

Commission Identifies Weaknesses in Transposition of Directive on Combating Terrorism



News

Thomas Wahl

On 30 September 2020, the Commission published a [report assessing the measures taken by the Member States to comply with EU anti-terrorism legislation](#) (Directive 2017/541 → [eucrim 2/2017, 69](#)). The Member States had to implement the rules of the Directive by 8 September 2018. The Commission's reporting obligation is laid down in Art. 29(1) of the Directive. The Directive is the main criminal law instrument at the EU level to combat terrorism. It lays down minimum standards for the definition of terrorist offences and offences related to terrorism and for penalties, while at the same time granting rights to protection, assistance and support to victims of terrorism.

The report concludes that transposition of the Directive into national law has helped to substantively strengthen the Member States' criminal law approach to terrorism and the rights granted to victims of terrorism. Of the 25 Member States bound by the Directive, 23 adopted new legislation in order to ensure transposition of the Directive. While the Commission considers transposition by the Member States to be generally satisfactory, there are gaps that are cause for concern. For example, not all Member States criminalise in their national law all the offences listed in the Directive as terrorist offences. The Commission considers it important that these offences be clearly established as terrorist offences in national legislation, because loopholes in the prosecution of terrorists, e.g. charging lone offenders, could arise otherwise, and law enforcement cooperation could be hampered.

There are also shortcomings in the measures taken by Member States to criminalise travel for terrorist purposes and the financing of terrorism. Ultimately, the Commission detected deficiencies in the transposition of specific provisions for victims of terrorism; as a result, victims of terrorism may not receive assistance or support tailored to their specific needs. The Commission will continue to monitor national transposition measures, and it will initiate infringement procedures, if necessary.

The implementation report will be submitted to the European Parliament and the Council. In accordance with Art. 29(2) of the Directive, the Commission will publish a more comprehensive evaluation in September 2021, which will examine, in more detail, the added value of the Directive in the fight against terrorism. This evaluation will also take into account the impact of the Directive on fundamental rights and freedoms.

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Published in
2020, Vol. 15(3) [eucrim p 182](#)
ISSN: 1862-6947
<https://eucrim.eu>



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The project is co-financed by the [Union Anti-Fraud Programme \(UAFP\)](#), managed by the [European Anti-Fraud Office \(OLAF\)](#).



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