

EFC views on EC report about the abuse of NPOs for financial criminal purpose

Outline

On September 29th 2008 the EFC submitted its preliminary comments to the European Commission on the proposed measures to address the abuse of foundations and other non-profit organisations (NPO) for financial criminal purposes. The measures are based on the findings of the study commissioned by the EC to the Matrix Knowledge Group in 2007.

A snapshot of the EFC comments is provided below. The full text is available at:
http://www.efc.be/ftp/private/EUC/JAI/2008_EFCComment_Matrix_prov.pdf (64 kb) (member login required).

The EFC welcomes the consultation launched by the European Commission on the recommendations of the Matrix Study before formalising a road map for follow-up action. Key elements of EFC's contribution are as follows:

General comments

1. Proportionality and anti-discrimination should be the guiding principles for any follow-up action to the Matrix study addressing NPO transparency, accountability and terrorist financing.
2. There is no scope for specific legislation on the transparency and accountability of national public benefit foundations at EU level.
3. The EFC does not support the development of EU criteria of due diligence or risk profiling for public benefit foundations.
4. Public authorities and the NPO sector should establish a continuing dialogue and develop a mutual understanding of the issue and their respective concerns. At EU level, dialogue could be facilitated by the setting-up of a contact group to clarify future developments in the field.
5. The resource implications of the Matrix study recommendations should be assessed. In particular, the Commission should clarify whether it intends to use the current EU funding scheme to support actions in the field.

Specific recommendations

6. The EFC believes that the effectiveness and impact of existing "victims' surveys" -- to try and document the abuse of NPOs for financial criminal purpose-- should be analysed before planning their extension at EU level.
7. Any EU Handbook of NPO transparency initiatives should be conceived as an online resource building on existing materials on self-regulation and co-regulation approaches.
8. The EFC has reservations on the usefulness of developing a general EU NPO Code of conduct. The Commission may however wish to develop a code for parties benefiting from EU funds.
9. Individual NPOs, NPO and foundation collectives are best placed to determine how to organise training and capacity-building schemes for them and their members. National and EU public bodies could help this process by making funds available.
10. Cross-sector learning and consultation should start at the national level, according to the needs identified by NPOs and public authorities in the Member States. Here, the EU can step-up support for cross-border peer-learning projects and programmes between public bodies and experts, where appropriate.
11. The proposed contact group (point IV) could also serve as a forum to appraise the impact of counter-terrorism measures on the NPO sector EU level.

12. EU financial assistance should also help support research on the impact of counter-terrorism measures on NPOs' development and activities.

Background

The European Commission Directorate General Justice, Freedom and Security commissioned a study on the abuse of non-profit organisations (NPOs), for financial criminal purposes to the Matrix Knowledge Group in autumn 2007. The study aimed to assess the types and extent of abuse of NPOs including foundations, for terrorist financing and other financial criminal purposes, and set out recommendations to address shortcomings. The study was presented at a Commission's meeting in Brussels on April 25th 2008 in which EFC representatives participated; see EFC Briefing "[EC Re-opens Debate on the Vulnerabilities and Abuse of NPOs for Criminal Purpose](#)"¹ (member login required). The EC called interested parties including the EFC to comment on the Matrix report recommendations and follow-up actions.

The EFC consulted its members in August-September 2008 with a view to completing its draft contribution to the EC on the Matrix study².

The Matrix report is part of the work undertaken by the European Commission on the transparency of NPOs at EU level in the context of counter terrorist financing. The issue was addressed in a Commission's policy paper "on the prevention of and fight against terrorist financing through enhanced national level coordination and greater transparency of the non-profit"³.

Action Point

The European Commission is due to release a second study on NPOs transparency and (self) regulation initiatives in the coming weeks and call for an expert meeting before the end of the year to review follow-up actions. The EFC will assess the findings of the second survey and complete its preliminary comments and proposals.

The EFC secretariat will monitor developments in the field and keep its members informed.

The EFC contribution on the Matrix survey on the abuse of NPOs for financial criminal purpose is available at: http://www.efc.be/ftp/private/EUC/JAI/2008_EFCComment_Matrix_prov.pdf (64 kb) - (member login).

The Matrix survey can be downloaded at: http://www.efc.be/ftp/private/euc/jai/npofinancialcrimeRPT_2008.pdf (676kb) (member login).

For further details, please contact E. Faure at the EFC secretariat at eu@efc.be.

¹ <http://www.efc.be/content/alert.asp?ContentID=1502> (member login).

² <http://www.efc.be/content/alert.asp?ContentID=1532> - (member login).

³ EC communication: COM (620) final - 29 11 2005

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0620en01.pdf