

ROADMAP	
TITLE OF THE INITIATIVE	Regulation on administrative measures with regard to capital movements and payments, by natural or legal persons, groups or non-State entities to fight terrorism within the EU
TYPE OF INITIATIVE	<input checked="" type="checkbox"/> CWP <input type="checkbox"/> Non-CWP <input type="checkbox"/> Implementing act/Delegated act
LEAD DG	HOME
EXPECTED DATE OF ADOPTION	Month/Year: 12/11
VERSION OF ROADMAP	No: 2 Last modification: Month/Year: 10/2010

A. Context, problem definition	
(i) What is the political context of the initiative? (ii) How does it relate to past and possible future initiatives, and to other EU policies? (iii) What ex-post analysis of the existing policy has been carried out and what results are relevant for this initiative?	
<p>(i) The fight against terrorism is a high political priority across the EU. This is reflected in the Action Plan Implementing the Stockholm Programme [COM(2010)171 final]. It can also be seen in statements from the Council and European Parliament, including the initial Stockholm Programme statement.</p> <p>(ii), (iii) Building upon the new legal base introduced by the Lisbon Treaty (Art. 75 TFEU), the initiative aims at closing a gap by allowing for the freezing of assets of persons/entities related to terrorist activities inside the EU, supplementing Regulation 2580/2001 which covers terrorist activities outside the EU. Some Member States have put national mechanism in place, others have not. The existing deficiency has already had a negative impact for EU Member states as regards compliance with the global standards on counter terrorist financing and on the ability of up-dating existing terrorist lists. The issue has been discussed in two meetings with Member States experts (in July and September 2010) which showed that a large majority of countries is clearly in favour of a legislative proposal by the Commission based on Art. 75 TFEU complementing existing listing procedures. Moreover, a regulation based on Art. 75 TFEU could serve to set up a high standard of legal certainty and of protection of fundamental rights, following the critical stance of the European courts. The European Parliament has also recently appealed to the ECJ (still pending) that the Council should have based regulations for the UN listing procedure on Art. 75 TFEU.</p>	
What are the main problems which this initiative will address?	
Persons and entities active in the EU should not be in a position to gain access to, move or collect funds for terrorist activities such as attacks, recruitment, training or propaganda for terrorist purposes.	
Who will be affected by it?	
Natural and legal persons and entities will be affected if they are identified by the Council as being related to terrorist activities inside the EU, and listed at a later stage. In addition, financial institutions and other institutions/professions offering financial services will also be affected as they will have the obligation to implement the freezing of relevant funds.	
(i) Is EU action justified on grounds of subsidiarity? (ii) Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? (Necessity Test) (iii) Can the EU achieve the objectives better? (Test of EU Value Added)	
<p>(i) Yes, on basis of the new legal basis introduced by the Lisbon Treaty (Art. 75 TFEU), the initiative will supplement the existing Regulation 2580/2001 which covers terrorist activities outside the EU.</p> <p>(ii) Any national solution would be limited to the respective Member State. Given the free movement of capitals in the EU, persons/entities related to terrorism could easily divert their funds from this MS to another and use them there. In addition, financial institutions working in various MS would benefit from one single list.</p> <p>(iii) A solution at European level ensures wider effects and therefore limits the abilities of persons/entities related to terrorism in a much more effective way. The Lisbon Treaty introduced a new legal basis for EU action in this field. Listing at EU level also has the advantage of all MS contributing to the identification of persons/entities concerned. By this broader intelligence and knowledge can be used. Finally, a common EU solution also allows for a uniform transposition of FATF standards (SR III).</p>	

B. Objectives of the initiative

What are the main policy objectives?

To fight terrorism and increase security in the area of freedom, security and justice of the European Union.

Do the objectives imply developing EU policy in new areas?

Although based on a new legal basis, it does not imply developing a new area of policy but rather closing an existing gap.

C. Options

- (i) What are the policy options being considered?
- (ii) What legislative or 'soft law' instruments could be considered?
- (iii) How do the options respect the proportionality principle?

a (i) In addition to the status quo (do nothing), two or more options consisting of a binding legislative instrument to enable freezing of terrorist assets but with differing scopes will be assessed.

(ii) Given the objectives, a legislative instrument is considered most appropriate, most likely a Regulation based on Art. 75 of the TFEU. This would be a new instrument, complementing existing instruments.

(iii) The Regulation will take account of all legal safeguards as referred to in Art. 75 (3) TFEU. The "to do nothing" option is not proportional as it would amount to leaving a serious security gap in the fight against terrorism.

D. Initial assessment of impacts

What are the benefits and costs of each of the policy options?

A Regulation would provide the Council with a legal basis to identify persons/entities related to terrorism and to "list" them. The significant impact on the persons/entities listed on basis of the regulation would be that they would not have access to their funds any more as those would be frozen. Costs would fall on financial and other institutions/professions offering financial services who would be obliged to check their clients and their money transfers against the list adopted on basis of the Regulation. The benefits have been mentioned before, and listing at EU level also has the advantage of all MS contributing to the identification of persons/entities concerned. By doing this, broader intelligence and knowledge can be used. Finally, a common EU solution also allows for a uniform transposition of FATF standards (SR III). All this should enhance security in the EU as person/entities related to terrorism would not have access to their funds and could not use them for terrorist activity.

The impact of the "to do nothing" option would be none or even negative in security terms.

Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?

The Regulation would contribute to the adoption of one European list of persons/entities related to EU "internal" terrorism and by doing so it would help simplifying procedures. The administrative burden for financial institutions and other institutions /professions offering financial services could be reduced given that there would be just one EU list to check. As the Regulation would address EU "internal" terrorists, it is not obvious in how far there could be an impact on relations to third countries. There should not be any difficulties in transposing. MS are used to the listing instrument as it exists for EU external terrorists.

(i) Will an IA be carried out for this initiative and/or possible follow-up initiatives? (ii) When will the IA work start? (iii) When will you set up the IA Steering Group and how often will it meet? (iv) What DGs will be invited?

(i) Yes, based on an impact assessment study to be carried out by an external contractor

(ii) probably by 1st quarter 2011.

(iii) beginning/mid 2011, as often as necessary.

(iv) RELEX (EEAS), JUST, MARKET, LS.

<p>(i) Is any of options likely to have impacts on the EU budget above €5m?</p> <p>(ii) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial regulation? If not, provide information about the timing of the ex-ante evaluation.</p>
<p>(i) probably not</p> <p>(ii) But if so, the IA should serve as such</p>

E. Evidence base, planning of further work and consultation
<p>(i) What information and data are already available? Will existing impact assessment and evaluation work be used?</p> <p>(ii) What further information needs to be gathered, how will this be done (<i>e.g. internally or by an external contractor</i>), and by when?</p> <p>(iii) What is the timing for the procurement process & the contract for any external contracts that you are planning (e.g. for analytical studies, information gathering, etc.)?</p> <p>(iv) Is any particular communication or information activity foreseen? If so, what, and by when?</p>
<p>(i) National and international legislation and freezing lists are known to be available.</p> <p>(ii) Very detailed analysis of the impact on natural and legal persons who will be listed and on financial institutions and others offering financial services as well as on the security situation within the EU. External contractor. As soon as possible.</p> <p>(iii) Late 2010/early 2011.</p> <p>(iv) After adoption of the proposal and after adoption of the Regulation: press release and (poss.) technical background briefing.</p>
<p>Which stakeholders & experts have been or will be consulted, how, and at what stage?</p>
<p>Member States' experts for freezing measures have been consulted and will continue to be consulted. Consideration will be given to consulting financial sector representatives.</p>