

LEGAL ANALYSIS

Decree No. 2026-0152/PT-RM of 13 March 2026

Mandatory 10% Levy on the Financial Resources of Associations and Foundations:
An Assessment Under International Human Rights Law, Humanitarian Principles, and AML/CFT
Standards

Bamako, March 2026

I. Introduction and Analytical Framework

On 4 March 2026, the Council of Ministers of Mali adopted a package of texts establishing a new supervisory regime for associations and foundations, the centrepiece of which is Decree No. 2026-0152/PT-RM of 13 March 2026 — hereinafter 'the Decree'.¹ The Decree's most consequential provision is Article 16, which institutes a mandatory financial contribution of 10% of the financial resources of associations and foundations directed at development activities, payable to cover the costs of State monitoring and oversight.²

This measure prompted an immediate and unified response from Malian civil society, with a joint communiqué signed by eight networks representing hundreds of national and international organisations.³ It arises in a regulatory environment that has been significantly tightened since 2024 — notably through Ordonnance No. 2024-011 on AML/CFT — and in which reporting obligations were already intensified as part of Mali's process of exiting the FATF grey list.⁴

This analysis examines the Decree against the standards that its significance demands. It affects the entirety of Mali's associative sector — from small community-based organisations to the largest international NGOs — in a Sahelian context where civil society frequently constitutes the last effective bridge between vulnerable populations and the institutional vacuum left by the partial withdrawal of State services and of many international partners. The analysis applies four complementary legal frameworks: Mali's domestic constitutional and administrative law; international human rights law; fundamental humanitarian principles;

¹Republic of Mali, Decree No. 2026-0152/PT-RM of 13 March 2026 governing the modalities of technical support by the Agence nationale d'Investissement des Collectivités territoriales to the central service responsible for the administrative oversight of associations and foundations in the Republic of Mali, signed by General of the Army Assimi Goïta, Bamako, 13 March 2026.

²Council of Ministers of Mali, Communiqué No. CM/2026-09/SGG of 4 March 2026, available at: <https://www.maliweb.net/politique/conseil-des-ministres/communique-du-conseil-des-ministres-du-mercredi-04-mars-2026>.

³Joint communiqué of Malian civil society organisations signed by PONA, CCA/ONG, CNSC, FOSS, SECO/ONG, CAFO, Groupe Pivot Santé Population and FONGIM, Bamako, March 2026, cited in Echos Médias, 17 March 2026, available at: <https://www.echosmedias.org/2026/03/17/societe-civile-le-prelevement-de-10-sur-les-ressources-des-projets-suscite-des-inquietudes/>.

⁴Ordonnance No. 2024-011/PT-RM of 30 August 2024 on the suppression of money laundering and terrorist financing in the Republic of Mali, Official Gazette of the Republic of Mali, No. 17 (Special Supplement), 2024, available at: <https://sgg-mali.ml/JO/2024/mali-jo-2024-17-sp.pdf>.

and the FATF/AML-CFT standards in their revised form, which represent the primary stated or implied justification for the measure.

The central question is not whether the State of Mali has a sovereign right to exercise oversight of associations operating on its territory — a right expressly recognised by the relevant international instruments. The question is one of **proportionality, legal basis, and compliance** of that oversight with Mali's obligations under its own public law, its international treaty commitments, and the AML/CFT standards whose authority it implicitly invokes.

II. Analysis of the Decree: Normative Architecture and Legal Characterisation

A. Structure and Scope of the Instrument

The Decree operates through three distinct but mutually reinforcing mechanisms. The first is a **generalised prior authorisation regime**. Article 7 subjects every financial contribution or grant to an association or foundation to a prior non-objection opinion from the minister responsible for Territorial Administration. This mechanism converts the receipt of funding — an activity protected under freedom of association — into a conditional entitlement exercised at the discretion of an executive authority. The second mechanism is a **systematic surveillance regime** requiring quarterly activity reports, resource-and-expenditure tables, signed reception certificates for donations, and purchase justificatifs for each activity. The third mechanism is the **10% financial contribution** established by Article 16.⁵⁶

Article 16, read in full, warrants close attention. It provides: 'A contribution of 10% of the financial resources of associations and foundations directed at economic, social, environmental and cultural development shall be included in the budget and action plan of associations and foundations.' The formulation presents a structural ambiguity: the Decree states that the contribution 'is included in' the budget, as though it were an internal budgetary line rather than an externally imposed levy. However, Article 8 clarifies that development-directed resources are 'subject to a financial contribution intended to cover the costs of monitoring and oversight by the State's competent services'. Read conjunctively, the two provisions remove any ambiguity: the mechanism is a mandatory levy payable to the State.

From a legal characterisation standpoint, this contribution exhibits the essential features of a **parafiscal charge**: it is compulsory, of general application, earmarked for a public service mission (administrative oversight), and levied on a defined category of private law persons. Mali's domestic fiscal law — in particular the Organic Finance Law No. 2025-038 cited in the Decree's recitals — reserves in principle to Parliament the power to establish and modify taxes and levies of any nature. The creation by decree of a levy bearing the

⁵Law No. 04-038 of 5 August 2004 (as amended) on Associations in the Republic of Mali; Law No. 2017-049 of 8 September 2017 on Foundations; Law No. 2012-006 of 23 January 2012 (as amended) establishing the fundamental principles of territorial administrative organisation.

⁶Law No. 2025-038 of 15 August 2025 (Organic Law on Finance Laws in the Republic of Mali). This law, cited in the recitals of the Decree, reserves to the legislature in principle the power to establish and modify taxes and levies of any nature.

functional characteristics of a tax therefore raises a question of **constitutional legality** independent of any international law consideration.

B. Scope of Application: An Undifferentiated Universality

Article 3 defines the perimeter of administrative control: foreign associations, associations holding framework agreements with the State, associations recognised as being of public utility, and 'all other associations that benefit from public or private funding'.⁷ This final category is of quasi-universal reach: in a country where the overwhelming majority of operational associations receive some form of public or private funding, virtually no organisation falls outside the Decree's scope.⁸

This universality is of a fundamentally different character from a risk-based approach. It draws no distinction based on the nature of activities (humanitarian, development, human rights, cultural), the source of funds (bilateral, multilateral, private), the size of the organisation, or the geographic zone of operation. It treats a small village association managing a nursery school identically to a large international organisation operating in conflict zones — notwithstanding that the risk profiles, funding modalities, and compliance capacities of these entities are fundamentally different.

III. Assessment Under AML/CFT Standards: Divergence from Revised FATF Recommendation 8

A. The AML/CFT Justification: An Argument in Need of Substantiation

The Council of Ministers communiqué of 4 March 2026 invokes, among the justifications for the oversight framework, the need to prevent money laundering and terrorist financing.⁹ This justification warrants careful examination, for it is double-edged: if the Decree seeks to rely on FATF standards to justify oversight, it must comply with those standards in their entirety — including their explicit limitations.

Revised FATF Recommendation 8 (R.8), as amended in October 2023 following an extensive review process initiated in 2021 to address **unintended consequences** of overly broad regulation,¹⁰ imposes specific constraints that the current Decree does not satisfy.^{11,12}

⁷WAEMU Uniform Law No. 2023-03 on combating money laundering and terrorist financing in WAEMU member states, adopted 6 March 2023. See also: GIABA, Mutual Evaluation Follow-Up Report — Mali, 2024.

⁸Decree No. 05-223/P-RM of 11 May 2005 establishing the modalities of intervention, control and sanctioning of associations holding framework agreements with the State, repealed by Article 18 of Decree No. 2026-0152. The repeal without a transitional mechanism creates a regulatory gap for framework-agreement associations.

⁹ Op. cit., supra note 2.

¹⁰FATF, 'Recommendation 8: Non-Profit Organisations', in: International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation — The FATF Recommendations, updated October 2023, available at: <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html>.

¹¹ Op. cit., supra note 10.

¹²WAEMU, Uniform Law No. 2023-03 on combating money laundering and terrorist financing in member states, Article 22: the obligation imposed on member states to ensure that NPOs cannot be misused for terrorist financing is clearly framed by the principle of proportionality and must be implemented within the context of a prior sectoral risk assessment.

B. Specific Points of Divergence from Revised Recommendation 8

1. Absence of a Risk-Based Approach

The cardinal principle of revised R.8 is the **risk-based approach (RBA)**. The FATF is explicit: 'Recommendation 8 does not apply to the entire not-for-profit sector, but only to the sub-set that falls within the FATF definition of an NPO.' And among those organisations, 'only a small portion may be facing a high risk of terrorist financing abuse.'¹³ The Decree disregards this gradation entirely, applying a uniform 10% levy to the entire sector without any differentiation based on the risk profile of individual organisations.¹⁴

The empirical research conducted on Mali confirms the inadequacy of a blanket approach. Mali's own National Risk Assessment (NRA) conducted by CENTIF in 2021 identified 338 organisations as 'at risk' and classified the humanitarian sector as high-risk.¹⁵ Whatever the accuracy of those findings, they underscore a fundamental paradox: if only 338 organisations out of a sector comprising thousands present an identified risk, why apply a 10% levy to the sector in its entirety? The answer can only be the absence of willingness or capacity to operationalise the RBA in practice.¹⁶ A new national risk assessment is reportedly in preparation — which makes the adoption of generalised measures in advance of its findings all the more difficult to justify.^{17,18}

2. Measures that 'Disrupt or Discourage' Legitimate Activities

Revised R.8 is categorical: 'Measures which disrupt or discourage legitimate NPO activity are not in compliance with Recommendation 8.'¹⁹ The Decree, through its 10% levy on operational resources, creates precisely this type of disruption. For organisations operating on tight budgets, a 10% reduction in available

¹³FATF, 'Protecting Non-Profits from Abuse for Terrorist Financing through the Risk-Based Implementation of Revised FATF Recommendation 8', press release, 16 November 2023, available at: <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/protecting-non-profits-abuse-implementation-R8.html>.

¹⁴FATF, Best Practices on Combating the Abuse of Non-Profit Organisations, updated 2023, available at: <https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Bpp-combating-abuse-npo.html>. See esp.: 'not all NPOs face high terrorist financing risks and many NPOs face little or no such risk [...] a one-size-fits-all approach to all NPOs is not appropriate.'

¹⁵CENTIF-Mali, National Risk Assessment of the Non-Profit Sector, 2021. This assessment identified 338 organisations as 'at risk' and classified the humanitarian sector as high-risk. See: Lury NKOUESSOM, 'How Anti-Money Laundering and Counterterrorism Measures Affect Civil Society: Case Studies from Burkina Faso, Cameroon, Côte d'Ivoire, Democratic Republic of Congo, and Mali', International Center for Not-for-Profit Law (ICNL), February 2026, pp. 24-25.

¹⁶NKOUESSOM, Lury, op. cit., p. 20: 'Both government representatives emphasized the importance of coordination between the CENTIF and the DGAT [...] The CENTIF alerts the DGAT to suspicious transactions on the accounts of certain organizations.'

¹⁷GIABA, Mutual Evaluation Report — Republic of Mali, 2019, Immediate Outcome 10 (IO.10) on the prevention of NPO abuse for terrorist financing purposes: the report noted deficiencies in the identification of at-risk NPOs and the absence of a differentiated approach. These same deficiencies were central to the 2021-2025 action plan, all measures of which Mali successfully implemented. Available at: <https://www.giaba.org/>.

¹⁸FATF, Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems, updated October 2023, Immediate Outcome 10 (IO.10): effectiveness is measured, inter alia, by demonstrating that measures applied to NPOs are proportionate to identified risks and do not disrupt legitimate activities. Available at: <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Fatf-methodology.html>.

¹⁹EU AML/CFT Global Facility, 'Terrorist Financing and the Non-Profit Sector — 5 Principles to Achieve Compliance with FATF's Reformed Recommendation 8', 26 September 2025, available at: <https://www.global-amlcft.eu/terror-financing-fatf-rec-8/>: 'measures which disrupt or discourage legitimate NPO activity are not in compliance with Recommendation 8.'

resources may mean the discontinuation of entire programmatic activities, the reduction of geographic coverage, or the compromise of the grant model itself.²⁰

Malian civil society has documented these concrete effects.²¹ Comparative research in this domain reveals that in other countries where similar measures have been applied, organisations have been compelled to lay off staff, reduce their presence in remote areas, and discontinue advocacy work that constitutes, in itself, a factor in the prevention of violent extremism.²²

3. Conflation of Oversight with the Status of a Reporting Entity

The FATF draws a fundamental distinction that the Decree effectively erases: NPOs are not reporting entities and should not be subjected to the same obligations as financial institutions.²³ The Decree, by combining monthly reporting obligations, a prior non-objection requirement for each item of funding, and a direct financial levy, creates de facto a regime functionally equivalent to prudential supervision — a regime that revised R.8 explicitly reserves to financial sector entities.²⁴

4. Contextual Inconsistency Following Removal from the FATF Grey List

In June 2025, Mali was removed from the FATF grey list having satisfied all 27 measures in its action plan.²⁵ This removal — the result of legislative reforms undertaken since 2021, including the adoption of Ordonnance No. 2024-011²⁶ and WAEMU Uniform Law No. 2023-03²⁷ — demonstrated that the strategic deficiencies identified by FATF had been remedied. Empirical research has nevertheless documented that delisting did not produce a return to pre-2021 operating conditions for civil society; on the contrary, it crystallised a level of supervisory intensity that institutions have since found difficult to de-escalate.^{28,29}

²⁰FATF, Guidelines on the Implementation of Recommendation 8: 'AML/CFT measures must not hinder legitimate NPO activities. Disproportionate obligations on NPOs prevent them from conducting legitimate activities and delivering services. Countries should ensure oversight or monitoring of NPOs, but they need not designate and supervise NPOs as reporting entities or require them to conduct customer due diligence.' See also: ICNL, Positive Practices in Implementation of FATF Recommendation 8, 2024, available at: <https://www.icnl.org/wp-content/uploads/FATF-Positive-Practices-Rec-8-Guide-EN-1.pdf>.

²¹ Op. cit., supra note 3.

²²NKOUÉSSOM, Lury, op. cit., p. 23: interview with a representative of a women's rights organisation in Bamako: 'Before 2021, the relationship with our bank was simple and based on trust [...] Now, every international transfer is a source of anxiety. We have to provide layers of documentation for activities that have been funded by the same partners for years.'

²³ Op. cit., supra note 20.

²⁴ Op. cit., supra note 13.

²⁵FATF, 'Jurisdictions under Increased Monitoring — 13 June 2025': Mali is no longer subject to FATF increased monitoring as of June 2025. Available at: <https://www.fatf-gafi.org/en/countries/detail/Mali.html>.

²⁶ Op. cit., supra note 4.

²⁷ Op. cit., supra note 7.

²⁸NKOUÉSSOM, Lury, op. cit., p. 25: 'The FATF's Recommendation 8 explicitly recognizes the importance of NPOs and calls for measures to be proportionate and not disruptive to legitimate activities. However, the implementation of these measures in Mali, as in many other countries, has focused primarily on the technical aspects of compliance.'

²⁹African Commission on Human and Peoples' Rights (ACHPR), Resolution No. 395 on the Protection of Human Rights Defenders in Africa (2021): recalls the obligation of States to create an enabling environment for CSOs and defenders, including by refraining from measures that impede their funding and activities.

Against this backdrop, the adoption in March 2026 of a 10% levy on associative resources raises questions of systemic coherence: Mali has just been recognised by FATF as possessing an adequate AML/CFT framework, and it simultaneously adopts a measure that revised R.8 expressly disfavors. In this context, the AML/CFT justification appears, on the evidence available, to be considerably less prominent than the administrative and fiscal rationale for the measure.³⁰ A more compelling basis for the oversight architecture would require reference to the findings of a sector-specific risk assessment, distinguishing between high-risk and low-risk categories of organisations.

It is also relevant to note that if Mali were to be subject to a forthcoming GIABA mutual evaluation — and a new national risk assessment is indeed in preparation — the present Decree would likely attract adverse findings on compliance with revised R.8, reversing gains achieved through five years of intensive reform.^{31,32}

IV. Assessment Under International Human Rights Law

A. Freedom of Association and Its Financial Corollaries

Article 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Mali, protects freedom of association.^{33,34} Restrictions on this right must satisfy three cumulative conditions: they must be prescribed by law, pursue a legitimate aim, and be **necessary and proportionate** in a democratic society. A universal 10% levy on all associative resources fails the proportionality test: it imposes an identical burden regardless of the relevance of the organisation to AML/CFT risks — a classic failure of the means-ends adequacy requirement.^{35,36}

The ACHPR's Guidelines on Freedom of Association and Assembly in Africa (2017) elaborate further: 'The ability to seek, receive and use resources, human, material and financial, from domestic, foreign and international sources is inherent to the right to freedom of association.'³⁷ The conditions under which the

³⁰ Op. cit., supra note 14.

³¹ GIABA, Mutual Evaluation Report — Republic of Mali (MER), 2019; GIABA, Third Follow-Up Report — Mali, 2024. The 2021 report leading to grey-listing is available at: <https://www.fatf-gafi.org/>.

³² Global NPO Coalition on FATF, Statement on the Revision of Recommendation 8, November 2023: welcomes the revision as a clarification and underscores that measures adopted prior to the revision should be reviewed in light of the new guidance. Available at: <https://fatfplatform.org/>.

³³ International Covenant on Civil and Political Rights (ICCPR), Article 22, ratified by Mali. See: Human Rights Committee, General Comment No. 31 (2004) on the Nature of the General Legal Obligation Imposed on States Parties to the ICCPR, para. 6.

³⁴ UN Secretary-General, 'Our Common Agenda' (A/75/982), 2021, para. 88, highlighting the importance of civic space and CSOs as 'essential partners for sustainable development and peace.' See also: UNGA Resolution 77/270 (2023) on strengthening civil society participation in UN activities.

³⁵ Op. cit., supra note 33.

³⁶ Human Rights Committee, General Comment No. 37 on Article 21 of the ICCPR (right of peaceful assembly), 2020, para. 7: while concerned with assembly, the proportionality and necessity principles apply mutatis mutandis to freedom of association restrictions. See also: HRC, Communication No. 1341/2005, *Zundel v. Canada*, para. 6.5, on the burden of proof incumbent on the State to justify a restriction.

³⁷ African Commission on Human and Peoples' Rights (ACHPR), Guidelines on Freedom of Association and Assembly in Africa, 2017, para. 63: 'The ability to seek, receive and use resources, human, material and financial, from domestic, foreign and international sources is inherent to the right to freedom of association.'

State may lawfully intervene in this domain are narrowly defined. The prior non-objection mechanism of Article 7 of the Decree constitutes precisely the type of preventive restriction that the Guidelines identify as incompatible with freedom of association in the absence of an individualised and legally specified justification.³⁸

B. The UN Declaration on Human Rights Defenders

Article 13 of the 1998 UN Declaration on Human Rights Defenders protects the right to 'solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means'.³⁹ A structural reduction in available resources for human rights promotion and protection activities — activities whose funding merits, on the same basis as operational activities, the protection afforded by freedom of association — is in tension with this declaration.⁴⁰

C. The Position of UN Special Rapporteurs

The Special Rapporteur on freedom of peaceful assembly and of association has established that the application of AML/CFT measures to civil society organisations has had a chilling effect on their ability to operate, and has called on States to ensure that such measures are necessary, proportionate and non-discriminatory.⁴¹

The Special Rapporteur on the promotion and protection of human rights while countering terrorism has further established, in her report to the Human Rights Council, that 'targeting civil society violates human rights and makes for inept and poorly executed counter-terrorism practice'.⁴² This finding is particularly germane to Mali's context: civil society organisations working on prevention of violent extremism, social cohesion, and access to justice actively contribute to resilience against terrorism. Weakening them through an operational resource levy produces effects contrary to the stated counter-terrorism objective.

D. The Practical Hierarchy of Norms: The Enforcement Deficit

³⁸Ibid., para. 3: State oversight of associations must be 'prescribed by law, necessary in a democratic society, and proportionate to the legitimate interest being protected.' See also: ACHPR, Resolution No. 311, 'Resolution on the Right to Freedom of Association and Assembly as a Tool for the Promotion and Protection of Human Rights in Africa', 2015.

³⁹UN Declaration on Human Rights Defenders, UNGA Res. 53/144, 9 December 1998, Article 13: 'Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means.'

⁴⁰ICNL / CIVICUS, Enabling Environment Index, 2024: Mali is classified among countries with 'restricted' civic space, with deteriorating trends since 2021. A 10% levy on operational resources is likely to worsen this indicator. Available at: <https://monitor.civicus.org/>.

⁴¹UN Human Rights Council, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/23/39, 24 April 2013, para. 16.

⁴²Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders, A/HRC/40/52, 1 March 2019.

A complete legal analysis must acknowledge a structural phenomenon that field research has repeatedly documented:⁴³ in the development context, AML/CFT obligations — backed by the economic pressure of grey-listing, banking sector de-risking, and exclusion from international financial markets — carry a de facto enforcement primacy that frequently supersedes human rights obligations, which lack equivalent coercive mechanisms. This imbalance creates a systemic incentive towards maximal AML/CFT compliance measures, often at the expense of fundamental rights.

The Malian case illustrates this dynamic with particular clarity: it was the FATF grey-listing process itself that normalised a level of supervisory intensity which institutions have since found difficult to de-escalate.⁴⁴⁴⁵ The DGAT's own representative acknowledged during research interviews that 'questions of public freedoms are not addressed by FATF standards',⁴⁶ revealing a conceptual compartmentalisation that prevents the integration of fundamental rights considerations into the design of compliance measures.

V. Assessment Under Humanitarian Principles

A. The Principle of Humanity

The principle of humanity — the first of the core humanitarian principles reaffirmed in successive UN General Assembly resolutions — requires that humanitarian aid reach populations in need without delay or loss of substance. A 10% levy on humanitarian organisations' resources directly contravenes this principle: for every €100 of humanitarian funding intended for Mali programmes, €10 will be redirected to the State rather than transferred to intended beneficiaries. For projects operating on margins already constrained by donor rules — which typically cap operating costs at 10-15% — an additional State levy of 10% is mathematically incompatible with approved budgets.⁴⁷

B. The Principle of Neutrality

The principle of neutrality requires that humanitarian organisations refrain from taking sides in hostilities or engaging in controversies of a political, racial, religious or ideological nature. Article 7 of the Decree, by conditioning all funding on a prior non-objection opinion from the minister responsible for Territorial Administration, creates a structural dependency of humanitarian actors on an executive authority. A non-objection that is denied without adequate reasons grounded in the stated purposes of the Decree, or that is

⁴³NKOUËSSOM, Lury, op. cit., p. 16: 'A key finding of this study is the tension between the binding nature of FATF-driven financial laws and the binding nature of human rights commitments. In practice, the hard law of financial compliance, enforced by the threat of grey-listing, banking sector de-risking, and exclusion from international financial markets, often creates a practical hierarchy that supersedes human rights protection.'

⁴⁴ Op. cit., supra note 28.

⁴⁵ Op. cit., supra note 29.

⁴⁶NKOUËSSOM, Lury, op. cit., p. 26: interview with the DGAT representative: 'Questions of public freedoms are not addressed by FATF standards.'

⁴⁷African Development Bank (AfDB), Civil Society Sector Assessment — Mali, sector note 2023: the associative sector accounts for approximately 3.5% of GDP in direct and indirect employment and constitutes the primary social safety net in conflict-affected areas. A 10% reduction in available resources is likely to have a measurable macroeconomic impact on social service delivery.

withheld on grounds unconnected to the oversight objectives expressly prescribed, would be susceptible to challenge as an *ultra vires* exercise of administrative discretion and would generate a *prima facie* tension with the principle of neutrality.

C. The Principle of Independence

Humanitarian independence requires that humanitarian policies remain autonomous from the political objectives of States. The oversight architecture instituted by the Decree — with its monthly reporting obligations, local, regional and national committees for activity approval (CLOCSAD, CROCSAD, CAOCSAD), and its financial levy — transforms the State into a *de facto* co-administrator of associative programmes. This architecture is structurally incompatible with the transparency requirements of institutional donors, particularly those subject to statutory obligations not to contribute, even indirectly, to human rights violations in their funding chains.

D. The Principle of Impartiality

Impartiality requires that humanitarian resource allocation decisions be based solely on needs. A universal levy disrupts this principle by imposing an identical financial burden on projects with radically different risk profiles. An organisation operating medical clinics in a conflict zone and an entity whose activities are proximate to suspicious financing circuits are subject to the same rate — a formal equality that produces a manifest substantive inequality incompatible with needs-based allocation.⁴⁸

VI. Comparative Analysis: Proportionate Alternatives and Justifiable Practice

A complete assessment of the Decree requires examining what may constitute legitimate and proportionate forms of associative oversight against which the Malian measure can be benchmarked.⁴⁹

International standards recognise the State's right to exercise oversight of the associative sector, subject to four conditions: oversight must be (i) **risk-based**, identifying organisations genuinely exposed to AML/CFT abuse; (ii) **proportionate**, distinguishing between high-, medium- and low-risk entities; (iii) **prescribed by law** in the formal sense, with provisions sufficiently precise to be foreseeable; and (iv) accompanied by **effective remedies** for organisations contesting decisions that affect them.⁵⁰

Proportionate alternatives could have taken the form of: targeted declaration obligations applicable only to organisations exceeding a defined financial threshold; enhanced monitoring mechanisms reserved for

⁴⁸UN Office for the Coordination of Humanitarian Affairs (OCHA), 'Humanitarian Principles: A Guide to Implementation for Humanitarian Actors', United Nations, 2012 (rev. 2018): the four humanitarian principles (humanity, neutrality, impartiality, independence) carry normative weight recognised in customary international law and provide the reference framework for assessing the conformity of any State measure liable to affect humanitarian aid delivery. Available at: <https://www.unocha.org/publication/ocha-on-message-humanitarian-principles>.

⁴⁹By way of comparison: Niger applies a similar contribution mechanism at 2-3% for statistical visa fees, a rate generally considered proportionate. Burkina Faso adopted in July 2025 a decree on a 'statistical visa' for data collection that drew criticism from civil society and the international community but does not levy operational financial resources. See: NKOUËSSOM, Lury, *op. cit.*, pp. 62-70.

⁵⁰ *Op. cit.*, *supra* note 10.

organisations identified as at-risk within the NRA framework; negotiated contributions embedded in State-NGO framework agreements at differentiated rates by size and profile; or cooperative arrangements between CENTIF and associations through dedicated liaison points, in line with best practices identified by FATF.⁵¹

BCEAO Instruction No. 003-03-2025 of 18 March 2025, adopted virtually simultaneously with the Decree,⁵² offers an instructive counterpoint: by standardising the due diligence criteria applicable to NPO clients across the entire WAEMU zone, it proposes a proportionate regulatory response to the problem of inconsistency — a bank-led, criteria-based harmonised approach. If effectively implemented, it could reduce the 'compliance lottery' documented in comparative research without levying operational resources.⁵³

VII. General Conclusion: Is the Measure Legally Justified?

On the four frameworks examined, the answer must be in the negative.

Under Mali's domestic constitutional and administrative law: the 10% levy exhibits the characteristics of a parafiscal charge whose creation by decree raises a question of legality under the Organic Finance Law. Articles 16 and 8 of the Decree, read conjunctively, establish a mandatory levy earmarked for a State public service mission — a normative architecture typically reserved for primary legislation.⁵⁴

Under international human rights law: the measure does not satisfy the necessity and proportionality requirements of Article 22 ICCPR and the ACHPR Guidelines for restrictions on freedom of association. The prior authorisation mechanism of Article 7 constitutes a preventive restriction running counter to treaty body jurisprudence. The two relevant UN Special Rapporteurs have identified measures of this type as generating a chilling effect incompatible with fundamental rights.⁵⁵⁵⁶

Under humanitarian principles: the Decree is in tension with all four foundational pillars — humanity, neutrality, independence and impartiality — by reducing resources available for beneficiaries, conditioning funding on executive administrative approval, transforming the State into a de facto co-administrator of humanitarian programmes, and applying a uniform burden across radically different risk profiles.

⁵¹ Op. cit., supra note 14.

⁵²BCEAO, Instruction No. 003-03-2025 of 18 March 2025 on client identification, identity verification and customer knowledge by financial institutions, available at: <https://www.bceao.int/sites/default/files/2025-04/Instruction.pdf>. This instruction aims to harmonise due diligence practices across the WAEMU zone.

⁵³NKOUÉSSOM, Lury, op. cit., pp. 27-28: "The recent adoption of BCEAO Instruction No. 003-03-2025 [...] could represent a significant step toward addressing the inconsistencies observed in the Malian banking sector. [...] However, the effectiveness of this new instruction will depend on its implementation."

⁵⁴ Op. cit., supra note 5.

⁵⁵ Op. cit., supra note 41.

⁵⁶ Op. cit., supra note 42.

Under FATF/AML-CFT standards: the Decree presents notable points of divergence from revised Recommendation 8 (2023) on several dimensions: the absence of a risk-based approach, the absence of a sector-specific risk assessment prior to the adoption of the measure, the disruptive effect on legitimate activities, the conflation of oversight with the status of a reporting entity, and the contextual inconsistency with Mali's recent removal from the FATF grey list.⁵⁷⁵⁸ A future GIABA mutual evaluation is likely to examine these points carefully, with potential adverse implications for Mali's compliance record on Immediate Outcome 10.⁵⁹⁶⁰

It is important to acknowledge that the underlying objective — strengthening State oversight of financial flows through the associative sector — is a legitimate aim recognised in principle by international instruments and shared by many States. The Decree reflects a genuine commitment to improving the governance and accountability of the sector, and that commitment is to be welcomed. The observations set out in this analysis do not challenge this objective but are directed at the modalities of its implementation, which would benefit from adjustments to align them with international standards: a structured prior consultation with the associative sector, a reinforced legislative basis, differentiation according to risk profiles identified in the national risk assessment process, and coordination with partner donors whose contractual rules will need to be taken into account.⁶¹

As the implementing decree and application mechanisms are developed, and as dialogue between the authorities and civil society continues, several points merit close attention. On the domestic legal level, the question of the levy's legal basis may be subject to review by competent courts. On the external financing level, certain institutional donors may encounter conformity difficulties with their own grant conditions. On the FATF compliance level, the forthcoming GIABA mutual evaluation will constitute a critical verification of the framework's alignment with revised Recommendation 8. A targeted revision of Article 16 and its implementing mechanisms, developed in consultation with all stakeholders, would serve to preserve the governance-strengthening objective while consolidating the remarkable achievement that Mali's exit from the FATF grey list of June 2025 represents.

⁵⁷ Op. cit., supra note 13.

⁵⁸ Op. cit., supra note 25.

⁵⁹ Op. cit., supra note 31.

⁶⁰ Op. cit., supra note 32.

⁶¹Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Ben Saul, Best practices to protect human rights while using administrative measures to prevent terrorism, A/80/284, 2025: administrative measures must be subject to rigorous judicial review to prevent their repurposing for disproportionate restriction.