

**Meeting between UIC Project Team and Global NPO Coalition to the FATF**  
4 May 2021, 13h00-14h00 CEST

**Agenda**

- 1) FATF Vice President, Elisa De Anda Madrazo, to welcome to all participants
  - a. Summarise the format of the meeting.
- 2) Lia van Broekhoven (Global NPO Coalition) to introduce each NPO Coalition representative before they summarise the Coalition's written input on the four UIC chapters.
- 3) Global NPO Coalition representative to summarise written input and then open floor to Coalition members to give concrete examples. Afterwards, open floor to UIC project for questions:
  - NPO Suppression + Human rights (30 mins)
  - De-risking + Financial Inclusion (30 mins)
- 4) Closing remarks and next steps

**Notes**

- **Elisa** provided opening remarks and thanked the Global NPO Coalition for providing extensive written input into this project.
- **Lia** thanked the project team for this meeting and introduced the first theme of NPO Suppression and human rights.

*NPO Suppression and Human Rights*

- **Global NPO Coalition representative (Vanja Skoric of European Center for Not-For-Profit Law)** presented and summarised the Coalition's written submission on these two themes, noting:
  - o Security and respect for NPOs are not a binary choice, they should go hand in hand. We have examples from many jurisdictions how CTF/AML measures have an increasingly impact, either by poor design or intentional misuse. This occurs because the information of NPOs necessarily includes human rights, e.g. right to participation, right to association. The restrictions vary from various legal provisions. Limiting access to financial resources or services, campaigns delegitimising NPOs (labelling them as a threat to national security). On top of that we often have vague definitions, such as lack of common definition of terrorism. Three issues:
    - Umbrella issue for all of these cases: **lack of risk-based approach (RBA)**. One of the main challenges related to NPO suppression is a lack of implementation or incorrect implementation of the risk-based approach (RBA). This disrupts the legitimate activities of NPOs and is incompatible with the FATF Standards. For example, some jurisdictions label NPOs as higher risk despite findings of the NRA noting otherwise. Measures are applied broadly, as one size fits all, but lack of adequate RBA. We see from MERs, look from 2016 – majority show the same trend. We read about the struggles of authorities, lack of justifications Rec 8. Report UNCTED (2020), most members do not apply RBA properly. For us: if the RBA is the starting point and if it is largely missing – how do we begin to discuss the appropriate measures for the NPO sector?
    - The **lack of proportionality**, we often encounter what is justified but it is disproportionate. It is complex. Proportional measures, in line with risks, should be

implemented. It is difficult to achieve the balance. Step 1 is meaningful risk assessment, if that is missing then everything else is flawed. Measures should not contradict to international human rights law. Any new law or regulation being considered by jurisdictions should be reviewed in light of human rights obligations under international law. In order to be proportionate, these laws cannot be developed in a vacuum, and must be consulted with human rights domestic authorities and in consultation with the NPO sector. Further guidance and good examples would be helpful. What works in one country does not work in another, not an easy copy/paste.

- Finally, when it comes to **building trust** – abuse of investigative powers. We have seen fishing expeditions into collecting personal information related to NPOs, as well as smear campaigns against NPOs without sufficient evidence. NPOs have self-regulatory measures and mitigation measures that need to be explored more.

- Global NPO Coalition representative:
  - Referred to [study](#) related to three audits of Muslim-led organisations that were de-registered.
- Global NPO Coalition representative:
  - Concerned by an amendments law passed by Turkey in December 2020, which is not in line with the risk assessment amendment law and introduces disproportionately high sanctions against NPOs. Also noted no engagement with NPOs when developing risk assessment and legislative amendments. We released a [report](#) on this. FATF should scrutinise Turkey better and better draft report. Only FATF has the power to convince Turkey to revisit the law because they are not listening to any other opinion.
- Global NPO Coalition representative:
  - Situation has substantially deteriorated, forcing NPOs to close up, or defending their own legal existence. Noted concerns with GAFILAT's re-rating of R.8 from PC to LC. NPOs in Nicaragua are deeply concerned FATF Standards are used by governments to make laws and apply sanctions for NPOs to carry out operations.
- Global NPO Coalition representative:
  - Humanitarian work is in the most hostile environment. Even big NGOs have difficult to make transactions and manage funding even in Europe. What does it mean to local NGOs when the largest NPOs find it almost difficult to operate? Lack of following recommendations. We need a RBA that is respected by states in their national regulations and by the FIs/banking sectors, very often that is where we see a serious bottle neck. Anecdotal knowledge, over 130 members – it affects especially Muslim faith based organisations.
- Germany: Can you elaborate on NPO's own mitigation measures:
  - Vanja: see 2015 Best Practice paper of the FATF. NPOs have numerous standards of work, for our own purposes for accountability, transparency not just CFT-related. NPOs could have voluntary codes of conduct that increase accountability/transparency of their own finances. We sometimes have specific certificates and processes in our financial management. We have governmental donors, EU donors. Often governmental donors require such certificates. Sound internal systems exist to prove how we spend our money; do we have internal systems in place against abuse and do we know who are our beneficiaries? We do it regardless of FATF Standards/governmental laws. So if governments would talk to NPOs and find out. VENRO – Germany did this type of report on self-regulatory measures and this fed into the country' RA of this year: <https://ecnl.org/news/how-can-civil-society-meaningfully-contribute-discussions-preventing-terrorist-financing-npo>. These measures exist for all NPOs and are not directly related to AML/CFT, but to the general accountability and transparency of NPO daily activities.

- Greece: When the NPOs cover the existing gaps to service provisions to vulnerable groups (refugees), which should have been provided by public/government authorities and when NPOs have access to government funding, they would become reporting entities and should apply preventive measures?
  - o Norwegian Refugee Council: We still have to go through the normal procedure, our internal mechanisms are applied across the board no matter what the process. On top of that the government have their own procedures. Called “preferred partners.” To get that status is quite high. And not necessarily recognised by the private sector - big European ministries providing funding still need to write to private sector to allow for transactions.

### *De-risking and Financial Inclusion*

- **Global NPO Coalition representative (Sangeeta Goswami, Human Security Collective):**
  - o Why this is important, two main reasons:
    - Economic – NPOs are larger than GDPs all but 6 countries, non-profit account for 8 % work force in most countries,
    - De-risking undermines goals FATF – it pushes to move to cash and increases risks, and decreases effectiveness of the financial integrity standards.
  - o De-risking of NPOs needs to be integrated into the Standards as it undermines the efficacy of the process itself. We need systematic monitoring of de-risking and financial exclusion in the MERs.
  - o Many NPOs on the call today have had to resort to carrying physical cash planes as they are unable to move money through formal financial channels. De-risking and financial inclusion as linked.
  - o Written input from the Coalition lays out the empirical research on this subject. Over the past number of years, we found that 2/3s NPOs surveyed in most countries, the US, UK, NL, faced de-risking issues. Palestine, Syria, Yemen, Somalia – Muslim organisations – are impacted more. International humanitarian 50% affected in Syria = 4.1 million Syrian are affected. Increasing banking fees, Tunisia and Kosovo common. Clear sectoral inequality. The EBA observed de-risking is a continuing trend.
  - o Conducting empirical research and studies on de-risking is not in our mandate, but de-risking and financial exclusion are such significant issues for NPOs that they need to dedicate significant resources to this work. This is pulling resources away from their core work – providing assistance to those most vulnerable.
  - o NPO de-risking is not currently being mitigated. We need upstream changes. We need a change in discourse and culture. We need to incentivise access to formal financial channels for NPOs. We need to see a shift that penalises over regulation. This could include a specific immediate outcome in IO.10, examining at financial exclusion and NPO de-risking. We could also improve training on de-risking and financial inclusion (FATF Standards training and assessor training). We need to include these issues in the FATF’s Methodology and consider sanctions on members if there is a misapplication.
  - o 235 million people worldwide need humanitarian assistance. The de-risking of NPOs is hindering the flow of this essential humanitarian assistance. De-risking is costing lives.
- Global NPO Coalition representative:
  - o It is becoming more difficult for foundations and philanthropy organisations to carry out duties due to de-risking.
- Global NPO Coalition representative:
  - o 62% Damascus based big NGOs continue difficulty in receiving funds - 12% were rejected outright, 32% experienced delay 3-10 months. Programs being cancelled, or programs areas being changed. The problems on de-risking is changing where aid is provided and the way

we provide it. We are not reaching those most needed. Multiple attempts of European governments intervening to get transfers resulting in private sectors not recognising these letters. Many NGOs are recommending donors to transfer directly in the country but even that is rejected by the financial authority. E.g. Yemen – no longer transferring in USD because that is causing problems, so it is EURs and then there it is exchanged into USDs with transfer costs etc. means less money for beneficiaries.

- Germany:
  - o Link de-risking/financial inclusion, could elaborate a bit more in relation to the solutions? Sangeeta spoke about that but some others also.
- Sangeeta:
  - o If community based organisations do not have access to funds and cannot carry out their mandate, which leads to financial exclusion. Usually these organisations help the un-banked.
- Global NPO Coalition representative:
  - o Important to note that financial exclusion is not just as regards moving funds to difficult areas, but also human rights defenders who are purposely targeted.
- Elisa/VP:
  - o If talking to banks they will say flows increased, remittances. But what is option B, is that cash?
- Lia:
  - o Options include another bank, carrying cash, hawala. But correspondent bank is the real issue, especially located in the US. We can give you a more precise answer in writing.

#### *Closing remarks*

- Kristen Alma/FATF Secretariat
  - o Provided overview of next steps of UIC phase 1. The Secretariat and penholders are currently preparing a first draft of the stocktake report, which will be shared with the wider Project Team for comments on 10 May. This paper reflects the significant input received from stakeholders, including from the Global NPO Coalition. The phase 1 stocktake report will be presented to the FATF Plenary in June 2021. After June 2021, the project team is scheduled to start phase 2, which includes the development of options to mitigate the unintended consequences.
- Elisa/FATF Vice President
  - o This stocktake report will not be made public, but will inform the development of phase 2 option.
  - o Thanked Coalition members and the project team for this meeting.

#### **Discussion in Chat Box:**

- **From FATF, Vice-President, Elisa de Anda** to Everyone: 01:27 PM
  - o For those who were not able to speak now, we are also Reading the chat and very interested in your views
- **From Jocelyn Nieva** to Everyone: 01:33 PM
  - o Following up on this last question from Germany, ICNL recently published a regional report on NPO sector risk in 17 countries. We found from 729 survey responses that more than 60% of respondents reported applying best practices or due diligence measures to mitigate their risk abuse. Still, countries' lack a sustained outreach to the sector mean that these efforts have not been factored into government assessments of sector risk.
- **From Hanna Surmatz** to Everyone: 01:34 PM
  - o Foundations and philanthropic organisations also have due diligence processes in place and follow codes of conducts etc. Foundations and philanthropic organisations and experts have also reported on laws and regulations that restrict activities for the sector as a whole instead

of taking a risk based approach. They have also reported on difficulties in getting funding across borders and sometimes difficulty in opening bank accounts, which however refer to section 1 and 2 on bank de-risking.

- **From Haroun Atallah** to Everyone: 01:35 PM

- Apologies for joining late so perhaps others raised the point I will make: The financial sector (Banks) been the greatest obstacle to humanitarian organisations operating on an international basis. This includes opening / closing accounts and intercepting or obstructing transactions. Banks have complete immunity from legal follow up as many court cases in various jurisdictions have proved. Banks interpret risks to the bank in a manner that is very broad. However, it seems that better targeted guidance to banks is not forthcoming. In the absence of better targeted guidance to banks, charities will continue to face extreme difficulties conducting their critical interventions.

- **From Feliciano Reyna** to Everyone: 01:35 PM

- We wish to express our serious concerns regarding the Venezuelan Government's administrative ruling published on March 30th, just a month ago. It called for the registration, by May 1st, of all NPO's before the Unit Against Criminal Conspiracy and Financing of Terrorism, as well as to provide it with a list of all beneficiaries receiving humanitarian assistance or of any other type.
- This happens in a context of smearing campaigns and criminalization of human rights and humanitarian organizations, including the arbitrary arrest, on January 12, of 5 humanitarian actors, members of the organization Azul Positivo, by officers of the Military Intelligence General Direction. Our colleagues were released after a month, but still charges of fraud, criminal conspiracy, and money laundering are held against them.
- In a memo our organization Acción Solidaria received, as members of the Humanitarian Country Team, the UN coordination office informed us that the Venezuelan Government argues that in arresting our colleagues, it acted in compliance with Caribbean FATF alerts. This institution supposedly sent notifications to the Venezuelan Government regarding the possible use of humanitarian cash programs for money laundering and financing of terrorism.
- We believe the Venezuelan Government is abusing FATF standards, manipulating them to further criminalize our work, and call on you to urgently look into this matter. Our Foreign Affairs Minister disqualified concerns expressed by rapporteurs regarding our colleagues' arbitrary arrest as not understanding or analyzing the situation properly. Venezuela's complex humanitarian emergency and human rights crisis requires an enabling environment for civil society, not the Venezuelan Government's abuse of legitimate mechanisms to further criminalize our work.

- **From Vanja Skoric (ECNL)** to Everyone: 01:35 PM

- VENRO report, Germany example: <https://ecnl.org/news/how-can-civil-society-meaningfully-contribute-discussions-preventing-terrorist-financing-npo>

- **From Jocelyn Nieva** to Everyone: 01:41 PM

- Our recent NPO sector mapping project, undertaken in collaboration with the Global NPO Coalition on FATF as well as regional experts and 17 country teams is available here: <https://www.icnl.org/post/report/terrorism-financing-risk-in-nonprofit-organizations-in-latin-america>.

- **From Anver Emon** (Univ of Toronto - Canada) to Everyone: 01:43 PM

- On the question posed by Greece: it also follows that if the Government is funding humanitarian groups because this work is outside the Government's capacity, it also follows that the Government's oversight must also account for its limited capacities in this area, noting the important role of the NPOs in this sector doing the work that government's cannot or won't do. It also might require greater clarity and precision in evidence analysis depending on the context in which work is being done, but which is also subject to highly

politicized ideologies. Our case study on IRFAN-Canada in Canada shows that any work done in the context of Palestinian Territories is subject to political partisanship and debate, which in turn affects and influences how auditors select evidence and interpret it. There needs to be internal controls against this sort of bias.

- **From FATE, Vice-President, Elisa de Anda** to Everyone: 01:45 PM
  - o Thanks for the input in the chat. We are reading it. Success stories, if you have them, are also useful as case examples for best practices.
- **From Cherise Chadwick: Norwegian Refugee Council** to Everyone: 02:00 PM
  - o Norwegian Refugee Council Risk Management Toolbox. <https://www.nrc.no/toolkit/principled-humanitarian-action-managing-counterterrorism-risks/>
  - o Toolkit for principled humanitarian action: Managing counterterrorism risks
  - o This is an example of a tool which many organisations are using and has been put together based on existing practices
  - o Rejections (from banks) do not come with explanations
- **From Anne-Floor Dekker (WO=MEN Dutch Gender Platform)** to Everyone: 02:04 PM
  - o Organizations need to carry cash, etc, or just stop their projects in certain countries.
- **From Anver Emon (Univ of Toronto - Canada)** to Everyone: 02:04 PM
  - o In the case studies we examined, we found that once one bank excluded an NPO on risk-assessment bases, all other banks followed suit. So this poses a question about how we regulate the nexus between the auditing agency and the banking industry regulator.
- **From Anne-Floor Dekker (WO=MEN Dutch Gender Platform)** to Everyone: 02:05 PM
  - o <https://www.hscollective.org/assets/Uploads/2019-04-Protecting-us-by-tying-our-hands.pdf>
- **From GABRIELA PELLON** to Everyone: 02:06 PM
  - o You know that fortunately in Latin America we do not face the same risks in terms of financing terrorism as countries in Europe or the United States. In fact, in the typology reports approved by GAFILAT in the last 10 years, we cannot trace TF typologies there. Governments and banks lack the capacities to assess TF risks, so they have decided to consider all NPOs, the sector, as high risk and require enhanced due diligence measures that in most cases NPOs cannot comply. . Finally, an NPO that cannot open a bank account or move funds must use as much cash as it can and this is dangerous.
  - o Currently there is no official mechanism for NPOs to inform the competent authorities about the de risking s behaviour of banks
- **From Cherise Chadwick: Norwegian Refugee Council** to Everyone: 02:06 PM
  - o when transfers have been blocked and then eventually been completed we have been seeing it takes on average 2 -10 months. Requiring a lot of resources and again loosing time in our operations and in some cases programmes either being cancelled.
- **From Haroun Atallah** to Everyone: 02:08 PM
  - o Banks close accounts of charities after profiling it as a charity that works in high risk areas and it is often very difficult for a humanitarian charity to find another bank to accept them after they review the profile of the charity that works in places like the Palestinian territories, Syria, Yemen or Sudan. As mentioned correspondent banks refuse to process transactions if they mention any of these countries in the description. Further, other service providers like credit card donations will not accept donations made that mention countries like Syria or Palestine.