

Fight against the Financing of Terrorism

Council Framework Decision on Combating Terrorism of 13th June 2002 (2002/475/JHA)

- Supplying “material resources or by funding its [a terrorist group’s] activities in any way”
- “inciting, aiding or abetting” the financing of a terrorist group
- Member State shall establish jurisdiction where financing takes place in its territory even if group is based or pursues activities outside that territory.

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Council Common Position 2001/930/CFSP of 27th December 2001 on combating terrorism

- Criminalisation of terrorist financing
- Obligation to freeze funds of terrorists or their facilitators
- No economic resources or financial services to be made available to terrorists or their facilitators
- Financing of terrorism to be treated as “serious criminal offence”
- Member States must ensure “greatest level of assistance” regarding criminal investigations or proceedings of terrorist financing.
- Member States shall become parties to the UN Convention for the Suppression of the Financing of Terrorism

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Council Recommendation of 9th December 1999 on cooperation in combating the financing of terrorist groups (1999/C 373/01)

- “enhanced exchange of information” among Member States to combat terrorist financing
- Exchange should cover “structures and modus operandi used for financing terrorist groups” available to security authorities
- Central investigatory authorities should share intelligence on terrorist groups in particular as regards links to groups in other Member States with a view to combating the financing of terrorism.
- Information to be transmitted through “Bureau de Liaison” channels

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Commission Communication on the Fight against Terrorist Financing including a Commission Recommendation for Member States and a Framework for a Code of Conduct for Non-Profit Organisations to enhance Transparency and Accountability in the non-profit sector to Prevent Terrorist Financing and other types of criminal abuse Brussels 29th November 2005 COM(2005) 620 final

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Key elements of the Recommendation are:

- Member States should ensure oversight mechanisms for the NPO sector in particular a registration system for NPOs which enjoy favourable tax treatment, collect funds from the public or have access to public grants.
- Member States should encourage NPO compliance with a Code of Conduct on transparency and accountability for example via public or private accreditation systems.
- Member States should encourage awareness programmes for NPOs and intermediaries (banks, lawyers, accountants) on risk of NPO abuse and detection.

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The framework for a Code of Conduct is designed to promote transparency standards among NPOs. Key elements include:

- NPOs are encouraged to keep certain basic information on their activities including a mission statement, identification of directors of the organisation and where appropriate beneficial owners of the NPO.
- In line with the size of the organisation, NPOs should follow *proper book-keeping practice* and prepare *Annual Financial Statements* of income and expenditures
- NPOs should use *formal channels* for money flows for all transactions, whenever there is a reasonable possibility to use the formal financial system.
- NPOs should follow the “*Know your beneficiaries and associate NPOs*” rule, which means that the NPO should make best endeavours to verify the identity, credentials and good faith of their beneficiaries and associate NPOs.

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Council Decision 2005/671/JHA of 20th September 2005 on the exchange of information and co-operation concerning terrorist offences

- Applies to all terrorist offences as per 2002/475/JHA
- Member States shall designate a “specialised service” within law enforcement authorities re information concerning criminal investigation of terrorist offences
- Member States shall designate a “specialised service” within judicial or other competent authorities re information concerning prosecutions and convictions for terrorist offences
- Member States to transmit such data to Europol and Eurojust respectively

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Confiscation – Council Framework Decision 2005/212/JHA of 24th February 2005 on confiscation of crime-related proceeds, instrumentalities and property

- Promotes use of criminal asset confiscation as effective means of combating organised crime
- Member States to provide for confiscation measures for proceeds derived from criminal offences punishable by imprisonment term of more than one year
- Member States must provide for “value confiscation”
- Member States to provide for “**extended powers of confiscation**” for specified categories of offence (including terrorist offences) committed within framework of a criminal organisation which are punishable by certain maximum sentences

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- Re extended powers of confiscation Member States have three alternatives:
 1. Court is convinced that property of the convicted person has been derived from criminal activities of the convicted person for a period prior to conviction
 2. Court is convinced that property of the convicted person has been derived from **similar** criminal activities during a period prior to conviction
 3. Where value of property of the convicted person is disproportionate to his lawful income and the Court is convinced that the property in question is derived from criminal activity of the convicted person
- Member States may apply extended powers of confiscation to property transferred to closest relations of convicted person and to property transferred to a legal person