

The Tbilisi Principles

**Balancing the need to meet urgent humanitarian needs
with the need to maintain financial integrity**

Recommendations for the public, private and civil society sectors

INTRODUCTION

At the times of greatest difficulty, people provide help. The war in Ukraine has shown that for millions of ordinary people, the reaction when they see a great need is to make great efforts to provide help.

Civil society is the means through which that help is organised and delivered. In Ukraine, in its neighbours and around the world, civil society organisations have mobilised to provide support to those most in need. Funds have been raised, new organisations have been formed, and existing organisations have adapted to new challenges.

Civil society alone has the expertise, the presence and the capacity to identify, mobilise and deliver support immediately. It is the first responder, and is irreplaceable and invaluable.

The effects of these crises are not limited. Whilst Ukraine carries alone the greatest burden from the invasion, it has an impact around the world, with its immediate neighbours in the Eastern Partnership region most profoundly affected. Crises cross borders.

Unfortunately, civil society's relief efforts can be slowed or hindered by well-intentioned and otherwise well-drafted laws designed to deal with a different risk in different circumstances. These are the rules to ensure the integrity of the financial system, and in particular to prevent money laundering, terrorist financing and other forms of illicit financing.

These rules, in large part designed to meet the standards set by the Financial Action Task Force [FATF], are a necessary and important tool in combatting financial crime. Under FATF's 'Risk-Based Approach', measures must be risk-based, targeted and proportionate, and must not hinder legitimate NPO activity. That is why the first requirement of FATF is that countries undertake a National Risk Assessment to identify their own exposure to money laundering [ML] and terrorist financing [TF] risks, and ensure that the measures they take to combat the risks are adequate.

However, humanitarian crises, whether man-made or natural, can change these risk calculations in an instant. All aspects of the risk calculation may be impacted: the inherent risk may be impacted by changes to current risk, or the emergence of new risks; crises may undermine the effectiveness of mitigating measures; but perhaps most importantly, a crisis may necessitate a temporary change in a country or institution's risk tolerance.

The war in Ukraine has shown that governments and financial institutions can react to humanitarian crises with speed, empathy and imagination. However, often there are delays of weeks or even months in making adjustments which can unintentionally hinder the efforts of those who are trying to help.

Most humanitarian crises cannot be predicted. However, we know that there will be another crisis, even if we don't know when or where it will come or what form it will take. Institutions with a remit to deal with crises therefore prepare in advance. Emergency services and relevant ministries have disaster preparedness plans, as do civil society organisations such as the Red Cross / Red Crescent or Medicines Sans Frontiers which deal with humanitarian crises as part of their core remit.

However, other institutions not primarily engaged in the humanitarian response may find themselves at the centre of relief efforts at short notice. Many of these institutions are not prepared. These institutions are in all sectors: the public sector, the private sector and the civil society sector.

Furthermore, institutions which unexpectedly find themselves at the centre of a crisis response do not always have access to the necessary guidance or support either because it does not exist, or because they are unaware that it does.

Meeting humanitarian needs and protecting financial integrity are both important and laudable goals. However, these goals are in some ways in opposition. Even in normal times, finding the balance is not easy. We must accept that in times of crisis that balance may shift, even if temporarily, towards accepting more risk in order to facilitate vital humanitarian action. But if this balance must shift, it is best that it shifts quickly and in a planned and deliberate way.

These recommendations aim to show how this shift may be done.

The recommendations are underpinned by the following core principles.

1. It is recognised that CSOs are an invaluable and irreplaceable resource in swiftly and flexibly meeting urgent humanitarian needs in times of crisis.
 2. In times of great humanitarian need, it may be necessary for government and financial institutions to temporarily increase their tolerance of risks to financial integrity.
 3. Any adjustment to risk tolerance should be taken in a deliberative way and in accordance with pre-agreed process.
 4. Crises are unpredictable but inevitable, and all actors should prepare for the next crisis even if its exact form can not be known.
 5. Inter-sectoral dialogue, including global policy makers, local and national government, competent authorities, financial institutions and civil society organisations, is vital to any effective response.
-

These issues were discussed at a conference on “*Consequences of the Ukraine Invasion on the AML/CFT regime for NPOs in the Eastern Partnership*” held in Tbilisi, Georgia from 7th – 9th June 2022. The conference was attended by representatives from the following institutions.

Transparency International	Armenia	Democracy Index	Georgia
Eurasia Partnership Foundation	Armenia	GIEV	Georgia
MG Consulting	Azerbaijan	Financial Monitoring Service of Georgia	Georgia
SOS Children’s Village Azerbaijan	Azerbaijan	Institute for Development of Freedom of Information	Georgia
SYMPA/BIPART	Belarus	VENRO	Germany
Lawtrend	Belarus	CRJM/LRCM	Moldova
Bulgarian Centre for Not-for-Profit Law	Bulgaria	Promo Lex	Moldova
Civil Society Institute	Georgia	Law Center of Advocates	Moldova
Georgian Center for Strategy and Development	Georgia	Human Security Collective	Netherlands
National Bank of Georgia	Georgia	ABN AMRO	Netherlands
East-West Management Institute	Georgia	European Centre for Not-for-Profit Law	Netherlands
Georgia's Reforms Associates	Georgia	Batory Foundation	Poland
International Society for Fair Elections and Democracy	Georgia	TUSEV	Turkey
Social Justice Center	Georgia	CEDEM	Ukraine
Civil Development Agency	Georgia	UCIPR	Ukraine
Global Compact Network Georgia	Georgia	ISAR Ednannia	Ukraine
Europe Georgia Institute	Georgia	The League of the Strong	Ukraine
Transparency International Georgia	Georgia	Greenacre Associates	United Kingdom
Center for Training and Consultancy	Georgia	Open Government Partnership	Washington DC
Economic Policy Research Center	Georgia	EU Global Facility on AML/CFT	Brussels
Rights Georgia	Georgia		

The recommendations aim to provide guidance on specific steps that different actors can take to prepare for a potential crisis, as well as actions they should take if and when a crisis occurs.

Tbilisi, June 2022

Recommendations for the Financial Action Task Force:

Prior to a crisis, the FATF should:

1. Encourage the **development of regional plans for international cooperation to facilitate financial access and flows whilst protecting financial integrity** in the event of a crisis. The plans should include mechanisms for identifying that a humanitarian crisis is occurring. The plans can be coordinated by FATF, its members, or by FSRBs.
2. Develop a **strategy for responding to humanitarian crises** in consultation with multi-sectoral, multi-agency stakeholders [including financial institutions and CSOs]. The strategy should include consideration of circumstances in which it may be appropriate for competent authorities to increase tolerance of illicit financing risks in order to facilitate the flow of vital humanitarian aid, and what measures might be temporarily loosened or suspended in such circumstances.
3. **Review and highlight best practices and innovations in the financial sector** to raise awareness of best practices amongst competent authorities on facilitating access to banking services in humanitarian crises.
4. Develop **generic guidance on best practices** in crisis situations, and swiftly adapt and re-issue the guidance in response to specific crises. The guidance to cover
 - a. adapting risk assessments and increasing risk tolerance by competent authorities and financial institutions whilst remaining alert to new risks
 - b. guidance on how and when to safely simplify, loosen or suspend measures by competent authorities or financial institutions to facilitate humanitarian activity, and on ensuring that such measures are temporary
 - c. reiterating the need to follow fundamental rights and principles in crisis situations, and advising on how that can be done [the risk-based approach; targeted and proportionate actions; not hindering legitimate charitable activity or fundamental rights and freedoms]
5. **Advise FSRBs to establish formal lines of communication with CSO representatives** in their regions.
6. **Disseminate all such guidance to member states and FSRBs.**

Recommendations for the European Union:

Prior to a crisis, the European Union (in partnership with the European Banking Authority) **should:**

1. Coordinate the **development of regional plans for international cooperation to facilitate financial flows whilst protecting financial integrity** in the event of a crisis¹.
2. Investigate the possibility of and promote **harmonised regulations to facilitate cross-border activities by CSOs and cross-border flows of donations**.
3. Develop a **strategy for responding to humanitarian crisis** in consultation with multi-sectoral, multi-agency stakeholders.
4. **Provide clarity on the interpretation of Beneficial Ownership for CSOs** and what documents they should provide to financial institutions.

¹ Recognising the existing EBA advice <https://www.eba.europa.eu/eba-calls-financial-institutions-and-supervisors-provide-access-eu-financial-system>

Recommendations for government/competent authorities

Prior to a crisis, government/competent authorities should:

1. Establish a sound evidential foundation for the risk tolerance basis of regulations for the CSO sector by doing a **Terrorist Financing risk assessment of the NPO sector**. The risk assessment should be implemented jointly with CSOs, and be in line with the requirements of FATF Recommendation 8.
2. **Publicly recognise the vital and irreplaceable role of CSOs in a humanitarian crisis**, and avoid vilifying entities that may be crucial partners in the future.
3. **Develop a humanitarian assistance response plan** to ensure that the immediate civil society response to a humanitarian crisis in the country or region is not unnecessarily impeded. The plan should:
 - a. be developed in advance with multi-sectoral [public, private and civil society] and multi-agency stakeholders [national and local government and civil society actors]
 - b. establish a mechanism for convening a humanitarian assistance response group to assess necessary actions to be taken; the group should be multi-agency and multi-sectoral
 - c. provide guidance on when and how to reassess the risk appetite and any consequent adjustments to policies or guidance
4. **Develop a communications strategy**, including a template of guidance for donors, CSOs and the public on safely providing humanitarian assistance which can be adapted and issued at short notice.
5. **Review best practices and innovations in the financial sector** to ensure that regulations reflect and encourage best practices.
6. **Establish a long-term emergency fund** to be activated in times of crisis.
7. Investigate methods **for absorbing or sharing some of the risk carried by CSOs or financial institutions** proving vital assistance in higher risk environments.
8. Provide **clear rules and guidance from supervisors to financial institutions² on the list of key documents that CSOs need to provide during the onboarding process**, and establish a principle that additional documents need not normally be provided.
9. Provide **clear rules and guidance from supervisors to financial institutions on minimum standards for accessing banking services in emergency circumstances**.

In a crisis, competent authorities should:

10. **Convene the humanitarian assistance response group** [see 3.a above]. The group should:
 - a. identify and recruit absent stakeholders, with a specific focus on new actors established in response to the crisis.
 - b. formally assess whether the crisis should prompt a temporary adjustment to the risk appetite, which will allow competent authorities to temporarily accept a higher risk to facilitate urgent humanitarian actions

² Recognising the EBA advice referred to above, and the efforts by competent authorities in other states, e.g. the Netherlands <https://www.nvb.nl/english/quicker-access-to-payments-accounts-for-ukrainian-refugees/>.

- c. communicate any change in the risk appetite to financial institutions
 - d. consult with stakeholders to identify the dimensions of the crisis beyond the humanitarian
11. **Identify regulations, policies or guidance that may be temporarily simplified, loosened or suspended.** Key areas of focus should be:
 1. regulations for establishing CSOs
 2. reporting requirements for CSOs
 3. or fundraising regulations
 4. CDD or EDD requirements for competent authorities or financial institutions in relation to CSOs
 12. **Sunset clauses should be applied** if there is confidence that the situation is temporary and will return to 'normal'. Authorities should review measures to ensure that restrictive measures are no longer applied once a crisis has abated.
 13. **Review measures to ensure regulatory comfort is provided to all sectors**, including through formal and informal advice. This should include clearer guidance for financial institutions on the risk-based approach, and on the use of simplified due diligence where the risk is low.
 14. **Coordinate humanitarian support between authorities and CSOs.**

Jointly with financial institutions:

15. Set up blockchain system to distribute money directly to refugees or to CSOs.

Recommendations for financial institutions

Prior to a crisis, financial institutions should:

1. **Recognise that the risk profile of NPOs varies**, and do not treat all NPO clients as high risk by default.
2. **Provide clear and concise justification for refusals of service to CSOs**, such as refusals to open an account, refusals to make a payment or the withdrawal of banking services. Provide general guidance on the reasons why these actions occur.
3. **Establish a mechanism to allow originators to track payments through correspondent banks** to facilitate the swift identification and resolution of refused transactions. Provide a contact point to address refused transactions.
4. Establish and **declare a time limit for opening a bank account**.
5. Establish and **declare the documentation required to access particular banking services**, and ensure that additional documents are not arbitrarily requested.
6. **Provide clarity on the interpretation of Beneficial Ownership for CSOs** and what documents they should provide to financial institutions.
7. **Allow bank accounts to be opened online**.
8. **Prohibit disclosure of information to public or financial institutions in countries with serious violations of human rights**.
9. **Establish and publicise a simplified mechanism for complaints** for refusal of financial services to NPOs to enable systemic problems to be identified and addressed.
10. **Establish human rights roles or teams within financial institutions** to embed the observation of fundamental rights in operations.

In the event of a crisis, financial institutions should:

11. **Formally assess whether the crisis should prompt a temporary adjustment to the risk appetite**, to allow the institution to temporarily accept a higher risk to facilitate urgent humanitarian actions.
12. **Remove fees and simplify processes for accessing banking services by those affected by the crisis**. This should cover refugees, including those temporarily in the country, and new or exiled civil society organisations. It should cover services such as opening accounts, accessing funds and transferring funds³.

³ See again example from the Netherlands: <https://www.nvb.nl/english/quicker-access-to-payments-accounts-for-ukrainian-refugees/>

Recommendation for donors

Prior to a crisis, donors should:

1. **Develop a humanitarian preparedness plan** with advice for staff and grantees to be noted in the event of a humanitarian crisis which impacts grantees or beneficiaries. It should identify relevant legal, financial or administrative rules and safeguards, and identify which may be loosened or suspended and in what circumstances; and set out the organisational policies on safety and security for staff, grantees and beneficiaries.

In the event of a crisis, donors should:

2. **Consult with grantees and other stakeholders to identify the new reality.** Identify issues relevant to grantees and beneficiaries, and develop appropriate responses.
3. **Make proportionate adjustments to grant conditions and monitoring processes for existing grantees.** Specifically:
 - a. allow for budget reallocation and removing match finding requirements if appropriate
 - b. allow for staff and/or organisational relocation to a different jurisdiction
 - c. allow for flexibility in project timelines, tools, deliverables and reporting
 - d. accelerate the processes for responding to requests and questions
4. **Make proportionate adjustments to the administrative processes for existing grants or the awarding of new grants in crisis conditions.** Specifically, consider introducing simplified grant administration, application and reporting processes [in relation to document provision, personal data, justification and determination of staff salaries, place of operation and occupation and qualifications of the employees].
5. **Ensure the personal and organisational security of staff and grantees.** Provide expertise, capacity building campaigns and conduct trainings online and in the field where needed. Provide resources for grantees to implement similar programmes and/or develop new security protocols.
6. **Protect the identify of grantees operating in high-risk locations** such as failed states, locations where terrorist groups are active, or states which systemically abuse human rights.
7. **Invest in human resources.** Support CSO recruitment of staff and experts to replace lost people. Endeavour to prevent trauma or burnout through the provision of psychological support. Ensure that employees and grantees are protected together with family members.
8. **Support efforts to ease civil society activities and access to resources.** Advocate for elimination of limitations on foreign, anonymous or other sources of financing or of limitation on specific fundraising methods. Promote the recommendations in this document to all interlocutors.
9. **Enable dialogue.** Organize meetings between donor organizations and key civil society representatives to discuss identified issues and solutions.

Recommendation for Civil Society Organisations

Prior to a crisis, CSOs should:

1. **Proactively participate in the AML/CFT processes** within the country by engaging with the authorities, banking institutions and contributing to risk assessments.
2. **Raise awareness within the CSO sector** on best practices in relation to financial controls and banking practices.
3. **Raise awareness amongst financial institutions, competent authorities and policy makers of efforts already made by CSOs** to mitigate and respond to emerging and evolving risks.
4. Set and follow **high standards for internal financial control procedures** and other measures which contribute to financial integrity.