

The background of the entire page features a stylized map of Latin America, including Mexico, Central America, and South America. The map is rendered in a light, semi-transparent blue color. Overlaid on the map are numerous diagonal stripes that run from the top-left towards the bottom-right. These stripes vary in width and color, ranging from dark blue to a lighter, teal-like blue, creating a dynamic, textured effect.

Report on measures to  
mitigate the risks of terrorism  
financing and corruption in  
the Non-Profit-Sectors of  
Argentina and Mexico  
Executive Resume

Octubre 2019



---

## *DECLARATION ON COPYRIGHT AND CITATIONS*

---

All material included in this publication - without spatial or temporal restriction - can be reproduced or quoted in whole or in part with the following warnings:

- Gabriela Pellón is to be accredited as the author of the report;
- Greenacre Group, UK retain the copyright on any of its pre-existing intellectual properties used or adapted for use in the report (for example, questions and survey methodology sections 1 to 5);
- Miguel de la Vega is the author for the analysis part corresponding to Mexico.
- The report is for free distribution, its sale is prohibited.

*This publication has been made possible thanks to the financial support granted by Open Society Foundations (OSF). The opinions expressed are the sole responsibility of their authors and do not necessarily represent the views of OSF.*

---

## Introduction

---

Nonprofit Organizations (NPO) go through a lot of difficulties in Latin America in order to properly do their job and achieve their missions. Regulations related to the prevention on Money Laundry (PML) and Terrorism Financing (TF) have become a factor that, in a lot of cases, discourage and/or hinders the actions of charitable entities.

In the absence of closeness and compromise by the competitive authorities in this subject and the growing regulatory, operative and financial demands that NPO support, a group of regional experts gave impulse to the “Latin American initiative against legal and financial restrictions on nonprofit organizations”.

As part of the pilot process that began in Argentina and Mexico, parallel and simultaneous sector evaluations in both countries took place led by CSO themselves. This exercise pretends to be comparable and replicable for other Latin American countries and aims to explore the perceptions about real risks as well as eventual mitigators in order to share the findings with the national governments that conform the Financial Action Task Force (FATF) and collaborate in the regulation design and applicable mechanisms applicable to the NPO sector. This project is supported by Open Society Foundations and member organizations of the Global NPO Coalition on FATF.

The report uses three primary sources. An online NPO survey designed by Greenacre Group, adapted, enriched and implemented by a group of experts led by Ms. Gabriela Pellón<sup>1</sup> in articulation with umbrella organizations of NPO; a desk assessment of the current compliance of Argentina and Mexico for the Recommendation 8 (R8) and the Immediate Outcome 10; and a series of individual interviews and meetings at working groups with selected interested parts that took place between October 2018 and June 2019.

The NPO surveys and questionnaires to referents and academic institutions posed questions about their perception on TF risk, money laundering and corruption. The NPO were also questioned about their motivations to mitigate those risks and the effectiveness of the measures taken for that, both by the Government and the NPO; and details about the surveyed organization<sup>2</sup>. The desk assessment on the compliance with the FATF was based in open code data.

We hope that the experiences and knowledge gathered along this two years of life of the “Latin American initiative against legal and financial restrictions on nonprofit organizations”, consolidated in

---

<sup>1</sup> Gabriela Pellón is a specialist on Money Laundering and Funding of Terrorism Prevention. On 2017 she was elected as member of the Expert Center on AML/FT created by leaders of the Global NPO Coalition on FATF and conducts research projects as well as efforts of advocacy on public policy on a national and regional level in order to improve the implementation of the R8. Gabriela has been government officer on the Financial Intelligence Unit in Argentina between 2010 and 2016. During this period she was part of the technical team responsible of the compliance on the Action Plan for FATF that allowed Argentina to be removed from the Grey List on October 2014. She was an Argentinian representative in several forums and work groups regarding FATF, OAS and UN. She is an Evaluator on International Standards for the Fourth Round, certificated by FATF (gabrielapellon@gmail.com).

<sup>2</sup> Even though being an anonymous survey, the respondents were asked to give details about their organization to allow the analysis, now and under the light of a future risk evaluation of the government, of any significant discrepancy on the answers between different parts of the sector.

this technical report, help create awareness regarding the issues, concerns and possible solutions, for both NPOs and Governments alike, and serve as a catalyst for greater participation among all interested parts in order to contribute to the strengthen of the charitable entities.

Gabriela Pellón

Expert Hub on AML/CTF-Argentina Member

Miguel de la Vega<sup>3</sup>

Expert Hub on AML/CTF-Mexico Member

---

<sup>3</sup> Miguel de la Vega is the Executive Secretary of UnidOSC Mexico, a collective of organizations, activists and academics for the defense of civil society rights. He is also a professor at ORT University, Mexico on several topics related to NPOs. He has participated in diverse research and advocacy initiatives for the promotion of civil society and the protection of civic space (migdelavega@gmail.com).

---

## ARGENTINA

---

This report offers a critical analysis based on the perceptions of the NPO sector and interested parties in relation with the level of compliance with FATF's R8, both in technical aspects and in the effectiveness level. Also, it gives recommendations about how to strengthen the capacities of NPO in order to protect them from the misuse for criminal purposes, avoiding discouraging their activities in the context of the Republic of Argentina.

### MAIN FINDINGS

- There is a very limited understanding of TF, money laundry and corruption in Argentina and their possible relation with NPOs. Argentina has a wide and diverse NPO sector, composed of a significant variety of entities that are regulated and supervised by different government agencies, with a low level of articulation between them, which causes an excessive burden for organizational operation.
- At the moment of writing this report, the competent authorities had not conducted a review of the NPO sector to identify the subgroup of organizations that fall into FATF's definition, neither had they recognized the characteristics and types of NPO that could be considered to be at specific risk of misuse for
- TF or ML. Though government authorities have been perceptive of the NPO demands in this regard, they have not yet promoted to date, strategic and sectoral studies evidence-based, oriented to understand the reality of the sector and to give information and relevant guidelines about the mentioned risks and corruption.
- Argentina has not yet reviewed the adequacy of its ML/TF standards, measures and mechanisms for the NPOs. This prevents the country from applying effective, targeted and proportional measures to those organizations that could be considered vulnerable to misuse for criminal purposes, according to Risk Based Approach standards. Instead, a single sized standard still applies, established in 2011, which is considered "particularly vulnerable", and imposes high demands that are out of reach of most NPOs and in evident obvious contrast to the requirements by the R8. Likewise, even when authorities have the legal faculties in order to get relevant NPO information, no measures have yet been taken to adjust the supervision and monitoring processes under the mentioned risk based approach as proven in the development of witness cases.
- The lack of closeness and continuous interaction with the NPO sector in order to comprehend and mitigate, in an efficient way, the risks that they could face, has negatively affected the access of this entities to financial services. Banks adhere to the formal fulfillment of the regulation and in the absence of specific guidelines to address the sector they consider this sector as an homogenous and "particularly vulnerable" group to financial risks, and has rejected and/or hinder NPOs transactions. The restrictions and obstacles that NPOs face – specially the smallest – in order to operate with the financial institutions, has led them to use less regulated channels and increase the use of cash to be able to carry out their mission, in detriment of the traceability and transparency in the management of funds.

## RISKS AND GENERAL NPOs SITUATION

Competent authorities rate NPOs as “medium risk”<sup>4</sup>. This qualification is not supported by evidence – to date there is no known history of reports of suspicious FT operations, investigations and/or judicial sentences that involve NPOs – but in the prevalence of a global threat. Nor are there any studies and/or researches that point a link between individuals of terrorist groups based in the country that interact in any way with charitable entities. There is no reliable information (data resources, calculations or algorithm suppositions) and even the authorities have admitted problems in obtaining data that allows to explain the likelihood of the global threat affecting and taking advantage of the vulnerability of the local NPOs with criminal purposes<sup>5</sup>.

Although the authorities consider TF risk on NPOs as medium and a good part of the financial institutions as high, the understanding of TF, ML and corruption still results insufficient, and the measures and regulations in place to prevent and mitigate the risks are not focalized, proportioned or effective.

Therefore, the sum of the findings in this report allows to argue that Argentina presents serious deficiencies in its compliance with Recommendation 8.

From the typologies analysis of FATF “Risk of terrorist abuse in nonprofit organizations” and the perceptions of the participating entities collected during the project, a subgroup of organizations which may present a risk of terrorist financing abuse and other criminal purposes – corruption and money laundering – has been identified with the following characteristics:

- Some charitable entities dedicated to “service activities”, which means programs focused on giving shelter, social services, education or healthcare<sup>6</sup> that have not developed solid management capabilities such as transparency and accountability. Likewise, there is a high level of coincidence about a NPO segment that could face corruption or financial risks, even though not necessarily with TF, by NPOs linked to political parties and electoral campaigns and/or NPOs with activities deployed in the Triple Frontier area with Brazil and Paraguay<sup>7</sup>.
- Entities that control a significant part of financial resources of this sector and manage a large volume of programs through several funding sources. Within this subgroup it is perceived as vulnerable those entities only that are deficient in good governance practices and accountability.
- Entities with substantial participation in international sectoral activities, especially those that transfer funds to beneficiaries out of the national territory either directly or in association with other entities into organizations/countries that doesn't have adequate measures of transparency. The degree of increased risk exposition could be concentrated on those NPOs that use high risk channels, for example: cash messengers, alternative remittances, hawala and/or use foreign transfers to countries/regions in high corruption risk, money laundry and funding of terrorism such as tax heavens or jurisdictions identified by FATF as no cooperating<sup>8</sup>.

---

<sup>4</sup> The National Risk Evaluation of FT is on its final phase of execution, however the authorities have anticipated part of the results of the evaluation to some civil society referents.

<sup>5</sup> The risk can be defined as the capacity of a thread exploding a vulnerability.

<sup>6</sup> Different entities that manage sports and recreation, arts and culture programs are grouped in the definition of the FATF as “expressive activities”.

<sup>7</sup> These affirmations are fundamentally based on the perceptions of the NPO referents and government officers involved in this project.

<sup>8</sup> <http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/?hf=10&b=0&s=desc>

The understanding obtained from the sectoral revision allows to focus on a reduced segment of charitable entities that share the mentioned characteristics<sup>9</sup>, easing the process to undertake modifications to the regulatory approach applied to the NPOs. Simultaneously, it is to be expected that the FIU, Republic of Argentina Central Bank and NPOs discuss and establish specific set of guidelines aimed to the financial entities to improve the understanding about the characteristics and functioning of the most vulnerable NPOS in order to improve financial inclusion.

---

<sup>9</sup> It's important to emphasize that the presence of some of the mentioned characteristics do not necessarily make a NPO belong to the most vulnerable segment. It will be precise to ponder through some sort of risk measurement tool of several elements in order to determine the risk exposition level (low – medium – high - very high).



---

## MEXICO

---

In the Mexican case, for the application of the survey we tried to integrate a diverse array of organizations: large and small, some with a couple of decades old and others with just a few years of existence. In the same way, we invited organizations from all regions of the country and not just from those states with a strong presence of NPOs.

To the effect of having a complete analysis framework, the National Risk Assessment (NRA) published by the national government in 2016, was reviewed, as well as the Mutual Assessment, that was published in 2018 by FATF.

Finally, there was an analysis on related norms from the perspective derived from the survey as well as references from academic and civil society authors.

### MAIN FINDINGS

- Mexican NPOs don't count with a wide and precise knowledge about the norms against TF and ML. Understanding of related obligations is higher for organizations with incomes that exceeds the threshold required by the authority to report information. However, the organizational knowledge focuses in the obligations and decreases significantly when it comes to the origin and the impact that the norms can provoke in them, even when there is a possibility of negative effects. There's little comprehension of the reasons to find itself under an overregulation, even when the organizations are already supervised by tax authorities with a strong administrative charge, especially those that hold authorized donor status.
- During the NRA authorities did not conduct a real approach with the NPOs, since the reports suggest that only two organizations were contacted. This fact question the validity of the governmental evaluation regarding civil society organizations, which identified donations to be at low/medium risk in relation with ML (NRA, 2018). While this study was conducted there was knowledge, but so far no publication, of a second NRA process that apparently made consultations to a wider number of organizations. It is to be expected that it will take into account several of the recommendations made by the most recent mutual assessment, particularly about NPOs participation. Equally important is to adapt existing norms and obligations to the current interpretation of R8, in which a future mutual evaluation will be based.
- Authorities had not identified criteria that allow to identify organizations that might pose a greater risk or, if they have done it, they have not published the findings. It's necessary to create a differentiated approach of financial risk within the NPOs sector since organizations that could be identified at risk due to other aspects than management – that in theory could present certain degree of vulnerability – could also be organizations with strong management control practices that act as mitigators.
- There has not been a revision to the adequacy of the norms, measures and mechanisms against TF and ML for the NPOs. Therefore, the current legislation is not designed with specific measures for the protection of civil society organizations but control policies that are not differentiated from obligated subjects of lucrative nature. This situation imposes indiscriminate obligations without a differentiated risk approach and it bases all the strategy in stablishing coercive obligations that can put in jeopardy the existence of the

organizations instead of protecting them. Unfortunately, the reform initiative of 2019 for the so called Anti-Money Laundering Law (main normative instrument for the matter) keeps the same perspective. It's not based in a specific risk evaluation for the NPO sector, it repeats the general obligations scheme with no differentiation of the risk levels and even imposes new obligations. It was a much more effective procedure to have waited for the results of a second NRA before making any reform proposal. At the time of this publication the initiative had not been presented to congress for discussion.

- Within the publication of the Guide to the Risk Evaluation of TF (2019) elaborated by FATF through consultations with NPOs representatives on a global level, there's a special emphasis to the governments in order to not consider NPOs, in general, under risk of TF or ML on an inherent way, and consider the mitigation importance of financial management practices transparency and accountability, already implemented by the organizations. Most of these processes are directed to generate trust with donors, boards of directors, diverse authorities and general public, thus diminishing their risk exposition.
- It has been emphasized to the governments the necessity to encourage the use of regulated financial channels in a global context in which several studies had demonstrated a progressive exclusion of NPOs from the banking sector. This tendency repeats in different countries in Latin America and is confirmed for the countries that this report includes. We are aware of cases of organizations that have been denied the opening of accounts, services that have been hindered or even canceled accounts without a cause supported by law. We consider that to be an inadequate interpretation of R8, as well as a lack of appropriate due diligence procedures to NPOs. Additionally, there seems to be a lack of consideration to the economic importance of the non-profit sector in Mexico. All of these aspects have facilitated the decision of corporate banking – in a non-explicit policy – of excluding organizations partial o totally. This exclusion makes no distinction between new and old institutions since even organizations with active accounts are having unusual difficulties to generate new accounts and access to certain banking services, at least since 2017.

---

## GENERAL CONTEXT

---

The Latin American region is dealing with a wide range of conflicts, some of long duration. It faces money laundry risks derived from organized crime activities, such as drug trafficking, corruption and evasion. However, the regional context does not share the violent global extremism and terrorism phenomenon that severely affects other regions.

Regional governments perceive terrorist activity and its funding as phenomena that do not connect with the reality in their territories and communities. Most of countries aligned with Mexico and Argentina are not preoccupied nor occupied in this matter. Institutional and legal frames have been issued in order to fully investigate and chase TF and impose financial sanctions because they want to comply with FATF standards, and they do so even when there is a lack of reliable studies on the risk of terrorism and its funding on domestic and/or regional level as well as in absence of evidence about terrorist cells activities and foreign terrorist fighter's funding, it should generate a serious analysis about which of these standards should be applicable to our current realities.

As the fourth round of the FATF evaluations takes place and mutual evaluations reports are conducted, it becomes more evident the necessity to rethink the NPOs role within the TF/ML preventive system. The results on the technical compliance and the R8 effectiveness have been so far deficient in general terms. Governments have had serious problems identifying the NPO subsector that falls into the functional definition of FATF and then, the most vulnerable subgroup at risk of TF, neither have they been able to realize risk differentiated regulatory revisions and, much less, they have proven formation, experience and tools to protect NPOs from TF abuse in an effective way.

Each new mutual evaluation process has its correlate in the remarkable increase in the obligations required to the NPOs. In those countries where the NPOs have the duty to collaborate as obligated subjects with the FIU, authorities increase the regulatory and operative charge – so do financial institutions – in order to demonstrate their control faculties over the charitable activities. In countries where NPOs are not a part of the TF/ML preventive system, authorities, in preparation to be evaluated, decide unilaterally and without a true comprehension of the reality of the sector, therefore regulating them as obligated subjects and imposing an unnecessary cumulus of obligations<sup>10</sup> that go beyond the international standard demands.

The Global NPO Coalition on FATF in collaboration with the Expert Hub on AML/CTF have conducted numerous advocacy efforts for the last few years with FATF, C20 and G20 authorities, with the intention to create awareness about the negative effects of the misapplication of the international standards in the charitable activity.

Excessive regulatory, operatory and financial burdens that NPOs are taking, combined with the increasing difficulty to access financial services, are discouraging the mission compliance of a great deal of NPOs in Latin America, which constitutes a flagrant breach on the compliance with R8, which in turns acts against FATF mandate itself.

---

<sup>10</sup> Basically policies, controls and procedures that allow them to efficiently administrate and mitigate the FT/ML identified risks.

---

## CONCLUSIONS

---

The studies conducted in a more than a year and a half in Argentina and Mexico reflect the plurality in the perspectives of numerous non-profit entities that address different causes, manage diverse fund resources and to whom the regulatory frame against TF/ML affects unequally.

Although, in theory, the trajectories of both countries present a dissimilar appearance, Mexico has overcome the mutual evaluation process in the frame of the fourth round of evaluations (with mixed results), has elaborated a national strategy against TF/ML and has started the revision of its regulatory framework. Argentina is lagging behind on a regional level with regard to its international compromises in the matter, therefore it results relevant to focus on the contact points among the two countries

First, is worth mentioning that the current normative which regulates the sector is much more extensive and therefore, more onerous than required by FATF and is not consistent with the risk based approach according to the definitions in the revised version of the R8. In both cases a monetary threshold is used as a main factor to differentiate obligations. The NPOs that receive donations approximately around USD 6,500 threshold, in the Mexican case, and USD 2,400 in the Argentinian case, are subject to the same requirements of other obliged subjects. On the practice they receive the same treatment from the FIU as any other financial activities that happen outside the formal financial system<sup>11</sup>.

Second, authorities have still not implemented an approach aimed to the monitoring of the NPOs under a risk based approach. Neither have they encouraged the closeness to the NPO sector or promoted guidelines focused on protection of the most vulnerable entities.

Third, there is a high level of coincidence between the NPO perception in both countries that there is a low TF risk, arguing that most charitable organizations use their funds within their borders and only a small fraction have international operations with cooperating countries in FATF terms.

Fourth, corruption is perceived as a contextual factor that can influence greatly in the effectiveness of the AML/CTF measures of both regimes. Authorities efforts to counter corruption and money laundering have not considered capacities of NPOs to contribute in the design and implementation of transparency and access to public policies, nor has been a widespread public investment in professionalization processes to improve financial management capacities, even when FATF recognizes that the implementation of solid practices of good internal governance and accountability can be helpful to protect the organizations against the threat of financial risks.

Fifth, although improving the financial inclusion goal is still a priority on both countries' agendas, it is also a great challenge for Argentina and Mexico to achieve balance between the promotion of financial inclusion and risk management of TF/ML. A partir de la realización del presente estudio se desprenden las siguientes recomendaciones:

- i. Revision of the regulation that applies to NPOs with emphasis to abstain on the replication of one sized measures that have been proved to generate negative consequences for the charitable entities.
- ii. Cooperation and sustained dialogue between regulatory agencies, financial institutions and a wide range of NPO referents through formal and permanent mechanisms.

---

<sup>11</sup> For example: gambling, real estate; car dealerships and notaries.

- iii. Incorporation of a representative sample of the sector to exercises of mutual evaluation, national risk assessment and elaboration of the national AML/FT strategy.
- iv. Strengthening of technical capacities of the officials on charge of monitoring and advise the higher risk NPO segment regarding the implementation of effective mitigators.
- v. Carry out regional studies on the threats and vulnerabilities of FT that help to the understanding of actual risks that affect the NPO sector and adequate measures to protect, not hinder, its financial activities.



