



DISRUPTING CRIMINAL TRAFFICKING AND SMUGGLING NETWORKS THROUGH INCREASED ANTI-MONEY LAUNDERING AND FINANCIAL INVESTIGATION CAPACITY IN THE GREATER HORN OF AFRICA

(AML-THB in the GHOA)

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MESSAGE FROM THE PROJECT DIRECTOR



2. What are the expectations for coordination, cooperation and collaboration?
3. What are the opportunities in the legal framework and practice that can be maximised?

Having listened to the perspectives and input of all agencies, the following were identified as objectives that the guidelines sought to meet:

- a. Develop an inter-agency framework for effective coordination, cooperation and collaboration in the investigation and prosecution of terrorism and terrorism financing.
- b. Foster accountability, efficiency and expeditiousness in the investigation and prosecution of terrorism and terrorism financing.
- c. Enhance inter-agency information sharing and provide a model or appropriate mechanism for the exchange of information.
- d. Provide a framework for joint training and capacity building within and among the agencies.
- e. Create an environment for coordination, cooperation and collaboration in which there is the credibility of information, methods or methodology and sources, that leads to admissible evidence in court while protecting the sanctity of the information.

Allow me to draw your attention to some highlights in the guidelines!

Sharing of information – this was identified as a challenge by all agencies due to a lack of modalities. To that extent, the guidelines have provided for a framework of information sharing between and amongst agencies that address timely sharing of information, coordination of information sharing through focal points, the safety of information shared and how to handle data privacy issues that may arise.

Brief Overview of the Inter-Agency Guidelines on cooperation and collaboration in the investigation and prosecution of Terrorism and Terrorism Financing

Over a period of five (5) weeks, the agencies represented here today have deliberated on aspects of their coordination, cooperation and collaboration. The result is the product being launched today.

In this overview, I will answer three (3) questions to give a glimpse of what the guidelines sought to address and how that has been addressed.

1. What are the challenges faced by Law Enforcement Agencies in investigating and prosecuting Terrorism?

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In This Issue: A SPECIAL EDITION

A partnership between Kenya Office of the Director of Public Prosecutions (ODPP) and EU AML-THB Project on Drafting of the Inter- Agency Guidelines on Cooperation and Collaboration in the Investigation and Prosecution of Terrorism and Terrorism Financing



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Synopsis:

WORKSHOPS WERE HELD TO DEVELOP INTER-AGENCY GUIDELINES ON COLLABORATION, COOPERATION AND COORDINATION IN THE INVESTIGATION AND PROSECUTION OF TERRORISM AND TERRORISM FINANCING

17 – 21 January 2022 | 31 – 04 February 2022 | 21 – 25 February 2022

| 14 – 18 March 2022 | 27 – 31 March 2022 | **Venue:** Great Rift Valley Lodge, Naivasha |

Alma Wanyama

Senior Technical Advisor to the AML-THB Project and coordinator of the training

The Primary Agenda of the workshops was to come up with inter-agency guidelines to enhance and facilitate collaboration, cooperation and coordination in the investigation and prosecution of terrorism cases and particular emphasis on terrorism financing.



Alma Wanyama,
Senior Technical Advisor

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Kenya is just the beginning, Kenya will be the benchmark for other countries in the region. It is our hope and the hope of the project that we will be able to replicate this in other countries within the scope of our project, in as much as their local laws allow. This is a great achievement for Kenya.



INTRODUCTION

The Office of the Director of Public Prosecutions (ODPP), with the support of the AML-THB (EU) Project, convened inter-agency consultative workshops aimed at developing guidelines for the office to strengthen cooperation and collaboration in the investigation and prosecution of Terrorism and Terrorism Financing.

Various law enforcement agencies, criminal justice actors and civil society organisations participated. They included ATPU, JTTF, JC-TAC, KRA, FRC, ARA, CBK, Directorate of Immigration, PACS, Prisons, Judiciary, and the ODPP. Civil society organisations (CSOs) included IJM-Kenya, Haki Africa and Amnesty International- Kenya. The ODPP contracted a consultant whose work was to guide the whole process of drafting, collation of information and arrangement of the guidelines. The consultant was Dr. Nabil M. Orina.

The whole exercise of development of the guidelines was spread-out within five (5)

workshops that were held in Great Rift Valley Lodge, Naivasha.

AGENDA OF THE WORKSHOPS

1. The Primary Agenda of the workshops was to come up with inter-agency guidelines to enhance and facilitate collaboration, cooperation and coordination in the investigation and prosecution of terrorism cases and particular emphasis on terrorism financing.
2. The main objectives of the guideline are to;
 - a. Ensure effective collaboration, cooperation and coordination in the investigation and prosecution of terrorism and terrorism financing.
 - b. Enhancing partnerships between the agencies tasked with the combating of terrorism and financing of terrorism.
 - c. Fostering inter-agency accountability, efficiency and expeditious disposal of terrorism cases, including sharing of information, capacity building and prosecution guided investigations, and considerations of human rights
 - d. as enshrined in the constitution of Kenya, 2010.

OUTCOME OF THE FIVE WORKSHOPS

The five (5) workshops saw an intensive deliberation among the agencies, especially balancing each agency's mandate, their role within the criminal justice sector, and the 'give and takeaway' within the guidelines. Agencies were very inquisitive about every aspect

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Workshop 1 Participants

CONTINUED FROM PAGE 3

of the guidelines that affected them directly or indirectly. The spirit of nationhood, public interest, and constitutionalism guided all agencies in creating the legal framework for collaboration.

In the fifth workshop, the agencies were able to conclude and agree unanimously on all the sections of the guideline. The final draft shall be submitted to the secretariat for arrangement and finalisation on typesetting and editing.

CONCLUSION

Finally, after the five (5) workshops, the final draft was taken through the endorsement process and appended with a signature by all principals of all the agencies involved. The Launch was done by the principals of all agencies engaged on Tuesday 12th April 2022, at the Prosecution Training Institute (PTI), Loresho, Nairobi. This is a big win for Kenya!

FUTURE

This exercise is envisioned to be replicated in the countries under the project's scope as their laws allow.



Workshop 2 Participants



Workshop 3 Participants



Workshop 4 Participants



Workshop 5 Participants



A word from...

Noordin M. Haji, CBS, OGW | Director of Public Prosecutions |

I am grateful to my team within the ODPP and to all members of the Task Force who have worked tirelessly and meticulously in developing these Guidelines.



I am pleased to present Inter-Agency Guidelines on Cooperation and Collaboration in the investigation and Prosecution of Terrorism and Terrorism Financing. These guidelines are issued under Section 50(3) of the Office of the Director of Public Prosecutions Act No. 2 of 2013, which empowers my office to work with law enforcement agencies to develop guidelines for investigating crimes.

With the rise of globalisation in this fast-changing technological era, crime and especially terrorism are taking up new trends. This has necessitated urgency within the criminal justice sector in responding to these emerging trends. To curb the challenges posed by a disjointed approach in addressing severe crimes like terrorism and terrorism financing, a coordinated Multi-Agency/Multi-Stakeholder/ Multi-Sectoral approach towards investigation and prosecution is necessary.

These guidelines are not only aimed at ensuring that there is effective coordination, collaboration and cooperation in the investigation and prosecution of Terrorism and Terrorism Financing but are also meant to enhance Organizational Partnership between investigative agencies and the ODPP. These guidelines bring together more than

ten (10) Law Enforcement Agencies that are directly and indirectly responsible for investigating terrorism and terrorism financing and taking other measures to detect or prevent terrorism.

I am grateful to my team within the ODPP and to all members of the Task Force who have worked tirelessly and meticulously in developing these Guidelines. Similarly, I express my special and institutional gratitude to our international partners, the EU Trust Fund/INTPA “AML-THB Project in the Greater Horn of Africa and Southern Africa”, and to all agencies who have contributed. I expect this spirit of inter-agency cooperation and collaboration will guide us in disseminating and implementing these guidelines.

I am confident that these guidelines will provide the perfect tool for engagement between investigators, prosecutors and other law enforcement agencies. These guidelines are intended to be a most practical, daily-use guide for investigators and prosecutors and judicial officers handling terrorism-related cases and other justice actors within our criminal justice system.



Acknowledgements from...

Dorcas Oduor, EBS, OGW | SC Secretary Public Prosecutions |

The fruits of these efforts are bound to benefit all the actors within the criminal justice system in counter-terrorism and counter-financing of terrorism.



I wish to thank and acknowledge the Director of Public Prosecutions, Mr. Noordin M. Haji, for his contribution to developing these guidelines. A multi-agency, multi-stakeholder and multi-sectoral task force was convened to establish the guidelines through his wisdom. The fruits of these efforts are bound to benefit all the actors within the criminal justice system in counter-terrorism and counter-financing of terrorism. Mr. Haji not only provided the necessary support and resources but was instrumental in offering guidance throughout the process.

I also wish to express special gratitude to the EU Trust Fund/INTPA “AML-THB Project in the Greater Horn of Africa and Southern Africa”, Project Director Mr. Frederic Bayard, Senior Technical Advisor to the Project, Ms. Alma Wanyama and the entire AMLTHB Team in general for facilitating the participants throughout the process of deliberating on these guidelines. Special recognition is also given to Dr. Nabil M. Orina, the Consultant. His insightful input and expertise were integral in the realisation of these guidelines. Last but not least, I would like to give special thanks to all the State and non-State actors who participated in the deliberations, formulation and development of these guidelines.

I want to acknowledge and thank the ODPP technical team comprising of Mr Michael Sang, Mr Peter Kiprop, Mr Eddie Kaddebe, Mr Duncan Ondimu OGW, Mr Allen Mulama, Mr Harrison Kiarie, Ms Fatma Ali Ahmed, Ms Agatha Abang, Ms Jillo Guyo Waqo, Ms Joyce Wangui Gacheru and Mr

Kelvin Kamau for coordinating and moderating at the various stages during the consultative workshops and for their active participation throughout the exercise.

Special recognition is also given to all task force members from each agency for their invaluable contribution in the five (5) week period that saw these guidelines coming. In particular, I wish to recognise the efforts of Mr Adow Deiss Mohamed (ARA), Jennifer Gitiri HSC (ARA), Michael Owuor (CBK), Georgina Muthama (CBK), John Ekadah (KRA), George Ochieng (KRA), James Manyonge (FRC), Mwai Kennedy (FRC), Edwin Rioba (NCTC), Edna Ipalei (NCTC), Yusuf Hassan (Immigration), Christine Gathoni Kinyua (Immigration), Fiona Josephine Nakhone Owuor (Immigration), Isalah Kiprotich Koech (JCTAC), Vincent Sarara Robi (JCTAC), Zipporah Njenga (JCTAC), Stephen Hamisi (DCI-ATPU), Joseph Kolum (DCI-ATPU), Erick Opagal Okisai (JTTF-K), Wendy N. Ouma (JTTF-K), Emmanuel Ndunda (KPS), Joseph Jude Oumah (PACS), Rosette Ochoo Auma (Haki Africa), Stephen W. Musau (Amnesty International- Kenya), Betty Nthenya Wambua (IJM), and Tali Israel Tali (Legal Researcher).

I am also grateful to the umpires of justice for their input during the discussions. In particular, special thanks go to Hon. Diana Rachael Kavedza (Judiciary) and Hon. Agnes Wahito Mwangi (Judiciary).

Thank You.

A Note From the Head of Division...

Michael Sang,

| SADPP Head, Counterterrorism & International, Transnational and Organised Crime Division |



I remain forever indebted to all principals who heeded the DPP's clarion call. These guidelines provide an avenue for all law enforcement agencies and other criminal justice actors to foster organisational partnership, bolstering cooperation and collaboration between all agencies with the common goal and objective to work together and share resources to combat terrorism and terrorism financing.

I am grateful to the Director of Public Prosecutions, Mr. Noordin M. Haji, CBS, OGW, for providing a platform for inter-agency engagement to enrich the formulation, drafting and compilation of these guidelines. The formulation of these guidelines could not have been achieved without his foresight and leadership. Kenya stands out as a pioneer in the East African Region with this milestone. Kenya conducted its National Risk Assessment (NRA) on AML/CFT in 2020/2021.

In February 2022, Kenya went through a Mutual Evaluation exercise on AML/CFT in line with FATF Recommendations. Resulting from the recently concluded National Risk Assessment and Mutual Evaluation exercise, AML/CFT/PF Action Plan was developed. One of the critical areas of focus is building the capacity to detect, investigate, and prosecute terrorism financing. To support this course, investigators should prioritise terrorism financing in all terrorism investigations.

I thank Madam Dorcas Oduor, EBS, OGW, SC, for her contributions and review of the guidelines towards the end of the exercise; her experience helped improve the document. My appreciation also goes to the EU Trust Fund/INTPA "AML-THB Project in the Greater Horn of Africa and Southern Africa", Project Director Mr. Frederic Bayard and Senior Technical Advisor to the Project Ms. Alma Wanyama for the technical assistance and financial support.

I also wish to recognise Dr. Nabil M. Orina for his patience in listening to and incorporating divergent views. His in-depth research and strong work ethic were vital in the expeditious completion of this exercise. Special thanks to taskforce members of all agencies for the informative debates, open and active plenary sessions, critiques, reviews and staying late into the night to accomplish this task.

Finally, I remain forever indebted to all principals who heeded the DPP's clarion call. These guidelines provide an avenue for all law enforcement agencies and other criminal justice actors to foster organisational partnership, bolstering cooperation and collaboration between all agencies with the common goal and objective to work together and share resources to combat terrorism and terrorism financing.

Official Launch of the Inter-Agency Guidelines on Cooperation and Collaboration in the Investigation and Prosecution of Terrorism and Terrorism Financing at Prosecutors Training Institute (PTI)

Photo Courtesy | Freepix

Speech by the AML-THB Project Director:

Frédéric Bayard

Col (Rtd) Police Commissioner | EUTF/INTPA AML-THB Project Director |

Your Excellencies, Director Generals of represented institutions in Kenya, Ladies and Gentlemen.

It would have been my great pleasure to be among you this morning. But I had to be away in Central Africa attending to pressing matters of the project. Please accept my sincere apologies.

However, I have delegated to one of my deputies to be with you today, Alma Wanyama. Alma, whom most of you have met, is in charge of criminal policy within the EU Trust Fund AML-THB project.

Today's event is an incredible and significant moment, recognising the diligent, methodical work applied with attention to detail and a commitment rarely seen.

After a career spanning over 42 years as a counter-terrorism police commissioner in my country France, which has also been scarred like so many others by brutal terrorist attacks, I have never had the opportunity to experience or realise what you, the institutions of Kenya, under the inspiration of the Director Of Public Prosecutions and his team, have accomplished today.

We are witnessing today the culmination of an intense shared commitment, which, for a few months, brought together men and women to work together on a subject that fascinates me as much as you. These men and women are professionals, drawn together from various vital institutions in the country; and who are all sharpened in their fields of competence.

Let me repeat here that this is beautiful! This is great and brilliant that an entire country unites against a cowardly phenomenon, an abomination to humanity, as opposed to the values of love and peace that should govern the human race.

Before I continue, Nothing can better illustrate my point than these words inspired by Siddhartha Gautama, who said, and I quote:

*"Sow a thought and you will reap an action,
Sow an action and you will reap a habit,
Sow a habit and you will reap a will,
Sow a will and you will reap your destiny."*

This is, of course, the intentional process by which we have reaped the Guidelines we have here today. It started as an idea,

then we took action, then we made it into a routine, then it became our will, and finally, it has become a defining moment for the fate of Kenya.

An idea, first of all; by a man of conviction whom I would like to salute here Mr. Noordin

The idea, ladies and gentlemen, materialised after a request for support that Mr. Noordin Haji submitted to me and immediately turned into an applied, almost hectic work routine. We worked on a plan and established a way to get this work done.

This generated a strong will among the women and men you, Director-Generals appointed to represent you. This document describes the future of investigations and prosecutions in the fight against terrorism and financing of terrorism in Kenya.

Your Excellency, ladies and gentlemen of this country, sorry to take this little moment of your time, but allow you to single out some people we should all be proud of Adow Deiss Mohamed and Jennifer Gitiri from the Asset Recovery Agency; Michael Owuor and Georgina Muthama from the Central Bank of Kenya; John Ekadah and George Ochieng from the Kenya Revenue Authority; James Manyonge and Mwai Kennedy from Kenya's Financial Reporting Centre; Edwin Rioba and Edna Ipalei from the National Counter Terrorism Centre; Yusuf Hassan, Christine Gathoni Kinyua and Fiona Josephine Nakhone Owuor from the Immigration services; Isaiah Kiprotich Koech; Vincent Sarara Robi, Zipporah Njenga from the Joint Counter Terrorism Analysis Centre; Erick Opagal Okisai and Wendy Ouma (Joint Terrorism Task Force-Kenya; Emmanuel Ndunda from the Kenya Police Service; Joseph Jude Oumah from Probation and After Care Services; Rosette Ochoo Auma from Haki Africa; Stephen Musau from Amnesty International- Kenya; Betty Nthenya Wambua from International Justice Mission – Kenya and Tali Israel Tali, a Legal Researcher.

I would also like to thank Michael Sang, Peter Kiprop, Eddie and the entire ODPP team that Mrs. ODUOR mentioned in her speech.

I can only humbly testify to the commitment that has been total during all these weeks, thanks to the advice of our project consultant, Dr. Nabil Orina, and the guidance and interpersonal smile of Alma, my Senior Tech-

nic Advisor, who reads these words to you.

Everything was not simple, ladies and gentlemen. On the contrary!

Beyond the logistical and technical constraints, we dealt with the various people and institutions that forged this product, which was not always the simplest thing to do.

But the team in charge of the project found the formula to do, and today, I think we have a supportive, willing, lively and winning team!

As director of this EU-funded project, supported by the Ambassador of the European Delegation, I wish many good tidings to this team of Kenyan women and men who love their country, who are proud of it and who carry to the highest the colours of their institutions, those that make the stability and image of your beautiful country.

Thank you for this titanic work that I hope will continue its course, ultimately becoming a unique model in the region that will be used, mirrored and adapted to the needs of the partner countries of the European Union project, making Kenya the example of a country that is resolutely committed to the fight against Terrorism and Terrorism Financing.

Before concluding, Your Excellencies, Dear Noordin, dear Director Generals, I would like to congratulate your team, their faith in your guidance and this incredible team of "Institutions KENYA" one last time.

I wish long life with these directives that you have carried and agreed upon on the occasion of this special day.

Thank you for your attention.





Speech by the Director of Public Prosecutions:

Noordin M. Haji, CBS, OGW,

| Director of Public Prosecutions |

The tragic events of September 11, 2001, paved the way for establishing a strict international financial regime whose participants now actively include state and non-state entities. The ramifications of this regime have since played a significant role in the identification and suppression of the financing of terrorism as an offence ancillary to terrorist offences..



Governor, Central Bank of Kenya, Dr. Patrick Njoroge; Inspector General of Police, Mr. Hillary Mutyambai; Solicitor General, Office of the Attorney General, Mr. Kennedy Ogeto; Commissioner General, Kenya Prison Services, BRIG (Rtd) John Kibaso Warioba; Director-General, Directorate of Immigration Services, Mr. Alexander Muteshi; Director, National Counter Terrorism Centre (NCTC), Dr. Rosalind Nyawira; Deputy Ambassador to the European Union, Amb. Ms. Katrin Hagemann; Executive Director International Justice Mission, Mr. Benson Shamala; Representative from the European Union Trust Fund, Anti-Money Laundering – Trafficking in Human Beings Project in the Greater Horn of Africa and Southern Africa, Ms. Alma Wanyama. Ladies and gentlemen, good morning.

It gives me great honour and pleasure to welcome you all to the launch of the Inter-Agency Guidelines on Cooperation and Collaboration in Investigation and Prosecution of Terrorism and Terrorism Financing.

Over the years, terrorism and its manifestations have arguably become the greatest threat to national, regional and international peace and security. From radicalisation to Foreign Terrorist Fighters to violent

extremism, terrorism remains a multifaceted ever-evolving global crime.

At the cornerstone of the global fight against terrorism is the United Nations Security Council Resolution 1373, which called on the Member States to work together urgently through increased cooperation and full implementation of the relevant international conventions relating to terrorism, including adequate measures to prevent and suppress the financing of terrorism.

The tragic events of September 11, 2001, paved the way for establishing a strict international financial regime whose participants now actively include state and non-state entities. The ramifications of this regime have since played a significant role in the identification and suppression of the financing of terrorism as an offence ancillary to terrorist offences.

Although many democratic nations have since enacted anti-terrorism legislation, there is still a need to enhance our capacity to combat the various manifestations that terrorism has presented. Terrorism remains a threat to international peace and security. As I have mentioned, we can only enhance our capacity through increased interagency cooper-

ation, collaboration, and coordination, which draws expertise from state and non-state actors.

Agencies, including our own, have often discharged their mandates within a limited scope that overlooks interagency cooperation and collaboration. The need for more effective interagency cooperation in counter-terrorism (CT) has been evident in the aftermath of several incidents of terrorism.

It has also become clear that the reluctance or failure to coordinate and share information between security agencies is no longer tenable. For terrorism and related offences to be effectively detected and prevented in the future, we must coordinate our wide array of resources to unify and strengthen our efforts.

No single agency can effectively or singlehandedly combat terrorism and its manifestations because terrorism cuts across multiple jurisdictions. Uncoordinated, unilateral actions by one agency can produce only limited results in the fight against such a complex threat.

In recognition of this, the ODPP has developed the Inter-Agency Guidelines on Cooperation and Collaboration in Investigation and Prosecution of Ter-

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rorism and Terrorism Financing in partnership with state agencies and civil society, guided by the principles of professionalism and integrity; transparency and accountability; confidentiality; patriotism and nationalism; efficiency; and teamwork.

The Guidelines seek to achieve the following specific objectives:

- Develop an inter-agency framework for practical cooperation, collaboration and coordination in the investigation and prosecution of terrorism and terrorism financing;
- Foster accountability, efficiency and expeditiousness in the investigation and prosecution of terrorism and terrorism financing;
- Enhance inter-agency information sharing and provide a model for inter-agency information sharing; and
- Provide a framework for joint training and capacity building within and among the agencies.

These Guidelines are pivotal and significant as we have developed a cooperation framework comprising financial agencies, investigators, and prosecutors to detect, investigate, and prosecute terrorism and related offences for the first time.

I want to emphasise that these Guidelines are intended to serve as a resource for stakeholders as they work to ensure that the investigation and prosecution of terrorism and related offences, including financing terrorism, is conducted according to the rule of law. In the spirit of sharing information, it may also serve as a valuable resource to other state and non-state entities seeking to understand our national inter-agency initiatives to suppress terrorism and hold us to account as actors in the criminal justice sector.

In addition, I am aware that terrorism and terrorism financing often present an overlaid interaction with other transnational organised crimes, including money laundering. Therefore, these Guidelines are a welcome synergistic addition to existing policies and guidelines we have established to prosecute international crimes effectively.

As we enhance our joint strategic initiatives to investigate and prosecute terrorism and terrorism financing, I must remain cognizant of our need to respect and protect human rights. The relationship between human rights and the obligation to investigate and prosecute terrorism and terrorism financing carries equal importance.

Globally, many counter-terrorism initiatives have been used as tools to perpetuate unlawful limitations and gross violation of fundamental rights and freedoms. The onus, therefore,

is on us as State entities to ensure that where certain rights and freedoms may be limited as part of our counter-terrorism measures, such limitations will be done within the confines of the rule of law.

I have in the past mentioned the critical role community-driven strategies play in creating awareness among citizens on terrorism and related offences. I am therefore pleased to witness these Guidelines encompass provisions on community engagement that will bring together state agencies and civil society as part of a unified national inter-agency coordination mechanism to investigate and prosecute terrorism and terrorism finances while respecting and protecting human rights for all.

Our nation's threats are significant and potentially catastrophic if left unabated. However, through a broad yet inclusive approach that encompasses our citizens, community leaders, state and non-state agencies, civil society, national, regional, and international authorities, I believe the criminal justice system will continue to effectively adapt ahead of evolving threats, thus strengthening our peace and security against terrorism.

To conclude, I express my sincere gratitude to the European Union led by Ambassador Katrin Hagemann, who is represented here today by her Deputy. The entire team from the EU's Anti-Money Laundering – Trafficking in Human Beings Project led by Frederic Bayard (Project Director) and Alma Wanyama (Senior Technical Advisor) for their technical and financial assistance facilitated the development of these Guidelines.

I also wish to say thank you to Dr. Nabil Orinda and his team for their dynamic views and opinions that enriched this process and ultimately brought these Guidelines to fruition.

Collectively, I would like to thank the experts and participants who provided valuable input and feedback throughout the development of these guidelines. I hope these Guidelines prove to be a practical reference guide for prosecutors, criminal justice actors, and members of civil society who play a critical role in enhancing access to justice through the effective investigation and prosecution of terrorism and related offences.

Thank you & God bless you All.

I want to emphasise that these Guidelines are intended to serve as a resource for stakeholders as they work to ensure that the investigation and prosecution of terrorism and related offences, including financing terrorism, is conducted according to the rule of law. In the spirit of sharing information, it may also serve as a valuable resource to other state and non-state entities seeking to understand our national inter-agency initiatives to suppress terrorism and hold us to account as actors in the criminal justice sector..





Alexander Muteshi,

| Director General, Directorate of Immigration Service |

Speech by the Director-General of Immigration:

The Governor Central Bank of Kenya, Director of Public Prosecution, Deputy Ambassador EU, Solicitor General, Inspector General of Police, Commissioner General Kenya Prisons Services, Director General Financial Reporting Centre, Director National Counter Terrorism Centre, Representative EUTF-AMLTHB in GHOA and Southern Africa, Representative International Justice Mission and other distinguished guests, ladies and gentlemen.

I want to take this opportunity to thank the ODPP and AML for spearheading the guidelines and guiding the process, which is a true reflection of leadership. I would also wish to extend my gratitude to all those who participated in drafting the Guidelines and made this launch possible.

Ladies and Gentlemen, terrorism and violent

extremism, pauses an existential threat to our national security. The increasingly global nature of terrorism renders it a uniquely difficult challenge for our country; hence combating it requires strategic engagements and inter-agency cooperation among government agencies to secure the country in their respective individual roles. To this end, we all appreciate that the Terrorism threat is primarily an external phenomenon that involves planners, financiers, logisticians, and executors.

Ladies and Gentlemen, for us to win the war on terrorism, all investigative agencies should operate as a system rather than an assortment of separate components, as it is crucial for the success of these guidelines. Multi-agency cooperation and collaboration is the panacea in fighting terrorism and its networks. All instruments of national power,

economic law enforcement, financial information and intelligence should be geared towards winning this war.

The Directorate of Immigration Services wishes to affirm its commitment and support to the government's Multi-Agency approach to tackling terrorist threats. We shall continue to work very closely through the border management committees to secure our borders and ensure that we smoke out terrorists.

To this end, I wish to particularly thank the ODPP for the workshops they hosted in the recent past, which brought together all the relevant agencies charged with the enormous responsibility of safeguarding the country from internal and external threats.

Thank you, and God bless you.



Speech by the Inspector-General, National Police Service:

Hilary Mutyambai, MGH, nsc (AU),

| Inspector-General, National Police Service & President of AFRIPOL General Assembly |

DR. Patrick Njoroge - Governor, Central Bank of Kenya; MR. Noordin Haji- DPP; AMB. Ms. Katrin Hagemann- Deputy Amb. EU; MR. Kennedy Ogeto - Solicitor General, MR. Alexander Muteshi - Director General, Directorate of Immigration Service; DR. Rosalind Nyawira - Director, National Counter Terrorism Centre (NCTC); BRIG(Rtd) John Warioba- Commissioner General, Kenya Prison Service; MRS. Alma Wanyama- Representative EUTF-AML-THB in GHOA and

SOUTHERN AFRICA; MR. Benson Shamala - International Justice Mission

Ladies and Gentlemen, Good morning; I am incredibly pleased to be in your midst this morning and participate in the launch of 'Inter-Agency Guidelines on Cooperation and Collaboration in Investigation and Prosecution of Terrorism and Terrorism Financing'. This is an opportune time when all of us representing key state actors and partners within the criminal justice sector come to-

gether as one to provide not only leadership and a way forward in our unified fight against organised crime, terrorism and violent extremism but also to find solutions to such a scourge threatening humanity.

The threat posed by terrorism and attendant risks cannot be overstated. As a country that has been victimised before and continues facing this insidious and pervasive threat, call for our utmost vigilance. It is owing to this reality that we gather here today.

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The fight against terror is a journey that no single entity can walk alone. We all know that terror knows no borders. And we also know that we don't have a single definition of a terrorist profile. Worse, the motivation for terror remains a grey area, making such a search an exercise in futility. This, therefore, calls for all those of us in law enforcement to rethink our respective and complementary approaches and adopt a unified system.

On this score, I want to laud our partnerships and cooperation over time, as evidenced in our progressive multiagency relationships. This spirit and goodwill will enable us to stand together stronger as we face a common enemy.

I, therefore, stand before you to reaffirm my agency's commitment to partnerships of purpose. Partnerships for something bigger and better for society. And partnerships that would make our communities safe and peaceful and our country more robust, resilient, and victorious. A victory against the evil of terrorism.

Terrorism is evil. It causes fear and despondency. Fear negatively impacts livelihoods and development. As such, as we design best-fit strategies to tackle the terror transgression, let us also focus on the causes of terror. It is out of causation that we shall find durable solutions.

Terror is bred by violent extremism. It is about the extreme agitation in communities. This calls for a different aspect of partnerships; partnerships that bring forth crime intelligence. Further, we also need to deliberately invest in communities to deal with the causes of extremism. Therefore, working closely with communities is a given, not an option.

For use in the National Police Service, we are working with communities through community policing partnerships. When we work with communities, we believe that we build trust and legitimacy in our work. And when we gain public confidence, we can influence behaviours and leverage our anti-violent extremism measures. I, therefore, request you all, as partners, to join us in the public sector communities' engagements for befitting anti-terror interventions.

Allow me to briefly mention another contributory aspect to the terrorism experience: financing of terrorism and violent extremism. The terror enterprise is a costly undertaking, elaborate and too organised. More so, it is transnational in nature. Large financial outlays are needed to finance this enterprise. This means that sources for such money must be found, one way or the other, including transnational criminal offending such as drug trafficking, white-collar crime including public corruption, dealing in environmental crime,

and trafficking in persons.

Profits extracted from these criminal enterprises are laundered through the financial systems, and cleaned proceeds are used to finance terrorism and violent extremism. This Ladies and Gentlemen have to stop.

Yet it is easy said than done. Fighting money laundering and financing terrorism is no walk in the park. This requires knowledge, more upfront resources and other law enforcement capacities. One such power is what we gather here today for.

As the Inspector General of Police, I am pleased to join you, brothers and sisters, during the unveiling of the Inter-Agency Guidelines on Cooperation in Investigation and Prosecution of Terrorism and Terrorism Financing. This guideline shall be a great tool to harmonise our approaches and synergise our collective efforts as we move forward in securing the motherland and her citizens.

Working together, and walking side by side, is a sure win for us.

Therefore, it is my pleasure and joy to join you all here today and be part of this collective effort of partnership and friendship.

I Thank You, and God Bless.



Speech by the Director of NCTC:

Dr. Rosalind Nyawira,

| Director, National Counter Terrorism Centre (NCTC) |

INTRODUCTION

Distinguished guest, ladies and gentlemen, good morning. Let me start where it started. The 1998 twin attacks against the US embassies in Nairobi and Dar es Salaam shook East Africa and brought to the fore the dawn of terrorism as we know it today. Al Qaida had landed in a big way. Usama Bin Laden said that there were no innocent bystanders in the war against the infidels. That is what we were, bystanders. We did not un-

derstand whose war it was and why it had been brought to our doorstep. We were just collateral damage. 256 dead, many more injured, yet that is all we were, collateral damage.

In 2002, Saleh Nabhan, a Kenyan born in Mombasa, led an attack against the Kikambala paradise hotel and attempted to down the Arkia airline with a heat-seeking missile. The subsequent narrative indicated that the Israeli airliner had missile deflectors. All in

all, it flew away unscathed, never to return. What we thought was an isolated incident by foreigners in 1998 became a reality, and Kenyans had found their way into this act.

In 2006, hell broke loose in Somalia after an international alliance with Somali warlords fought the budding Islamic courts union and led to the scattering of a group of young Somalis and foreigners trying to take over the tribal courts and restore some sanity. Interestingly, there had been a semblance of or-

The multi-agency cooperation has played a critical role in the fight against terrorism in the country, despite the many challenges agencies encountered. However, these guidelines will fast-track the process of investigating and prosecuting terror suspects. These guidelines exemplify the agency's common resolve in the fight against Terrorism and Terrorism financing, which we must win.



der in the flirting moment the courts had been in place. The international community, fearing that a group of radical scholars that had just returned from Afghanistan would take over the courts, descended on them. In the aftermath, Kenyan youth that had been in Somalia escaped towards the Lakota belt, but with them also other Somalis who later regrouped and formed the Harakat Al Shabaab Al Mujahidin youth movement, which became the much-loathed Al Shabaab.

While Al Shabaab continues to cut the mustard, DAESH and its malignant ideology have also claimed space in global terrorism. The online recruitment and radicalisation nodes have not spared any country.

Kenya has interacted with the threat of terrorism emanating from radical Islamists for two and half decades. As terrorism morphs, so do its manifestations as well as the offenders. It has evolved from being a foreign-acted threat to being driven and executed by Kenyans. The offenders increased over time as Kenyans got attracted to these war theatres, following a spate of radical physical and cyberspace radicalisation. Good counter-terrorism practices have meant that the terrorists have become adept at circumventing the law to survive and fragmenting into many silos. It has become even more compartmentalised and thus harder to prove and satisfy the evidential burden placed on the prosecution by the law.

Terrorists do not care about the observance of human rights or humanitarian law. Indeed, when arrested, they are subjected to the same rights that ordinary citizens claim. States do not have the luxury of behaving the same way as they should. Indeed, it would be considered degrading if states behaved the same way as terrorists do. On the contrary, conditions must be above reproach, like Ceasar's wife. This is why Kenya enacted a legal regime that deals with the crime of terrorism with all its attendant uniqueness. These laws are continually being amended to align with the morphology of terrorism. I have thus opined that terrorism cases do not fail for lack of law but rather for lack of application of the law.

Against this backdrop, I would like to commend the Office of the Directorate of Public prosecution and the agencies represented in the multi-agency task force for coming up with guidelines on coordination, collaboration, and cooperation in the investigation and prosecution of Terrorism Financing of Terrorism Cases.

These guidelines aim to ensure that there is effective coordination, collaboration and cooperation in the investigation and prosecution of Terrorism and Terrorism Financing. Still, they are also meant to enhance the organisational partnership between investigative and prosecuting agencies.

IMPORTANCE OF MULTIAGENCY COOPERATION

The multi-agency cooperation has played a critical role in the fight against terrorism in the country, despite the many challenges agencies encountered. However, these guidelines will fast-track the process of investigating and prosecuting terror suspects.

These guidelines exemplify the agency's common resolve in the fight against Terrorism and Terrorism financing, which we must win.

We at the National Counter Terrorism are proud to be part of the efforts to ensure the successful prosecution of terrorists. Our statutory mandate includes establishing a database to assist law enforcement officers, conducting public awareness and capacity building for counter-terrorism stakeholders, and developing strategies to counter and prevent violent extremism. All this is aimed to help us achieve our core mandate of coordinating CT efforts in Kenya. We can only achieve this mandate through liaison with all agencies to counter-terrorism.

Over time, we have developed strategies that seek to assess the indoctrination levels of the VE offenders and return them to the mainstream. Indeed, our disengagement, rehabilitation and reintegration efforts are encompassed in a HIP model, incorporating a humanistic, ideological, and prosecutorial approach. The centre has also trained psychologists that can carry out a psychosocial assessments as professionals. This would be done voluntarily or, even better, under a court order.

However, we would like to reiterate that DRR is a voluntary process; it's not an exact science and not a terminal solution. It can also be penetrated by the enemy and used as a deceptive operation. Therefore, persons must undergo DRR while still within the criminal justice system, hovering above them like the sword of Damocles. They are monitored by the investigative agencies while within the process. This would require joint efforts by all the players involved.

NCTC is also ready to build capacity for the public and private sectors upon request. Within the bilateral and multilateral setting, the Centre can also source skill sets and training capabilities amongst the various partners that we engage with.

We stand up to be counted amongst those committed to successful prosecutions, bringing down radicalisation levels and building resilience amongst communities towards a secure homeland.



Speech by the Commissioner General of Prisons:

BRG. (Rtd) John Kibaso Warioba,

| Commissioner General of Prisons |



I am happy to note that the guidelines address the issue of conducting psychosocial assessments of the inmates. This will boost the DRR programme as each individual will have a programme specially formulated to manage their engagement levels and push factors. As a Service, we stand to gain immensely in this pulling together because proper management of VEOs will enhance the safety and security of the prisons.

The Chief Guest, All protocols observed, Ladies and Gentlemen. I am delighted to be part of this congregation witnessing the launch of the Inter-Agency Guidelines on cooperation and collaboration in the investigation and prosecution of terrorism and terrorism financing.

Building synergies is crucial as it makes work more accessible, and having these guidelines provides a straightforward way to work together as agencies.

From the onset, I wish to register my appreciation to the initiators and drafters of the guidelines. I have perused the guidelines and am impressed with the work that has gone into the document, especially in the areas touching on Kenya Prisons Service.

As custodians of Violent Extremist Offenders, including suspects and convicts of terrorism and terrorism financing crimes, Kenya Prisons Service plays a crucial role in the fight against the vice.

We are ready to facilitate easy access to suspects in our custody to any agency that would wish to interview them for collecting information that would assist in their prosecution.

KPS is committed to providing all the needed information in our custody but is crucial to any ongoing investigations. This includes periodic assessment reports on terrorism and terror financing detainees in our custody and any observed activities in the prisons that may point to involvement in Violent Extremism.

Regarding the Disengagement Rehabilitation and Reintegration programme, I am happy to note that the guidelines clarify engaging with other agencies, especially the NCTC, in this venture.

When a terror convict escapes from prison and shows all indications of trying to get to a terrorist group, they still harbour violent extremist tendencies.

The importance of developing a curriculum to support the DRR programme cannot be overemphasised. Our officers need the requisite knowledge and skills to turn around Violent Extremists to disengage and be ready to resettle back into society as law-abiding citizens. Indeed, we welcome joint capacity building programmes as prescribed in the guidelines, and we are prepared to participate fully.

The guidelines stress separating terror detainees from other prisoners to prevent lousy influence, including radicalisation. We will endeavour to undertake this, but bearing in mind that studies have shown that total isolation could be detrimental to the rehabilitation of inmates. As professionals in this field, in liaison with NCTC and other agencies, we will determine the individualised treatment that works for each inmate.

In that regard, I am happy to note that the guidelines address the issue of conducting psychosocial assessments of the inmates. This will boost the DRR programme as each individual will have a programme specially formulated to manage their engagement levels and push factors.

As a Service, we stand to gain immensely in this pulling together because proper management of VEOs will enhance the safety and security of the prisons.

Further, this being one of the most complex categories of inmates to rehabilitate, these concerted efforts will contribute immensely to achieving our mandate.

With those few remarks, I once again register my appreciation.

Thank You.



Benson Shamala,

| *Country Director International Justice Mission-KENYA* |

Speech by the Country Director International Justice Mission-KENYA:

Chief Guest, Governor Central Bank of Kenya: Dr Patrick Njoroge; Director Public Prosecutions - Mr. Noodin Haji; Deputy Ambassador EU – Amb. Ms. Katrin Hagemann Solicitor General – Mr. Kennedy Ogeto; Inspector General of Police – Mr. Hillary Mutyambai; Director-General, Immigration Services – Mr. Alexander Muteshi; Director-General Financial Reporting Centre (FRC) - Mr. Saitoti Ole Maika; Director, National Counter Terrorism Centre (NCTC) – Dr. Rosalind Nyawira; Commissioner General, Kenya Prisons Service – BRIG (Rtd) John Kibaso Warioba; Mrs Alma Wanyama, Technical lead AML-THB project My colleagues from civil society; Amnesty International Kenya: Executive Director Irungu Houghton Haki Africa: ED Hussein Khalid; All guests Ladies and Gentlemen Good morning,

It gives me great pleasure to witness the launch of these essential guidelines in investigating terrorism cases and terrorism financing.

Let me start by congratulating and appreciating the Director of Public Prosecutions (DPP) for launching these guidelines. Let me also acknowledge you for reaching out to non-state actors and allowing us to participate throughout the process.

It is a move in the right direction as public participation is required in such matters. Thank you for always recognising the place of Civil Society Organizations in the Criminal Justice System.

Secondly, I wish to congratulate the technical team which worked on this document for over five weeks. Having had an International Justice Mission staff participate in this process, I know how intense the sessions were. The team had to work late to accomplish the task within the set deadline on some days.

Terrorism is a detrimental human rights issue; this is because terrorists aim at the destruction of human rights, fundamental freedoms, and democracy. They endanger innocent lives and the dignity and security of all. Therefore, it cannot be disputed that the fight against terrorism is an important endeavour that needs to be supported by all.

However, law enforcement agencies must maintain the delicate balance between protecting the fundamental rights of citizens on

the one hand and the fight against terrorism on the other. Agencies, therefore, need to be innovative in fighting terrorists, and within the Constitution's framework, particularly in consideration of the Bill of Rights.

The Constitution of Kenya, 2010, sets a firm foundation for the observance, respect, promotion, protection, and fulfilment of human rights.

Our constitution contains one of the most progressive Bill of Rights. Some of these rights include the right to life, right to privacy, prohibition of torture, rights of arrested persons, and the right to a fair trial.

Moreover, as a country, we have obligations under International Law that we must meet. For instance, the United Nations Global Counter-Terrorism Strategy reinforces the importance of respect for human rights in any effective counter-terrorism strategy.

Accordingly, there should be no room for summary killings and enforced disappearances, and any form of torture during anti-terrorism investigations. Furthermore, legal methods should obtain evidence, and the Constitution should only limit rights.

I wish to applaud the reforms the National Police Service has made over the years. We hope that more capacity building and sensitisation can ensure the observance of human rights across the board, especially at the investigation level.

We have noted challenges during the investigation of terrorism cases, and we hope that these guidelines will provide the needed framework to reduce the identified gaps. Missing Voices coalition, of which IJM Kenya is a member, has documented individual stories of people who were killed or went out in the hands of the police in the last three years.

In 2021, The Missing Voices coalition documented 187 police killings and 36 cases of enforced disappearances. Out of the 36 cases, four victims were later found dead, while two were found alive, and 30 are still missing to date. Most of the cases of enforced disappearances resulted from anti-terrorism operations. I invite each of you to visit the Missing Voices website to read some of these traumatising stories.

As members of the Missing Voices coalition and Police Reforms Working Group, we hope that the guidelines we are launching today will help reduce such incidences moving forward.

These guidelines are progressive as they recognise the rights of victims of crime and witnesses. In the context of criminal justice, the rights of suspects have traditionally been the focus of human rights. However, it is now well established that the human rights of victims of crime and witnesses also require attention, specifically since we have a law to that effect, the Victim Protection Act.

Agencies should therefore be sensitive to the needs of victims of terrorism to avoid re-victimization and re-traumatising. Where possible, they should be supported psychologically due to the trauma they have experienced.

The government needs to operationalise the different funds for victims' compensation under the relevant statutes, i.e. Prevention of Terrorism Act and the Victims Protection Act.

I am happy that the Solicitor General and our Chief Guest, the Governor, CBK, are here today. We hope that these funds can be operationalised for the victims to benefit.

In conclusion, I believe that these guidelines will be beneficial in inter-agency cooperation and collaboration primarily through information sharing and having Prosecution guided investigations.

Notable is also the recognition of the role of the community in counter-terrorism. There is a need to build trust between the security agencies and the community; this will enhance good coexistence and build trust between the community and security agencies to enable information sharing.

We shall continue supporting policy and legislative reforms in the criminal justice system even as we also play our role in seeking justice for those violated and play our oversight role to ensure that all Kenyans can enjoy the freedoms that are enshrined in our constitution.

Thank you, and God Bless You.



Speech by the Executive Director HAKI Africa :

Hussein Khalid,

| Executive Director HAKI Africa |

Thank you very much. Good morning everyone; all protocols observed; as HAKI Africa, we are deeply honoured to have been part of this process; we recognise that terrorism is an affront to our human rights principles, our constitution, our fundamental rights and everything that we hold dear as a country and as a nation.

We know that terrorism directly addresses issues that need to be dealt with us as a community, as a society and to do that, we must ensure we don't act in the same way as these terrorists do. We are delighted to have been part of this exercise, mainly since there was an issue with specifically having some guidelines on human rights.

I know there was much debate on that particular issue. Still, we are happy that the guidelines, particularly on human rights, were specifically included to ensure that when we are fighting terrorism, we address and respect human rights as guaranteed in the constitution of Kenya.

Terrorism requires concerted efforts to deal with, and the development of these guidelines is a perfect example of how we, as a society, like Kenya, can address terrorism conclusively. We must at all times respect these rights guaranteed in Kenya's constitution. We commit as HAKI Africa civil society to work with every department in dealing with this monster that we refer to as terrorism.

We are happy also that the national counter-terrorism centre has been given specific guidelines number 8 to address, particularly when it comes to community engagement and ensuring that the people are part and parcel of the process of preventing and countering violent extremism in this country.

We congratulate the office of the DPP for leading this process. We assure you that we will continue to work with you and all other stakeholders to address terrorism because it's directly, as I said earlier, an affront to our rights. We must make sure we deal with terrorism conclusively. Thank you very much, Asanteni Sana (Thank you very much).

Others who spoke at the guidelines launch...



The Deputy EU Ambassador:

Katrin Hagemann

| Deputy European Union (EU) Ambassador |



The CBK Governor:

Dr. Patrick Njoroge

| Governor of the Central Bank of Kenya (CBK) |



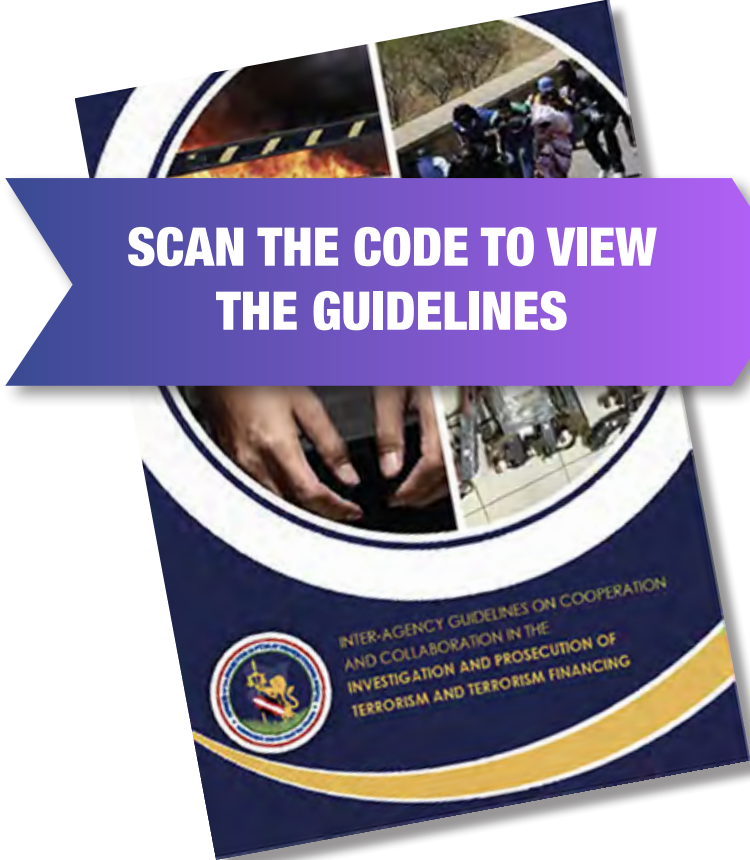
The Solicitor General:

Kennedy Ogeto

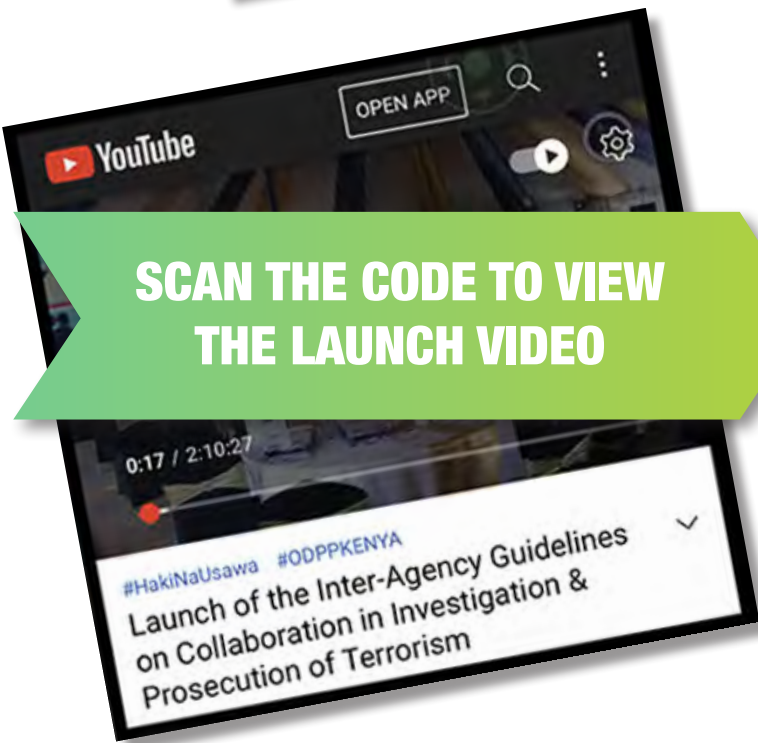
| The Solicitor General, Office of the Attorney General |



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SCAN THE CODE TO VIEW THE GUIDELINES



SCAN THE CODE TO VIEW THE LAUNCH VIDEO





SNAPSHOTS: Inter-Agency Guidelines Launch held at the Prosecutors Training Institute (PTI)



Signing of the guidelines: (L-R) Patrick Njoroge, Noordin Haji, Hilary Mutyambai, Alexander Muteshi, John Warioba, Mary Mbau and Rosalind Nyawira



CBK Governor, Dr. Patrick Njoroge launches the guidelines



Taskforce members with copies of the guidelines

SNAPSHOTS: Inter-Agency Guidelines Launch held at the Prosecutors Training Institute (PTI)



Noordin Haj and Alma Wanyama.



Amb. Katrin Hagemann and Dr. Rosalind Nyawira.



Group photo with Heads of Institutions.



Participants at the guidelines launch.



Agency principals with copies of the signed guidelines.



CONTACTS

EUTF Project Team Leader/Directeur Projet: *Frédéric Bayard* | E-mail: fbayard@aml-thb.eu

Project Manager: *Federico Argentino* | E-mail: fargentino@aml-thb.eu

info@aml-thb.eu

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