.

[13] API sharing became mandatory pursuant to Annex 9 to the Convention on International Civil Aviation on 23 October 2017.

[14] In March 2005, the ICAO Council adopted the recommended practice on PNR for inclusion in Annex 9 to the Convention on International Civil Aviation.

8. The utilization of advanced technologies to identify FTFs and other individuals linked to terrorism is increasing. However, efforts to ensure that border-management strategies are comprehensive, human rights-compliant, non-discriminatory, and gender- and age-sensitive continue to face significant challenges. The use of API and PNR involves the processing of personal data. This can pose human rights challenges, in particular the right to be free from arbitrary or unlawful interference with privacy. Few States possess the required resources, capacity and expertise to effectively implement highly technical API and PNR systems. States, international and regional organizations, and other relevant entities should therefore share their existing expertise and experiences and increase the level of technical assistance delivered to States in need.

Guiding Principle 1[15]

In implementing their API and PNR obligations, Member States should:

(a) **Ensure that national legislation clearly regulates the way in which States can collect, use, retain and transfer API and PNR data in accordance with the ICAO Standards and recommended Practices (SARPs), in accordance with domestic law and international obligations, and with full respect for human rights and fundamental freedoms, including by being consistent with article 17 of the ICCPR;**

(b) **Ensure the availability of adequate resources, and support if possible any capacity-building efforts, to implement effectively API and PNR systems;**

(c) **Obligate air carriers to transfer API and PNR data to the relevant national authorities (single windows and passenger information units (PIUs));**

(d) **Establish/designate specific entities responsible for the collection, storage, processing and analysing of PNR and API data received from air carriers (e.g., through establishment of Passenger Information Units (PIUs) and capacity-building efforts). The PIUs should compare PNR and API data against relevant law enforcement databases and process them against pre-determined criteria to identify persons that may be involved in a terrorist offence, without resorting to profiling based on any discriminatory grounds prohibited by international law. The PIUs should also reply, on a case-by-case basis, to duly reasoned requests for PNR and API data originating from the competent authorities;**

(e) **Designate a data-protection officer to the PIU responsible for monitoring the processing of PNR data and for implementing relevant safeguards;**

(f) **Consider sharing appropriate API and PNR data with relevant or concerned Member States to detect FTFs returning to their countries of origin or nationality, or travelling or relocating to a third country, with particular regard for all individuals designated by the 1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee, with full respect for human rights and fundamental freedoms, and ensure global interoperability in this regard;**

(g) **Allow for such data to be compared, for instance, against INTERPOL databases and United Nations sanctions lists;**

(h) **Ensure that PNR data-processing and retention frameworks incorporate oversight and privacy protections, while also ensuring that precautions are taken against the misuse or abuse of the data by State authorities;**

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[15] See also *Madrid Guiding Principle 19*, CTED' *Technical Guide to the implementation of resolution 1373 (2001) and other relevant resolutions* (updated in 2017), p. 63; Convention against Transnational Organized Crime, 2001; ICAO Guidelines on Passenger Name Record (PNR) Data (Doc. 9944); WCO/IATA/ICAO Guidelines on Advance Passenger Information (API) 2014; IOM's Passport Examination Procedure Manual 2016; UNHCR, *Addressing Security Concerns without undermining Refugee Protection*, December 2015; and OSCE *Further measures to prevent the criminal use of lost/stolen passports and other travel documents*, S/2015/975, p. 3; S/2016/49, para. 426.

(i) **Ensure respect for the data subjects' right to freedom from arbitrary or unlawful interference with privacy under international law, as well as for relevant protections under national law, which may include access, rectification, restrictions on use, and judicial redress.**

B. Developing watch lists and databases and sharing information through bilateral and multilateral mechanisms

9. In its resolution 2396 (2017), the Council decides that States shall develop watch lists or databases of known and suspected terrorists, including FTFs, for use by law enforcement, border security, customs, military, and intelligence agencies to screen travellers and conduct risk assessments and investigations, in compliance with domestic and international law, including human rights law. The Council encourages States to share this information through bilateral and multilateral mechanisms, in compliance with domestic and international human rights law.

10. The development of watch lists or databases is critical to the processing and verification of traveller identity (biographic and biometric data) and passenger data (API/PNR) and to the detection of terrorists, including FTFs and FTF returnees and relocators. Consisting of various types of data, watch lists and databases are national or regional alert systems that provide advance warnings and checking procedures to assist in the recognition and identification of suspected criminals, terrorists, and suspicious goods or materials at border-crossing points or early detection of suspected or previously unknown criminals and terrorists. These watch lists and the outcomes of screening against watch list and databases can also be taken into consideration for the sharing of information with international organizations such as INTERPOL and relevant international competent authorities. All watch lists and databases should operate in accordance with national laws and international obligations of States under international law. Further legislation may be required to permit searching and sharing between different databases, whether nationally or internationally. To facilitate international information-sharing, it is essential that States develop, establish, and maintain appropriate national watch lists and databases and ensure that all competent national authorities have access to them. States are encouraged to ensure the interoperability of their national watch lists and databases and to establish connectivity to regional and international watch lists and databases and enable information-sharing, as appropriate, with relevant competent authorities, whether nationally or internationally.

11. The potential misuse or abuse of watch lists and databases can present human rights and rule-of-law challenges. There are no common international standards for developing and maintaining watch lists and databases, which are generally developed at the national level without clear, internationally recognized legal frameworks. Human rights mechanisms have noted that States do not apply universal standards and criteria for the inclusion of individuals' names in national terrorist watch lists and databases; for the management and sharing of such databases; or for the development of possible grounds and procedures for the removal of names. As with other counter-terrorism measures, the development of effective oversight mechanisms is strongly encouraged. Member States are encouraged to share insights into legal standards or national operational practices to strengthen mutual understandings and possible good practices.

12. A number of international organizations have established control mechanisms. In the case of INTERPOL, for example, controls are imposed by an independent monitoring body, the Commission for the Control of INTERPOL Files. The exchange of data between

INTERPOL member States is carried out in accordance with strict guidelines to ensure the legality and quality of the information exchanged, as well as the protection of personal data.[16]

Guiding Principle 2[17]

In implementing their obligations to establish and maintain an integrated counter-terrorism watch list or database, Member States should:

(a) Provide effective oversight of the entire watch list or database and pay particular attention to data-management functions and the purposes for which the data is to be used and to avoid any unauthorized extension of scope or access;

(b) Verify that clear and appropriate criteria, including with respect to the definitions of terrorist acts, consistent with Security Council resolutions and their obligations under international counter-terrorism conventions, are developed and relied upon for the inclusion of persons' names in watch lists and databases;

(c) Implement a regulatory framework for the enrolment, use, review, retention and deletion of data from the watch list or database;

(d) Ensure that the communications network is secured and that appropriate security levels are in place to protect the operational environment, including the data, hardware, software and the communications network;

(e) Ensure that the watch list or database includes input from authorized relevant law enforcement agencies and hence ensure that the watch list or database is sufficiently comprehensive;

(f) Ensure that the watch list or database is accessible to the relevant law enforcement agencies and border authorities;

(g) Ensure that the actions and responses of all relevant law-enforcement agencies and border authorities, based on a match received from a watch list or database, are in compliance with domestic and international law, including human rights law;

(h) Consider developing and implementing specific frameworks and safeguards to protect and promote the rights of the child in situations where children may be placed on watch lists or databases, including in situations where children are placed on databases for child-protection purposes. Information regarding missing children who may be victims of parental abductions, criminal abductions (kidnappings) or unexplained disappearances can also be shared through INTERPOL's yellow alert system,[18] as well as through regional, bilateral and national watch lists and databases, in appropriate cases;

(i) Contribute to, and make use of, INTERPOL databases and ensure that their law-enforcement, border-security and customs agencies are connected to these databases, through their National Central Bureaus (NCBs), and that the connection is extended to key frontline border posts, including land, air and sea points of entry; and

(j) Once access to the databases is achieved, make regular use of INTERPOL databases for use in screening travellers at air, land and sea ports of entry and for strengthening investigations and risk assessments of returning and relocating FTFs and their families.

C. Developing biometric systems and ensuring their responsible use

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[16] Rules on the Processing of Data and Statute of the Commission for the Control of INTERPOL Files.

[17] S/PRST/2015/11; *Madrid Guiding Principle 15*, CTED's *Technical Guide to the implementation of resolution 1373 (2001) and other relevant resolutions* (updated in 2017), pp. 76-79.

[18] https://www.interpol.int/INTERPOL-expertise/Notices/Yellow-Notices.

13. In its resolution 2396 (2017), the Council decides that States shall develop and implement systems to collect biometric data, which could include fingerprints, photographs, facial recognition, and other relevant identifying biometric data, in order to responsibly and properly identify terrorists, including FTFs, in compliance with domestic law and international human rights law. The Council also encourages States to share this data responsibly among relevant Member States, as well as with INTERPOL and other relevant international bodies.

14. The ability to compare biometric data, collected during the course of border and immigration vetting and investigations, against wider national and international biometrics tools, is critical for properly identifying terrorists, including when FTFs use falsified documents. In the context of a terrorism-related investigation, forensic science can assist investigators and prosecutors by linking an individual to a specific activity, event, place or material, or to another individual. It is therefore essential to strengthen Member States' capacities in this area.

15. States are increasingly incorporating the use of biometrics as an important counter-terrorism tool. Voice identification, iris scans, face recognition, fingerprints, DNA and body scans are just a few examples of the many digital technologies that are being developed and deployed for counter-terrorism purposes. These technologies present complex legal and policy challenges that are relevant both to States' efforts to counter terrorism and to their human rights obligations. Biometric systems are a legitimate tool for the identification of terrorist suspects, but the expansive technical scope and rapid development of this technology deserves greater attention as it relates to the protection of human rights (including, but not limited to, the right to be free from arbitrary or unlawful interference with privacy).

16. Any interference with privacy must comply with international human rights law, which prohibits arbitrary or unlawful interference with privacy.[19] Biometric technology creates particular challenges because of the gap created by technological innovation and the introduction of legislation regulating such technologies. Consequently, States should introduce effective privacy-impact assessments, or review or other oversight bodies, to anticipate and consider the potential impact of such new technologies or applications.

17. As Member States' use of biometric systems continues to expand, the parameters for their responsible use continue to evolve accordingly. It is imperative that such systems be implemented in compliance with domestic law and international human rights law. It is also essential to provide safeguards for the protection of data and human rights, focusing in particular on the need to ensure that all systems developed to collect and record information about children are used and shared in a human rights-compliant and responsible manner.

Guiding Principle 3

In implementing their obligations to collect, use and share biometric data in order to responsibly and properly identify terrorists, including FTFs, in compliance with domestic law and international human rights law, Member States should:

(a) **Counter the threat posed by the continual movement of suspected terrorists and FTFs across international borders by comparing the biometrics of individuals entering,**

[19] International Covenant on Civil and Political Rights (ICCPR), article 17.

departing or seeking residence in their country against other national and international biometric databases, including those of known and suspected FTFs;

(b) **Develop or increase their use of biometric systems in a responsible and proper manner to authenticate the identity of individuals and prevent them from presenting false particulars or attempting to impersonate other people;**[20]

(c) **Ensure effective maintenance of biometric databases and data-sharing protocols;**

(d) **Adopt clear human rights-based frameworks for the use of biometric technology, which include the use of procedural safeguards and effective oversight of its application, including by establishing, or expanding the remit of existing, appropriate oversight bodies to supervise the implementation of relevant legislation and the provision of effective remedies in case of violations in this regard. This could be supplemented by a review process that informs all national policy and decision-making regarding the use of biometrics for counter-terrorism purposes;**

(e) **Take into consideration specific issues that may arise with respect to protecting and promoting the rights of the child in the context of biometrics, including when children's biometric data is collected for child-protection purposes, and further considering putting in place specific, appropriate legal frameworks and safeguards;**

(f) **Conduct regular risk assessments of the end-to-end processes of their biometric applications in order to mitigate current or emerging threats, such as identity theft, deletion and replacement of data, and deliberate damage;**

(g) **Ensure that actions taken by the authorities as a result of biometric matches are considered in the context of international law, including international human rights obligations and the need for a fully-informed, lawful response;**

(h) **Ensure that the systems operating biometric data and the legal frameworks associated with their use allow for interoperability between other national and international biometric databases, including INTERPOL; and**

(i) **Maximize the use of the INTERPOL Biometric Databases (Face, Fingerprints and DNA).**

II. Preventing and countering incitement and recruitment to commit terrorist acts, consistent with international law; countering violent extremism conducive to terrorism and terrorist narratives; risk assessments and intervention programmes.

18. A comprehensive approach to the threat posed by FTFs includes addressing the conditions conducive to the spread of terrorism; preventing radicalization to terrorism; stemming recruitment; countering incitement to commit terrorist acts; respecting human rights and fundamental freedoms; and promoting political and religious tolerance, good governance, economic development and social cohesion, and inclusiveness.

19. Member States should also continue to strengthen international cooperation to address the threat posed by FTFs, including by improving prevention and addressing conditions conducive to the spread of terrorism, preventing and countering incitement to commit terrorist acts, consistent with international law, and radicalization to terrorism and preventing recruitment of FTFs. Member States should collaborate in the pursuit of effective counter-narrative strategies and initiatives, including those relating to FTFs and individuals radicalized to violence; act cooperatively when taking national measures to prevent terrorists from exploiting technology and communications for terrorist acts; and assist one another in this area, including by

[20] CTED updated *Technical Guide to the implementation of resolution 1373 (2001) and other relevant resolutions*, p. 64.

sharing their knowledge and experience and through technical assistance delivery and capacity-building.

20. All measures taken by States to counter terrorism must comply with their obligations under international law, including international human rights law, international refugee law, and international humanitarian law. Counter-terrorism measures and respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing. Failure to comply with international human rights law, international refugee law, and international humanitarian law and other international obligations, including those set forth in the Charter of the United Nations, is a factor that contributes to increased radicalization to violence and fosters a sense of impunity.

A. Preventing and countering incitement and recruitment to commit terrorist acts, consistent with international law; Countering violent extremism conducive to terrorism and terrorist narratives.

21. In its resolution 2396 (2017), the Security Council expresses concern that terrorists may craft distorted narratives to polarize local communities, recruit supporters and FTFs, mobilize resources, and win support from sympathizers, including through the Internet and social media. The Council calls for effectively countering the ways that ISIL, Al-Qaida, and associated individuals, groups, undertakings and entities use their narratives to incite and recruit others to commit terrorist acts, and recalls, in this regard, its resolution 2354 (2017) and the "Comprehensive International Framework to Counter Terrorist Narratives" (S/2017/375) with recommended guidelines and good practices.[21] It is also necessary, in this regard, to ensure consistent implementation of resolutions 1624 (2005) and 2178 (2017).

22. In countering terrorist narratives, States should respect the right to freedom of expression reflected in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR) and ensure that any restrictions thereon shall only be such as provided by law and are necessary on the grounds set out in paragraph 3 of article 19 of the ICCPR. Also, all measures taken in the field of countering terrorist narratives should be based on the Charter of the United Nations, including with respect to the principles of sovereignty, territorial integrity and political independence of all States.

Guiding Principle 4[22]

In undertaking efforts to effectively counter the ways that ISIL, Al-Qaida, and associated individuals, groups, undertakings and entities use their narratives to incite and recruit others to commit terrorist acts, Member States should:

(a) **Collaborate in the pursuit of developing and implementing effective strategies to counter-terrorist narratives, in particular relating to FTFs, in a manner compliant with their obligations under international law, including international human rights law, international refugee law and international humanitarian law, as**

[21] S/RES/2396 (2017), para. 33.

[22] See also "Comprehensive International Framework to Counter Terrorist Narratives" (S/2017/375), *Madrid Guiding Principles 1-14;* CTED *Technical Guide to the implementation of resolution 1373 (2001) and other relevant resolutions* (updated in 2017), pp. 88–90 and 91-95.

applicable, while safeguarding the rights to freedom of expression, peaceful assembly and association, and the right to be free from arbitrary or unlawful interference with privacy;

(b) **Promote peaceful alternatives to the narratives espoused by FTFs, address underlying drivers, and engage with a wide range of actors, including through the participation and leadership of youth and women, as well as families; religious, cultural, education, and local community leaders; other civil society actors; victims of terrorism; the media; and private-sector entities;**

(c) **Tailor their counter-terrorism measures and programmes to the specific circumstances of different contexts at all levels in order to increase their effectiveness, aiming not only to rebut terrorists' messages, but also to amplify positive narratives, to provide credible alternatives, and to address issues of concern to vulnerable audiences who are subject to terrorist narratives, both online and offline;**

(d) **Take into account the gender dimension and age sensitivities, and address specific concerns and vulnerabilities, in their counter-narrative initiatives;**

(e) **Consider facilitating counter-narrative measures and programmes, including by "seeding", and not only directing, messaging efforts, and by helping to identify sources of funding;**

(f) **Consider collecting and sharing good practices in countering terrorist narratives;**

(g) **Consider continuing, building on, or fostering new strategic and voluntary partnerships with many different actors, such as the private sector, in particular social media and other communications service providers, including for the purposes of blocking, filtering or removing terrorist content; and civil society actors who can play an important role in developing and implementing more effective means to counter the use of the Internet for terrorist purposes, counter terrorist narratives, and develop innovative technological solutions;**

(h) **Encourage information and communications technologies (ICT) service providers to voluntarily develop and enforce terms of service that target content aimed at recruitment for terrorism and recruiting or inciting others to commit terrorist acts, while respecting international human rights law, and publish regular transparency reports; and**

(i) **Support efforts aimed at raising public awareness of counter-terrorist narratives through education and media, including through dedicated educational programmes to pre-empt youth acceptance of terrorist narratives.**

B. Risk assessments and intervention programmes.

23. In its resolution 2396 (2017), the Council calls on States to develop and implement risk-assessment tools to identify individuals who demonstrate signs of radicalization to violence and to develop intervention programmes, including with a gender perspective, in compliance with applicable international and domestic law and without resorting to profiling based on any discriminatory grounds prohibited by international law.

Guiding Principle 5

In developing risk-assessment tools to identify individuals who demonstrate signs of radicalization to violence and intervention programmes, Member States should:

(a) **Ensure that risk assessments do not lead to profiling based on any discriminatory grounds prohibited by international law;**

(b) **Develop intervention programmes, including with a gender perspective, as appropriate, to prevent such individuals commit acts of terrorism, in compliance with applicable international and domestic law and without resorting to profiling based on any discriminatory grounds prohibited by international law;**
(c) **Consider ways to ensure that professionals involved in risk assessments have relevant expertise and access to continuous training, development and validation;**
(d) **Put in place effective oversight mechanisms to ensure accountability of professionals involved in risk assessments;**
(e) **Consider developing or supporting mechanisms to evaluate risk-assessment tools and intervention programmes; and**
(f) **Consider sharing relevant experiences and expertise with other States, regional organizations, multilateral forums and civil society organizations.**

III. Judicial measures and international cooperation

24. In its resolution 2396 (2017), the Council reiterates that all Member States shall ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in support of terrorist acts is brought to justice; recalls its decision that all States shall ensure that their domestic laws and regulations establish serious criminal offences sufficient to provide the ability to prosecute and to penalize the activities described in paragraph 6 of resolution 2178 (2014) in a manner duly reflecting the seriousness of the offence; urges States, in accordance with domestic and applicable international human rights law and international humanitarian law, to develop and implement appropriate investigative and prosecutorial strategies regarding those suspected of the FTF-related offences described in paragraph 6 of resolution 2178 (2014); and reaffirms that those responsible for committing, or are otherwise responsible for, terrorist acts and violations of international humanitarian law or violations or abuses of human rights in this context must be held accountable.

25. In accordance with the relevant resolutions, in particular 1267 (1999), 1373 (2001), 1624 (2005), 2322 (2016) and 2396 (2017) and the applicable bilateral and multilateral treaties, all States shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings, and States are urged to act in accordance with their obligations under international law, in order to find and bring to justice, extradite, or prosecute any person who supports, facilitates, participates or attempts to participate in the direct or indirect financing of activities conducted by terrorists or terrorist groups. Member States must fully comply with their obligations under international counter-terrorism conventions to which they are parties, in particular their obligations relating to the extradition and prosecution of terrorists.

26. The Council also calls on States to take measures to improve the collection, handling, preservation and sharing of relevant information and evidence, in accordance with domestic and international law, including information obtained from the Internet, or in conflict zones; encourages enhancing Member States' capacity to cooperate with the private sector (especially with ICT service providers), in accordance with applicable law, in gathering digital data and evidence in cases relating to terrorism and FTFs; and calls on States to improve international, regional, and subregional cooperation, if appropriate, through multilateral and bilateral agreements, to prevent the undetected travel of FTFs (especially returning and relocating FTFs) from or through their territories.

27. Women and children associated with FTFs returning and relocating from conflict may require special focus and assistance, as they may have served in many different roles, including as supporters, facilitators, or perpetrators of terrorists acts, and may be victims of terrorism. States should pay particular attention to ensuring that their domestic legislation respects international law with regard to women and children, as well as taking into account the best interests of the child as a primary consideration.

A. Legal frameworks and procedures

28. In order to ensure that they have in place the appropriate legal tools to address the evolving FTF phenomenon, Member States may need to amend their existing laws or introduce new laws to meet the requirements of Council resolutions 1373 (2001), 1624 (2005), 2178 (2014) and 2396 (2017). In accordance with resolutions 1373 (2001), 2178 (2014) and 2396 (2017), States are required to criminalize preparatory and inchoate offences, including "planning and preparing to travel as an FTF"; "organizing, facilitating and financing travel of FTFs"; and "receiving of terrorist training", in compliance with international human rights law. In amending existing laws or adopting new laws, States are encouraged to include PRR measures in accordance with Council resolutions 2178 (2014) and 2396 (2017).

Guiding Principle 6[23]

***In implementing their obligations to ensure the compliance of their existing laws and regulations with resolution 2396 (2017) and in updating national legislation, as needed, Member States should*:**

(a) **Ensure that their national legislation criminalizes the full range of conduct relating to FTFs, including preparatory and inchoate acts, and when such acts are required by resolutions 1373 (2001), 2178 (2014) and 2396 (2017); and**
(b) **Ensure that these criminal offences are defined clearly in their legal systems; that penalties for terrorism-related crimes, including those of FTFs, are commensurate with their gravity; and that such criminalization is in accordance with their obligations under international law.**

Guiding Principle 7

In undertaking efforts to ensure that appropriate action is taken in cases involving children, [24] Member States should put in place special safeguards and legal protections, in full compliance with their obligations under international law, ensuring that the competent authorities:[25]

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[23] See also *Madrid Guiding Principles 22-24;* CTED's *Technical Guide to the implementation of resolution 1373 (2001) and other relevant resolutions* (updated in 2017), pp. 40-41.

[24] Article 1 of the Convention on the Rights of the Child defines a child as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier".

[25] S/RES/2396 (2017), para. 37

(a) **Fully respect and promote the rights of the child, taking into account the best interests of the child as a primary consideration;**
(b) **Take into consideration the age of the child and the many roles that children associated with FTFs may have served, while recognizing that such children may be victims of terrorism;**
(c) **Consider the impact of terrorism on children and children's rights, especially in regard to issues relating to the families of returning and relocating FTFs;**
(d) **Assess each child individually and without prejudice, and take his or her rights and needs into account, while also considering the circumstances relating to the case and proceeding with any further criminal or security-related actions;**
(e) **Are provided with appropriate scope for discretion at all stages of proceedings and have at their disposal a variety of alternatives to judicial proceedings and sentencing, including (if appropriate) age-sensitive child-protection measures;**
(f) **Are provided with clear guidelines with respect to whether they should, or under what conditions, keep a child in detention and in which cases diversion is possible, subject to regulation and review, in accordance with international law and domestic standards, and bearing in mind that, in cases involving children, detention should be used as measure of last resort; and**
(g) **Act in accordance with the guidelines provided for in their criminal legislation, and defined in compliance with international law, regulating pre-trial detention and the utilization of other measures of restraint.**

B. Investigations and prosecutions

29. The prosecution of suspected FTFs continues to be at times significantly challenged by the difficulty of collecting sufficient admissible evidence to secure a conviction. Generating admissible evidence and converting intelligence into admissible evidence against FTFs are complex and multifaceted tasks. States should consider re-evaluating their methods and best practices, as appropriate, in particular those relating to specialized investigative techniques (including those involving electronic evidence). Improving the collection, handling, preservation and sharing of relevant information and evidence obtained from conflict zones, in accordance with domestic law and Member States' obligations under international law, is of paramount importance and an area in which the CTITF Working Group on Legal and Criminal Justice Responses to Terrorism is developing guidelines.[26]

Guiding Principle 8[27]

In undertaking efforts to ensure that the responsible authorities have the capacity, expertise and authority to handle intelligence threat data on FTFs and other individual terrorists and information collected by investigative agencies, and in creating procedures to convert such data and information, where possible, into admissible evidence, where appropriate and subject to the arrangements of its legal system, Member States should:

[26] *Draft guidelines to facilitate the use and the admissibility as evidence of information preserved, collected and shared by the military to prosecute terrorist offences before national courts* [working title]" which have been developed under the United Nations Counter-Terrorism Implementation Task Force (CTITF) Working Group on Legal and Criminal Justice Responses to Terrorism.
[27] See also *Madrid Guiding Principle 25.*

(a) **Consider ensuring that the use of special investigative techniques by investigative agencies is effectively supervised by judiciary and prosecution systems;**
(b) **Put in place, where needed, special investigation and prosecution approaches that are gender sensitive and, for cases involving children, take into account their rights;**
(c) **Use existing good practices and standard operating procedures, including those of INTERPOL, for forensic science procedures, in order to ensure the reliability of forensic evidence in court and promote public confidence; and**
(d) **Ensure effective protection of witnesses.**

Guiding Principle 9[28]

In undertaking efforts to gather digital data and evidence in cases relating to terrorism and FTFs, Member States should:

(a) Implement provisions on expedited preservation of digital data as a standalone measure in their procedural legislation and establish a specific legal regime for search and seizure of digital data;
(b) Consider encouraging private companies to establish 24/7 mechanisms for cooperation with law enforcement and clear rules for the preservation of digital evidence and emergency disclosure requests in accordance with applicable law;
(c) Develop ICT and forensic capacities and expertise within criminal justice and law-enforcement agencies;
(d) Use social media content relating to terrorism as digital evidence for investigation and prosecution, while respecting human rights and fundamental freedoms, and consistent with their obligations under domestic and applicable international law;
(e) Enhance cooperation between the relevant investigative agencies, including police-to-police and with the private sector, especially with ICT service providers, in gathering digital data and evidence in cases relating to terrorism and FTFs; and
(f) Request and gather electronic evidence from the relevant actors and across borders and consider making use of the *Practical Guide for Requesting Electronic Evidence Across Borders* developed by the CTED, UNODC and the IAP.

Guiding Principle 10[29]

In undertaking efforts to intensify and accelerate the timely exchange of relevant operational information and financial intelligence regarding actions or movements, and patterns of movements, of terrorists or terrorist networks, including FTFs, in accordance with domestic and international law, Member States should consider ways in which to:

(a) **Exchange relevant financial intelligence through national, bilateral and multilateral mechanisms, in accordance with domestic and international law;**
(b) **Ensure that the competent authorities can use financial intelligence shared by financial intelligence units (FIUs) and to obtain relevant financial information from the private sector;**

[28] See also *Madrid Guiding Principle 26.*
[29] See also *Madrid Guiding Principle 28.*

(c) **Conduct systematic financial investigations in all terrorism cases;**
(d) **Enhance the integration and use of financial intelligence in terrorism cases, including through enhanced inter-agency coordination and through public and private partnerships for the collection of information;**
(e) **Increase the use of financial intelligence and financial footprints as a tool to detect networks of terrorists, financiers and sympathizers;**
(f) **Improve the quality of the information shared internationally between FIUs on the financing of FTFs, returnees and relocators, small cells, and on the activities of terrorist fundraisers and facilitators, in all jurisdictions;**
(g) **Enhance the traceability and transparency of financial transactions, including by ensuring that financial institutions can share information, domestically and internationally within the same financial group, for the purposes of managing money-laundering and terrorism-financing risks and supplying the competent authorities with comprehensive information on criminal schemes; and identifying and registering unregulated money remitters, and assess and address the risks associated with the use of cash, unregulated remittance systems (including *hawalas*) and other financial products including prepaid cards;**
(h) **Address potential risks associated with the use of virtual assets and other anonymous means of monetary or financial transactions, and anticipate and address, as appropriate, the risk of new financial instruments being abused for terrorism-financing purposes;**
(i) **Continue to conduct research and to collect information to enhance knowledge of, and better understand, the nature and scope of the links that may exist between terrorists and transnational organized criminals; and**
(j) **Support initiatives and domestic mechanisms to effectively identify and address the linkages between terrorism and transnational organized crime.**

C. Prosecution, rehabilitation and reintegration strategies

30. In the *Madrid Guiding Principles*, the Committee notes that Member States should consider alternatives to incarceration, as well as the reintegration and possible rehabilitation of returnees, prisoners and detainees. In its resolution 2396 (2017), the Security Council calls on Member States to assess and investigate individuals (including suspected FTFs and their accompanying family members, including spouses and children) whom they have reasonable grounds to believe are terrorists and who enter their territories; to develop and implement comprehensive risk assessments for such individuals; and to take appropriate action, including by considering appropriate PRR measures, taking into account that some individuals may be victims of terrorism. Security Council resolution 2396 (2017) also stresses in this regard that Member States are obliged, in accordance with resolution 1373 (2001), to ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice. The Committee also emphasizes that States should ensure that they take all such actions in compliance with domestic and international law.

Guiding Principle 11[30]

[30] See also *Madrid Guiding Principles 30-32,* as well as CTED's *Technical Guide to the implementation of Security Council resolution 1373 (2001) and other relevant resolutions* (updated in 2017), pp. 50-52.

In undertaking efforts to develop and implement PRR strategies and protocols, Member States should:

(a) **Implement their obligations to ensure that terrorists are brought to justice, as required by Security Council resolutions 1373 (2001), 2178 (2014) and 2396 (2017), and ensure that their criminal-justice systems are capable of dealing with all serious crimes that may have been committed by FTFs;**[31]

(b) **Consider ways to ensure that PRR strategies correspond to national counter-terrorism strategies, including effective methods to counter violent extremism conducive to terrorism;**[32]

(c) **Consider ways to ensure that PRR strategies are timely, appropriate, comprehensive and tailored, taking into account gender and age sensitivities/factors,** [33] **comprehensive risk assessments,** [34] **the severity of the crime(s) committed,**[35] **available evidence, intent and individual culpability, the support network, the public interest, and other relevant considerations or factors, as appropriate, and in compliance with domestic and international law, including international human rights and humanitarian law;**

(d) **Ensure that such strategies can be combined with other measures, such as monitoring/reporting, supervision, probation, fixed addresses, restraining orders, surrender of passport/identification, travel bans or other measures. Such measures should be used in a manner compliant with applicable international human rights law and national legislation and should be subject to effective review;**[36]

(e) **Consider pursuing a whole-of-Government approach and, while recognizing the role that can be played by civil society organizations, including in the health, social welfare and education sectors and in local communities, as appropriate. In developing such an approach, States should consider ways to ensure effective coordination and clear leadership, including by creating multidisciplinary teams,** [37] **which may include law-enforcement agencies, the criminal-justice sector, prison and probation services, social services and, as appropriate, civil society organizations;**

(f) **Consider providing actors who assist them in implementing PRR strategies with the necessary resources, support, guidance and effective oversight and the opportunity to consult with the competent authority, as appropriate;**[38]

(g) **Engage proactively with civil society when developing rehabilitation and reintegration strategies for returning and relocating FTFs and their families, as civil society organizations may have relevant knowledge of, access to, and engagement with local communities;**

(h) **Consider encouraging the voluntary participation and leadership of women in the design, implementation, monitoring, and evaluation of strategies for addressing returning and relocating FTFs and their families;**[39]

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31 *Madrid Guiding Principle* 32.
32 *Madrid Guiding Principle* 30.
33 S/RES/2396 (2017), para. 31.
34 S/RES/2396 (2017), para. 29.
35 *Madrid Guiding Principle* 30.
36 *Technical Guide,* pp. 50-52.
37 *Technical Guide*, pp. 50-52, in particular “Issues for Consideration” No. 13.
38 *Technical Guide*, pp. 50-52, in particular “Issues for Consideration” No. 14.
39 S/RES/2396 (2017), para. 39.

(i) **Ensure that programmes aimed at addressing and countering terrorist narratives, including in prisons, respect international human rights law, including the freedom of opinion and expression, the freedom of religion or belief, and the right to be free from arbitrary or unlawful interference with privacy; and**
(j) **Monitor, evaluate and review the effectiveness of prosecution, rehabilitation and reintegration strategies.**

Guiding Principle 12[40]

In cases involving children, Member States should ensure that PRR strategies:

(a) **Make the best interests of the child a primary consideration;**
(b) **Are implemented in compliance with criminal legislation, taking into account the gravity of any crime that may have been committed, while considering the age of the child and recognizing that such child may also be a victim of terrorism;**
(c) **Include access to health care, psychosocial support and education programmes that contribute to the wellbeing of children, and grant access to regular education whenever possible;**[41]
(d) **Are age- and gender-sensitive;**
(e) **Enable the involvement of child-protection actors and the social sector, as well as their effective coordination with the justice sector.**[42]

D. Addressing the risks of terrorist radicalization and recruitment in prisons and ensuring that prisons can serve to rehabilitate and reintegrate

31. In its resolution 2396 (2017), the Council notes that prisons can serve as potential incubators for radicalization to terrorism and terrorist recruitment and that proper assessment and monitoring of imprisoned FTFs, aimed at reducing opportunities for terrorists to attract new recruits, is therefore critical. The resolution recognizes that prisons can also serve to rehabilitate and reintegrate prisoners, where appropriate, and that Member States may need to continue to engage with offenders after their release from prison in order to prevent recidivism, in accordance with relevant international law and taking into consideration, where appropriate, the United Nations Standard Minimum Rules for the Treatment of Prisoners ("Nelson Mandela Rules"). Member States are encouraged to take all appropriate actions to prevent inmates who have been convicted of terrorism-related offences from radicalizing to violence other prisoners with whom they may come into contact, in compliance with domestic and international law.

32. Standalone intervention programmes are less likely to be successful in the absence of broader efforts to ensure effective management of all prisoners. Such efforts should include implementing appropriate security measures, intelligence systems and control systems, as well as cooperation with other law-enforcement and criminal-justice agencies, specialized staff, faith professionals, therapists, mentors, and families, as appropriate. All efforts to address the risks of radicalization to terrorism and terrorist recruitment in prisons and to rehabilitate and reintegrate

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[40] See also *Madrid Guiding Principles 30-33*. See *CTED Technical Guide, p. 52, for a list of additional international instruments, standards and good practices that provide guidance in this area*.

[41] S/RES/2396 (2017), para. 36.

[42] UN Common Approach to Justice for Children (2008), Strategic interventions, point 3(b), fifth bullet point.

prisoners must be undertaken in full compliance with national legislation and with relevant international law and ensure full respect for human rights and fundamental freedoms, including the freedom of opinion and expression, the freedom of religion or belief, the right to be free from arbitrary or unlawful interference with privacy, and the absolute prohibition of torture. Such efforts should also include a gender perspective and take into consideration the needs and rights of the child.

Guiding Principle 13

In preventing prisons from serving as potential incubators for radicalization to terrorism and terrorist recruitment, and in ensuring that prisons can serve to rehabilitate and reintegrate prisoners, where appropriate, States should:

(a) **Separate prisoners according to their legal status (pre-trial from convicted), age (children from adults) and gender;**
(b) **Conduct proper intake and regular risk and needs assessment, which inform prisoners' classification and allocation;**
(c) **Ensure that conditions of detention respect the dignity of all prisoners, including protection from torture and other cruel, inhuman or degrading treatment or punishment; provide adequate material conditions and personal safety; and establish mechanisms to ensure that arrests of suspects and all forms of deprivation of liberty are in accordance with national legislation, as well as relevant obligations under international law;**
(d) **Consider establishing a structured prison-intelligence system, consistent with national legislation;**
(e) **Consider ensuring a sufficient number of qualified and well-trained staff, including appropriate specialized staff and other experts, such as faith professionals, therapists, and mentors, and establish mechanisms and protocols to ensure that all prison staff meet high standards of professional and personal conduct at all times;**
(f) **Ensure that there is a clear and consistent understanding of the process of terrorist radicalization and disengagement and, where appropriate, define clear, well-defined and, ideally, measurable, goals and objectives in disengagement processes;**
(g) **Consider putting in place a variety of programmes, including gender- and age appropriate programmes, which can be targeted to address the specific needs of each individual, combined with access to vocational training and education programmes, as well as religious, creative, cultural and recreational activities, as appropriate;**
(h) **Consider establishing mechanisms for collaboration between prison staff, local community-based service providers, civil society, and families, as appropriate;**
(i) **Consider offering pre-release programmes that provide opportunities for qualified inmates to access local community resources, including work/education/vocational training release, temporary home furlough and/or local community corrections, as appropriate;**
(j) **Consider establishing appropriate post-release administrative measures, monitoring and reporting obligations, intervention and support programmes, and protective measures upon release, as appropriate and in accordance with international law, including international human rights law; and**

(k) **Establish effective oversight mechanisms, taking into consideration, as appropriate, the United Nations Standard Minimum Rules for the Treatment of Prisoners ("Nelson Mandela Rules").[43].**

E. International cooperation

33. International judicial cooperation in cases relating to FTFs, including returnees, relocators and their families remains a challenge. Recognizing the persisting challenges common to FTF-related cases, the Council underlines, in its resolutions 2322 (2016) and 2396 (2017), the importance of strengthening international cooperation to prevent, investigate and prosecute terrorist acts.

Guiding Principle 14[44]

In order to strengthen international cooperation to prevent, investigate and prosecute terrorist acts, Member States should:

(a) **Enact and, where appropriate, review and update extradition and MLA laws in connection with terrorism-related offences, consistent with their international obligations, including their obligations under international human rights law, and consider reviewing national MLA laws and mechanisms relating to terrorism and updating them as necessary, in order to strengthen their effectiveness, especially in light of the substantial increase in the volume of requests for digital data;**

(b) **Designate and adequately staff central authorities for MLA, and competent authorities for extradition, and put in place clearly defined processes, roles and responsibilities for stakeholders involved in extradition and MLA;**

(c) **Consider providing UNODC with information for its repository database of existing networks of central authorities responsible for counter-terrorism matters, including contacts and other relevant details of designated authorities;**

(d) **Consider ratifying and using applicable international and regional instruments to which they are parties as a basis for MLA and, as appropriate, for extradition in terrorism cases, consistent with international human rights law, humanitarian law and refugee law, and including the principle of non-refoulement;**

(e) **Cooperate, where possible, on the basis of reciprocity or on a case-by-case basis, in the absence of applicable conventions or provisions;**

(f) **Act in accordance with their obligations under international law in order to find and bring to justice, extradite, or prosecute terrorist suspects;**

(g) **Establish, where possible, mechanisms and legal frameworks for joint investigations, and develop the capacity to enhance coordination of joint investigations, ensuring that they have in place (i) domestic mechanisms to allow for international cooperation in special investigative techniques, including, as appropriate, creation/use of joint investigation mechanisms; and (ii) bilateral and multilateral arrangements for international cooperation in special investigative techniques (especially with neighbouring States);**

(h) **Consider developing and participating in international and regional MLA cooperation platforms and informal networks and developing and enhancing**

[43] United Nations Standard Minimum Rules for the Treatment of Prisoners, Rules 83-85.

[44] See also *Madrid Guiding Principles 33-35.*

arrangements for expeditious cross-regional cooperation for terrorism-related offences; and

(i) **Consider ways, within the framework of the implementation of existing applicable international legal instruments, to simplify extradition and MLA requests;**

IV. Protecting critical infrastructure, vulnerable targets, "soft" targets, and tourism sites

34. In its resolution 2341 (2017), the Council calls upon States to consider developing or further improving their strategies for reducing risks to critical infrastructure from terrorist attacks, including by, inter alia, assessing and raising awareness of the relevant risks; taking preparedness measures, including implementing effective responses to such attacks and promoting better interoperability in security and consequence management; and facilitating effective interaction among all stakeholders involved.

35. In its resolution 2396 (2017), the Council stresses the need for States to develop, review, or amend national risk and threat assessments to take into account "soft" targets, in order to develop appropriate contingency and emergency-response plans for terrorist attacks. It also calls on States to establish or strengthen national, regional and international partnerships with public and private stakeholders on the sharing of information and experience, in order to prevent, protect, mitigate, investigate, respond to, and recover from, damage from terrorist attacks against "soft" targets.

36. Critical infrastructures and "soft" targets, in particular, are especially vulnerable and appealing as targets of terrorism. Critical-infrastructure vulnerabilities may be increased by interconnectivity, interlinkage and interdependence. The appeal of "soft" targets to terrorists derives not only from their open format and limited security to facilitate access, but also from the potential to cause civilian casualties, chaos, publicity, and economic impact.

37. Member States bear the primary responsibility for critical-infrastructure and "soft" target protection. Each State defines critical infrastructure and "soft" targets in accordance with its specific national context. However, there is a growing need to increase cooperation between States and with private companies that own, operate and manage critical infrastructure and "soft" targets in order to address security needs; reduce vulnerabilities; and share information on threats, vulnerabilities and measures, to mitigate the risk. Joint training, communications networks and information-sharing (e.g., methodologies, best practices, exercises) and early-warning mechanisms should be utilized and improved.

38. In order to maximize the potential to protect "soft" targets, public/private partnerships should be developed or strengthened at all levels of Government (e.g. State, local, provincial). Member States should encourage and support such partnerships with companies that can contribute to all aspects of preparedness; protection and mitigation of, response to, and recovery from terrorist attacks, as well as the investigation of such incidents.

39. Protection efforts entail multiple streams of effort, such as planning; public information and warning; operational coordination; intelligence and information-sharing; interdiction and disruption; screening, search and detection; access control and identity verification; cybersecurity; physical protective measures; risk-management for protection programmes and activities; and supply-chain integrity and security.

Guiding Principle 15[45]

In their efforts to develop and implement measures to protect critical infrastructure and "soft" targets from terrorist attacks, Member States, acting in cooperation with local authorities, should:

(a) **Identify, assess and raise awareness of the relevant risks and threats to critical infrastructure and "soft" targets from terrorist attacks;**
(b) **Determine what constitutes critical infrastructure and "soft" targets in the national context, based on ongoing analysis of terrorist capabilities, intentions, and past attacks, and regularly conduct risk assessments to keep pace with the evolving nature of the threat and adversary, including by utilizing existing tools and guidance developed by international and regional organizations;[46]**
(c) **Develop, implement and practice strategies and action plans for reducing risks to critical infrastructure and "soft" targets from terrorist attacks that integrate and leverage the capabilities of relevant public and private stakeholders;**
(d) **Take preparedness measures, including to ensure effective protection of, and responses to, such attacks, that are informed by comprehensive risk assessments;**
(e) **Promote better interoperability in security and crisis management;**
(f) **Promote risk-based and mutually reinforcing efforts to protect critical infrastructure and "soft" targets; and**
(g) **Establish or strengthen mechanisms to share information, expertise (e.g., tools, guidance) and experience among public and private stakeholders to investigate and respond to terrorist attacks on such targets.[47]**

Guiding Principle 16[48]

In their further efforts to protect critical infrastructure and "soft" targets from terrorist attacks, Member States, acting in cooperation with local authorities, should also consider:

(a) Updating contingency planning, such as guidance, exercises and training for law enforcement and other relevant ministries, and industry to keep pace with

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[45] The issue of protecting critical infrastructure, vulnerable targets, "soft" targets and tourism sites is not specifically addressed in the *Madrid Guiding Principles*. The guidance provided in *Guiding Principles 17 and 18* aim to support the implementation of Security Council resolution 2341 (2017) on the protection of critical infrastructure, complemented by resolution 2396 (2017) and its provisions on protecting "soft" targets. *Guiding Principles 17 and 18* also build on the guidance provided for in CTED's 2017 *Technical Guide* and in the *Compendium of good practices on the protection of critical infrastructure against terrorist attacks,* compiled by CTED and UNOCT (2018).

[46] ICAO Aviation Security Manual, which is designed to guide on how to apply the Standards and Recommended Practices included in Annex 17 to the Convention on International Civil Aviation (Chicago Convention). Published in 2017, the Manual features new and updated guidance material. Of particular interest with respect to critical-infrastructure protection are the guidance materials relating to the security of landside areas of airports, staff screening and vehicle screening, and cyber threats to critical aviation systems.

[47] SC/RES/2396 (2017), paras. 27 and 28.

[48] *Ibid*.

actual threats, to refine strategies and ensure that stakeholders adapt to evolving threats;

(b) Putting in place national frameworks and mechanisms to support risk-based decision-making, information-sharing and public-private partnering for both Government and industry, including with a view to working together to determine priorities, and jointly develop relevant products and tools, such as general guidelines on detecting surveillance or specific suggested protective measures for different types of facilities (e.g., stadiums, hotels, malls, or schools);

(c) Establishing processes for exchanging risk assessments between Government, industry and the private sector, to promote and increase situational awareness and strengthen soft target security and resilience;

(d) Establishing processes for sharing relevant information with industry and private-sector partners by, for example, issuing security clearances and increasing awareness;

(e) Promoting public-private partnerships by developing cooperation mechanisms, supporting business owners and operators and infrastructure managers and by sharing plans, policies and procedures, as appropriate; and

(f) **Assisting in the delivery of effective and targeted capacity development, training and other necessary resources, and technical assistance, where it is needed to enable all States to develop appropriate capacity to implement contingency and response plans with regard to attacks against "soft" targets.**

V. Preventing and combating the illicit trafficking of small arms and light weapons

40. In May 2017, the Committee held an open briefing on "Preventing Terrorists from Acquiring Weapons", which enabled participants to analyse and discuss, among other things, the involvement of FTFs in the illicit trafficking of weapons. The outcomes of this event paved the way for the unanimous adoption of Security Council resolution 2370 (2017), which recognizes the need for Member States to undertake appropriate measures, consistent with international law, to address the illicit trafficking in SALW, in particular to terrorists, including by enhancing, where appropriate and consistent with their domestic legal frameworks, national systems for collection and analysis of detailed data on illicit trafficking of such weapons to terrorists, and putting in place, where they do not exist, adequate laws, regulations and administrative procedures to exercise effective control over the production, export, import, brokering, transit or retransfer of SALW within their areas of jurisdiction, taking into consideration the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, in order to prevent the illicit trafficking to terrorists of such weapons49. In its resolution 2395 (2017), the Council further urged States to fully implement the measures contained in resolution 2370 (2017).

41. Member States also recognize, in the Programme of Action, that the illicit trade in SALW in all its aspects sustains conflicts, exacerbates violence, contributes to the displacement of civilians, undermines respect for international humanitarian law, impedes the provision of humanitarian assistance to victims of armed conflict and fuels crime and terrorism.[50] Member States therefore undertook, inter alia, to adopt and implement the necessary legislative or other measures to establish as criminal offences in their domestic law the illegal manufacture, possession, stockpiling and trade of

[49] SC/RES/2370 (2017).

[50] A/CONF.192/15.

SALW within their areas of jurisdiction, in order to ensure that those engaged in such activities can be prosecuted under appropriate national penal codes.[51]

42. At the third United Nations Conference to Review Progress Made in the Implementation of the Programme of Action, Member States declared their particular concern at the use of SALW in terrorist attacks throughout the world in recent years and underlined the essential contribution made by the full and effective implementation of the Programme of Action and the International Tracing Instrument to the global fight against all forms of violence and crime, including terrorism, and in this regard resolved to strengthen their implementation and coordination efforts.[52]

43. Member States bear the primary responsibility for solving the problems associated with the illicit trade in small arms and light weapons in all its aspects.[53]

44. In its resolution 2370 (2017), the Council also urges States to fully implement the Programme of Action and the International Tracing Instrument in order to assist in preventing terrorists from acquiring SALW, in particular in conflict and post-conflict areas. Whereas Guiding Principle 17 addresses a number of provisions of the Outcome Document of the Third Review Conference that are of direct relevance to countering the acquisition of SALW by FTFs, nothing in the present *Addendum* shall affect the integrity and consistency of the Programme of Action or the Outcome Document.

Guiding Principle 17[54]

In undertaking appropriate measures consistent with international law to address the illicit trafficking in SALW, in particular to terrorists, Member States should:

(a) Maintain, develop or establish, and effectively implement, national laws, regulations and administrative procedures to ensure effective control over the production, export, import and transit of SALW, including by establishing as a criminal offence their illicit manufacture, online trade or diversion to the illicit market through corruption;
(b) Take all appropriate measures to prevent the diversion of SALW when authorizing their international transfer, taking into consideration that, in the International Tracing Instrument, SALW are considered illicit if they are transferred without a licence or authorization issued by a competent national authority;
(c) Put in place and, as needed, strengthen certification processes/end-user certificates, as well as effective legal and enforcement measures, and make every effort, in accordance with national laws and practices, without prejudice to the right of States to re-export SALW that they have previously imported, to notify the original exporting State in accordance with their bilateral agreements before the retransfer of those weapons;
(d) Provide national law-enforcement authorities with mandates and resources to assist them in preventing and combating illicit SALW that are imported into, exported from, or transiting through their territories;

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51 *Ibid.*
52 A/CONF.192/2018/RC/3.
53 *Ibid.*
54 A/CONF.192/2018/RC/3.

(e) Redouble national efforts to provide for the safe, secure and effective management of stockpiles of SALW held by government armed and security forces, in particular in conflict and post-conflict situations, in accordance with the provisions of the Programme of Action;

(f) Take effective measures to prevent and combat the illicit brokering of SALW, taking advantage of the recommendations contained in the report of the Group of Governmental Experts established pursuant to General Assembly resolution 60/81; and

(g) Exchange and, in accordance with States' national legal frameworks and security requirements, apply experiences, lessons learned and best practices relating to SALW export, import and transit control, including certification processes/end-user certificates.