

Non-classified Version:

National Risk Assessment on Terror Financing



2017

Introduction

In recent years, international recognition of the importance of thwarting terrorist financing channels has grown, as an inseparable part of the ongoing effort to thwart terrorist activity. A terrorist organization requires funding sources in order to realize all its activities and objectives. Without funding sources, the organization will find it hard to exist and carry out its goals. Without funding sources, the organization will not be able to operate, support and equip its people, nor will it be able to prepare and maintain an organizational infrastructure that can serve to achieve these goals.

This document compiles the main findings of the TF NRA as relates to terror financing (that are not classified), and provides a clear view of the current status and risks surrounding the terror financing field in Israel, out of the understanding that without funding terrorist activity cannot be carried out, and therefore extensive and varied measures must be taken to prevent the financing of terror from the outset.

The risk survey was carried out by all authorities engaged in the prevention of terror and the financing of terrorism (National Security Council, security agencies, military intelligence, police, Israel Money Laundering and Terror Financing Prohibition Authority, Tax Authority, the Ministry of Defense, the Ministry of Finance, the Ministry of Foreign Affairs), and is intended to assist in understanding the potential risk of these phenomena to the financial system and to national security, and to recognize the actions taken by the State to deal with these risks, including the current legal infrastructure in this matter. In addition, the risk assessment is intended to serve as a basis for determining policy and priorities in the field of preventing the financing of terrorism and the efficient allocation of resources.

Each of the terrorist financing risks identified was rated and ranked according to the extent of the threat it poses (the scope and severity of the phenomenon and the source of funding), and at the same time the means of coping with the threat were examined. In accordance with these findings, the final rating of all the risks identified was weighted.

It is possible to point to a number of financing sources used by terrorist organizations:
(a) Terrorism-supporting countries and territories that have the organizational ability to collect and place funds and make them available for use by terrorist organizations.

(b) Donations from the general population (such as weekly donations in prayer houses, standing orders, etc.) or from individuals with money. (c) Self-financing terrorist organizations by supposedly legitimate business operations, with some of the revenues or profits diverted to other purposes. (d) Execution of illegal activities, the laundering of money derived from the offense, and the transfer of money, in whole or in part, for the purpose of financing the activity of the organization.

The transfer of funds to terror organizations is carried out in two main methods: the smuggling of property through border crossings, including through trading, and the second is based on money transfer mechanisms that include correspondent activity, currency service providers, pre-paid cards and foreign credit cards.

The Risks of Terror Financing

1. State sponsorship

The nature of the threat stemming from funds originating in foreign countries is exhibited by the transfer of funds for purposes including financing terrorist organizations; paying for their overall infrastructure; assisting and supporting terrorist activities; and financing charity foundations operating on behalf of terrorist organizations in order to raise donations as part of the “Da‘wah” custom.

The threat of terror funding originating in foreign countries is an exceptional threat since state support offers support that goes beyond mere financial support, and can offer shelter to an organization, allowing the organization to set up bases, in addition to offering military support, including training and ammunition, on a scale greater than what may be provided by a private entity.

In terms of the extent and severity of this threat, it appears that in general, the extent of this channel of terror financing as an international trend is decreasing, in light of the desire of these countries, who previously did not have open relations with the west, to now develop such trading relations, and in light of these countries' concerns that that acts of terror will be attributed to these countries, which may lead to the imposition of financial sanctions. Nevertheless, the State of Israel still considers foreign state sponsorship of terrorism to be a serious threat, since despite the overall decrease in such funding worldwide, a significant portion of the budget of major terrorist organizations such as *Hamas* and *Hezbollah* is still financed by foreign countries. The authorities estimate that the main countries and territories involved in the financing of terrorist organizations operating against the state of Israel are Iran, Turkey, Qatar, Lebanon, Syria, Saudi Arabia and the Palestinian Authority.

It should be emphasized that terror funds originating in foreign countries relate to the fact that the funds are being transferred through routes and locations outside of Israel's control or legal jurisdiction (I.e., there is no use of the Israeli financial system). In addition, the mechanisms for declaring

organizations operating against Israel moderate the risk stemming from this channel.

2. Donations, Charities and Da'wah

The nature of the threat includes fundraising schemes through donations, both in a an unorganized, popular context, and in the framework of established charity funds. The fundraising is carried out mostly in mosques and during conferences as part of the Da'wah activity. Fundraising through the Da'wah system and in other ways is not illegal in and of itself, which makes this threat inherently difficult to thwart, due to the fact that in order to seize, freeze or forfeit the funds, authorities must prove the final destination of the funds (terror financing) rather than their source, in contrast with funds originating from a different illegal activity.

Terrorist organizations make use of the Da'wah system in order to expand and establish their status, and thus to instill their principles such as the moral righteousness of the battle against Israeli targets, while inculcating radical ideas such as "*Jihad*". In the core of this doctrine stands the notion that investing in education promoting Islamic values and in social activities will bear fruit, even if not in the near future. Terrorist organizations make use of Islamic religious figures such as Imams and preachers in mosques, and use the money collected through these religious figures for their own purposes.

One of the main actors to use the Da'wah system in order to raise donations is the *Hamas* terror organization (hereinafter: "***Hamas***"). The donations serve to finance *Hamas* and to further its objectives within the framework of its fight against the state of Israel, including sending messages to the public about the organization's agenda, inciting against Israel and encouraging terrorist acts against it, and supporting terrorists and their families who receive a variety of benefits such as grants and monthly allowances. On the face of it, the activity of the Da'wah was intended to impart Islamic education and values to the Palestinian public in order to bring them closer to religion. In practice, Hamas aims to expand and consolidate the movement's status within the Palestinian public, to bring the public closer to its ideological ideas, including *Jihad*

against Israel, and even to enlist supporters and participants for its terrorist activities.

The majority of the fundraising is carried out through a fundraising mechanism located abroad, where dedicated charity funds act as part of a larger apparatus which finances terrorist organizations around the world. The charity funds raise altogether tens of millions of dollars each year for terrorist organizations and sympathies fully with their agenda. In 2001 these funds changed their mode of operation, and the various scattered charity foundations supporting *Hamas* united into one global operation under joint management called the “Union of Good.”

Another central source of funds is donations made by private individuals; Wealthy businessmen who have made their fortune under various circumstances sometimes choose to invest their capital in financing terrorism for ideological reasons.

Charity organizations are not always aware of the final destination of their contributions. Occasionally, the funds are transferred to the local population and the money serves to assist the population in a variety of ways. Nevertheless, terrorist organizations often exploit charity organizations and extort the local community in order to obtain the money it received from the charity organizations, or disguise themselves as locals in distress in order to receive the donations.

It is estimated that the various donation mechanisms constitutes a significant phenomenon and a central source of funding for terrorist organizations and their peripheral activities.

The vulnerabilities surrounding the misuse of donations, charity funds, and the Da‘wah custom include the transition of financial transactions relating to terror financing from the legitimate financial system to alternative and independent methods for transferring funds that do not rely on the financial system. The legitimate financial system lost its appeal, *inter alia*, due to the legal framework in Israel which includes a mechanism for designating terrorist organizations. The risk of financing terrorism through charity funds or

donations is much harder to detect and monitor using the existing legislation and regulation, since methods for transferring funds are only partly supervised. In addition, the use of humanitarian activities such as raising donations and performing the Da'wah system occasionally pose legal and political obstacles in proving their linkage to terror financing, despite the Israeli court's rulings that acknowledge the misuse made of the Da'wah system for the benefit financing terrorism.

3. Financing through business activity

The nature of the threat includes the management of various foreign companies, some of which are characterized by legitimate business activity and some of which are shell companies through which funds are invested and transferred. The use of companies to conceal funds holds two objectives: first, disguising the true nature of the funds in order to prevent incrimination due to counter terrorism legislation; and second, disguising the funds' origin.

In addition, a link has been identified between the various legitimate corporations and terror financing, in that corporations conducting legal businesses for the purpose of making profit knowingly choose to designate part of their profits to finance terrorist organizations. Such terror financing may stem from ideological views held by the companies' management or from the company's *a priori* objective of operating as a financier of terrorism. Among the businesses commonly exploited for purposes of terror financing are car trading businesses, restaurants, and international trading companies.

The use of seemingly legitimate business entities enables the exploitation of financial and business services in Israel and around the world for the purpose of terror financing activities. Nevertheless, it is estimated that the extent and severity of the phenomenon is such that it constitute a non-significant source of funding both of terror activities of the infrastructure which enables their execution.

4. Criminal Activity

The nature of the threat includes raising funds through various criminal endeavors, with a special link existing between a number of criminal activities and terror financing, while most of the criminal activities in question are connected to terrorist activities (e.g. arms trafficking, smuggling illegal aliens) alongside a limited number of more "classic" criminal activities (such as drug trafficking, smuggling, and trading in stolen goods.) In addition, there is a strong and internationally recognized link between organized crime in general, and drug trafficking in particular, on the one hand, and terrorist organizations, on the other hand. In addition to drug trafficking, one of the main criminal activities undertaken by terrorist organizations involves smuggling goods and trading in them. The array of goods includes small goods generating business activity on a low scale such as cigarettes and tobacco, as well as highly valuable products traded on a large scale such as antiques and cultural assets.

It is estimated that the extent and severity of the phenomenon is that "classic" criminal activities (non-terror related) do not constitute a substantial source of terror financing. This determination stems from the fact that transferring funds originating in criminal activity is much more difficult due to the need to launder the funds prior to their use. Also, since this activity relates to entities that are also known in the context of money laundering, the use that terrorist organizations can actually make of such resources is quite limited, in light of the monitoring measures that also include the regime for preventing money laundering.

5. Cross border smuggling and trade based TF

The nature of the threat includes the transfer of money at the border crossings via couriers (when the funds pass as cash or gold), transfer of money under the guise of legitimate business transactions, or the concealment of money through goods ("offset axis" - transfer of the transaction value to terrorist organizations). The fact that smuggling funds constitutes a criminal offense in and of itself, irrespective of it being related to terror financing, allows this

phenomenon to be addressed not only by using counter-terrorism mechanisms but also by using the AML regime in place.

The threat revolves primarily around the smuggling of funds from within Israel into the West Bank and the Gaza Strip, with the goal of having these funds reach the various terror organizations. Still, there is also a phenomenon of attempting to smuggle funds into the State of Israel, when the funds originate in activities that took place abroad, and are designated for financing of terror against Israel to be carried out from within the borders of the State, or from the West Bank and the Gaza Strip.

Another purpose of smuggling funds is to create a disconnection in the chain of accounting operations: Transferring funds from one country to another makes it difficult to identify the source of the funds. Additionally, funds may be smuggled through border crossings in order to evade reporting obligations, and thus to avoid identification of the activity by virtue of the money laundering and terror financing prohibition regime. This threat holds a greater impact on Israel due to the fact that in the Palestinian Authority the cash-based market economy is thriving. Under these circumstances terrorist organizations are able to carry out their business without being detected by the financial system, especially since Israel has no control within the Gaza Strip other than control of the border crossings.

It is estimated that the extent and severity of the phenomenon is such that this is a common phenomenon, and terrorist organizations make frequent use of this mechanism, even though the sums transferred through this mechanism are low.

The vulnerabilities include smuggling funds from areas in which there is a cash-based market. At the same time, there are mitigation measures that are in place; first, the reporting obligation to IMPA on cash transactions and on wire transfers against TF high-risk countries and territories (in a lower threshold of 5,000 NIS); second, the reporting obligation on funds at border crossings, including in-land borders.

6. Money Transfers Mechanisms

Terrorist organizations use various money transfer mechanisms in place through the official financial system, including, *inter alia*, correspondent banking services, money service businesses, pre-paid cards, and foreign credit cards.

The use of the Israeli correspondent banking system to transfer funds to the banks in the Palestinian Authority creates a terror funding risk stemming from the difficulty in uncovering the source and destination of the funds, as well as from the risks inherent in activities *vis-a-vis* the Palestinian Authority. In fact, there is a concern that the Israeli banking system will be exploited to transfer money to terrorist elements. In addition, since banking services are not currently available to banks in the Gaza Strip, entities in Gaza may use shadow accounts at a Palestinian bank in the West Bank for the purpose of trade and transacting with banks in Israel; funds may be transferred from these accounts to Israel for the purpose of financing terrorism. The mechanism of transferring money through correspondent banking is essential for maintaining the economic relations between the Israeli and the Palestinian economy, and for the stability of the Palestinian economy that is dependent on the Israeli economy. However, this mechanism raises difficulties in terms of the possibility of tracing the identity of the initiators of the transfer and the final beneficiaries.

The use of money service businesses to carry out financial transactions between the PA and the Gaza Strip on the one hand and Israel on the other also constitutes a risk for the financing of terrorism. The risks inherent in the activity of currency service providers (cash-intensive activity, the provision of international assets by way of offsetting, partial regulation of the activity, etc.) may result in their abuse and exploitation by terrorist entities.

Pre-paid cards and credit cards attached to foreign bank accounts also make up an integral component of the logistical infrastructure in place to raise funds and transfer money. This is in addition to credit card fraud and the theft of credit card details for the purpose of raising funds through illegal means.

Mitigation measures

A. Legislation that preceded the Anti-Terrorism Law

The Prohibition of Terrorist Financing Law was enacted in 2005. This law was intended to place Israel in line with the countries that are fighting against the international financing of terrorism and to ensure that Israel's legislation complies with the international standards set forth in this context. The law had two main aspects: the determination of offenses related to the financing of terrorism, and the provision of administrative and judicial tools to improve the ability to combat terrorism financing in all its aspects. This legislation complemented the offenses set forth in the Defense (Emergency) Regulations, 1945, and the Prevention of Terrorism Ordinance, 5708-1948. The provisions of the law stipulated, *inter alia*, the following:

Definition of an act of terrorism – The definition of a terrorist act clarifies, *inter alia*, that retroactive compensation of an act of terrorism is also a prohibited act of financing terrorism; the possibility of designating an international terrorist organization even if its activity has no connection to Israel. In the same way that Israel's demands from countries around the world that they act against terror financing even if the terrorist acts themselves are carried out in the Middle East, so too Israel is obligated to act against terror financing, even in cases where there is no connection to Israel.

Determination of criminal offenses - The offenses determined in the law include: Acting with regard to property in order to enable, promote or finance an act of terrorism, or to reward for the performance of an act of terrorism, or in order to facilitate, promote or finance the activities of a designated terrorist organization or of a terrorist organization; acting with regard to property that may enable, promote or finance an act of terrorism, or to reward for the performance of an act of terrorism even if the recipient of the reward is not the person who committed the act of terrorism or intended to carry out the act, as well as doing an action with terrorist property or property that is its direct value, or the direct profit from terrorist property; failure to report to the authorities by a person who was requested to carry out an act in property and had reasonable suspicion that the funds were intended to finance terrorism.

Determining a reporting obligation - a requirement has been established to report in parallel to the police and to IMPA on acts suspected to be transactions in terrorist property, or transactions in property that may enable, promote, or finance the commission of an act of terrorism, or to reward for the performance of an act of terrorism.

Determination of Forfeiture Provisions - the Prohibition on Terrorist Financing Law established broad rules of forfeiture, as described below: Compulsory forfeiture after conviction for an offense under sections 8-9 of said law; discretionary forfeiture after conviction in property which the defendant financed or gave without compensation to another; discretionary forfeiture after conviction of an offense under sections 8-9 of property connected with an offense; and forfeiture of property in civil proceedings not resulting from a criminal proceeding.

B. The counter terrorism law

On June 15, 2006, the Knesset plenum approved the Anti-Terrorism Law, 5766-2016 (hereinafter: "the Law to Combat Terrorism" or "the Law"), aimed at improving and optimizing the tools available to the State of Israel in dealing with the terror threats it faces. The law creates a comprehensive legal framework that includes competences from the areas of criminal, administrative and civil law that had had heretofore been spread out across many different legislative texts.

The law includes, *inter alia*, an extension of the definition "terrorist organization" so that it now includes both terrorist organizations in their classic sense and "umbrella" organizations, who do not carry out acts of terror directly but do encourage and facilitate their activities.¹ The law includes mechanisms for designating terrorist organizations intended to replace those that exist presently under the Prevention of Terrorism Ordinance; The Defense (Emergency) Regulations, 1945; And the Prohibition of Terrorist Financing Law, 5765-2005. The new designation procedure established in the law includes two routs: First, the designation by the Minister of Defense of a terrorist organization or the "umbrella" organization; and a designation by the

¹ Section 2 of the Counter Terror Law, 2016.

Ministerial Committee on National Security of a foreign terrorist or a foreign terrorist organization declared outside of Israel.²

The law establishes a series of new criminal offenses related to terrorist organizations, including the management of such an organization or of its membership; acting as the head of a terrorist organization; holding a managerial or commanding role in a terrorist organization; directing members of the organization to carry out terrorist acts; identification with a terrorist organization; incitement to terrorism; non-prevention of terrorism; threatening to commit a terrorist act; preparing to carry out an act of terror; training or instructing for terrorist purposes. The law also replaces the offenses that were established in the past in legislation that preceded the law and establishes parallel offenses in their place, such as: the prohibition of acting or transacting with a weapon, a harmful substance, or a sensitive facility for terrorist purposes; prohibition to transact in property for terrorist purposes; prohibition to transact in terror property; violation of the duty to report terrorist property; violation of the duty to report property of a designated terrorist organization.

The law increases the punishment for terrorist activity and for assistance in such activities, and also determines that a suspect may be held in custody for up to 48 hours prior to being brought before a judge for the purpose of holding an arrest hearing, and that his right to consult a lawyer may be delayed for this period. The law also allows the use of various tools to prevent terrorism, including forfeiture of funds and property from individuals and organizations suspected of terrorist offenses.

The law came into effect on November 1, 2016, and in parallel the Prevention of Terrorism Ordinance, the Prohibition of Terrorist Financing Law and the Criminal Procedure Law (Detainees Suspected of Security Offense) (Temporary Order), 5766-2006, and dozens of regulations included in the Emergency Defense Regulations were voided.

² Following the completion of the national risk assessment and until the publication of this document, the Counter Terror Law was amended so that the rout of declaration by the ministerial committee was canceled and replaced by providing the authority to the Defense Minister to adopt declarations of terrorist activists and organizations declared outside of Israel.

C. Regulatory tools in the field of the prohibition of financing terrorism

A significant regulatory tool in the struggle against the financing of terrorism is the AML/CFT orders imposed on financial and business institutions. In general, the aforementioned orders specify customer identification obligations, the requirement to cross-check the identification details of the customers against the names included in the "list of designated entities," as well as the obligation to report to IMPA, including with respect to activity *vis-a-vis* countries at risk and to actions that are perceived to be the actions of a terrorist or a terrorist organization, and currency transaction reports on cash transactions and on wire transfers against TF high risk countries and territories (in a lower threshold of 5,000 NIS). It should be noted that the obligation to check against the list obligates the supervised entities to delay the execution of the transaction, in the event of a match with the list of designated entities, to contact the police for guidance, and to report simultaneously to IMPA.

The Prohibition on Money Laundering Law authorizes IMPA to transfer information from its database to security bodies listed in the law (security agencies, military intelligence), both on its own initiative and on request, for the purpose of preventing and investigating activities of designated terrorist organizations and terrorist organizations, of acts of terror, and of the financing of such organizations or acts, preventing trade with the enemy, preventing economic activity with a foreign party facilitating terrorism, or preventing harm to the security of the State.