

17th EAG PLENARY MEETING

November 5 – 9, 2012

India, New-Delhi



EAG MEMBER STATES' FIUS COOPERATION FOR THE PURPOSE OF
PREVENTING TERRORIST ACTIVITIES OF ORGANIZATIONS ACTING IN
THE EURASIAN REGION AND NOT LISTED IN THE INTERNATIONAL LIST
(UN) OF TERRORIST ORGANIZATIONS

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Introduction

Pursuant to the resolution of the meeting of the EAG Working Group on Typologies held in November 2011 as part of the 15th EAG Plenary Meeting, in 2012 Russia shall assume the lead in conduct of the typological research related to Analysis of Feasible Ways to Develop Co-Operation between the EAG States' Financial Intelligence Units in Combating the Activities of Terrorist Organizations Operating in the Eurasian Region and Not Entered in the International List of Terrorist Organizations.

The issue covered by this research consists in that the EAG member states house officially prohibited terrorist and extremist organizations that are acknowledged by local authorities and not entered in the international list of terrorist organizations.

Meanwhile, such organizations may at the same time be on the national lists of several states while there are no mechanisms for co-operation between the states' FIUs.

Considering Russia' historical interconnection with, and territorial proximity to, the region states as well as current integration processes (customs union, single economic space and, thus, increasing insecurity of 'financial' boundaries), it becomes obvious that there are growing opportunities for terrorist and extremist organizations to use territories of all states in the region for their criminal purposes.

This research is meant to define the main feasible ways of information co-operation between FIUs in relation to possible facts of financing of terrorist and extremist activities by persons associated with organizations on the national lists of prohibited terrorist and extremist organizations.

Necessity of the research on this issue was supported by all members of the working group.

As part of the research, Russia sent to all EAG member states and observers participating in the research the relevant questionnaire.

The research was based on the information from the following states who have filled-in the questionnaire:

- Republic of Belarus (EAG member);
- Republic of Kazakhstan (EAG member);
- Republic of Kyrgyzstan (EAG member);
- Republic of Tajikistan (EAG member);
- Republic of Uzbekistan (EAG member);
- Republic of Armenia (EAG observer);
- Republic of Turkey (EAG observer);
- Ukraine (EAG observer).

General Provisions

It should be borne in mind that sources of financing may be located in the territory of one country with terrorist or extremist activity carried out in the territory of another state. In such situation, it is important to provide FIU of the state where such sources are located with information available to their foreign counterparts about persons associated with terrorist and extremist organizations.

In order to implement this idea, it was suggested to develop the strategy for establishment and use by the EAG member states of the uniform Regional List of Terrorist and Extremist Organizations (hereinafter – Regional EAG List).

The Regional EAG List is necessary to determine which states may be interested in integrating their efforts in combating the financing of activities of certain terrorist organizations and their members.

Sample establishment of the Regional EAG List is given in Exhibit 1.

The Regional EAG List is supposed to be used in the EAG FIUs only without being disclosed to any third parties.

The practice of the international list of terrorist and extremist organizations proves that the List being a preventive tool fails to be efficient enough in detection of money or other assets of terrorist and extremist organizations.

This kind of organizations in most cases do not have any official corporate status and thus may not have any assets and accounts registered in their names with credit institutions.

At the same time, activities of terrorist and extremist organizations may be financed through accumulation and distribution of funds among their members.

Information about members of terrorist and extremist organizations is first of all available to law enforcement authorities and special departments rather than financial intelligence units. Such information is usually distinguished by fragmentary nature. This being the case, FIUs function – besides simultaneous examination of members of terrorist and extremist organizations as requested by law enforcement authorities and special departments – will consist in establishment of a unique resource summarizing and classifying information about such organizations, their members and trans-boundary relations between them.

Therefore, information concerning financial transactions of members of a terrorist or extremist organization in the territory of state A may become the clue to FIU's financial investigations in state B. For instance, this information may be used to determine the sources of funds brought in cash to the territory of state B and to detect accomplices of members of a terrorist or extremist organization in the territory of state A, which will ensure prompt response from law enforcement authorities or special departments.

In this case, realizing that they might be under close control of the state, members of prohibited organizations may engage various agents (including their relatives, friends, financial partners, etc.) in their activities.

Accordingly, it is suggested that the Regional EAG List is not only established but also supplemented with two circles of associates:

- first-tier associates – individuals who according to information available to law enforcement authorities or special departments are members to terrorist or extremist organizations on the Regional EAG List;

- second-tier associates – individuals who are in various relations with the first-tier associates under the Regional EAG List (including relatives, friends, financial partners, etc.) as well as organizations under the control of the first-tier associates as per the Regional EAG List.

Sample establishment of the Regional EAG List as supplemented with the circle of first- and second-tier associates is given in Exhibit 2.

It should be noted that existence of any relations between circles of first- and second-tier associates does not mean that individuals or organizations in the second tier are involved in activities of the terrorist or extremist organization, however in case any suspicious financial transactions are held by such individuals or organizations, the fact they have any relationships with members of terrorist organization may trigger profound examination.

Summary of Questionnaire Responses

First, based on the information provided to FIUs, a sample Regional EAG List was developed (attached as Exhibit 3).

Second, the research demonstrates that nearly all respondents to the FIUs' questionnaire (except for FIU of Belarus and FIU of Armenia) collect information concerning terrorist and extremist organizations whose activities are prohibited as well as concerning individuals who might be involved in their activities.

Third, law enforcement authorities, special departments and other governmental bodies regularly file with FIUs (except for FIU of Belarus, FIU of Armenia and FIU of Ukraine) their queries concerning terrorist and extremist organizations whose activities are prohibited as well as concerning individuals who might be involved in activities thereof.

Alongside with that, research findings demonstrate that FIUs are in a position to carry out all-round examination of individuals that, besides discovery of financial transactions data accumulated by the FIU, also implies:

- checking individuals' criminal records;
- checking individuals for crossing of the state border;
- checking founders' relations according to commercial registers;
- checking individuals' air flights and railway trips.

Not all FIUs are entitled to thoroughly check individuals under the last position, however even the three positions are enough to highlight any subjects and to discover any persons affiliated with them.

These measures are necessary to compose the Regional EAG List as supplemented with the circles of first- and second-tier associates.

Respondent FIUs unanimously believe in necessity and usefulness of exchange of information about individuals who may be involved in activities of terrorist and extremist organizations.

Although the states advocated lack of any legal restrictions on transfer of information about individuals who might be involved in activities of terrorist and extremist organizations from FIU that have obtained such information to law enforcement authorities (special departments, etc.) of the receiving state for the purposes of additional control, there are certain restrictions that shall be observed:

- FIU that have received information from another FIU may not disclose such information to any third party, and may not use it for operation, investigation and legal purposes without prior consent for the use of such information from the FIU providing such information. This being the case, subject to response of the FIU of Tajikistan, clause 6 of Article 16 of the Act of the Republic of Tajikistan Concerning Anti-Money Laundering and Combating the Financing of Terrorism stipulates that "The authorized body may refuse to disclose any information that might impair criminal investigation held by competent authorities of the Republic of Tajikistan, or – in exceptional circumstances – explicitly violate legal interests of an individual or a corporate entity of the Republic of Tajikistan, or fails to comply with the underlying legal principles in any other way. Such refusal shall be duly grounded by the authorized body requesting the information";

- Information obtained as a result of exchange between FIUs may only be used for the purpose, for which it was requested and provided.

It should be noted that according to the responses obtained, financial investigations directed against prohibited terrorist and extremist organizations and individuals who might be involved in their activities were carried out in FIU of Kazakhstan, FIU of Kyrgyzstan and FIU of Tajikistan only. For FIU of Kyrgyzstan and FIU of Tajikistan, the key ground for initiation of financial investigations was the investigation subject's being entered on special lists, and for FIU of Kazakhstan – any other compromising information about the individual being the subject of investigation.

Most respondent FIUs, in their activities, give full consideration to threats in combating the financing of terrorism and extremism suggested by Russia, viz.:

- monetary funds are accumulated in the territory of your state and used to finance terrorist activities in your state;

- monetary funds are accumulated in the territory of another state and used to finance terrorist activities in your state;

- monetary funds are accumulated in the territory of your state and used to finance terrorist activities in another state.

Exceptions are: FIU of Kazakhstan that takes account of the last threat only; FIU of Armenia that takes no accounts of suggested threats; FIU of Turkey that provided no answer to this question.

Eurasian Region Situation

Investigation was aimed at examination of monthly Analytical Reports on the State and Trends in Development of the Situation Formed under the Influence of International Terrorist Organizations filed with the Federal Financial Monitoring Service (Rosfinmonitoring) by the Anti-Terrorist Center of the Commonwealth of Independent States over the period from December 2011 till August 2012.

Main emersions of illegal activities during the above period, which involved members of examined prohibited terrorist and extremist organizations, were registered in the territories of the Republic of Kazakhstan, the Kyrgyz Republic and the Republic of Tajikistan.

The Republic of Kazakhstan:

- on February, 2012, 6 members of a terrorist organization were arrested in Uralsk by the investigation and operational group of the National Security Department for the West Kazakhstan Province acting together with the regional Department of Internal Affairs. According to the official information of the General Prosecutor's Office of Kazakhstan, "Confessionary statements of the group members are objectively proven by evidence obtained in the course of investigation";

- in March 2012, in the South Kazakhstan Province, an activist of Hizb ut-Tahrir who had been previously wanted under a criminal case for commitment of crime under part 2 of Article 337 of the Criminal Code of the Republic of Kazakhstan (Participation in Activities of Judicially Prohibited Organizations) was arrested;

- in March 2012, law enforcement authorities of the Republic of Kazakhstan terminated 12 facts of illegal religious activity carried out by apologists of Tablighi Jamaat. 124 apologists were held administratively liable.

The Kyrgyz Republic:

- from February 9 till February 14, 2012, during a scheduled raid, policemen of the 10th Department of the Directorate of Internal Affairs for the Jalal-Abad Region implemented the Extremist Campaign. In the course of the campaign, 9 activists of Hizb ut-Tahrir were arrested in the Suzak and Nooken Districts;

- on March 20, 2012, policemen arrested 10 locals – activists of Hizb ut-Tahrir – in the Uzgen District of the Osh Province;

- on March 28, 2012, in the Chuy Province, officers of law enforcement authorities and special departments of the Kyrgyz Republic arrested two individuals suspected of stirring up religious hatred. 12 Hizb ut-Tahrir leaflets advocating religious extremism were taken away from the arrested persons;

- on May 4, 2012, officers of the Regional Directorate of Internal Affairs arrested two members of Hizb ut-Tahrir female wing in the township of Shamaldy-Say of the Jalal-Abad Province;

- in June 2012, the Directorate of Internal Affairs of the Jalal-Abad Province were provided with information that over the period from January till May 2012, files were kept in the province department for 510 members of Hizb ut-Tahrir (51 of them – women);

- early in July, 2012, in the city of Osh, a citizen of the Kyrgyz Republic who had been three-time offender registered with police as an activist of Hizb ut-Tahrir was arrested;

- on July 12, 2012, as a result of investigation and operational campaign carried out by the 10th General Directorate of the Ministry of Internal Affairs of the Kyrgyz Republic and the General Prosecutor's Office of the Kyrgyz Republic, activities of Hizb ut-Tahrir young wing were disclosed in the city of Bishkek. Its members who were carrying out illegal activities

recruited new apologists with special attention paid to the most promising students of prestigious universities of the Kyrgyz Republic.

The Republic of Tajikistan:

- in 2011, in Tajikistan, 196 apologists of various terrorist and extremist organizations were arrested. This information was disclosed on January 10, 2012 by the First Deputy General Prosecutor of the Republic of Tajikistan Abdukodir Muhammadiyev. He also noted that 168 of those had already been convicted and sentenced to various terms of imprisonment. All convicts participated in activities of prohibited organizations – Hizb ut-Tahrir, Tablighi Jamaat, Islamic Party of Turkestan (IPT, former Islamic Movement of Uzbekistan, IMU);

- on January 31, 2012, in the town of Khojend of the Sughd Province, a judicial procedure was initiated against 34 locals of the Isfara District accused of involvement with the IPT and commitment of a number of grave crimes;

- on February 3, 2012, special departments of Pakistan extradited a citizen of the Republic of Tajikistan accused of involvement with the IPT;

- in mid-February, 2012, in Kabodin, judicial proceedings were initiated against two citizens of the Republic of Tajikistan accused under Article 307 of the Criminal Code of the Republic of Tajikistan (Establishment of a Criminal Community and Calling for Forced Displacement of Constitutional Authorities). In the course of pretrial investigation, evidence of their involvement with the IPT was obtained;

- on May, 2012, in the Soghd Province judicial proceedings against 17 IPT apologists started. The above individuals were arrested by law enforcement authorities and special departments of Tajikistan in 2011. They were accused of organization of illegal criminal group and membership in the IPT;

- on June 29, 2012, the court of Babajan of the Gafurov District of the Soghd Province sentenced a resident of Kistakuz jamaat to 13 years of imprisonment. Authorities of the State National Security Committee incriminated him organization and activities of the prohibited party Hizb ut-Tahrir.

Conclusions and Proposals

Summarizing the situations analysis and received responses to the questionnaire, it should be noted that situation in combating terrorism and extremism in the Eurasian Region remains tense, while FIUs possess everything that is required to arrange for cooperation in the sphere of combating the financing of terrorism and extremism.

Also, in the course of the research it was acknowledged that the main emphasis in combating the financing of terrorism and extremism should be on conduct of in-depth examination of members of terrorist and extremist organizations and their possible associates rather than on nominal prohibition of such organizations.

In this regard, the following organization options are suggested:

Option 1. Decentralized System (Everyone-to-Everyone)

- All EAG member states involved in combating the financing of terrorism and extremism shall under the auspices of the respective FIU generate suggested EAG Lists according to Exhibits 1 and 2;

- upon receipt of any information about individuals engaged in activities of terrorist and extremist organizations, the respective FIU shall arrange for an all-round examination of such individuals with queries to other Eurasian FIUs in order to obtain the maximum amount of information about such person and to disclose its possible relations;

- To highlight queries concerning individuals engaged in terrorist and extremist organizations among the rest of communications in the general FIUs information exchange, it is suggested that they are marked "Accomplice";

- FIU that have received an "Accomplice" marker shall arrange for an all-round examination of persons listed in the query in the territory of its state in order to acquire the maximum possible amount of information about such persons and to disclose their possible relations.

Option 2. Centralized System

The EAG Secretariat or the Secretariat of the Council of Directors of CIS FIUs may act as the Common Center for information accumulation.

- All EAG member states involved in combating the financing of terrorism and extremism shall under the auspices of the respective FIU file with the Common Center any data to supplement the Regional EAG Lists according to Exhibits 1 and 2;

- upon receipt of information on members and probable accomplices, the Common Center shall send such information marked "Accomplice" to the respective FIUs only in line with Exhibit 1;

- FIU that have received an "Accomplice" marker shall arrange for an all-round examination of persons listed in the query in the territory of its state in order to acquire the maximum possible amount of information about such persons and to disclose their possible relations, and send such information back to the common center.

Option 3. Experimental Exchange

It is suggested that actions stipulated in Option 1 be tested between two FIUs only (e.g., FIU of Russia and FIU of Kazakhstan).

Sample Generation of the Regional EAG List

Name of the terrorist organization	Belarus	India	Kazakhstan	China	Kyrgyzstan	Russia	Tajikistan	Turkmenistan	Uzbekistan
Organization 1	X		X	X		X	X		
Organization 2					X		X	X	
...									

Sample Generation of the Regional EAG List as Supplemented with the Circle of First- and Second-Tier Associates

Name of the terrorist organization	First-Tier Associates	Second-Tier Associates
Organization 1	Organization member	Relative
		Financial partner
		Friend
	Organization member	...
Organization 2
...

Regional EAG List Based on the Responses to the Questionnaire

Name of the terrorist organization	Belarus	Kazakhstan	Kyrgyzstan	Russia	Tajikistan	Uzbekistan	Armenia	Turkey*	Ukraine
Asbat al-Ansar		X		X		X	X		
Jehad			X	X		X	X		
Al-Gamaa al-Islamia				X		X	X		X
Muslim Brotherhood		X		X	X	X			
High Military Majlis al-Shura of United Forces of Caucasian Mujahidins				X		X	X		
Jamaat-e-Islami			X	X	X	X	X		
Taliban Movement		X	X	X	X	X	X		X
Islamic Party of Turkestan (IPT, former Islamic Movement of Uzbekistan, IMU)		X	X	X	X	X	X		X
Congress of the Nations of Ichkeria and Dagestan				X		X			
Hizb ut-Tahrir al-Islami		X	X	X	X	X	X	X	
Lashkar-e-Taiba		X		X	X	X	X		X
Jamiyat al-Islah al-Ijtimai		X		X		X	X		
Jamiyat Ihya at-Turaz al-Islami				X		X	X		X
Al-Haramain				X		X	X		X
Jund ash-Sham				X		X			
Islamic Jihad – Mujahidin Jamaat		X	X	X		X	X		X
Al-Qaeda in the Islamic Maghreb		X		X	X	X	X	X	X
Nurjular				X		X			
Caucasus Emirate				X		X	X		X
Tablighi Jamaat				X	X	X			
Islamic Party of the East Turkestan (Islamic Movement of the East Turkestan)		X	X		X				
Kurdish People's Congress		X	X					X	

* - data facilitated by FIU of Turkey do not provide a clear idea of whether such organizations are prohibited