



**COUNCIL OF
THE EUROPEAN UNION**

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from : General Secretariat
to: Coreper/Council
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Subject : Code of Conduct : Non-Profit Sector

Developing and implementing an EU strategy on the suppression of terrorist financing including **regulation of non-profit organisations** was set as a strategic objective in the revised Action Plan accompanying the Council Conclusions on Combating Terrorism of March 2004. Subsequently, the Council Declaration of July 2005 concluded that Member States would support the combating of terrorist financing by “agreeing a Code of Conduct to prevent the misuse of charities by terrorists (December 2005)”.

1. This agreement effectively re-affirmed the Member States’ collective endorsement of the Financial Action Task Force’s ‘Special Recommendation 8’ (SR8). This standard requires that:
*“Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:
by terrorist organisations posing as legitimate entities;*

*to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations”.*

2. Since the July Declaration, Member States, in partnership with the Commission and non-profit sector, have participated in discussions about the ongoing development of an ‘Interpretative Note’ to SR8. This work aims to refine the practical requirements of SR8 and spread best practice world-wide.
3. In parallel, the European Commission has led a public consultation on non-profit sector oversight, aimed at encapsulating key aspects of good regulation in the not-for-profit sphere. This was supported by a Presidency-hosted workshop of non-profit sector practitioners and experts in September. A Commission Communication reflecting their public consultation on this matter is anticipated in late November.
4. In the light of this significant body of work, and in order to meet the commitment of the July Declaration, and in line with the EU’s counter-terrorist action plan, Financial Attachés and Counter-Terrorism Focal Points on 7 November 2005 agreed that the Council should adopt principles that will underpin the approach that Member States will put in place in meeting international commitments on terrorist finance.
5. The joint meeting of Financial Attachés and Counter-Terrorism Focal Points on 7 November also agreed draft principles, with one exception which was later on agreed unanimously by the Article 36 Committee.
6. The Article 36 Committee on 16 November 2005 agreed the attached conclusions (Annex A) and accompanying principles (Annex B).
7. Accordingly, Coreper is invited to ask the Council to adopt the conclusions set out in Annex A with the accompanying principles set out in Annex B.

Draft Council Conclusions

The Justice and Home Affairs Council on 1 and 2 December 2005:

Reaffirms the Declaration (of 13 July 2005) that Member States will support the combating of terrorist financing by agreeing a Code of Conduct to prevent the misuse of the non-profit/charitable sector by terrorists;

Invites Member States to note the Commission's Communication on the Prevention of and Fight against Terrorist Financing through enhanced national level coordination and greater transparency of the non-profit sector, including a Recommendation to the Member States;

Welcomes the intention of the Commission to organise an expert Conference on this subject in the first half of 2006;

Notes the five principles, annexed to these Conclusions, which Member States have agreed should be taken into account when implementing measures aimed at preventing terrorist abuse of the non-profit sector; and

Invites Member States to commit themselves to implementing domestic measures to prevent terrorist abuse of the non-profit sector, taking account of these five principles and of those agreed by the members of the Financial Action Task Force (FATF) and set out as International Best Practices in the FATF paper of 11 October 2002 on Combating the Abuse of the Non-Profit Sector.

Annex B

Principles for the application of counter-terrorist finance related regulatory measures in the non-profit sector.

The non-profit sector is a vital component of the world economy and of many national economies and social systems that complements the activity of the government and business sectors in supplying a broad spectrum of public services and improving the quality of life. This practice and the strong and diversified community of institutions need to be safeguarded and maintained.

Member States should take the following principles into account when implementing measures aimed at preventing terrorist abuse of the non-profit sector:

- Safeguarding the integrity of the non-profit sector is a **shared responsibility** of states and non-profit organisations.
- **Dialogue** between Member States, the non-profit sector and other relevant stakeholders is essential to build robust defences against terrorist finance.
- Member States should continually develop their **knowledge** of their non-profit sector, its activities and vulnerabilities.
- **Transparency, accountability and good governance** lie at the heart of donor confidence and probity in the non-profit sector.
- Risks of terrorist finance are managed best where there are effective, proportionate measures for **oversight**.
