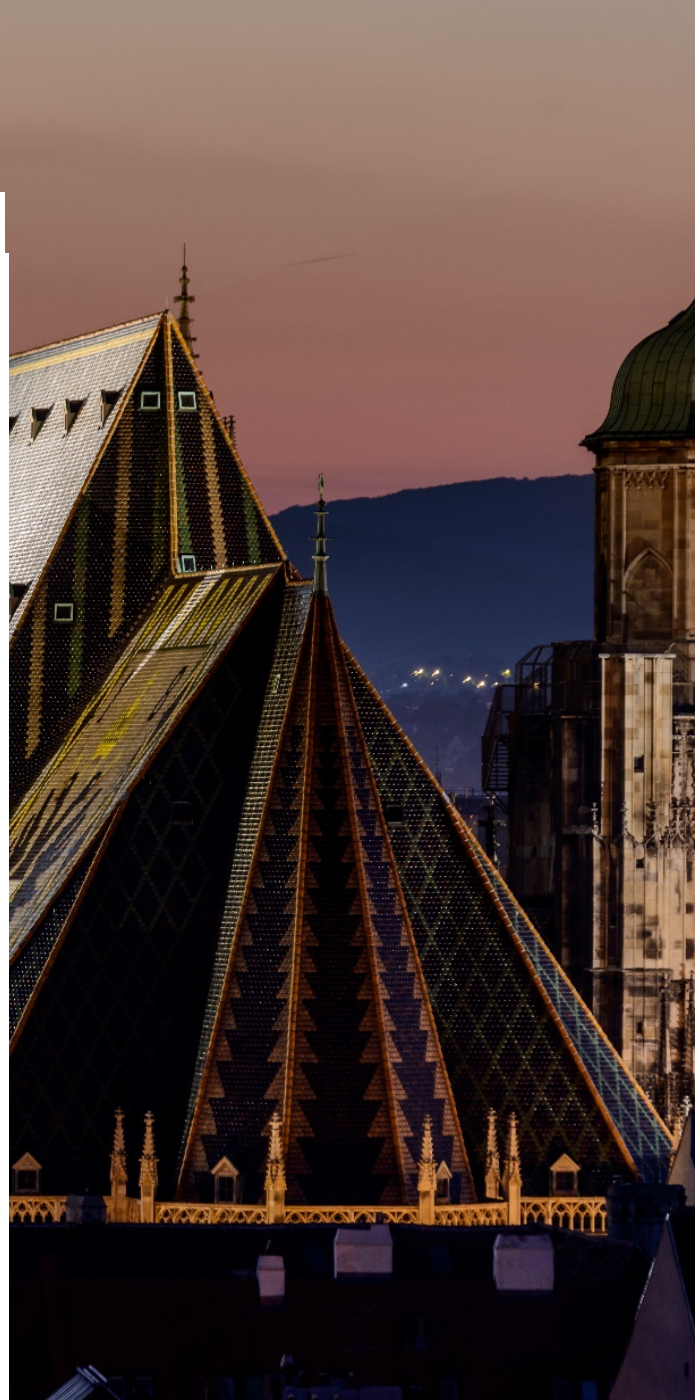


AML/CFT Expert Hub Strategic Workshop 2

SUMMARY REPORT

VIENNA, MAY 5-8, 2019



The Workshop in brief



PARTICIPANTS

34

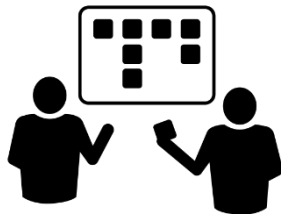
Out of which initial hub members: 23

New: 8

COUNTRIES

26

New: 5



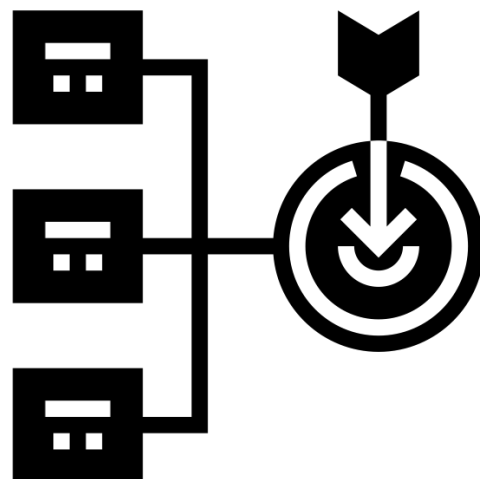
SESSIONS

10

Highlight: met twice FATF representatives
and contributed to FATF documents

MAIN OBJECTIVES

- Take stock of what was learnt from the previous risk assessment and evaluations or engagements; share experiences and lessons learnt;
- Discuss emerging or repeating measures in the name of CFT and AML and identify counter-arguments;
- Increase knowledge about new issues arising around AML/CFT front with focus on emerging AML and de-risking and discuss possible responses and actions.
- Increase understanding of how global action influences local developments.
- Contribute to the FATF policy making and the UN SR CT mandate.



I. Expert Hub past achievements

The members of the Expert Hub highlighted the following achievements since February 2018, as a result of the establishment of the Hub and joint work on the topic:

ACTIVITIES	APPROXIMATE OUTPUTS
Members took part in a workshop organised by another Hub member	10
Members liaised with a regional FATF body	12
Members had a meeting with a regional FATF body	9
Members did a piece of new research	15
Members worked on or are still working on AML/CFT legal reform	30
Members started a new project or will start a new project this year	Over 50%
Regional workshops organized	5
Global workshops organized	2
Meeting with FATF Secretariat (in Vienna)	1
Contribution to FATF policy (in Vienna and in writing)	1



II. Expert Hub Engagement with the FATF

The workshop was organised in Vienna during the same time as the FATF Private Consultative Forum. The place and timing of the workshop was coordinated with this important event. **As a result, the participant had the opportunity to meet in-person with the FATF representatives and to share their experiences and ask questions. Furthermore, a selected group was invited to attend an FATF led consultation session at the Forum and directly contribute to the development of a guidance document regarding risk assessments, including on assessment of the non profit organizations (NPOs).** Details follow:

1. Joint informal session with the FATF Secretariat and Member State representatives

On the first day, workshop participants discussed and exchanged experiences on the implementation of Recommendation 8 with members of the FATF Secretariat and members from the Dutch, Canadian and Israeli delegations. Topics included risk assessment implementation and the need for additional guidance, as well as consequences of misuses or misapplication of the FATF standards on civil society. Specific comments from the Hub included the following issues:

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- a) India: shut down of NGOs, but no single proven case of terrorist financing, no scope of dialogue with the FATF.
 - b) Tunisia: Tunisian FIU open to work with civil society on risk assessment and to discuss challenges on bank de-risking. However, there are lots of trust issues between government and civil society.
 - c) Germany: the risk assessment guidance will be helpful for the government, as they don't know what to do and when. There is an insecurity related to the process, so NPOs don't know what information they should provide to the government. It seems difficult to work together.
 - d) Latin America: public authorities don't understand NPO sector and how to identify their risks and how they fall under the FATF definition. NPOs should think how to help the authorities apply Recommendation 8. In a lot of countries NPOs are reporting entities for AML purposes - this is misunderstanding of Recommendation 8, we strongly need regional approaches.
 - e) MENA: religious organizations are largely excluded from the measures, although seem most at risk.

2. Participation in the official FATF Private Sector Consultative Forum consultation session

The FATF invited a number of suggested Hub members to the official consultation session on the upcoming guidance for risk assessment (including risk assessment of NPOs) during the Private Sector Consultative Forum discussing. The drafting process started in 2018, and the guidance will be adopted in June 2019. The aim is to help get a better understanding of the risk of the NPO sector and emphasize the need for inclusion of the sector in these processes. Hub members presented examples and benefits of NPO engagement in risk assessment process in 7 different countries and suggested inclusion of negative practice to address common misconceptions.

3. Hub members developed a joint input to the draft FATF risk assessment guidance which then integrated 2 expert hub engagements as good examples

As a follow up to the meeting, the FATF agreed to take in the written input on the risk assessment guidance by the Global NPO Coalition and the Expert Hub members on a short notice. This lead to the Hub devoting a part of the workshop time to agree

on inputs and jointly develop comments. Such opportunity was extraordinary, given that over 30 civil society representatives were able to contribute to the guidance in real time which also resulted in the guidance integrating the input from the group. Importantly the guidelines highlights 2 case studies by the Expert Hub as good practice of engagement with civil society in the risk assessment process – see [here](#). **The joint input of the Expert Hub with the Global NPO Coalition is available [here](#).**

In addition, ECNL and HSC as members of the FATF Private Consultative Forum attended sessions of the Forum which took place in parallel to the workshop in Vienna. They actively engaged in sessions discussion how NPOs can work together with the FATF to improve implementation of the FATF recommendations, by providing examples from the work of the Expert Hub members. During the meeting, the FATF addressed also issues related to corruption, AML, artificial intelligence, financial inclusion and others.



III. Engagement with the mandate of the UN Special Rapporteur on the Human Rights while Countering Terrorism

The participants had an opportunity to meet with the Senior Legal Advisor to the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. The Hub members discussed findings and recommendations from recent reports of the Special Rapporteur on the role of counter terrorism (CT) measures in the closing of civic space. Members learned more about the UN SR mandate which addresses anything that is related to human rights violations in the context of CT.

- The participants then heard about findings from recent work and reports from the Rapporteur. For example, in the last years, 66% of the letters received by the UN Special Rapporteur were related to government measures affecting civil society organizations.

- The participants also discussed what can be done and what is needed. Issues discussed included:
 - Evidence collection: the need for more information and data - numbers and cases and creation of database of evidence of abuse and good practices;
 - Proactive actions: civil society needs to follow the relevant legal and policy developments in the country- it is easier to do something before the law is adopted;
 - Monitoring CT legislation and continuously highlighting the human rights implications;
 - Engaging with other HR mechanisms (UN CT Committee);
 - Increasing awareness - civil society needs to be aware how CT policies affect it;
 - Need to work with policy makers to strengthen the human rights approach in CT measures.

The UN SR mandate is developing its next report on soft law bodies (such as the FATF) and their governance structures. The Expert Hub members will engage with the mandate in the development of this report.



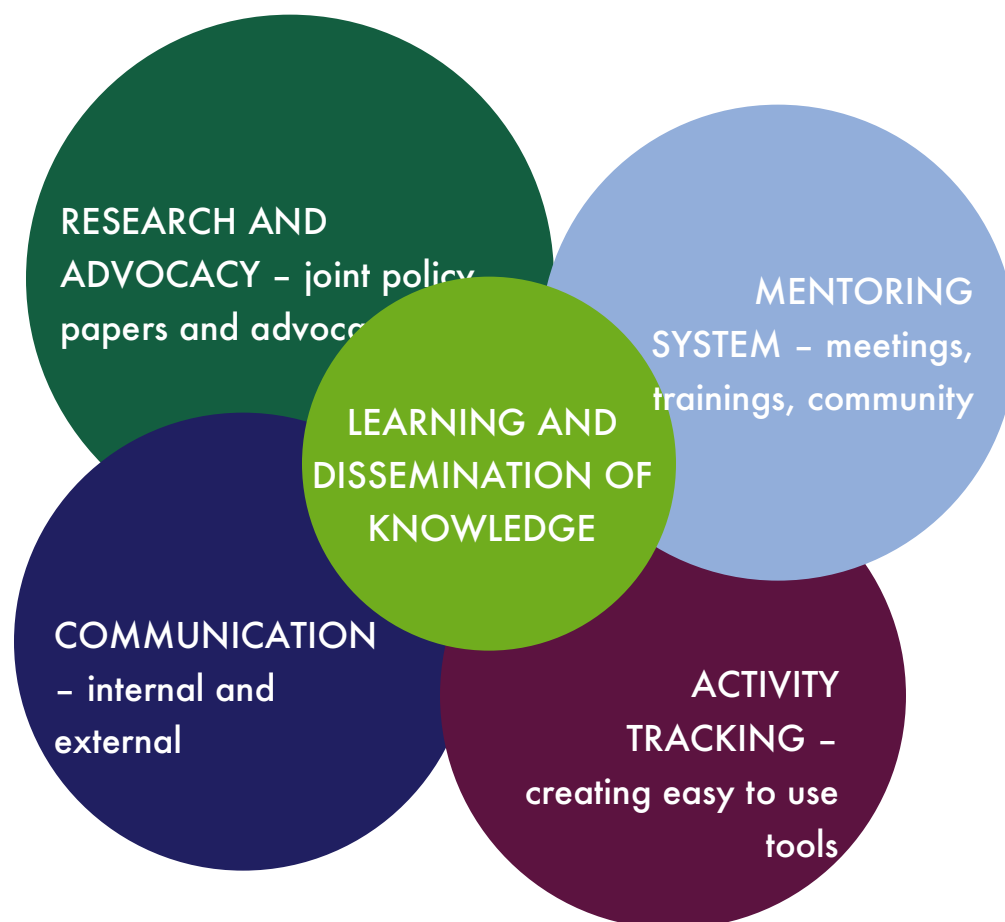
IV. Expert Hub – Way Forward

Hub members were asked to identify priorities for 2019-2021 and opportunities for collaboration among members. In addition, they discussed best methods to facilitate the codifying/sharing of Hub members' lessons and experience with different audiences, including CSOs, FATF/ government institution, and donors. The following notes incorporate feedback from the meeting and from the evaluation forms which were filled in after the meeting.

Topical issues for the Hub to focus on:

- Connection between overregulation and implementation of the FATF standards;
- More strategies for engagements in the risk assessment and evaluation process;
- Need to revise the advocacy of beneficial ownership in the new initiative to reform our ML/TF law;
- How AML-specific issues are affecting the NPO sector;
- Building coalitions for advocacy - how to form a broad coalition of supporters on the topic
- More insight on closing space;
- Risk assessment methodology;
- Expert knowledge and vast list of arguments (especially in risk-assessment and advocacy strategies).

Key areas of focus:



Priorities of the Hub for the future:

1. To continue increasing the capacity of Hub members in becoming national/regional experts (through facilitation of meetings, internships in different organisations, by inviting experts to country visits).
2. To work further to position the Hub as a resource or reference point for the FATF, with focus on FATF regional bodies (FSRBs) and governments.
3. To continue with regional meetings and creations of communities of practice as front-runners of advocacy on national level engaging different stakeholders.
4. The Hub should become a source of joint advocacy efforts and sharing knowledge, especially capitalising on their experience on advocacy (toolkit / common advocacy document) to complement the Global NPO coalition resources.
5. To increase internal communication and mapping of ongoing and past/future activities.

6. To deepen the coaching and mentoring system between members; for example, someone who has conducted engagement through a risk assessment can help a member or a CSO partner in another country.
7. To gain more knowledge and expertise / support on de-risking and AML topics.
8. To create a donor working group to sensitise donors on AML/CFT issues and increase/coordinate resource allocation.
9. To increase the visibility of the Expert Hub; e.g., via an annual publication with cases and examples highlights from Hub practice. Additionally, a Hub website or a web page can be created, with two main goals:
 - a) communication between members
 - b) reaching a broader audience that can access Hub expertise and knowledge.

Relations and coordination with Global NPO Coalition is very important. The Coalition and Hub complement each other – the Hub brings resources, the Coalition conducts global advocacy.



V. Highlights from the sessions

The workshop sessions were divided in **Knowledge Sharing, Informative Discussion, Strategizing Action and Workshopping** time. All sessions addressed challenges that CSOs face due to CFT or AML measures and proposed action steps to develop effective responses.

1. Debunking Myths and Developing Successful Advocacy Strategies

This session discussed FATF-related justifications and arguments governments use when proposing restrictive laws and how to respond to them. Hub experts shared experiences and strategized about what makes a successful advocacy strategy to

respond to restrictive laws and opportunities for informed engagement in FATF-related law-making process. Steps included the following:

- Learn how to anticipate and counter unfounded arguments to support FATF-related legal restrictions - What are the arguments, who makes them, when are they made, and why?
- Understand approaches to strategically advocate against restrictions within the sector, across sectors, and with FATF and FSRBs.
- How can NPOs counter those arguments?
- How can NPOs incorporate these anticipated arguments and counter-arguments into a well-timed advocacy strategy? What works (e.g., knowledge, skills, contacts) to advocate for a unified response within the NPO sector?
- Map out stakeholders - when, how, should the sector engage with other in-country stakeholders and what can be achieved from each relationship
- When, how, and why can the sector engage with international stakeholders including FATF and FSRBs?

Participants also discussed and used the argument-building toolkit which provides guidance on how to anticipate and respond to myths created with respect to restrictive legislation on NPOs based on CFT/AML.

2. Developing Legal Counter-Arguments

In this session, Hub members discussed the process that NPOs can follow in order to mount legal responses to restrictive FATF-related laws, including gathering evidence and identifying legal arguments. Members worked on responding to sample restrictions; drawing on the collective knowledge of participants to develop a list of types and sources of evidence to support challenges to proposed or enacted restrictions. Members also learned to frame legal arguments and identify good practice alternatives to typical restrictive proposals, such as Funding limitations, AML issues, transparency and reporting requirements and Supervision/sanctions.

Discussion points included thought process to build the case:

- What FATF documents to utilize? Where do I need to look to build the legal counter-argument? For example, look at Risk Assessment findings, if available.
- How to invoke these findings to frame the risk-based argument - examples from experience of members.

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- Understanding evaluation report (MER) findings - what do they say about the issue and why it is important for our legal argumentation?
 - Which domestic laws to look at? How they have been/can be utilized in argument building around the issue?
 - Which typical documents from international or regional law may be invoked?
 - What legal counter-arguments can work?
 - What are good examples of proportionate measures?

3. How to Best Affect the Outcome of Your Country's Risk Assessment

This session took a deeper look at the risk assessment process and members discussed issues that have arisen in the experiences of Hub on national level from Kosovo, Tunisia, Germany, and Kyrgyzstan. The Hub members identified engagement opportunities, discussed tools that would enable constructive engagement on risk assessment and developed strategies for action.

Discussion points included:

- How best to influence the FATF process in your country?
 - Identify engagement opportunities
 - Learn about engagement strategies and how they are applied
 - Learn about different types of risk assessment
- Engagement Strategies- issues to consider:
 - What point of the process are we at?- there is a constant opportunity to engage with the follow up processes
 - Different forms of technical assistance
 - Attitude of the government and civil society
- Engagement strategies
 - Strategic partner / Constructive criticism / Campaign and resistance / Tactical silence



4. The Impact of Bank De-Risking on CSOs

Hub members learned more about the concept and drivers of de-risking, discussed trends as they relate to CSOs, and examined the impact of de-risking on the operational environment of civil society. They also discussed the existing attempts on national level via multi-stakeholder initiatives to resolve the de-risking problems. Members gained a greater understanding of the issue. They also discussed de-risking problems in their own countries/with their own work when it comes to financial access (based on their survey responses), who to engage in their countries and how to develop mitigating measures considering their own context.

5. Conversation about Anti-Money Laundering (AML) and CSOs

This session provided an overview of FATF and EU standards regarding AML, how they affect the sector, the legal challenges arising from AML-specific measures, and potential AML threats to the sector. The session was intended as an introduction to the issue. It aimed to raise awareness, get feedback from different regions on the scope of the problem and identify areas for further investigation. Hub members presented the developments and experiences from Nigeria, Bulgaria, Jordan and Kosovo and presented real-life cases on how laws restrict their operation and drivers such as:

- NPO Fraud: abusing NPOs posing as legitimate entities; deemed more complicated than abusing other legal forms;

- Legitimate NPO: inputting “dirty money” in the NPO and using it for charitable causes (e.g. building the mosque, buying political legitimacy from local population, etc.) - there is not much hard data.

Members also discussed if there are undiscovered problems of ML, new models of fraud, about trends in AML regulation and evidence of NPOs being treated differently from other sector. In terms of next steps the members agreed that this is becoming highly important yet little know development. Therefore, they identified the need to:

- Do more research to understand drivers, arguments and manifestations;
- Increase knowledge and counter-arguments to push back against restrictions;
- Identify good practices in regulating CSOs under AML framework or strategies that have helped with push back;
- Agreeing and developing policy solutions to influence the FATF and the EU agenda in the area.



6. Regional Look at Trends, Developments/Workshopping time

Hub members worked in regional sub-groups to discuss the developments in their respective region, including challenges, developments, and potential collaborative strategies to address them. In addition, the sessions allowed for further peer-to-peer exchange on FATF, AML/CFT, and related issues relevant to Hub members in developing national and regional strategies and actions. For example, European participants discussed the ongoing process of conducting EU wide risk assessment of the sector that is conducted by the EU and how they can continue to engage and ensure that it does not result in negative ranking on the sector; they also discussed

how they can follow up on mapping the implementation of the EU AML directive on terms of concerns raised regarding its misapplication on CSOs (e.g., by forcing them to declare beneficial owners without clarity in some legal systems in terms of what that means for the sector, or introducing new reporting requirements). Latin America participants discussed ongoing regional project on risk assessment methodology that can be replicated in each individual country and agreed on the need to hold a regional workshop later this year, to share experience and plan for further actions.