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COUNTER-TERRORISM
Coordination Compact

Working Group on Criminal Justice, Legal Responses and Countering the Financing of Terrorism

Working Group on Protecting and Promoting Human Rights, the Rule of Law and Supporting Victims of Terrorism

ENSURING RESPECT FOR HUMAN RIGHTS WHILE TAKING MEASURES TO COUNTER THE FINANCING OF TERRORISM

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CONTENTS

ENSURING RESPECT FOR HUMAN RIGHTS WHILE TAKING MEASURES TO COUNTER THE FINANCING OF TERRORISM 1

CONTENTS 3

A. INTRODUCTION AND BACKGROUND 4

Applicable International Human Rights Law and CFT 4

International Framework on CFT 6

Human rights and CFT measures 10

B. THE TERRORISM FINANCING OFFENCE: DEFINITION AND THE PRINCIPLE OF LEGALITY 12

C. FINANCIAL INTELLIGENCE, INFORMATION-SHARING, AND THE RIGHT TO PRIVACY AND DATA PROTECTION 17

D. TERRORISM FINANCING INVESTIGATIONS AND PROSECUTIONS, AND THE RIGHT TO FAIR TRIAL 24

E. TARGETED FINANCIAL SANCTIONS IN THE CONTEXT OF COUNTERING TERRORISM 28

Asset-freezing measures stemming from Security Council resolution 1373 (2001) 29

Sanctions against individuals or entities designated as terrorists by the ISIL (Da'esh) and Al-Qaida Sanctions Committee 33

F. NON-PROFIT ORGANIZATIONS, CFT, AND THE PROTECTION OF CIVIC SPACE 36

G. IMPACT OF CFT MEASURES ON EXCLUSIVELY HUMANITARIAN ACTIVITIES 45

H. GENDER IMPACT 51

I. THE NEXUS BETWEEN TERRORISM FINANCING AND TRAFFICKING IN PERSONS 56

J. THE ROLE AND RESPONSIBILITIES OF THE PRIVATE SECTOR, INCLUDING FINANCIAL INSTITUTIONS 59

A. INTRODUCTION AND BACKGROUND

This Guidance Note is intended to provide practical and actionable recommendations to Member States and to support them in their efforts to ensure full adherence to international law, including international human rights law, international humanitarian law, and international refugee law, when implementing countering the financing of terrorism (CFT) measures. The Guidance Note examines relevant CFT provisions of the International Convention for the Suppression of the Financing of Terrorism, applicable obligations under international human rights law, relevant United Nations Security Council, General Assembly, and Human Rights Council resolutions, recommendations of relevant UN human rights mechanisms, and an analysis of relevant human rights concerns.

Applicable International Human Rights Law and CFT

International human rights law is established through treaties and customary international law. Upon becoming parties to international human rights treaties,[1] States are bound to respect the international legal obligations which they have assumed. Such obligations also derive from customary international law, established through a general practice, primarily of States, that is accepted as law (*opinion juris*); in other words, such practice must be sufficiently widespread and representative, as well as consistent, and undertaken with a sense of legal right or obligation. Customary international law is generally applicable to all States, regardless of whether they are parties to individual treaties.

International human rights law lays down obligations to respect, protect, and fulfil human rights. This includes putting into place domestic measures and legislation compatible with their treaty obligations and duties.[2]

Any measure taken by States to counter the financing of terrorism that results in human rights restrictions shall be done in accordance with their human rights obligations. They should pursue a legitimate aim and comply with the principles of *legality, necessity, proportionality, and non-discrimination*, which are summarized below:[3]

- The permissible legitimate purposes may vary, and may include national security, public safety, public order, health, morals, and the human rights and freedoms of others;[4]

[1] UN human rights treaties include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Racial Discrimination, the Convention against Torture, the Convention on the Elimination of Discrimination Against Women, the Convention on the Rights of the Child, etc., see treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=_en.

[2] See at: https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law#:~:text=By%20becoming%20parties%20to%20international,the%20enjoyment%20of%20human%20rights

[3] See also OHCHR Toolkit on Strengthening Human Rights in Counter-Terrorism Strategy and Policy, pp. 18-20, available at https://www.ohchr.org/sites/default/files/documents/issues/terrorism/ohchr-toolkit-strengthening-hr-in-ct-strategy-policy.pdf .

[4] Articles 12, 19, 21, 22 of the ICCPR, articles 8 of the ICESCR, article 2 of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, articles 10, 13 and 15 of the Convention on the Rights of the Child.

- In line with article 15 of the International Covenant on Civil and Political Rights (ICCPR) and in accordance with the General Comment of the Human Rights Committee, legality provides that any measure restricting rights must be set out within, or authorized by, a prescription of law, must comply with the principle of non-retroactivity,[5] and that both criminal liability and punishment be limited to clear and precise provisions in the law[6] to ensure legal certainty and avoid unduly broadening the scope of proscribed conduct;
- Any restrictions to human rights stemming from CFT measures must be necessary to achieve a particular counter-terrorism objective, and proportionate.[7] This requires States to prove a rational link between the limiting measure and the pursuit of the particular objective, and the measure taken must be the least restrictive measure available to meet the stated aim;[8]
- To ensure proportionality, the Human Rights Committee clarified that this "requires a value assessment, weighing the nature and detrimental impact of the interference on the exercise of the right against the resultant benefit to one of the grounds for interfering. If the detriment outweighs the benefit, the restriction is disproportionate and thus not permissible".[9] The onus remains on the authorities to justify any such restriction in terms of such requirements on a case-by-case basis;
- CFT measures taken must be non-discriminatory meaning "any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms".[10] The gender impact and impact on families including children and dependants must also be addressed.[11]

Article 2 (3) of the ICCPR requires that States Parties must ensure that individuals whose rights are violated shall have an effective remedy. States should also establish appropriate judicial and administrative mechanisms for addressing claims of rights violations under domestic law and make reparation to individuals whose Covenant rights have been violated.[12]

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[5] Article 15(1) of the ICCPR.
[6] Human Rights Committee, General Comment No. 29, para. 7, available at https://digitallibrary.un.org/record/451555?ln=en&v=pdf .
[7] Human Rights Committee, General Comment No. 34, 12 September 2011, para. 34, available at https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf ; and Human Rights Committee, General comment No. 27, CCPR/C/21/Rev.1/Add.9, 1 November 1999, para. 14.
[8] Human Rights Committee, General Comment No. 34, 12 September 2011, para. 34, available at https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf ; and Human Rights Committee, General comment No. 27, CCPR/C/21/Rev.1/Add.9, 1 November 1999, para. 14.
[9] Human Rights Committee, General Comment 37, para. 40, available at https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-37-article-21-right-peaceful .
[10] Human Rights Committee, General Comment 18, para 7, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FGEC%2F6622&Lang=en .
[11] Basic Human Rights Reference Guide on "Proscription of Organizations in the Context of Countering Terrorism" para. 6, available at https://www.ohchr.org/sites/default/files/2022-04/BHRRG_on_Proscription_of_Organizations_EN_WEB.pdf .
[12] Human Rights Committee General Comment No. 31 - The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, para. 15, available at https://digitallibrary.un.org/record/533996?ln=en&v=pdf .

Additionally, regulatory CFT measures which involve the private sector should also be subject to adequate oversight and accountability mechanisms and should not be left solely to private actor enforcement.[13]

The Financial Action Task Force (FATF) has introduced explicit reference to obligations under the UN Charter and international human rights law including in the Interpretive Note to Recommendation 8, relevant to protecting non-profit organizations (NPOs) from TF abuse.[14]

Other human rights considerations relevant to CFT measures are set out in the sections below.

International Framework on CFT

The 1999 International Convention for the Suppression of the Financing of Terrorism requires States Parties to adopt the necessary measures to establish terrorism financing (TF), as defined in the Convention, as a criminal offence under domestic law, and to make those offences punishable by appropriate penalties.[15] The Convention stipulates that nothing in its provisions shall affect other rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law (article 21), and contains various other human rights protections (articles 17 and 9). At present, the Convention has 190 parties and, in terms of universality, is one of the most widely ratified counter-terrorism treaties in history. The Convention is binding on States that are party to it, subject to their valid and permissible reservations.

Human rights compliant countering of the financing of terrorism is called for by the Security Council and the General Assembly, and it is a key aspect of any effective counter-terrorism strategy. Until 11 September 2001, the regulation of transnational financial crimes focused mainly on money laundering, and there were few international standards addressing the financing of terrorism. This changed following the 9/11 attacks. On 28 September 2001, the Security Council, acting pursuant to Chapter VII of the Charter of the United Nations, unanimously adopted its resolution 1373 (2001), which established the Counter-Terrorism Committee. The resolution decides that States shall, inter alia, prevent and suppress the financing of terrorist acts; criminalize the wilful provision or collection of funds with the intention or knowledge that they be used to carry out terrorist acts; and freeze

[13] See report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/40/52 para. 75 (e), available at https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/40/52 .

[14] *E.g.,* Interpretative Note to FATF Recommendation 6 (paras 2, 4(d)), Interpretative Note to FATF Recommendation 8 (para. 4, p. 61) as well as the Best Practices Paper on Combating the Terrorist Abuse of Non-Profit Organisations (paras 8, 47, 111) state that as a matter of principle, complying with the FATF Recommendations, including in relation to measures to protect NPOs from potential terrorist financing abuse should be implemented in a manner which respects countries obligations' under the Charter of the United Nations and international law, in particular, international human rights law, international refugee law, and international humanitarian law.

[15] International Convention for the Suppression of the Financing of Terrorism, Dec. 9, 1999, 2178 UNTS 197, art. 4 [hereinafter the "Terrorist Financing Convention"], available at https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-11&chapter=18&clang=_en.

without delay any terrorist funds and other financial assets or economic resources. Security Council Resolution 2462 (2019) demanded that Member States "ensure that all measures taken to counter terrorism, including measures taken to counter the financing of terrorism as provided for in this resolution, comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law".

In its subsequent resolutions, including resolutions 2178 (2014), 2253 (2015), 2368 (2017), 2396 (2017) and 2462 (2019), the Security Council emphasized the requirement to criminalize the financing of terrorism and to take measures to prevent and suppress it, in accordance with international law, including international human rights law and international humanitarian law. Other resolutions have addressed specific aspects of terrorism financing. Resolution 2331 (2016) addresses the issue of "trafficking in persons committed with the purpose of supporting terrorist organizations or individual terrorists, including through the financing of and recruitment for the commission of terrorist acts". Resolution 2341 (2017) contains provisions on the financing of a terrorist attack intended to destroy or disable critical infrastructure. In its resolution 2388 (2017), the Council calls on Member States to increase their capacity to conduct proactive financial investigations to track and disrupt human trafficking and identify potential linkages with terrorism financing. In its resolution 2396 (2017), the Council calls on Member States to intensify and accelerate the timely exchange of relevant operational information and financial intelligence regarding actions or movements, and patterns of movements, of terrorists or terrorist networks, including foreign terrorist fighters and their families. Resolution 2482 (2019) highlights the concern that terrorists can benefit from organized crime as a source of financing or logistical support through the trafficking of arms, persons, drugs, artefacts and cultural property.

Resolution 2462 (2019) is the first Security Council resolution entirely focused on preventing and suppressing terrorism financing. The resolution urges all States to regularly assess their terrorism-financing risks and emphasizes the value of financial intelligence in counterterrorism, including in detecting networks of terrorists and their financiers. The Council demands that Member States "ensure that all measures taken to counter terrorism, including measures taken to counter the financing of terrorism as provided in this resolution, comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law". The resolution also underscores that respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counterterrorism measures and are an essential part of a successful counter-terrorism effort. It notes the importance of respect for the rule of law to effectively prevent and combat terrorism, and states that "failure to comply with these and other international obligations, including under the Charter of the United Nations, is one of the factors contributing to increased radicalization to violence and fosters a sense of impunity".

Countering the financing of terrorism is also included in the Global Counter Terrorism Strategy adopted by the General Assembly in 2006, and its subsequent reviews. In the eighth review of the Strategy, the General Assembly recalled that "all measures undertaken by Member States to counter

the financing of terrorism should comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law".[16]

On 30 October 2001, the mandate of the FATF, which previously had focused on money laundering, was extended to include the countering of terrorism financing, with the adoption of eight Special Recommendations. The FATF is an intergovernmental body set up in 1989 at the initiative of the G-7.[17] The FATF's core objective is to "set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system".[18] As of 2012, the FATF Recommendations were updated to include CFT-specific recommendations, and currently FATF has 40 non-binding Recommendations complemented by Interpretive Notes,[19] the General Glossary[20], and a set of reports, best practice papers and guidance.[21] These include Recommendation 5 on the criminalization of terrorism financing, Recommendation 6 on targeted financial sanctions related to terrorism and TF, and the recently reviewed Recommendation 8 and its Interpretive Note, in which FATF paid closer attention to the human rights related aspects of countering the financing of terrorism by requiring States to be mindful of the potential impact of measures on legitimate NPO activities and apply focused, proportionate and risk-based terrorism financing measures in the NPO sector.

In addition, the FATF conducts mutual evaluations of its members' levels of implementation of the FATF Recommendations on an ongoing basis. These are peer reviews, where members from different countries assess another country.[22] The FATF has recently concluded its last round of Mutual Evaluations Process assessing more than 195 jurisdictions from the Global Network in conjunction with the nine FATF-Style Regional Bodies (FSRBs). As a result, 69 per cent of the assessed jurisdictions have been identified as having either major or fundamental deficiencies in their effectiveness when investigating and prosecuting terrorism financing cases. The FATF under the Mexican Presidency (2024-2026) has identified CFT as a strategic priority[23] with the aim of increasing and updating the understanding of TF risks to ensure the correct implementation of CFT measures and raising awareness on avoiding unintended consequences when implementing them.[24] Non-compliance with FATF Recommendations can be damaging for the global financial system and international security.

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[16] A/RES/77/298 (2023), para. 63, https://docs.un.org/A/RES/77/298 .
[17] 1989 G-7 Economic Declaration, available at http://www.g8.utoronto.ca/summit/1989paris/communique/index.html. Note that the FATF has 39 members.
[18] FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), p. 7. See also FATF Mandate (April 2019), available at https://www.fatf-gafi.org/media/fatf/content/images/FATF-Ministerial-Declaration-Mandate.pdf.
[19] FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), pp. 5 and 6. See also FATF Mandate (April 2019), available at https://www.fatf-gafi.org/media/fatf/content/images/FATF-Ministerial-Declaration-Mandate.pdf.
[20] FATF, FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), pp. 5 and 6. See also FATF Mandate (April 2019), available at https://www.fatf-gafi.org/media/fatf/content/images/FATF-Ministerial-Declaration-Mandate.pdf.
[21] See Publications (fatf-gafi.org)
[22] FATF, Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT/CPF Systems, (last updated October 2025, hereinafter "FATF Methodology").
[23] https://www.fatf-gafi.org/content/dam/fatf-gafi/FATF/Mexico-Presidency-Priorities.pdf.coredownload.inline.pdf
[24] https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Unintended-Consequences.pdf.coredownload.inline.pdf

Since 2005, the Security Council has consistently called on Member States to implement the FATF Recommendations.[25]

Security Council Resolution 2462 (2019), the Global Counter Terrorism Strategy[26] and the FATF Recommendations call for a risk-based approach whereby States identify and assess empirical terrorist financing risks and vulnerabilities and adopt mitigation measures proportionate to the areas of greatest risk, rather than solely adopting broad zero-risk measures impacting entire sectors. FATF elaborated that focused, proportionate and risk-based measures in place to protect NPOs should not unduly disrupt or discourage legitimate NPO activities.[27] This implies that, for example, these measures should not unduly or inadvertently restrict or delay an NPO's ability to access or transfer resources to carry out its legitimate activities. Rather, such measures should promote accountability and engender greater confidence among NPOs, across the donor community, the financial institutions and with the general public, that NPO funds and services reach intended legitimate beneficiaries[28]. The Special Rapporteur on Human Rights and Counter-Terrorism recommended to only enact CFT measures commensurate to the empirically validated, differentiated risks of terrorist financing, in accordance with the objective criteria of legality, proportionality, necessity, and non-discrimination.[29] The Special Rapporteur on the rights to freedom of peaceful assembly and of association called on States to "ensure laws, regulations and practices on Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) fully comply with a risk-based approach and are carefully tailored, necessary, and proportionate to empirically identified, differentiated, and current AML/CFT risk".[30]

The risk-based approach is also at the core of the "Non-binding guiding principles on preventing, detecting and disrupting the use of new and emerging financial technologies for terrorist purposes" (also known as the "Algeria Guiding Principles") adopted by the United Nations Security Council Counter-Terrorism Committee in January 2025.[31] The "Algeria Guiding Principles" were prepared with the support of the Counter-Terrorism Committee Executive Directorate (CTED) in accordance with the "Delhi Declaration" on countering the use of new and emerging technologies for terrorist purposes in a manner consistent with international law. The Principles aim to support Member States in their efforts to enhance the evidence-based understanding of the terrorism-financing risks associated with new and emerging financial technologies; provide guidance on how to frame and implement risk-based proportionate regulation, monitoring and supervision to prevent such abuses;

[25] See in particular, Security Council resolutions 1617 (2005), 2253 (2015), 2368 (2017), 2395 (2017) 2462 (2019), and 2617 (2021).
[26] A/RES/77/298, para. 62, https://docs.un.org/A/RES/77/298 .
[27] FATF revised Recommendation 8 and its Interpretive Note, para. 5(c); see also Immediate Outcome 10 of the FATF Methodology.
[28] FATF, Best Practices Paper on Combating the Terrorist Financing Abuse of Non-Profit Organisations, (November 2023), para. 45, available at https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/BPP-Combating-TF-Abuse-NPO-R8.pdf.coredownload.inline.pdf .
[29] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures (June 2022), P. 38, available at: https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf
[30] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/53/38/Add.4, para. 52, https://docs.un.org/A/HRC/53/38/Add.4 .
[31] S/2025/22, available at: https://www.un.org/securitycouncil/ctc/news/non-binding-guiding-principles-preventing-detecting-and-disrupting-use-new-and-emerging

and offer pragmatic solutions on how to effectively detect and disrupt such abuses. The Principles explicitly caution against disproportionally restrictive measures that can limit human rights and hamper the delivery of humanitarian assistance to those in greatest need, especially in conflict- or terrorism-affected areas that often lack formal banking services. Importantly, they also provide guidance on how to evaluate the impact and any unintended consequences of the measures in place, including with respect to protected human rights and legitimate economic activities.

Human rights and CFT measures

Special procedures of the Human Rights Council and other relevant stakeholders have observed that in some instances, provisions on countering terrorism financing have been misused to target NPOs, civil society actors, dissidents, and human rights defenders.[32] Such provisions also have been applied in a manner inconsistent with human rights, inter alia due process and fair trial rights, freedom of opinion and expression, freedom of peaceful assembly and association, freedom of religion or belief, and privacy and data protection.[33] According to the Special Rapporteur on Human Rights and Counter Terrorism, "CFT measures are rarely implemented with the requisite due diligence and ex ante impact assessment to satisfy international law obligations, particularly the objective requirements of necessity, proportionality, non-discrimination, and legality", and "the misuse of CFT measures to discriminately target civil society actors and minorities has come at a severe cost to the most fundamental civil, political, economic, social, and cultural rights and structurally, to the very integrity and fabric of international rule of law".[34] The Special Rapporteur further remarked that such non-compliant approaches are ineffective and counterproductive to the purpose of combatting terrorist financing and money laundering and pose further detrimental effects on broader counterterrorism efforts, as well as rule of law, sustainable development, and anti-corruption priorities in the long run.[35]

Additionally, several forums, including those involving civil society organizations (CSOs), have been alarmed by the impact of the misuse of CFT measures on civil society, and have increasingly focused on the need to mitigate the negative impact of CFT measures that are not implemented in accordance with international human rights, humanitarian, and refugee law, whether intentionally or

[32] See report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/70/371, para 10, https://docs.un.org/A/70/371 .
[33] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), available at: https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf
[34] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), p. 17, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .
[35] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), p. 1, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

unintentionally. Others have similarly recognized that CFT measures have been "abused, misused or misapplied, which can contribute to barriers to principled humanitarian action and the ability of NPOs to operate, as well as unduly hindering access to financial services and constricting civic space, which affects associated individual rights to freedom of expression and association".[36]

In a joint report published in June 2020 by CTED and the Analytical Support and Sanctions Monitoring Team in accordance with resolution 2462 (2019),[37] responses from 112 Member States highlighted the commitment of Member States to denying terrorist groups access to funds and financial services. The responses also suggested that States continue to face challenges with respect to the integration of human rights obligations into their measures to counter the financing of terrorism, and it noted the need for further research in this regard. In their submissions, 45 States offered no comment on a question about ensuring that terrorism-financing investigations comply with international human rights obligations, including those concerning privacy. Of the 67 States that responded to the question, fewer than 20 provided details on concrete measures they have put in place. This suggests a need for further clarification in this area.

To address the misapplication and misinterpretation of FATF Recommendations, the FATF examined the unintended consequences resulting from the incorrect implementation of the FATF Standards, in the following four areas: de-risking; financial exclusion; undue targeting of NPOs; and curtailment of human rights (with a focus on due process and procedural rights).[38] On the latter topic, the analysis explores a number of ways in which misapplication of the FATF Standards may affect due process and procedural rights, including: excessively broad or vague offences in legal counterterrorism financing frameworks; issues relevant to investigation and prosecution of TF and ML offences, such as the presumption of innocence and a person's right to effective protection by the courts; and, incorrect implementation of UN Security Council resolutions and FATF Standards on due process and procedural issues for asset freezing. Having completed its work to identify and analyse such unintended consequences in March 2022,[39] the FATF Plenary referred the substantive work to the relevant FATF Working Groups to scope out and refine how FATF could mitigate the unintended consequences of FATF's Standards. This led to changes in the FATF Standards and the assessment Methodology, the adoption of Guidance (including the recently adopted amendments to

[36] Global Counter-Terrorism Forum, " Good Practices Memorandum for the Implementation of Countering the Financing of Terrorism Measures while Safeguarding Civic Space", (September 2021), p. 3 - available at https://www.thegctf.org/Portals/1/Documents/Links/Meetings/2021/19CC11MM/CFT%20GP%20Memo/CFT%20Memo_ENG.pdf?ver=fahs72ucLyyYOTj7WDwBkQ%3d%3d.

[37] UN (2020), "Joint report of the Counter-Terrorism Committee Executive Directorate and the Analytical Support and Sanctions Monitoring Team pursuant to resolutions 1526 (2004) and 2253 (2015) concerning Islamic State in Iraq and the Levant (ISIL) (Da'esh), Al-Qaida and the Taliban and associated individuals and entities on actions taken by Member States to disrupt terrorist financing, prepared pursuant to paragraph 37 of Security Council resolution 2462 (2019)". Available at: https://www.undocs.org/en/S/2020/493.

[38] The first phase of this work was a stocktake, to consolidate previous analysis of these phenomena by FATF and other stakeholders, including expert bodies, in order to identify and understand to what extent, and in what manner, these unintended consequences are occurring. The results of this work are captured in a High-Level Synopsis of this Stocktake: https://www.fatf-gafi.org/media/fatf/documents/Unintended-Consequences.pdf. The high-level synopsis summarizes a longer stocktake report, which itself brings together existing knowledge from various sources as a basis for policy decisions.

[39] High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards (27 October 2021), https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Unintended-consequences-project.html.

Recommendation 8 and its Interpretive Note and FATF best practices paper on combating the terrorist financing abuse of NPOs), and updated training (including on financial inclusion).[40]

The present document aims to provide guidance on the application of international human rights law in the context of countering the financing of terrorism. A public call for contributions open to any "concerned stakeholder" was posted online in October 2020[41], and submissions received from various CSOs were taken into consideration in this document.

B. THE TERRORISM FINANCING OFFENCE: DEFINITION AND THE PRINCIPLE OF LEGALITY

In accordance with article 15 of the ICCPR, any criminal offence, including offences relating to countering-terrorism financing, must have a clear and precise definition and be in conformity with the principle of legality, which gives rise not only to the prohibition of retroactive criminal laws in the narrow sense, but also to a general duty of States to define clearly and precisely all criminal offences in the interest of legal certainty. States are obliged to ensure that their definitions of terrorism-related offences are not overly vague or broad. Definitions must exclude offences that do not bear the quality of terrorism even if the conduct is undertaken by a person also suspected of terrorist crimes.[42] Guidance regarding these definitions can be found, inter alia, in the model definition proposed by the Special Rapporteur on Human Rights and Counter-Terrorism, in Security Council resolution 1566 (2004), and the International Convention for the Suppression of the Financing of Terrorism.

Pursuant to Article 2 paragraph 1 of the International Convention for the Suppression of the Financing of Terrorism, any person[43] commits [the offence of the financing of terrorism] if that person "by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex [to the Convention]; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act."

[40] See FATF revised Recommendations 1, 10 and 15 (FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025)) and Press Release (October 2024).

[41] See at https://www.un.org/securitycouncil/ctc/news/call-input-guidance-document-countering-terrorism-financing-while-respecting-human-rights.

[42] OHCHR Fact Sheet 32, p. 24, https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet32EN.pdf .

[43] See ICJ position on the interpretation of "any person" in Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2019, p. 558, para. 61.

For an act to constitute an offence under this provision, it shall not be necessary that the funds were actually used to carry out an act referred to in paragraphs (a) or (b). Article 2 also specifies modes of liability applicable to the offence of terrorism financing, including attempt, participation as accomplice, organizing or directing others, and contributing to the commission by a group of persons with a common purpose.

Security Council resolutions, including resolution 1373 (2001), 2178 (2014), 2253 (2015), 2368 (2017), 2396 (2017) and 2462 (2019), as well as FATF Recommendation 5 call on Member States to become parties and implement the provisions of this Convention and provide additional requirements and guidance in this regard.

In paragraph 5 of its resolution 2462 (2019), the Security Council decides that all States shall, "in a manner consistent with their obligations under international law, including international humanitarian law, international human rights law and international refugee law, ensure that their domestic laws and regulations establish serious criminal offences sufficient to provide the ability to prosecute and to penalize, in a manner duly reflecting the seriousness of the offence, the wilful provision or collection of funds, financial assets or economic resources or financial or other related services, directly or indirectly, with the intention that the funds should be used, or in the knowledge that they are to be used for the benefit of terrorist organizations or individual terrorists for any purpose, including but not limited to recruitment, training, or travel, even in the absence of a link to a specific terrorist act". Paragraph 8 calls upon Member States to more effectively investigate and prosecute cases of terrorist financing and to apply, as appropriate, effective, proportionate, and dissuasive criminal sanctions to individuals and entities convicted of terrorist financing activity.

As there is no internationally agreed comprehensive definition of terrorism or terrorist acts[44], States have implemented the obligations imposed by resolution 1373 (2001) and subsequent resolutions in different ways, using widely varying approaches to defining related criminal offenses. These include the frequent adoption of overly broad definitions of terrorism, terrorist financing, and related offences and this carries the potential for deliberate misuse of the terms, as overbroad and imprecise definitions can lead to arbitrary and abusive implementation and in violation of the principle of legality. Overbroad definitions can also lead to unintended human rights abuses.[45] Inevitably, flawed definitions of terms such as "terrorism", "terrorist acts", "terrorist organization" under national laws directly impact the scope of the activities that would fall within the terrorism-financing offence.[46]

There has also been over-regulation and over-compliance fueled by broad and vague definitions of what constitutes terrorist financing or support. Combined with criminalization and severe civil

[44] Divisions concerning the definition of terrorism have been impeding progress towards a legal framework — a comprehensive convention on international terrorism.

[45] See report by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism ("Special Rapporteur on counter-terrorism and human rights") A/HRC/16/51 para 26; United Nations Human Rights Special Procedures, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism,* June 2022, pp. 17-18, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

[46] See also Recommendation 1 of the GCTF Good Practices Memorandum for the Implementation of Countering the Financing of Terrorism Measures while Safeguarding Civic Space (September 2021) emphasizing the need to avoid overly broad, vague, or imprecise definitions of terrorism financing, p. 5.

penalties, these definitions produce chilling effects on all stakeholders, particularly CSOs. According to submissions received from CSOs, overly broad definitions in national laws have been used to justify the liquidation and unwarranted restrictions of NPOs to penalize and sanction organizations that challenge government policies.

In addition to criminal law, terrorism-related definitions are directly relevant to the application of a full spectrum of both preventative and disruptive CFT measures, including asset freezing and restrictions on receiving or managing funds.[47] Terrorist designations based on vague definitions could lead to discriminating against or targeting ethnic or religious minorities or members of political opposition groups, in addition to the gender-related negative impact discussed below. Additionally, overly broad definitions of terrorism and its financing or support can restrict humanitarian access to populations in certain areas where groups and individuals designated as terrorist operate or exercise control, and lead to the harassment, arrest, and prosecution of medical and humanitarian workers.[48] (see "Impact on Humanitarian Activities" below).

Regarding the requisite mental elements of the offence (*mens rea*), Security Council resolution 2462 (2019) paragraph 5 and FATF Recommendation 5 require that the terrorist financier has the unlawful intention or knowledge that those funds or other assets were being collected for or provided to a terrorist organization or individual terrorist. This also applies to cases of "indirect" provision or collection of funds or other assets. The FATF Guidance on criminalising terrorism financing notes that "indirectly" means "through an intermediary/middleman or a secondary trader" or as "part in a chain of transactions" knowing that these will benefit a terrorist or a terrorist organisation (*e.g*. as an intermediary trader). Those who organize such transactions, but do not take part in them would fall within the scope of the ancillary offences to terrorism financing.[49] Both resolution 2462 (2019) and FATF Recommendation 5 require *wilful* terrorism financing to be covered, i.e. the offence shall be one where *mens rea* needs to be proven. Article 2 of the International Convention for the Suppression of the Financing of Terrorism defines the offence, particularly the *mens rea* element to include "unlawfully and wilfully"; whereby unlawfully was added to exclude criminal liability in situations where undercover police might need to provide money to suspected terrorists as part of infiltration operations, or where "a donation might have the unintended result of funding terrorism when an organisation has both peaceful aims (health services) and terrorist activities".[50]

Security Council Resolution 2462 (2019) paragraph 5 requires States to criminalize terrorism financing "even in the absence of a link to a specific terrorist act". This requirement is also included in FATF Recommendation 5 on Criminalizing Terrorist Financing. The FATF Guidance on criminalizing terrorist financing elaborates on this requirement, clarifying that the purpose for which the terrorist financier

[47] See also, FATF, High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards (October 2021), p. 6, noting that excessively broad or vague offences in legal counterterrorism financing frameworks can lead to wrongful application of preventative and disruptive measures including sanctions that are not proportionate. https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Unintended-Consequences.pdf .

[48] See IPI, Safeguarding Medical Care and Humanitarian Action in the UN Counterterrorism Framework, (2018), pp. 8-9 – available at https://www.ipinst.org/wp-content/uploads/2018/09/1809_Safeguarding-Medical-Care.pdf.

[49] FATF Guidance, "Criminalising Terrorist Financing (Recommendation 5)", October 2016, para. 11, available at https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Criminalising-Terrorist-Financing.pdf.

[50] UNODC, "Chapter Thirteen: International Convention for the Suppression of Financing of Terrorism 1999", para. 11, https://www.unodc.org/pdf/crime/terrorism/Commonwealth_Chapter_13.pdf .

intended or knew the funds or other assets to be used by the terrorist organization/individual terrorist is irrelevant to the scope of terrorism financing offence. It also notes that many countries apply a *principle of guilt* as a fundamental element of criminal law and that in certain cases it will conflict with the specific requirement to criminalize terrorism financing "for any purpose"[51].The principle of guilt would only permit criminalisation of the provision of funds or other assets to an individual terrorist, even in the absence of a link to a specific terrorist act or acts, if this is for a purpose which is in some way related to terrorism (e.g. for recruitment, training, travel, or concealing terrorist activity).

Concerns have been raised that overly broad national legislation on terrorism offences may not sufficiently reflect the required *mens rea* and the absence of a link to a specific terrorist act and its application "can pose a significant threat to civil society organizations, some of whose activities may — unwittingly — constitute indirect material support according to the definitions adopted".[52]

Human Rights Guidance:

National definitions of terrorist acts and related offences, including terrorism financing and other forms of support to terrorism, should be in compliance with States' obligations under international law, including human rights law and Security Council resolutions, including Security Council resolution 1566 (2004)[53]. Specifically, States should ensure that national legislation defining terrorism-related offences is clear, precise, and foreseeable[54] and must comply with the principles of legality and legal certainty to enable individuals to regulate their conduct accordingly and to prevent possible misuse of legislation by States leading to human rights violations. They should be written in law. And such law must be enacted through legislative or legitimate rule-making processes; accessible[55] and should comply with the principles of non-discrimination and non-retroactivity.[56] It must not confer unfettered discretion[57] and effective remedies should be set out

[51] FATF Guidance, "Criminalising Terrorist Financing (Recommendation 5)", October 2016, paras 32 - 34, available at https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Criminalising-Terrorist-Financing.pdf .

[52] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/70/371, para. 31, https://docs.un.org/A/70/371 .

[53] Resolution 1566 (2004) (para. 3) characterizes terrorism as "criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism.".

[54] Article 15 ICCPR; Human Rights Committee, general comment No. 29, para. 7; General comment No. 34, 12 September 2011, paras. 25, available at https://digitallibrary.un.org/record/451555?ln=en&v=pdf .

[55] Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, April 1985, https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf. Para. 17; see also Human Rights Committee, General comment No. 34, 12 September 2011, paras. 22 and 25, https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf.

[56] ICCPR art. 15(1), CRC art. 40(2)(a), ICRMW art. 19(1), UDHR art. 11(2); see also A/HRC/28/28, para. 28, available at https://docs.un.org/A/HRC/28/28 ; and Report of the Secretary-General on terrorism and human rights, A/76/273 para 56, available at https://docs.un.org/A/76/273 .

[57] It should provide sufficient guidance to those charged with their application to enable them to ascertain the sort of conduct that falls within their scope – see A/HRC/28/28, para. 28, available at https://docs.un.org/A/HRC/28/28 .

in the law.[58] This could ensure that terrorism offences are not potentially applicable to acts beyond those envisaged by the international counter-terrorism instruments, such as the International Convention on the Suppression of the Financing of Terrorism[59] (see also, the model definition developed by the Special Rapporteur on Human Rights and Counter-Terrorism,[60] OHCHR Guidance Note: Defining Terrorism in National Legislation,[61] CTED Analytical Brief: A commentary on the codification of the terrorism offence[62]).

Definitions of terrorism and its financing in national laws should be limited to addressing conduct clearly linked to elements of a serious crime as defined by the national law, when combined with the other cumulative characteristics of Security Council resolution 1566 (2004). Terrorism financing offences should not be applied to ordinary crimes, non-violent acts of protest or dissent, or exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law.

The financing of terrorism should be criminalized in accordance with Article 2 of the International Convention for the Suppression of the Financing of Terrorism by its States parties, in accordance with and paragraph 5 of Security Council resolution 2462 (2019), and could be guided by relevant FATF Recommendations. The resolution also requires that the criminalization be done in a manner consistent with Member States' obligations, including international humanitarian law, international human rights law and international refugee law. Therefore, provisions on terrorism financing must

[58] A State's human rights obligations to provide access to remedy are enshrined in International Covenant on Civil and Political Rights Article 2(3); also see article 9.2 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, General Assembly resolution 53/144, 9 December 1998, available at https://www.ohchr.org/en/instrumentsmechanisms/instruments/declaration-right-and-responsibility-individuals-groupsand ; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147, 15 December 2005, available at https://www.ohchr.org/en/instrumentsmechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation ; and United Nations (2020).

[59] Article 2 defines terrorism as "Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act."

[60] "Terrorism means an action or attempted action where:
1.The action: (a) Constituted the intentional taking of hostages; or (b) Is intended to cause death or serious bodily injury to one or more members of the general population or segments of it; or (c) Involved lethal or serious physical violence against one or more members of the general population or segments of it; and
2. The action is done or attempted with the intention of: (a) Provoking a state of terror in the general public or a segment of it; or (b) Compelling a Government or international organization to do or abstain from doing something; and
3. The action corresponds to: (a) The definition of a serious offence in national law, enacted for the purpose of complying with international conventions and protocols relating to terrorism or with resolutions of the Security Council relating to terrorism; or (b) All elements of a serious crime defined by national law." See A/HRC/16/51, available at https://docs.un.org/A/HRC/16/51 .

[61] OHCHR Guidance Note, Defining 'Terrorism' in National Criminal Legislation, available at https://www.ohchr.org/sites/default/files/2025-03/ohchr-guidance-note-defining-terrorism-in-national-legislation.pdf

[62] CTED Analytical Brief: A commentary on the codification of the terrorism offence, June 2024, available at https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/un_cted_-_analytical_brief_-_criminalization_of_terrorist_offences_1.pdf

not prohibit legitimate activities protected under international human rights law or international humanitarian law.

As underscored in the FATF Guidance on Criminalizing Terrorist Financing, the requisite mental element (*mens rea*) of the offence requires willful TF to be covered. It should not criminalize TF as a strict liability offence (i.e., an offence for which the *mens rea* need not be proven), reckless or negligent TF, or unwitting acts of TF. Additionally, the specific unlawful intention must be present and depends on whether the TF activity is being conducted in relation to a terrorist act, or in relation to financing a terrorist organization or individual terrorist[63]. What is required to be proven is that the terrorist financier knew (or believed) that the funds or other assets should be or are (unlawfully intended) to be used for the benefit of terrorist organizations or individual terrorists.[64] The mental element is decisive in establishing criminal liability[65].

Any CFT measures must be necessary in the pursuit of their pressing objectives under the legitimate aim to be achieved and the restriction on human rights must be shown not to impair the democratic function of society[66] and the harm caused by the CFT measures must not outweigh the benefit of achieving its objective.[67]

Criminal penalties for terrorist financing activity, while being effective and dissuasive, should be necessary, proportionate and non-discriminatory.

C. FINANCIAL INTELLIGENCE, INFORMATION-SHARING, AND THE RIGHT TO PRIVACY AND DATA PROTECTION

Any financial intelligence processed by financial intelligence units (FIUs) or by any law enforcement agencies and information sharing between government agencies should comply with applicable international human rights law, including, article 17 (of the ICCPR) which provides that "no one shall be subjected to arbitrary or unlawful interference with privacy, family, home or correspondence, nor to unlawful attacks on their honour and reputation", as well as other ICCPR rights which may be

[63] Article 2 of the International Convention for the Suppression of the Financing of Terrorism; FATF Guidance, "Criminalising Terrorist Financing (Recommendation 5)", October 2016, paras 8, 21-26, available at https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Criminalising-Terrorist-Financing.pdf.

[64] OHCHR cautions that a definition of offences criminalizing terrorist financing, which does not include lawful justification or reasonable excuse could be incompatible with the principle of legality in article 15 of the ICCPR and risks criminalizing legitimate human rights and humanitarian activities.

[65] FATF Guidance, "Criminalising Terrorist Financing (Recommendation 5)", October 2016, para. 24, available at https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Criminalising-Terrorist-Financing.pdf

[66] Human Rights Committee, General Comment No. 34, 12 September 2011, available at https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf; see also Office of the United Nations High Commissioner for Human Rights, Reporting under the International Covenant on Civil and Political Rights: Training Guide, https://www.ohchr.org/sites/default/files/Reporting-ICCPR-Training-Guide.pdf

[67] Human Rights Committee, General comment No. 34, 12 September 2011, para. 34, https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf; and Human Rights Committee, General comment No. 27, CCPR/C/21/Rev.1/Add.9, 1 November 1999, para. 14.

violated consequent to a violation of the right to privacy, including freedom from arbitrary detention and torture or other ill-treatment, and the prohibition on the arbitrary deprivation of life, among others. Everyone has the right to the protection of the law against such interference or attacks. Individuals should have an area of autonomous development, interaction and liberty, a "private sphere" with or without interaction with others, free from State intervention and from excessive unsolicited intervention by other uninvited individuals.[68]

The term "unlawful" in the ICCPR has been interpreted by the Human Rights Committee to mean that "no interference can take place except in cases envisaged by the law". General Comment 16 also mentions that the concept of arbitrariness is "intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives" of the ICCPR and should be "reasonable in the particular circumstances". The Human Rights Committee elaborated that States must take effective measures to ensure that "information concerning a person's private life does not reach the hands of persons who are not authorized by law to receive, process and use it, and is never used for purposes incompatible" with the ICCPR. Effective protection should include the ability of every individual to ascertain whether and, if so, what personal data about them is stored and for what purposes, with a corresponding right to request rectification or elimination of incorrect data.[69] It should also mean that the data is only used for the purposes for which it was collected, is treated confidentially, and is protected against any unauthorized access, modification, disclosure or deletion.[70] There should be an effective internal and independent external supervision of all processes relating to information and data (for example, data audits, data breach notification, privacy impact assessments), and adequate powers and resources to investigate breaches and impose sanctions.[71] Persons whose privacy or reputation has been violated should be entitled to an effective remedy.[72] Article 17 of the ICCPR also requires States to provide a legal framework to prohibit the unlawful interference by private entities with an individual's right to privacy[73] (see Section J below on the 'The role and responsibilities of the private sector, including financial institutions').

Article 12 of the International Convention for the Suppression of the Financing of Terrorism outlines mutual legal assistance and exchange of information between States in connection with criminal investigations or criminal or extradition proceedings in respect of terrorism financing offences, including assistance in obtaining evidence in their possession necessary for the proceedings.

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[68] See report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism A/HRC/13/37, para. 11, available at https://docs.un.org/A/HRC/13/37 ; and report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/HRC/23/40, para 22, available at https://docs.un.org/A/HRC/23/40 .

[69] Human Rights Committee General Comment No. 16 (1988), para. 10, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FGEC%2F6624&Lang=en.

[70] Report of the High Commissioner for Human Rights, "The right to privacy in the digital age" (A/HRC/39/29), para. 29, available at https://docs.un.org/A/HRC/39/29 .

[71] Report of the High Commissioner for Human Rights, "The right to privacy in the digital age" (A/HRC/39/29), paras 31, 61(d), available at https://docs.un.org/A/HRC/39/29 .

[72] Report of the High Commissioner for Human Rights, "The right to privacy in the digital age" (A/HRC/39/29), paras 50-57, available at https://docs.un.org/A/HRC/39/29 .

[73] Human Rights Committee General Comment No. 16 (1988), para. 10, available at https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.16.pdf .

In its resolution 2462 (2019), the Security Council urges Member States to establish or strengthen their national frameworks for gathering and sharing information on the financing of terrorism, and to intensify and accelerate the timely exchange of relevant operational information and financial intelligence between States.

FATF Recommendation 29 states that countries should establish a FIU serving as a national centre for receipt and analysis of suspicious transaction reports (STRs) and other relevant information, and for dissemination of the results of that analysis. In an effective AML/CFT regime, the FIU is one of the key interlocutors between the authorities and the private sector and often plays a role in providing the private sector with guidance, training and feedback. There is no single model for an FIU. Some carry out an investigative or prosecutorial role, while others are purely administrative (or a hybrid model).[74]

The FATF Interpretive Note to recommendation 29 states that information received, processed, held or disseminated by the FIU must be securely protected, exchanged and used only in accordance with agreed procedures, policies and applicable laws and regulations. An FIU must, therefore, have rules in place governing the security and confidentiality of such information, including procedures for handling, storage, dissemination and protection of, as well as access to, such information. The FIU should also ensure that its staff members have the necessary security clearance levels and an understanding of their responsibilities in handling sensitive and confidential information. Further, the FIU should ensure that there is limited access to its facilities and information, including information technology systems.

The Interpretive Note to FATF Recommendation 40 states that exchanged information should be used only for the purposes for which the information was sought or provided. Appropriate confidentiality should be maintained, consistent with privacy and data protection obligations, and controls and safeguards should be established to ensure that the information is used only in the manner authorized.[75]

In its stocktake report[76] on data pooling, collaborative analytics and data protection, the FATF has also underscored that is imperative that any exchange of information between financial institutions respects national, supranational and international legal frameworks for data protection and privacy. In this regard, it also referred to privacy-enhancing technologies and tools intended to enable multiple parties to interact meaningfully to achieve an application goal, without revealing underlying private information to one another or to third parties.

Financial intelligence is not processed only by FIUs but also by other law enforcement agencies imposing financial reporting requirements, such as customs and tax authorities. FIUs are often empowered by law to request information from supervisory authorities and other administrative authorities. These agencies often rely on a large range of capabilities and tools to detect terrorism financing. As these agencies gain access and collect ever larger amounts of data, authorities

[74] Technical Guide to the implementation of Security Council resolution 1373 (2001) and other relevant resolutions, available at https://www.undocs.org/en/S/2019/998, para. 74.
[75] Interpretive Note to FATF Recommendation 40, paras. 3-4.
[76] Stocktake on Data Pooling, Collaborative Analytics and Data Protection, July 2021 (handout) ; full report available at https://www.fatf-gafi.org/media/fatf/documents/Stocktake-Datapooling-Collaborative-Analytics.pdf.

increasingly rely on automated processing mechanisms and specialized software to detect suspicious activity, and on data analytics and data mining tools to identify connections between suspicious activities (many of which may not be connected to criminality). Furthermore, terrorist financiers also raise and transfer funds across borders, making the sharing of financial intelligence across international borders critical to the effective detection of terrorism financing.

Financial intelligence and information-sharing between government agencies and prosecutorial and/or judicial authorities may improve the effectiveness of investigations and prosecutions in the area of counter terrorism (see Section D below on 'Terrorism financing investigations and prosecutions and the right to fair trial'), but they may raise human rights concerns in relation to the right to privacy and data protection as well as due process. The right to privacy is impacted by the mere generation and collection of data relating to a person's identity, family or life, health, and personal interactions since through those steps an individual loses some control over information that could put his or her privacy at risk. In addition, the mere existence of secret surveillance amounts to an interference with the right to privacy.[77] Undue interference with the right to privacy can also have a negative impact on freedoms of opinion expression, association, and religion or belief.[78]

The Special Rapporteur on Human Rights and Counter Terrorism underlined that financial intelligence sharing between government agencies may also lack "purpose specification" provisions restricting information gathered for one purpose from being used for other unrelated governmental objectives. States must be obliged to provide a legal basis for the reuse of information, in accordance with constitutional and human rights principles. This must be done within the human rights framework, rather than resorting to derogations and exemptions. This is particularly important when information is shared across borders; furthermore, when information is shared between States, protections and safeguards under international human rights law must continue to apply.[79]

The Special Rapporteur also underscored that the financial industry is under the obligation to analyze financial transactions and report suspicious and "threshold" activities to FIUs. The additional processing of this information by the FIUs may, however, remain opaque. [80]

CSOs have raised concerns over the frequent, and sometimes exclusive, reliance of counter-terrorism financing measures on secret intelligence. When these measures detrimentally affect rights, those affected are often unable to obtain assistance from the courts, even in legal systems that emphasize respect for due process and the protection of human rights.

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[77] The right to privacy in the digital age - Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/27/37, para. 20, available at https://docs.un.org/A/HRC/27/37 ; see also United Nations Human Rights Special Procedures, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism*, June 2022, pp. 25-27, available at https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

[78] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), p. 25, available at https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

[79] A/HRC/13/37, para. 50, https://docs.un.org/A/HRC/13/37 .

[80] A/HRC/13/37, para 44, https://docs.un.org/A/HRC/13/37 .

CSOs have also expressed concern that CFT requirements have produced a substantial increase in global demand for high-tech monitoring and identification systems that may be used for mass surveillance and to target activists and minorities, and that such systems are sometimes implemented without thoroughly considering the human rights impact of the technology and its possible uses, misuses and future applications, or creating an appropriate human rights framework. OHCHR and several UN Human Rights mechanisms, including the Special Rapporteur on human rights and counter-terrorism and the Special Rapporteur on the right to privacy[81] have raised concerns with regard to mass surveillance, of online activities of large proportions of the population, or even entire populations.

Specifically, OHCHR has expressed concerns around the extent to which such measures are consistent with international legal standards and whether stronger surveillance safeguards are needed to protect against violations of human rights.[82] The onus would be on the State to demonstrate that such interference is neither arbitrary nor unlawful.[83] The Special Rapporteur on Human Rights and Counter-Terrorism has asserted that States must provide adequate human rights law justification for its use; mass data collection programmes appear to offend against the requirement that intelligence agencies must select the measure that is least intrusive on human right (unless States are in a position to demonstrate that nothing less than blanket access to all Internet-based communication is sufficient to protect against the threat of terrorism and other serious crime). The Special Rapporteur further stated that such programmes appear to undermine the right to privacy since there is no opportunity for a prior individualized proportionality assessment.[84] The Special Rapporteur on the right to privacy underscored that even when countering terrorism constitutes a legitimate ground for surveillance, the degree of interference must, however, be assessed against the necessity of the measure to achieve that aim and the actual benefit it yields towards such a purpose.[85]

CTED has highlighted that some Member States still struggle to build effective and human rights-compliant working relationships between intelligence agencies and the criminal justice system, noting the need to develop good practices aimed at using intelligence or the products of special investigative techniques in court without exposing sources or methods, while fully respecting the rights of the accused.[86] OHCHR has expressed concerns over the increased reliance on intelligence and the advent of "intelligence-led law enforcement", which has contributed to the expansion of the authority of intelligence agencies, often without adequate consideration for the due process safeguards necessary to protect against abuses. Where this is the case, powers of intelligence agencies must be exercised with the same safeguards applicable to law enforcement, especially with regard to international human rights law.[87] As this issue creates a juxtaposition with fair trial rights, please see section D below on right to fair trial.

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[81] A/HRC/37/62, https://docs.un.org/A/HRC/37/62 ; A/HRC/34/60, https://docs.un.org/A/HRC/34/60 .
[82] A/HRC/27/37, para. 15, https://docs.un.org/A/HRC/27/37 .
[83] A/HRC/27/37, para. 20, https://docs.un.org/A/HRC/27/37 .
[84] A/69/397, para. 52, https://docs.un.org/A/69/397 .
[85] A/HRC/27/37, para 24, https://docs.un.org/A/HRC/27/37 .
[86] Global survey of the implementation of Security Council resolution 1373 (2001) and other relevant resolutions by Member States. prepared by the Counter-Terrorism Committee Executive Directorate in accordance with paragraph 17 of Security Council resolution 2395 (2017), S/2021/972, para 635.
[87] Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism (A/HRC/22/26), para. 37, available at https://docs.un.org/en/A/HRC/22/26 .

By its nature and purpose, financial monitoring involves actively monitoring transactions, generating intelligence on these transactions and sharing data based on 'suspicious activity' rather than being led by a criminal investigation. The private sector, including financial institutions, plays a key role in this process, with potential to violate and abuse human rights (see Section J below on 'The role and responsibilities of the private sector, including financial institutions').[88]

Financial intelligence sharing can be an important counter-terrorism tool. However, unregulated and unwarranted intelligence sharing poses substantial risk to many human rights. The risk of abuse increases with greater international cooperation, as the levels of safeguards and human rights compliance varies considerably among States. Financial intelligence may enable FIUs to access financial data directly and independently of any judicial oversight. In many jurisdictions, intelligence and law enforcement agencies are excluded from the provisions of data privacy legislation.[89]

Good practices highlighted by Member States to ensure respect for human rights while sharing financial intelligence include mandatory training for investigators on privacy legislation; engaging both AML/CFT supervisors and data protection authorities when considering initiatives or developing and testing technologies to facilitate AML/CFT data sharing; conducting regular audits of FIU's protection of information by a data protection commissioner; adopting codes of conduct for FIU staff to reinforce their legal obligations in relation to safeguarding information; requirements for FIUs to demonstrate that the financial intelligence that they share with law enforcement and intelligence organizations meets the legislative thresholds for disclosure; that the access to personal information is limited to staff who have a need-to-know in order to effectively perform their duties and functions; and that all personal information shall be received, collected, stored, used, disclosed, and disposed of in compliance with privacy legislation.

Human Rights Guidance:

States should adopt legal and administrative frameworks for all government agencies collecting, processing and sharing financial information, clarifying the responsibilities, standards and protocols for all data-processing operations performed by such agencies, and ensure that they adhere to international human rights law, including the right to privacy, data privacy, and data protection principles. Data collection, processing and sharing must be strictly necessary, proportionate and non-discriminatory, and subject to effective safeguards, including judicial oversight.

States should enhance human rights expertise in the FIU and other authorities processing financial intelligence, in particular through the designation of human-rights and data protection officers to monitor and assess the lawfulness and human rights compliance of the processing of data.

[88] See Privacy International, "How Financial Surveillance in the Name of Counter-Terrorism Fuels Social Exclusion", (October 2019), available at https://privacyinternational.org/long-read/3257/how-financial-surveillance-name-counter-terrorism-fuels-social-exclusion .

[89] The right to privacy in the digital age - Report of the United Nations High Commissioner for Human Rights A/HRC/39/29 para 34, https://docs.un.org/A/HRC/39/29 . See also Interpretative Note to FATF Recommendation 29, part D.

States should have clear regulations and policies which define with sufficient precision the permissible grounds, prerequisites, and authorization procedures governing financial data or information that will be collected or monitored, and what amounts to suspicious transactions or other transactions held to be deserving of further investigation. These regulations and policies should also be necessary and proportionate to the legitimate aim of the CFT measure. Intelligence databases should store only information that is relevant, accurate and up-to-date, within a specific duration, right to erasure, and should protect the security of both sources and subjects.

States should establish mechanisms to ensure that financial information processed and analyzed, including through software used for this purpose, is identified only based on the characteristics of the transaction, and they should protect against bias and prohibit discrimination based on gender, race, religion or other protected characteristics. These mechanisms should be updated with the use of new technologies that could help guard against discrimination, including neutral modelling and predictive analysis tools to mine transaction data, and the use of business rules to search across financial intelligence reports for matches to significant terms, entities and typologies.

States should develop clear legal frameworks to regulate information sharing by FIUs with other law enforcement agencies (including with regard to financial data-matching exercises with partner agencies), with a prohibition on generalized reporting. Bulk sharing and access to data by government authorities without adequate human rights and legal safeguards should be prohibited. National law should set out clear criteria on the purposes for which financial intelligence may be shared, the entities with which it may be shared, and the procedural safeguards that apply. The law should require FIUs/relevant authorities to provide a legal basis for the reuse of personal information.[90]

States should develop stronger safeguards to ensure that sharing of information between governments continues to protect the human rights of individuals, including the right to privacy. Before sharing intelligence with another State, a policy should be in place to ensure an assessment should be undertaken of the risk to human rights, the legal safeguards and institutional controls that govern the requesting/receiving State's data protection. Intelligence should not be shared where there is a real risk that it would be used to violate human rights in the other State. Any shared intelligence should be screened for accuracy and relevance before sending to foreign entities; it should be used in accordance with the conditions agreed and should not be used for purposes that violate or enable the violation of human rights.[91]

States should perform regular reviews to ensure data is processed, accessed and consulted in the context of established rules, and they should put in place appropriate corrective measures for non-compliant processing of data including informing the person whose data has been unlawfully accessed about the breach. For this purpose, agencies should keep up-to-date registers of access

[90] A/69/397, para.60, https://docs.un.org/A/HRC/69/397 .
[91] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/14/46, para. 46, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/14/46 .

rights and data-processing operations. Effective remedies must be available where a person's rights have been violated.

States should establish effective independent oversight bodies for the collection, processing, storage, sharing and destruction of personal data, including financial data. Such oversight bodies should be provided with the technical, financial and human resources necessary for effective monitoring of the data-processing activities of States and business enterprises, and for enforcing legal requirements in that regard.[92]

The FIU should ensure that its staff members have the necessary security clearance levels and understanding of their responsibilities, including those related to human rights, in handling and disseminating sensitive and confidential information. The FIU should ensure that there is restricted access to its facilities and information, including information technology systems.[93]

States should conduct human rights due diligence systematically, including regular comprehensive human rights impact assessments, when designing, developing, purchasing, deploying and operating surveillance systems or any tools or systems for countering the financing of terrorism. When conducting human rights due diligence and assessing the necessity and proportionality of new surveillance systems and powers, States should take into account, the entire legal and technological environment in which those systems or powers are or would be embedded. States should also consider risks of abuse, function creep and repurposing, including risks as a result of future political changes.[94]

D. TERRORISM FINANCING INVESTIGATIONS AND PROSECUTIONS, AND THE RIGHT TO FAIR TRIAL

Investigation, prosecution, and trial of terrorism financing offences is subject to the international fair trial standards, including those set out in article 14 of the ICCPR. These include that everyone charged with a criminal offence has the right to presumption of innocence; that they must be informed of the nature and cause of the charge against them; and they must have adequate time and facilities for the preparation of their defence and to communicate with counsel of his/her own choosing. Further, they include the rights to be tried without undue delay; to examine, or have examined, the witnesses against them; and to have the free assistance of an interpreter if required; not to be compelled to testify against themselves or to confess guilt; and to have their conviction and sentence reviewed by a higher tribunal according to law. The Human Rights Committee affirmed that the rights in article 14 (1) of the ICCPR also applies not only to criminal but civil judicial procedures, administrative

[92] The right to privacy in the digital age - Report of the United Nations High Commissioner for Human Rights, A/HRC/39/29 para 33, https://docs.un.org/A/HRC/39/29 . The report of the Special Rapporteur on Human Rights and Counter-Terrorism provides instructive compilation of good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism, including on their oversight.
[93] The right to privacy in the digital age - Report of the United Nations High Commissioner for Human Rights A/HRC/51/17, para 56, https://docs.un.org/en/A/HRC/51/17 .
[94] The right to privacy in the digital age - Report of the United Nations High Commissioner for Human Rights A/HRC/51/17 para 56, https://docs.un.org/en/A/HRC/51/17 .

proceedings, and other procedures which, however, must be assessed on a case-by-case basis in the light of the nature of the right in question.[95] Persons accused of terrorist financing offences, or persons subject to administrative or other counter-terrorism measures, should always have access to judicial mechanisms that are competent to determine the person's rights and obligations.[96]

Articles 9 and 10 of the International Convention for the Suppression of the Financing of Terrorism contains general obligations on States Parties to investigate and prosecute terrorism financing offences in accordance with domestic law. It also outlines a number of safeguards such as, the right to communicate with a representative of the State of which that person is a national, right of the alleged offender to communicate with and to be visited by the International Committee of the Red Cross, and prompt investigations.

In paragraph 7 of resolution 2462 (2019), the Security Council calls on States to conduct financial investigations into terrorism-related cases and to seek ways to address the challenges in obtaining evidence to secure terrorism-financing convictions.

As noted above, the FATF High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards (October 2021) also noted that misapplication of the FATF Standards may affect, inter alia, issues relevant to investigation and prosecution of TF and ML offences, such as the presumption of innocence and a person's right to effective protection by the courts.[97]

There have been good practices to ensure respect for human rights while conducting terrorist financing investigations and prosecutions include performing internal legality control measures for law enforcement authorities, as well as external legality control by bodies such as police oversight, data protection commissioners and national human rights institutions. Assessing and monitoring the human rights situation in partner countries is also a good practice to ensure that the information used in terrorist financing-related disclosures is not obtained through violations of human rights, and that disclosures and queries for assistance on terrorist financing-related files do not result in human rights violations.

However, the United Nations Secretary-General has raised concern over violations of fair trial guarantees in the prosecution of terrorism-related cases.[98] Specifically on CFT proceedings, the Special Rapporteur on Human Rights and Counter-Terrorism raised concerns over prosecutions, and disproportionate sentencing that have occurred in contravention of fundamental fair trial rights.[99]

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[95] UN Human Rights Committee, General Comment No. 32 (23 August 2007), para. 16, https://digitallibrary.un.org/record/606075?ln=en&v=pdf .

[96] Basic Human Rights Reference Guide on "The Right to a Fair Trial and Due Process in the Context of Countering Terrorism," para. 24, https://www.un.org/counterterrorism/sites/www.un.org.counterterrorism/files/fairtrial.pdf .

[97] FATF, High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards, October 2021, p. 6 - available at https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Unintended-Consequences.pdf .

[98] Report of the Secretary-General, Protecting human rights and fundamental freedoms while countering terrorism, A/72/316, paras 37-41, https://docs.un.org/en/A/72/316 .

[99] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), pp. 29-30, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

In some instances, proceedings take place under exceptional procedures, including referrals to specialized courts, or application of restrictive rules on access to evidence, legal representation, and trial by jury based on national security concerns.[100] The Human Rights Committee underlined that while the ICCPR does not prohibit the trial of civilians in military or special courts, it requires that such trials are in full conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned. The Committee also noted that the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned. Therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14. Trials of civilians by military or special courts should be exceptional i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials.[101] OHCHR has also cautioned against the use of military and special tribunals or courts to try terrorist suspects which may also have a serious impact on due process rights, depending on the nature of the tribunal or court and any restrictions placed on a person facing charges before it.[102]

Specifically on investigation of terrorism financing offences, the Interpretive Note to FATF Recommendation 30 states that there should be designated law enforcement authorities that have responsibility for ensuring that terrorism financing is properly investigated through financial investigations. According to the FATF, a financial investigation means an enquiry into the financial affairs related to a criminal activity, with a view to, inter alia, identifying criminal networks, tracing terrorist funds and assets, and developing evidence to be used in criminal and/or confiscation proceedings. Financial investigations may be conducted alongside a criminal investigation.[103] However, financial intelligence should not be used directly as evidence in criminal proceedings. Any material contained therein should be converted to evidence, if needed and as appropriate, in accordance with proper legal procedure and the rights to a fair trial, including sufficient disclosure of the evidence and its sources so as to enable a defendant to effectively challenge the reliability of the allegations. Additionally, in investigative or intelligence hearings, individuals should be afforded the right against self-incrimination.[104]

FATF Recommendation 31 addresses the powers of law enforcement and investigative authorities and specifies that countries should ensure that competent authorities conducting investigations are

[100] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), p. 29, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .
[101] Human Rights Committee General Comment No. 32, para. 22, https://digitallibrary.un.org/record/606075?ln=en&v=pdf .
[102] OHCHR, Factsheet 32 Human Rights, Terrorism, and Counter-Terrorism, p. 39, https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet32EN.pdf .
[103] Interpretive Note to FATF Recommendation 30, paras. 1-3.
[104] Basic Human Rights Reference Guide: Right to a Fair Trial and Due Process in the Context of Countering Terrorism (2014), paras 51-53, https://www.un.org/counterterrorism/sites/www.un.org.counterterrorism/files/fairtrial.pdf . See also, FATF Methodology, para. 10.

able to use a wide range of investigative techniques suitable for the investigation of terrorist financing, including undercover operations, intercepting communications, accessing computer systems and controlled delivery. CTED has also noted that increased sophistication of investigative techniques, resources, and tools to detect terrorism financing has become a challenge from a human rights perspective, including the lack of adequate safeguards with respect to privacy and data protection.[105] As stated by FATF in its Financial Investigations Guidance, "Countries should take appropriate measures to protect the human rights of the targets of their investigations. Financial enquiries are often intrusive and result in obtaining private information on an individual".[106] The joint report prepared by CTED and the Analytical Support and Sanctions Monitoring Team on actions taken by Member States to disrupt terrorism financing, pursuant to paragraph 37 of Security Council resolution 2462 (2019) noted that fewer than 60 per cent of States replied to the question about measures in place to ensure that terrorism-financing investigations comply with international human rights obligations, including those concerning privacy. Some responding States noted that criminal investigations were conducted in accordance with legal frameworks that respected the relevant international human rights treaties (32 per cent) and due process and criminal procedure laws (seven per cent).[107]

This (the use of special investigative techniques) requires consideration with regard to the necessary safeguards to the right to privacy and data protection. Article 17 of the ICCPR provides for the right of persons to be protected against arbitrary or unlawful interference with their privacy, family, home or correspondence as well as against unlawful attacks on their honour and reputation.

Other human rights concerns related to the use of special investigative techniques may include the risk of racial, political or religious profiling, and the impact of covert surveillance on the rights to freedom of religion, thought, expression, assembly and association. For privacy and data protection concerns, see Section C above on 'Financial intelligence, information sharing, the right to privacy and data protection'.

Human Rights Guidance:

Any CFT investigation which may result in limitations on rights or have an impact on human rights should have a domestic legal basis that is sufficiently clear (including to implementing authorities), accessible to the public and that contains safeguards against arbitrary or unlawful implementation. This should include the incorporation of meaningful independent oversight provisions and ensuring the right to an effective remedy.

[105] Global Implementation Survey 2021, paras. 732.
[106] FATF, "Operational Issues Financial Investigations Guidance", (June 2012), para 16, available at www.fatf-gafi.org/media/fatf/documents/reports/Operational%20Issues_Financial%20investigations%20Guidance.pdf.
[107] Letter dated 3 June 2020 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and the Chair of the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities addressed to the President of the Security Council, para. 73 - available at https://www.undocs.org/en/S/2020/493.

Authorities should be able to justify enquiries as necessary, proportionate, non-discriminatory, and accountable to the investigation being undertaken. In accordance with international human rights standards, the subjects of financial investigations should be afforded the right to due process and fair trial, the protection of property rights, the right to a fair and public hearing by a competent, independent and impartial tribunal, right to be presumed innocent, right to a trial without delay, right to legal counsel, right to be tried in his or her presence, and right to review conviction/sentence.[108]

States should put in place mechanisms that guarantee privacy of information and protection of data in cases of those accused or investigated for terrorism financing in accordance with international human rights and data protection principles, including through rules for the sharing of data, and the deletion of data when it is no longer needed (see section C above). Such mechanisms should be independent and impartial, adequately resourced, and technically competent in the areas in which they have oversight.

All information gathered through financial investigations should be scrutinized by relevant authorities to ensure it is accurate, relevant, and not outside the legal scope of its stated purpose.

States should produce operational guidelines and training programmes for FIU personnel, law enforcement agencies, prosecutors, customs officials, tax authorities and others charged with the prevention, detection and disruption of terrorism financing. Such programmes should include and mainstream relevant human rights considerations, addressing for example the collection of evidence, use of special investigative techniques, and fair trial rights, to ensure that these are in compliance with international human rights standards.

States should ensure adequate oversight of the implementation of special investigative techniques by judicial authorities or other independent bodies through prior authorization, and supervision during the investigation and/or after the fact review.

Investigations, evidence collection and witness interviewing must be conducted in a gender-sensitive manner (see Section H below on 'Gender impact').

E. TARGETED FINANCIAL SANCTIONS IN THE CONTEXT OF COUNTERING TERRORISM

Targeted financial sanctions related to terrorism may take place at the domestic, regional, or international levels. All UN Member States have an obligation to implement the measures arising from the Security Council sanctions committees, consistently with international law, where counter-terrorism related sanctions regimes include asset freezes and travel bans, and some include arms

[108] More detailed guidance on fair trial and due process in counter-terrorism cases can be found here: https://www.ohchr.org/sites/default/files/newyork/Documents/FairTrial.pdf

embargoes.[109] Of particular relevance to the context of countering the financing of terrorism is the ISIL (Da'esh) and Al-Qaida Sanctions regime, which requires Member States to, inter alia, freeze funds and other financial assets or economic resources controlled by or on behalf of listed entities, their members and/or associated individuals.[110]

For purposes of this guide, the following sections will focus on domestic sanctions resulting from the implementation of Security Council resolution 1373 (2001), and UN administered targeted financial sanctions of the ISIL (Da'esh) and Al-Qaida Sanctions Committee.

Asset-freezing measures stemming from Security Council resolution 1373 (2001)

Article 8 of the International Convention for the Suppression of the Financing of Terrorism requires States to freeze, seize, or forfeit funds wilfully and intentionally used or allocated to finance terrorism as well as proceeds derived from such offences.

Security Council resolution 2462 (2019) stresses the need for effective implementation of asset-freezing mechanisms (paragraph 10). The obligation to freeze, without delay, funds and assets linked to terrorist organizations or individual terrorists is a key element of resolution 1373 (2001).

Asset-freezing refers to the obligation to freeze funds or other assets[111] of designated persons or entities, and the prohibition on providing them with financial or other related services. Incorrect application of asset-freezing mechanisms necessarily has implications for human rights, including the rights to due process and fair trial[112] and social and economic rights[113]. In many instances, domestic designations may flow from overly broad and vague definitions of terrorism and the codification of

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[109] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Position paper on the human rights and rule of law implications of the United Nations Security Council counter-terrorism sanctions regimes (2021), https://www.ohchr.org/sites/default/files/2022-03/position-paper-unsrct-on-unsc-use-of-ct-targeted-sanctions.pdf .

[110] Basic Human Rights Reference Guide on "Proscription of Organizations in the Context of Countering Terrorism", p.5, para 8, https://www.ohchr.org/sites/default/files/2022-04/BHRRG_on_Proscription_of_Organizations_EN_WEB.pdf .

[111] According to FATF, the term *funds or other assets* means any assets, including, but not limited to, financial assets, economic resources (including oil and other natural resources), property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets, and any other assets which potentially may be used to obtain funds, goods or services" (FATF Standards Glossary; FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), p. 135).

[112] The FATF High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards (October 2021) also noted that incorrect implementation of UN Security Council resolutions and FATF Standards may have a negative effect on due process and procedural issues for asset freezing, including rights to review, to challenge designations, and to basic expenses.

[113] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), p. 32, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

terrorist offences in national legislation which do not comply with the principle of legality.[114] In countries, where designation of an individual or an entity as terrorist is not a criminal penalty, the standard of proof required is lower than that required for criminal proceedings. Furthermore, especially where the competent authority to designate individuals or entities as terrorist is an executive body, independent judicial review of listings may not be available. For this reason, concerns have been raised about the increased risk of infringement of the right of due process and fair treatment (see Section D above on 'Terrorism financing investigations and prosecutions and the right to fair trial'), and to property. In the latter, article 17 of the Universal Declaration of Human Rights provides that everyone has the right to own property alone as well as in association with others, and that no one shall be arbitrarily deprived of his property. Asset freezing also has an impact on other economic and social rights, and there is a need to ensure exemptions for basic subsistence (see Section G below on 'Impact of CFT measures on exclusively humanitarian activities'). Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right of everyone to an adequate standard of living for persons and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions. In compliance with Security Council resolution 1452 (2002), persons and entities designated under Security Council resolution 1373 (2001) may request from the State partial access to funds and resources for basic and extraordinary expenses.

CSOs have reported that some States have broad discretion to seize or freeze the assets of CSOs and individuals without due process, allowing the use of such measures to target critical voices or political opposition. UN human rights mechanisms, including the Special Rapporteur on Human Rights and Counter-Terrorism has expressed concern that listing and sanctions procedures have been applied domestically to persons who are exercising their rights to freedom of expression, assembly, religion and belief, and political participation.[115] Affected persons or entities do not always enjoy an effective opportunity to challenge the decision to freeze their assets. Even if judicial review is available, affected persons may not be able to challenge the facts, or see the evidence against them, which may be based on classified or confidential intelligence.[116]

The Technical Guide to the implementation of Security Council resolution 1373 (2001) and other relevant resolutions notes that States should employ best practice in respect of guarantees of due process in their asset-freezing systems. This entails ensuring that judicial or other remedies are effective, independent and impartial as well as available to persons or entities to challenge decisions to freeze assets.[117] Similarly, the High Commissioner for Human Rights have recommended that

[114] CTED Analytical Brief: A commentary on the codification of the terrorism offence https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/un_cted_-_analytical_brief_-_criminalization_of_terrorist_offences_1.pdf .
[115] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/46/36, para. 16, https://docs.un.org/en/A/HRC/46/36 .
[116] International Commission of Jurists, " Assessing Damage, Urging Action: Report of the Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights", (2009), pp. 152–153, available at https://www.icj.org/wp-content/uploads/2012/04/Report-on-Terrorism-Counter-terrorism-and-Human-Rights-Eminent-Jurists-Panel-on-Terrorism-series-2009.pdf .
[117] Technical Guide to the implementation of Security Council resolution 1373 (2001) and other relevant resolutions, p. 12, available at https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/cted-technical-guide-2017.pdf .

administrative measures, including asset freezing, must be legal, necessary, proportionate, based on individualized risk assessments, and non-discriminatory; include adequate procedural safeguards; and that States should establish rigorous, regular and independent monitoring and evaluation mechanisms to ensure effectiveness of such measures.[118]

Good practices highlighted by Member States to ensure respect for human rights in their asset freezing mechanisms include the regular review of listings, every six months, to produce precise and detailed information proving that the conditions justifying the first measure remain satisfied; explaining in the letter of designation sent to the individual designated under the domestic list the process to challenge the decision; and facilitating within the framework of the national asset freezing system the possibility to file an appeal before a competent court.

Human Rights Guidance:

Asset freezing must comply with due process requirements, including the rights to a fair hearing and an effective remedy.

States should ensure consistency in evidentiary standards and must have clear designation processes and criteria for asset-freezing decisions, including to prevent their misuse against political opposition figures and civil society, and in compliance with international human rights law (see the nine principles and guidelines in the Global Counter-Terrorism Compact Basic Human Rights Reference Guide: Proscription of Organizations in the Context of Countering Terrorism).

States should make publicly available their national or regional asset-freezing lists.[119] Reasonable efforts should be made to inform the designated person/entity as soon as possible after the designation/freezing has taken effect. The contents of notices should include the fact of designation and its implications; review procedures and information on de-listing processes, including the contacts of the competent authorities; summary of reasons for designation (unclassified); and procedures for requesting access to funds for basic needs, extraordinary expenses, work payment authorization, etc.

An entity or an individual on a national proscription list, or a person whose legal rights and obligations are affected by such proscription, must have the right to apply for delisting or non-implementation of applicable sanctions. Access to effective remedy must also be guaranteed in cases when the proscription on the list was proven unlawful and wrongful or where individual human rights have been violated by a decision to proscribe an organization or to implement related sanctions.

Clear provisions should be introduced at the national level for any person or entity to apply for a review of the designation from the designation authority, and there must be the right to challenge the designation and freezing decisions before a competent, independent and impartial court

[118] Report of the United Nations High Commissioner for Human Rights on Terrorism and human rights, A/HRC/57/29, para. 38, https://docs.un.org/en/A/HRC/57/29.
[119] Resolution 2462 (2019), para. 11.

established by law, and consistent with international human rights law.[120] Both parties must be entitled to make submissions to the review body and the necessary information should be made available to allow the assessment of the procedures used and the proportionality of the original designation decision, so that a proper decision can be made on whether to sustain or cancel a designation. Final decisions of the review body should be public, with necessary redactions as appropriate. Any such restrictions should be accompanied by adequate mechanisms for observation or review to guarantee the fairness of the process.[121]

In case of denial of the delisting request at the first instance, there should be a possibility for independent review.[122] If the denial is maintained after all appeals are exhausted, a listed individual or entity should have the right to make a fresh application for delisting or lifting of sanctions to the relevant authority in the event of a material change of circumstances or the emergence of new evidence relevant to the listing.

States must conduct regular reviews of designations (whether in a national designation or a designation made at the request of a third country)[123] to ensure that they remain necessary and that their consequences and impact are proportionate[124]. They should establish fair and clear procedures, by law, for amending and removing persons or entities from designation lists and promptly unfreezing their funds. De-listing/unfreezing is required when the designation criteria are no longer met (for example, discovery of error, subsequent changes of relevant facts, new evidence, or death of a listed person).

States should consider the establishment of a delisting administrative mechanism that may require the appointment of a case-manager or case-management process with appropriate guidelines.

If designation is made upon request from a foreign State, the State that proposed the listing should be regularly asked for its evidence on the need to maintain the designation.

Any decision to de-list should be implemented as swiftly as possible and encompass de-listing in all interconnected databases and protocols.

Funds or other assets of persons or entities inadvertently affected by a freezing mechanism should be unfrozen promptly upon verification that the person or entity is not a designated person.[125]

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[120] Basic Human Rights Reference Guide on "Proscription of Organizations in the Context of Countering Terrorism", pp. 1- 2, https://www.ohchr.org/sites/default/files/2022-04/BHRRG_on_Proscription_of_Organizations_EN_WEB.pdf .
[121] Basic Human Rights Reference Guide on "The Right to a Fair Trial and Due Process in the Context of Countering Terrorism," pp. 1- 2, https://www.un.org/counterterrorism/sites/www.un.org.counterterrorism/files/fairtrial.pdf .
[122] Basic Human Rights Reference Guide on "Proscription of Organizations in the Context of Countering Terrorism", pp. 17-19, https://www.ohchr.org/sites/default/files/2022-04/BHRRG_on_Proscription_of_Organizations_EN_WEB.pdf .
[123] See FATF International Best Practices on Targeted Financial Sanctions Related to Terrorism and Terrorism Financing 2013, Recommendation 6, para. 31.
[124] Basic Human Rights Reference Guide on "Proscription of Organizations in the Context of Countering Terrorism", p. 2.
[125] See FATF, Interpretive Note to Recommendation 6, para. 9, available at https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf.

States must authorize access to frozen funds or assets if such access is determined to be necessary for basic and extraordinary expenses, in accordance with international human rights law and Security Council resolution 1452 (2002).[126] An administrative or judicial authority must be made responsible for receiving and considering requests for access to frozen funds. Freezing measures do not affect a designated person's freedom to engage in work. However, payment for that work requires an authorization. Guidance on the applicable procedures should be either publicly available or communicated to the designated person/entity with the designation decision.

Sanctions against individuals or entities designated as terrorists by the ISIL (Da'esh) and Al-Qaida Sanctions Committee

In paragraph 12 of its resolution 2462 (2019), the Security Council urges all States to participate actively in implementing and updating the ISIL (Da'esh) and Al-Qaida Sanctions List and to consider including individuals and entities involved in the financing of terrorism when submitting new listing requests.

Member States must implement the sanctions measures arising from the listings by the ISIL (Da'esh) and Al-Qaida Sanctions Committee, including to freeze funds and other financial assets or economic resources controlled by, or on behalf of, listed entities.[127] States may request the ISIL and Al-Qaida Sanctions Committee to add names to the Sanctions List where they consider that an individual or entity meets the criteria set out in the relevant Security Council resolutions, including "association" with ISIL or Al-Qaida. Member States are encouraged to establish a national mechanism or procedure to identify and assess names for inclusion on the ISIL and Al-Qaida Sanctions List, in line with the *Guidelines of the Committee for the Conduct of its Work*.[128] The guidelines state that the supporting evidence for a listing request may consist of intelligence, law enforcement, judicial, open source information, admissions by subject, etc. A criminal charge or conviction is not a prerequisite for listing as the sanctions are intended to be preventive in nature. For proposed listings, Member States should provide a detailed statement of case that forms the basis or justification for the listing in accordance with the relevant resolutions, including paragraph 51 of Security Council resolution 2368 (2017). The guidelines also set out the procedures for delisting.

[126] Basic expenses are described as to include food, rent or mortgage, medical expenses, taxes, and insurance and utility charges as well as professional fees associated with the provision of legal services. Extraordinary expense exemptions are those expenses that do not meet the definition of "basic expenses." See also FATF, Interpretative Note to Recommendation 6, para. 10.

[127] Security Council resolution 1267 (1999), para. 4 (b), Security Council resolution 2368 (2017), para.1(a).

[128] Security Council Committee Pursuant to Resolutions 1267 (1999), 1989 (2011), and 2253 (2015) Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals, Groups Undertakings and Entities, "Guideline of the Committee for the Conduct of its Work" (September 2018), available at https://main.un.org/securitycouncil/sites/default/files/2024/1267%20Guidelines%20-%20tech%20updates%206%20August%202024%20E.pdf .

The ISIL (Da'esh) and Al-Qaida Sanctions Committee aims to remove expeditiously and on a case-by-case basis individuals, groups, undertakings, and entities who no longer meet the criteria for listing. The Council has expressed its intent to continue efforts to ensure that procedures are fair and clear, and recognized the challenges, both legal and otherwise, to the measures implemented by Member States. It directed the ISIL (Da'esh) and Al-Qaida Sanctions Committee to continue to ensure that fair and clear procedures exist for placing individuals, groups, undertakings and entities on the Sanctions List and for removing them as well as for granting extraordinary expense exemptions. It also directed the Committee to keep its guidelines under active review in support of these objectives.

Some important developments have taken place since resolution 1267 (1999) was adopted, including the publication of listing guidelines and narrative summaries of listing rationales, as well as the creation of the Office of the Ombudsperson. The Security Council adopted resolution 1904 (2009) establishing the Office of the Ombudsperson to receive, consider and make recommendations on requests for names to be removed from the ISIL (Da'esh) and Al-Qaida Sanctions list.[129] However, the Ombudsperson does not have a mandate to review the original decision to list which is made through a consensus-based process of the Sanctions Committee, and not as a result of a judicial or quasi-judicial examination of evidence. The listing process has been criticized by the Special Rapporteur on Human Rights and Counter-Terrorism for not providing a sufficiently fair process or remedy to those who are subject to it.[130] The Security Council requested the Secretary-General to further strengthen the capacity of the Office of the Ombudsperson by providing necessary resources, and to make the necessary arrangements, to ensure its continued ability to carry out its mandate in an independent, impartial, effective and timely manner.[131] Per current statistics, of the 106 cases which have concluded through the Ombudsperson process, 73 petitions were granted while 33 were denied.[132] As a result of the 73 petitions granted, 68 individuals and 28 entities have been delisted and one entity has been removed as an alias of a listed entity. Three requests for delisting are currently pending with the Office of the Ombudsperson.

The UN Human Rights Committee stated that although a State itself was not competent to remove names from the ISIL (Da'esh) and Al-Qaida Sanctions list in case of erroneous listing, it had the duty to do all it could to obtain that deletion as soon as possible, to provide the complainants with

[129] "The Office of the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee was established by Security Council resolution 1904 (2009). The mandate of the Office was extended in resolutions 1989 (2011), 2083 (2012), 2161 (2014), 2253 (2015), 2368 (2017), 2610 (2021) and 2734 (2024)". For more information on the mandate of the Ombudsperson, see also: www.un.org/securitycouncil/ombudsperson/approach-and-standard and https://main.un.org/securitycouncil/en/ombudsperson

[130] See report by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/46/36, para. 15, available at https://docs.un.org/A/HRC/46/36 ; United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Position paper on the Impact of Counter-Terrorism Targeted Sanctions on Human Rights (2021), available at https://www.ohchr.org/sites/default/files/2022-03/position-paper-unsrct-on-unsc-use-of-ct-targeted-sanctions.pdf .

[131] Security Council resolution 2734 (2024), p.3.

[132] https://main.un.org/securitycouncil/en/sc/ombudsperson/status-of-cases (consulted on 16 October 2010) In addition, four individuals were delisted by the Committee before the Ombudsperson process was completed and one petition was withdrawn following the submission of the Comprehensive Report.

compensation, to make public the requests for delisting, and to ensure that similar violations did not occur in the future.[133]

The FATF has stated that States should develop and implement publicly known procedures to submit de-listing requests to the Security Council in the case of persons and entities designated pursuant to resolution 1267 (1999) and its successor resolutions. States should also inform designated persons and entities of the availability of the United Nations Office of the Ombudsperson to accept de-listing petitions.[134]

By receiving and reviewing delisting requests from individuals, groups, undertakings, or entities seeking removal from the 1267 Sanctions List, the Ombudsperson, as an independent and impartial individual, promotes due process including fairness, transparency and the right to be heard. As such, the Ombudsperson mechanism enhances the legitimacy and credibility of the 1267 sanctions regime, thus improving the effectiveness of the Committee's counterterrorism measures.[135] The international, independent, and impartial nature of the due process mechanism of the Ombudsperson also mitigates against legal challenges in domestic or regional courts when enforcing sanctions by Member States.[136] Yet, according to the Special Rapporteur on Human Rights and Counter-Terrorism, the mandate continues to face challenges to its structural independence and the human rights, rule of law, and due process concerns.[137]

The High Commissioner for Human Rights recommended the Security Council explore ways to ensure that sanctions imposed against individuals and entities are accompanied by rigorous procedural safeguards which guarantee minimum due process standards, for both listing and de-listing decisions. This should include ensuring full support to the Office of the Ombudsperson, as well as monitoring and reviewing its practices as necessary, including ensuring a fully independent process, while developing additional mechanisms to enhance due process protections for listing and de-listing procedures. According to the High Commissioner, it should also include the establishment of an independent, quasi-judicial procedure for review of listing and de-listing decisions: at the national level, Member States must ensure that implementation is done in a manner consistent with their international human rights obligations.[138]

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[133] Human Rights Committee views, communication no 1472/2006, para 12, https://digitallibrary.un.org/record/646087?ln=en&v=pdf .

[134] Interpretive Note to Recommendation 6, part D, paras 7 and 11; FATF, International Best Practices – Targeted Financial Sanctions Related to Terrorism and Terrorist Financing (Recommendation 6), para. 32.

[135] Booklet of the Office of the Ombudsperson to the Security Council ISIL (Da'esh) and Al-Qaida Sanctions Committee, available at https://main.un.org/securitycouncil/sites/default/files/2024/booklet_web_July%202024_0.pdf

[136] See A/67/396, para 20-21 and sources cited therein, available at https://docs.un.org/A/67/396.

[137] Position Paper of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on The Impact of Counter-Terrorism Targeted Sanctions on Human Rights, pp. 4-6, available at https://www.ohchr.org/sites/default/files/2022-03/position-paper-unsrct-on-unsc-use-of-ct-targeted-sanctions.pdf . See also A/67/396, https://docs.un.org/A/67/396 .

[138] Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism, A/HRC/16/50 (2010), para. 44, available at https://docs.un.org/en/A/HRC/16/50 .

Human Rights Guidance:

At the national level, States should ensure that the listing requests they intend to submit to the ISIL (Da'esh) and Al-Qaida Sanctions Committee have been formulated following a transparent process, based on clear criteria, and with consistent evidentiary standards and procedures. A person subject to such measures should be informed of the measures taken and the case against him or her.

Member States should promptly submit a delisting request if/when an individual or entity no longer meets the criteria for association with ISIL or Al Qaida.

States should develop and implement transparent procedures for facilitating the submission of delisting requests to the Committee. Individuals, groups, undertakings or entities seeking to be removed from the ISIL (Da'esh) and Al-Qaida Sanctions List should be informed of their right to submit their request for delisting, either to the Office of the Ombudsperson or through their State of residence or nationality or an entity's State of incorporation.139

Individuals and entities who are subjected to such sanctions should have the right to be informed of the measure taken, the reason justifying it and other due process safeguards.

F. NON-PROFIT ORGANIZATIONS, CFT, AND THE PROTECTION OF CIVIC SPACE

In paragraph 23 of resolution 2462 (2019), the Security Council recognizes the vital role played by NPOs in national economies and social systems. NPO's role in this regard is linked to the international human rights obligations of rights to peaceful assembly and freedom of association, which is guaranteed, inter alia, in articles 21 and 22 of the ICCPR. These rights facilitate the exercise of other rights, such as the rights to freedom of expression, freedom of religion, public participation, and the right to take part in cultural life. The rights to peaceful assembly and association may be subject to restrictions in accordance with the ICCPR, namely, no restrictions may be placed on the exercise of these rights other than those which are prescribed by law and which are necessary in a democratic society, proportionate, and in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

FATF Recommendation 8 which, aims to protect NPOs from terrorist financing abuse through risk-based and proportionate measures similarly reflects the need to safeguard these rights. The Interpretive Note to Recommendation 8 provides that it is important for States to ensure that terrorist financing measures should be implemented in a manner that respects "the Charter of the United Nations and international law, in particular, international human rights, international refugee

[139] 1267 Committee Guidelines para 7 (y), available at https://main.un.org/securitycouncil/sites/default/files/2024/1267%20Guidelines%20-%20tech%20updates%206%20August%202024%20E.pdf=

law, and international humanitarian law";[140] and it must respect the rule of law.[141] The FATF Best Practices Paper for Combatting the Terrorist Financing Abuse of Non-Profit Organisations elaborates that the implementation of Recommendation 8 should respect and observe fundamental human rights and freedoms, such as "freedom of opinion, expression, religion or belief, and freedom of peaceful assembly and of association."[142]

In the scope of countering the financing of terrorism, Security Council resolution 2462 (2019) calls on States to periodically conduct a risk assessment of the subset of organizations that fall within the FATF definition of NPO and identify which NPOs in the subset would be considered vulnerable to terrorism-financing abuse, and to inform the implementation of a risk-based approach. The Council further encourages States to work cooperatively with the NPO sector, while recalling that States must respect human rights and fundamental freedoms, and refers to the relevant FATF Recommendations and existing guidance documents, in particular Recommendation 8.[143] In the Interpretive Note to Recommendation 8, FATF requests countries to work with NPOs to develop and refine best practices to address terrorist financing risks and thus protect them from terrorist financing abuse.

Concerns had been expressed at the original Recommendation 8 (formerly known as "Special Recommendation VIII") and its Interpretive Note, as they appeared to be premised on the assumption that NPOs were frequently abused by terrorist organisations. Civil society, international human rights mechanisms (including the Special Rapporteur on Human Rights and Counter-Terrorism[144] and the Special Rapporteur on freedom of association[145]) criticized this approach, arguing that it was not an evidence-based assumption, and questioned the effectiveness of these measures in countering any terrorism financing threat. These concerns were acknowledged in 2012 by the then President of FATF, who stressed the "importance of ensuring that [Recommendation 8] is not being implemented in a manner that disrupts or discourages legitimate charitable activity".[146] In 2016, the FATF amended its

[140] FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), p. 60-61.
[141] FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), p. 61.
[142] FATF, "Best Practices: Combatting the Terrorist Financing Abuse of Non-Profit Organisations (Recommendation 8)", (November 2023), para. 47, available at https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/BPP-Combating-TF-Abuse-NPO-R8.pdf.coredownload.inline.pdf .
[143] Recommendation 8 aims to protect NPOs from terrorist financing abuse, including "(a) by terrorist organizations posing as legitimate entities; (b) by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and (c) by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organizations." FATF has adopted a functional definition of NPO in the Interpretive Note to Recommendation 8 which refers to "a legal person or arrangement or organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of 'good works'".
[144] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism A/70/371, para 22, available at https://docs.un.org/A/70/371 .
[145] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association A/HRC/23/39, para. 25, available at https://docs.un.org/en/A/HRC/23/39 .
[146] FATF, "Consultation and dialogue with Non-Profit Organizations: Chairman's Summary," 24 April 2013, available at https://www.fatf-gafi.org/en/publications/Fatfgeneral/Consultationanddialoguewithnon-profitorganisations.html . See also the outcomes of the multiyear project aimed at developing a common understanding of sound practices to counter the risk of terrorism financing through the nonprofit sector developed by CTED and the Center on Global Counterterrorism Cooperation (CGCC) on behalf of the UN Counter-Terrorism Implementation Task Force (CTITF) Working Group on

Standards to address this misconception and clarified that only a subset of NPOs may be vulnerable to TF abuse by virtue of their characteristics or activities. This would include for example access to considerable sources of funds, a global presence that includes areas near or exposed to terrorist activity, and cash-intensive operations.

However, CSOs have expressed concern that the changes in the FATF Recommendation are not always duly reflected in FATF assessments. Furthermore, despite the requirement that assessment proceedings address not only problems caused by under-regulation of the NPO sector but also adverse consequences linked to over-regulation, this does not seem consistently to be the case.

In the Joint report prepared by CTED and the Analytical Support and Sanctions Monitoring Team on actions taken by Member States to disrupt terrorism financing, pursuant to paragraph 37 of Security Council resolution 2462 (2019), 54 per cent of responding States indicated that they had never identified cases of terrorism financing conducted through the non-profit sector, while 31 per cent indicated that they had. Several States stressed that the extent of known abuse of NPOs from terrorism financing was very limited. Fewer than 50 per cent of reporting States indicated that their approach to NPOs was risk-based and in accordance with international human rights obligations.[147] In this regard, the FATF's assessment on the global implementation of the risk-based approach in relation to Recommendation 8 also indicates that most countries are not yet conducting adequate risk assessments of their NPO sector, and fewer are conducting risk-based outreach and monitoring.

CFT measures can impact the regular functioning of NPOs and the rights of persons associated with NPOs in two ways: over-reaching measures (under the guise of CFT or within the broader context of over-regulation of NPOs through general registration, funding, and other governance or regulatory requirements) with unintended consequences, and deliberate abuse of CFT measures to suppress particular views and limit civic space, in possible violation of the rights of freedom of association, assembly and expression. The Special Rapporteur on Human Rights and Counter-Terrorism has noted that many States have adopted legislation that has the effect of limiting, restricting and controlling civil society. These measures are often taken administratively, and judicial recourse can be difficult. Limitations on access to foreign funding, sometimes adopted with reference to the implementation of Recommendation 8, have also severely restricted the existence of NPOs in some countries, particularly human rights and women's organizations.[148] The FATF also recognized that there continued to be countries that incorrectly implement the Standards and justify restrictive legal measures on NPOs in the name of "FATF compliance", both unintentionally and, in some cases, intentionally[149].

Tackling the Financing of Terrorism: https://www.globalcenter.org/wp-content/uploads/2013/06/CGCC_Prevent-Protect-Report_pgs.pdf .

[147] S/2020/493 para 75-76, available at https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2020_493.pdf .

[148] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/40/52, para.42; see also United Nations Human Rights Special Procedures, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism*, June 2022.

[149] FATF High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards (October 2021), p. 3, underlining the persistence of significant issues regarding the focused, proportionate and risk-based implementation of R.8 requirements, unduly disrupting or discouraging legitimate NPO activities. The measures reported to have been

Also, a range of civil and administrative measures either through additional regulatory and registration requirements, additional reporting obligations, supplementary requests for disclosure, and/or imposing penalties have disproportionately affected the NPO sector, particularly women-led civil society organizations, grassroots and smaller civil society actors. For example, it has been reported that the NPO sector faces impediments related to restrictive registration and onerous reporting measures, mandatory disclosure of beneficiaries, founders, and beneficial owners, names of donors, and provision of grant contracts and other project-related documents.[150] These measures are unduly burdensome, time-consuming, and can sometimes result in fines or the dissolution of the organization. These can have an impact on the right to privacy of individuals, owners and beneficiaries and the work of the NPO sector, freedom of association, and could restrict financial access of NPOs.

Apart from regulatory requirements, there have been documented incidents where individuals or NPOs are subjected to investigations due to being affiliated to suspicious transactions or automated listing or notices. These often result in asset freezing, dissolution, or deregistration.[151] Some also appear to be politically motivated.[152] The Special Rapporteur on Human Rights and Counter-Terrorism has raised concerns about such measures, including serious concerns about the ability of NPOs to function independently in light of civil and administrative penalties targeting them.[153] The Special Rapporteur on the rights to freedom of peaceful assembly and of association raised similar concerns with regard to overregulation, designation and the implementation of de-risking measures by financial institutions.[154]

NPOs have sometimes expressed concern over the negative impact of CFT measures on their work and their space to operate. For example, some report increasingly finding themselves stigmatized, subject to discrimination, and their activities criminalized. They report that they face restrictions on exercise of the right to association, including the right to form an organization due to laws that grant broad discretion to deny registration on the basis of alleged security and counter-terrorism/CFT concerns. Interference in internal affairs or governance of organizations, including burdensome reporting requirements can reportedly be much more stringent than those imposed on business

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applied to NPOs include intrusive supervision of NPOs without any consideration of risks; restrictions on NPOs' access to funding and bank accounts; and forced dissolution, deregistration or expulsion of NPOs in the name of FATF compliance. Within each of these categories are a variety of restrictions, burdens and requirements that impede the ability of NPOs to operate and pursue their missions effectively, to access resources, and in some cases, to continue their legitimate operations. Significant improvements are needed to effectively implement risk-based measures to protect NPOs from potential TF abuse without unduly disrupting or discouraging legitimate activities by imposing inappropriate or unwarranted measures. Available at https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Unintended-consequences-project.html .

[150] Global Study on the Impact of Counter-Terrorism on Civil Society and Civic Space, pp. 65 and 66, available at https://defendcivicspace.com/wp-content/uploads/2024/01/SRCT_GlobalStudy-1.pdf .

[151] Global Study on the Impact of Counter-Terrorism on Civil Society and Civic Space, p. 67, available at https://defendcivicspace.com/wp-content/uploads/2024/01/SRCT_GlobalStudy-1.pdf .

[152] Global Study on the Impact of Counter-Terrorism on Civil Society and Civic Space, p. 67, available at https://defendcivicspace.com/wp-content/uploads/2024/01/SRCT_GlobalStudy-1.pdf .

[153] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), p. 31, available at https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

[154] A/HRC/50/23, paras 18 and 42, available at https://docs.un.org/en/A/HRC/50/23 .

entities, with no proof that the non-profit sector carries a higher risk for terrorist financing abuse. This has had a negative impact on civic space.

Restrictions on funding include legal barriers, such as measures allowing authorities to ban grants and donations from outside the country or from foreign entities inside the country. The UN Special Rapporteur on freedom of peaceful assembly and association has stated that one of the most common reasons used by governments to limit access to funding relate to security measures, including protection against terrorism and prevention of money-laundering.[155] In 2004, the Human Rights Committee observed that "the right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association freely to carry out its statutory activities. The protection afforded by article 22 [of the ICCPR] extends to all activities of an association […]." According to the Special Rapporteur on the rights to freedom of peaceful assembly and of association, fundraising activities are protected under article 22 of the ICCPR, and funding restrictions that impede the ability of associations to pursue their statutory activities constitute an interference with article 22.[156]

Another impact on the NPO sector is that the environment of risk aversion or risk avoidance have continued. Some States have taken a generic approach to risk assessment (some generally or others under the pretext of CFT or anti-money laundering) that lacks empirical evidence, consultations with the NPO sector, or transparent procedures and information.[157] It is important in all such cases to ensure compliance with the principles of necessity, proportionality, and non-discrimination. FATF Recommendation 8 calls on States to have in place focused, proportionate and risk-based measures to protect NPOs from terrorist financing abuse but only in relation to those organizations which fall within the FATF definition of an NPO. It further elaborates that "[a] "one-size-fits-all" approach would be inconsistent with the proper implementation of a risk-based approach".[158]

In this regard, NPOs have also raised concern at the lack of sustained engagement between the NPO sector and State authorities, and an absence of guidelines or outreach (including training) to help the NPO sector understand terrorism financing risks and jointly identify mitigating measures to address those risks. As recognized in Security Council resolution 2462 (2019), NPOs direct connections with the population and their important work in, inter alia, poverty reduction, peacebuilding, humanitarian assistance, human rights and social justice, also could give them a crucial role in terrorism prevention. Unduly restrictive measures, which can lead donors to withdraw support from associations operating in difficult environments, can undermine invaluable initiatives in the struggle against terrorism and

[155] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association A/HRC/23/39, paras 22-26, available at https://docs.un.org/A/HRC/23/39 .
[156] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association A/HRC/23/39, para. 15, available at https://docs.un.org/A/HRC/23/39 .
[157] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), para. 19, available at https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .
[158] FATF Recommendation 8 and FATF Interpretive Note to Recommendation 8, para. 7(b).

violent extremism conducive to terrorism, and ultimately have adverse consequences on peace and security.[159]

Good practices[160] highlighted by Member States to ensure respect for human rights while preventing the abuse of NPOs for terrorism financing purposes include the establishments of public-private partnerships that bring together professionals from across civil society, government and the financial sector, to monitor and address the challenges NPOs face; the enhancement of NPO participation in the development of risk-based CFT measures for the non-profit sector; and the provision of detailed information to NPOs at higher risks to alert them to potential risks and mitigation measures, instead of automatic rejection of registration.

In November 2023, the FATF revised its Recommendation 8 and its Interpretive Note to improve clarity and consistency of language and to provide further guidance on the requirements. Specifically, these amendments clarify that focused, proportionate and risk-based measures addressing identified TF risks posed to FATF defined NPOs are at the core of an effective approach in identifying, preventing and combatting TF abuse of NPOs. The revisions further emphasize that effective risk-based measures should not unduly disrupt or discourage legitimate NPO activities and rather should engender greater confidence that NPO funds and services reach intended legitimate beneficiaries.[161] In addition, countries should consider that existing self-regulatory measures and related internal controls may already be sufficient to address TF risks to NPOs.[162] Moreover, States should take steps to promote focused, proportionate, and risk-based oversight or monitoring of NPOs, avoiding a "one-size-fits-all" approach as this would be inconsistent with the risk-based approach.[163] Other key updates include:

- Recommendation 8 now requires countries to periodically identify organizations that fall within the FATF definition of NPOs and assess the TF risks posed to them. In other words, Recommendation 8 does not apply to the entire universe of organizations working in the not-for-profit realm: but only to those that fall within the FATF definition of NPOs.[164] Among these, only a small portion may be facing a "high risk" of TF abuse.
- Recommendation 8 requires countries to have in place focused, proportionate and risk-based measures to address TF risks identified. A risk-based approach is essential given the diversity within domestic NPO sector and the varying degrees of risk of TF abuse they face. Many NPOs may already have adequate self-regulatory measures and related internal control measures to mitigate TF risks, such that national authorities do not need to take additional measures.

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[159] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), p. 1, available at https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

[160] See also, Annex A to the FATF Best Practice Paper (November 2023), available at https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/BPP-Combating-TF-Abuse-NPO-R8.pdf.coredownload.inline.pdf

[161] FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), p. 61 para 5(c).

[162] FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), p. 63, para 7 (i).

[163] FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), p. 63, para. 7 (b).

[164] See FATF, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation - The FATF Recommendations, (Feb. 2012, as amended in October 2025), p. 60.

- States should be mindful of the potential impact of measures on legitimate NPO activities. Disproportionate measures on NPOs are overly burdensome and restrictive and may hinder their legitimate activities and the delivery of much needed services, thus affecting their human rights.
- Recommendation 8 clarifies that countries need not designate and supervise NPOs as reporting entities or require them to conduct customer due diligence.

The FATF has also updated its Best Practices Paper to help countries, the non-profit sector and financial institutions understand how best to protect relevant NPOs from abuse for terrorist financing, without unduly disrupting or discouraging legitimate NPO activities.[165] For the first time, a FATF best practices paper also includes examples of bad practices and specifically explains how not to implement the FATF's requirements.

In 2025, the FATF introduced a new process to address unintended consequences arising from the misapplication of its Standards on NPOs.[166] It allows countries, the International Monetary Fund and the World Bank to raise concerns of unintended consequences when a country's misapplication of the FATF Standards disrupts legitimate NPO activity. The new procedure applies to both FATF and FSRB member countries, unless an FSRB chooses to opt-out of the FATF-led unintended consequences process and set up their own process for their members.

Human Rights Guidance:

The work of civil society and the non-profit sector should be safeguarded by ensuring that CFT laws and measures are applied in a manner that fully respects international human rights law, particularly the rights to freedom of peaceful assembly, association, opinion, and expression. The ability to access financial resources is a vital part of the right to freedom of association[167] and States should safeguard it. NPO registration, oversight and compliance requirements must also be in accordance with international human rights law, and the assessment of human rights and gender impacts of any CFT measure should be carried out.

As a general principle, CFT measures, including those of civil and administrative nature, that restrict the enjoyment of human rights must adhere to the principles of proportionality, necessity, legality, and non-discrimination. This includes ensuring that the measure pursues a legitimate aim, is prescribed by law; and that the impact of the measure on the enjoyment of that right or freedom is proportional to the importance of the objective being pursued by the measure and its potential effectiveness in achieving that objective. States should adhere to the risk-based approach by enacting or amending in a timely manner laws and/or policies with a view of ensuring that

[165] OHCHR cautions that the examples provided are context-specific and should not be cited in isolation where the wider legal and human rights protection framework, including compliance with international human rights law should be considered.
[166] https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/new-procedure-unintended-consequences-npos-2025.html
[167] A/HRC/23/39, pp. 4-5, https://docs.un.org/A/HRC/23/39 .

international human rights law and the revisions to FATF Recommendation 8 and its Interpretive Note are fully recognized and implemented.

It is recommended that States monitor, with a view to avoid, over-regulation and financial exclusion due to overcompliance by financial institutions and correspondent banks, as well as the human rights effects of CFT measures as part of the State effectiveness assessments. This should include human rights and gender experts.

States should establish an independent procedure for receiving communications from a diverse range of civil society actors, including community-based organizations and women human rights defenders, on the human rights impact of CFT measures.

CFT measures applicable to the NPO sector should also be assessed to ensure that they do not substantially impact on the functions of NPOs. Any limitation on freedom of association must be prescribed by law, in pursuance of one or more specific legitimate purposes and are necessary in a democratic society.

As regards penalties imposed on entities, the legality of an organization's purposes and its conformity with the law should be reviewed only when a complaint has been lodged against it, and only an independent judicial body should be given the authority to review its purpose and determine whether it is in breach of existing law.[168] Review before a judicial authority shall be done through a public hearing and any restrictions on the public nature of a trial, including for the protection of national security, must be both necessary and proportionate, as assessed on a case-by-case basis. Any such restrictions should be accompanied by adequate mechanisms for observation or review to guarantee the fairness of the hearing.[119]

CFT measures should not disrupt or discourage legitimate activities of NPOs. Rather, such measures should be evidence-based and promote accountability and engender greater confidence among NPOs, across the donor community and with the public. States should avoid measures that disproportionately target or burden CSOs, such as imposing onerous vetting rules, procedures or other CSO-specific requirements.

An obligation for NPOs to register and report should not interfere with their ability to function. States should refrain from imposing unduly restrictive measures (which may come in the form of inefficiencies, extensive requests for information, and burdensome obligations and costs) to their right to freedom of association. The procedures for establishing an association should not be unduly burdensome or subject to arbitrary administrative discretion. Government officials must act in good faith, in a timely and non-selective manner. It is recommended that associations are automatically granted legal personality as soon as authorities are notified that an organization was created (notification procedures) rather than requiring the approval of the authorities to establish an association as a legal entity (prior authorization procedures).

[168] A/59/401, para. 82, https://docs.un.org/A/59/401 .

Any decision rejecting a submission or application should be clearly reasoned and communicated in writing to the applicant, and there should be an opportunity to challenge the decision before an independent court or tribunal. Non-compliance with the law governing the registration or regulation of NPOs should not, in itself, be subject to criminal sanctions, in the absence of any evidence of independent criminal wrongdoing, although proportionate administrative penalties may be justified.[169]

NPOs should not be subject to disproportionate scrutiny of the management and internal governance of the organization. Any reporting obligations of organizations should be simple, uniform and predictable. Discriminatory scrutiny by tax or other authorities, amounting to an abuse of fiscal authority, should be prohibited. Organizations should not be required to spend a disproportionate amount of their resources on record keeping or vetting members of partner organizations.[170]

NPOs should have the opportunity to freely seek funding and resources from domestic, foreign, and international entities.[171]

Any restrictions on activities or funding or regulation for NPOs based on security concerns (including terrorism) must pursue a legitimate interest, be proportionate, time-limited, non-discriminatory, and justified in writing as necessary in a democratic society. States should not invoke national security or terrorism as a justification for measures aimed at suppressing opposition or to justify repressive practices against NPOs. In order to meet the proportionality and necessity test, restrictive measures must be the least intrusive means to achieve the desired objective and be limited to the associations falling within the clearly identified aspects characterizing terrorism only.[172]

States should encourage and undertake outreach and educational programmes to deepen awareness among NPOs as well as the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse. States should also promote a clear understanding among civil society of the CFT regulations, national and international requirements, as well as their rights and obligations under international law.

States should periodically identify organizations which fall within the FATF definition of NPO and conduct a risk-based assessment to identify the nature of TF risks posed to them.[173] Such risk assessment should be comprehensive, evidence-based, and transparent. Measures put in place by States for monitoring this subset of the NPO sector falling under the FATF definition should be focused and proportionate to address the TF risks identified. They should be implemented in

[169] See report of the Special Rapporteur on human rights and counter-terrorism, A/70/371, para 28 and 30, https://docs.un.org/A/70/371 ; and report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, paras 56-61, https://docs.un.org/en/A/HRC/20/27 .
[170] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism A/70/371, para 29, https://docs.un.org/A/70/371 .
[171] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, para. 67-70, https://docs.un.org/A/HRC/20/27 .
[172] A/HRC/23/39, para 23, https://docs.un.org/A/HRC/23/39.
[173] FATF Interpretive Note to Recommendation 8, para. 6.

accordance with the risk-based approach set out in FATF's revised Recommendation 8, and in a manner which respects countries' obligations under international human rights, refugee, and humanitarian laws.[174] States should promote initiatives to strengthen the knowledge and capacity of NPO representatives, government officials and financial institutions to correctly implement FATF Recommendation 8.

States should ensure diverse, non-discriminatory, inclusive, and full involvement of the NPO sector, including through meaningful consultations, in the development of risk-based, targeted measures to prevent terrorism financing abuse and the identification of the subsets most vulnerable to terrorism-financing abuse. They should work closely with the NPO sector to determine the types of measures required to ensure its protection from abuse.

States should include diverse range of NPOs in national CFT risk assessments and FATF-related mutual evaluations, to increase the accuracy of the data collected, increase awareness about potential risks and protective measures, build trust within the sector and enhance buy-in for the recommendations and result.[175]

G. IMPACT OF CFT MEASURES ON EXCLUSIVELY HUMANITARIAN ACTIVITIES

International humanitarian law pertains to the protection of persons in armed conflicts.[176] These rules are reflected in several treaties, including the four Geneva Conventions and the two Additional Protocols, as well as customary international law and a number of other international instruments. International humanitarian law applies explicitly only to situations of armed conflict (international or non-international). International human rights law always applies, including during situations of armed conflict and in the absence of an armed conflict; the concurrent application of international humanitarian law and human rights law in situations of armed conflict has been affirmed by various bodies, including the International Court of Justice.[177] Though international humanitarian law applies as *lex specialis*, the protection offered by human rights law does not cease in cases of armed conflict, and is subject to certain permissible limitations in accordance with the strict requirements set out in international human rights law.[178]

[174] FATF Interpretive Note to Recommendation 8, para. 6.
[175] See European Centre for not-for-profit law, European Foundation Centre and Human Security Collective: How can non-profit organisations be involved in the Financial Action Task Force evaluation process?, (2015), available at https://www.icnl.org/wp-content/uploads/FATF-Evaluation-Paper-2015.pdf .
[176] ICRC Advisory Service on International Humanitarian Law, https://www.icrc.org/sites/default/files/document/file_list/what-is-ihl-factsheet.pdf .
[177] Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of 8 July 1995, I.C.J. Reports 1996, para. 25
[178] See General Comment No. 31, para. 11, https://digitallibrary.un.org/record/533996?ln=en&v=pdf ; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, I.C.J. Reports 2004, para. 163; and Case concerning Armed Activities, paras. 216–220, 345 (3). See also "Fundamental standards of humanity" (E/CN.4/2006/87, chap. III), and United Nations, Digest of jurisprudence of the United Nations and regional organizations on the protection of human rights while countering terrorism (New York and Geneva, 2003), chap. I, sect. (C).

Underlining all humanitarian action are the principles of humanity, impartiality, neutrality, and independence.[179] International humanitarian law stipulates that neutral, independent, and impartial humanitarian assistance must always be protected by all parties to the conflict. The protection of humanitarian assistance is articulated under several international legal instruments, including the Geneva Conventions of 1949 and their Additional Protocols, and under customary international humanitarian law.[180] This includes the obligation to protect and facilitate the ability of impartial humanitarian organizations and personnel (including medical personnel) to carry out their humanitarian activities, medical and food assistance, and the obligation not to divert or obstruct such humanitarian assistance.[181]

Common article 9/9/9/10 to the Geneva Conventions mentions two categories of "humanitarian activities": (i) activities "undertaken for the protection" of persons protected under these instruments; and (ii) activities undertaken for their "relief". The Fundamental Principles of the Red Cross proclaim that the humanitarian aim is to "prevent and alleviate humanitarian suffering wherever it may be found" and "to protect life and health and to ensure respect for the human being". Therefore, humanitarian activities have been interpreted to encompass those efforts that are undertaken with the aim of fulfilling this humanitarian purpose.[182]

Due to its cross-cutting nature, humanitarian assistance is also relevant to certain obligations under international human rights law, including the right to life stipulated under article 6 of the ICCPR, the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing and housing (article 11), the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (article 12), and the right of everyone to education (article 13) included in the ICESCR. The rights set forth in the ICCPR and ICESCR may be subject to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society (article 4).

In paragraph 24 of resolution 2462 (2019), the Security Council urges States, when designing and applying measures to counter terrorism financing, to take into account the potential effect of those

[179] https://emergency.unhcr.org/protection/protection-principles/humanitarian-principles

[180] United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), p. 13, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

[181] On protection of humanitarian organizations, personnel and activities, see Article 10 of Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949, Article 9 of Geneva Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949, and Article 81 of the Additional Protocol I, On protection of medical organizations, personnel and assistance, see First, Second and Fourth Geneva Conventions of 1949.[2] Its scope was expanded in Article 15 of Additional Protocol I, Article 9(1) of Additional Protocol II, and common Article 3 of the Geneva Conventions. See also United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures* (June 2022), p. 13, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

[182] ICRC, International humanitarian law, principled humanitarian action, counterterrorism and sanctions: Some perspectives on selected issues, https://international-review.icrc.org/sites/default/files/reviews-pdf/2022-02/international-humanitarian-law-principled-humanitarian-action-916.pdf; See also CTED IHL/CT https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2022/Jan/cted_ihl_ct_jan_2022.pdf).

measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law. While this provision "to take into account" the effect of counter-terrorism financing measures on humanitarian activities is not binding, the Security Council has elsewhere consistently affirmed that counter-terrorism measures must respect international humanitarian law, which also extends to protecting these humanitarian activities. The General Assembly also urged Member States to ensure that counter-terrorism legislation and measures do not impede humanitarian and medical activities or engagement with all relevant actors as foreseen by international humanitarian law.[183]

Impartial humanitarian action, including the provision of medical supplies, shelter and food, is essential in many parts of the world for the enjoyment of essential social and economic rights, including the rights to food, safe drinking water and adequate access to health care. Defining the provision of humanitarian activities as a form of support to terrorism or designated entities may result in the "lowering of fundamental human rights and humanitarian protections".[184] The Special Rapporteur on Human Rights and Counter-Terrorism also noted that designations and asset freeze raise significant humanitarian challenges, both at the structural level, in terms of continuing delivery of vital humanitarian activities and aid, and at the individual and family level, given the potential adverse impacts on designated individuals, their families, NPOs, and women especially.

Some States have sought to prevent the negative impact on the delivery of humanitarian assistance caused by counter-terrorism measures through the adoption of humanitarian exemption provisions. However, such measures, if they are not clear and precise, may provide insufficient legal certainty to humanitarian actors. This may in turn hinder the exercise of principled humanitarian action and violate the principle of legality, a central requirement of international human rights law (ICCPR art. 15).

According to the joint Report prepared by CTED and the Analytical Support and Sanctions Monitoring Team on actions taken by Member States to disrupt terrorism financing, pursuant to paragraph 37 of Security Council resolution 2462 (2019), 45 per cent of States lack an institutional framework to consider the effects of CFT measures on humanitarian activities. A further 20 per cent did not respond while 35 per cent have adopted measures, some of which were of a general nature (such as referring to constitutional guarantees).[185] In its thematic summary assessments of gaps in implementing key countering the financing of terrorism provisions of Security Council resolutions, CTED also highlighted that only a handful of States have adopted dedicated measures to evaluate, and eventually mitigate, the impact of CFT measures on exclusively humanitarian activities, including in conflict zones with active terrorist activity.[186]

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[183] A/RES/77/298, para 113, https://docs.un.org/en/A/RES/77/298 .
[184] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism A/75/337, para. 26, https://docs.un.org/en/A/75/337 .
[185] S/2020/493, para. 83.
[186] CTED, Thematic summary assessment of gaps in implementing key countering the financing of terrorism provisions of Security Council resolutions, December 2022, p. 22, available at https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/cted_2022_cft_gaps_assessment_final.pdf .

The ICRC reported that sanctions and counter terrorism measures can represent barriers to the application of the humanitarian principles during crisis response, with the risk that people living in areas impacted by them will have diminished access to humanitarian assistance and protection as a result. It reported that counter-terrorism measures and sanctions can limit humanitarians' engagement with non-State armed groups which may be in control of areas where people in need of aid are located; encourage donors to attach restrictive conditions on funding; raise challenges in access to vital support services from financial institutions and others; and encourage the avoidance of associated legal, reputational and other risks rather than appropriate risk management.[187] Similarly, as noted in the CTED's 2022 study "In armed conflict contexts involving terrorist groups, broadly conceived or improperly applied counter-terrorism measures can negatively impact on the ability of humanitarian actors to operate and, by extension, on persons in need of humanitarian protection and assistance. Such measures have, in some cases, affected the scope, quality, cost, and timeliness of humanitarian services provided and resulted, among others, in restricting access to humanitarian assistance by populations in or from areas where non-State armed groups designated as terrorist organizations have significant presence and influence; in obstacles for humanitarian organizations to engage in dialogue with such groups with the exclusive aim of ensuring the delivery of humanitarian services; or in security and legal threats to humanitarian actors." For a more detailed discussion with respect to the impact of counter-terrorism measures on impartial humanitarian action, please refer to CTED's study on The Interrelationship between Counter-Terrorism Frameworks and International Humanitarian Law.[188]

The refusal of banks to provide services for humanitarian organizations owing to concerns about CFT regulations has reportedly become a major hurdle for humanitarian action. Excessively rigid regulations cause delay and increased costs for humanitarian organizations because financial institutions are required to conduct excessive and cumbersome due diligence checks/procedures and are frequently unwilling to take any risks. This has had a negative impact on delivery of humanitarian aid and similar activities (see section K below on "Role and responsibility of the private sector").[189]

In relation to humanitarian activities in the context of sanctions, the Special Rapporteur on Human Rights and Counter-Terrorism has noted that terrorism-related sanctions regimes (both sanctions administered by the United Nations and those resulting at national level from Security Council resolution 1373 (2001)) have led to the impediment or delay of humanitarian operations. They may have an impact on neutral, independent and impartial humanitarian action, including by restricting access to populations in areas controlled by non-State armed groups. They can also result in the arrest and prosecution of humanitarian, human rights and other civil society actors, and ultimately impede

[187] ICRC: Politics and principles: The impact of counterterrorism measures and sanctions on principled humanitarian action https://international-review.icrc.org/sites/default/files/reviews-pdf/2022-02/politics-and-principles-the-impact-counterterrorism-measures-on-principled-humanitarian-action-916.pdf

[188] CTED's study on The interrelationship between counter-terrorism frameworks and international humanitarian law, January 2022, available at, https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2022/Jan/cted_ihl_ct_jan_2022.pdf.

[189] CTED's study on The interrelationship between counter-terrorism frameworks and international humanitarian law, January 2022, pp. 20-22, available at, https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2022/Jan/cted_ihl_ct_jan_2022.pdf .

the ability of impartial humanitarian organizations to carry out life-saving humanitarian tasks including the provision of food and medical assistance.[190]

The Secretary-General has called upon States to not impede efforts by humanitarian organizations to engage with armed groups in order to seek improved protection for civilians – even those groups that are proscribed in some national legislation.[191] He has also called for measures that guarantee the ability of medical personnel to treat patients in all circumstances, without resulting in sanctions.[192] This is essential to ensure both the human rights of individuals and their protection under international humanitarian law. The provision of humanitarian assistance and the protection of individual human rights (life, health, food, water, education and security) are interconnected, and "to undermine the work of humanitarian actors using counter-terrorism discourse and practice is to undermine the most essential rights" of the world's most vulnerable populations.[193]

Humanitarian actors such as the ICRC also called on Member States to ensure that counter-terrorism resolutions at the UN continue to underline that all counter-terrorism measures shall comply with IHL, as applicable, and to further reflect requirements to "allow and facilitate" rapid and unimpeded humanitarian relief in accordance with the Additional Protocol I to the Geneva Conventions. The ICRC also recommended the inclusion of standing and well-crafted carve-outs in counter-terrorism resolutions and national legislation specifying that the restrictions do not apply to exclusively humanitarian activities carried out by impartial humanitarian actors and introducing concrete and practical measures to ensure impartial humanitarian organizations are allowed to protect and assist populations in need. It also encouraged raising stakeholders awareness of the potential unintended consequences of counter-terrorism measures. [194]

The Security Council took an additional, major step in this respect with the adoption of resolution 2664 (2022). By that resolution, the Council decided that "the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs […] are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees". Following the adoption of resolution 2664 (2022), some humanitarian organizations have reported progress in their ability to operate efficiently and in line with humanitarian principles in some countries where sanctioned entities and individuals are based. They have noted more donor flexibility regarding certain programs, increased risk tolerance by some donors and easier access to financial services by international banks to transfer funds for their operations. Some Member States have incorporated humanitarian exemption into their domestic

[190] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism A/75/337, paras. 30-32, https://docs.un.org/A/75/337 .
[191] Report of the Secretary-General on the protection of civilians in armed conflict S/2009/277, para. 45, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20S2009277.pdf ; See also, CTED's study on The interrelationship between counter-terrorism frameworks and international humanitarian law, section 4V.
[192] See also, S/RES/2286 (2016), https://docs.un.org/en/S/RES/2286(2016) ; and the GCTS 7th review resolution, paras. 109 and 110.
[193] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism A/75/337, para. 35, https://docs.un.org/A/75/337 .
[194] https://www.icrc.org/en/document/counter-terrorism-measures-can-impact-humanitarian-action-negatively

legislation, while others are in the process of elaborating similar legislative measures. However, it was also noted that United Nations sanctions, as well as unilateral and regional sanctions, are applied in complex political and security environments and may continue to have unintended adverse humanitarian consequences notwithstanding the humanitarian carveout provided in Security Council resolution 2664 (2022). Humanitarian actors may still face financial hurdles and operational delays, including owing to overcompliance and de-risking by banks and the private sector.[195] As such, the Secretary-General recommended that the Security Council may need to make further adjustments to the design and scope of the humanitarian carveout; tailoring United Nations sanctions and implementing them in such a way as to reduce any adverse humanitarian consequences.[196] In December 2024, through the unanimous adoption of resolution 2761 (2024), the Security Council decided to maintain the exemption of humanitarian aid providers from asset freeze measures imposed by the Da'esh and Al-Qaida sanctions regime — a decision that provides those personnel and entities with greater operational clarity and predictability, while maintaining systematic monitoring measures to prevent the carveout from being exploited by terrorist organizations.

Good practices highlighted by Member States to ensure compliance with paragraph 24 of Security Council resolution 2462 (2019) include strengthening the transparency of licensing and specific exemption measures; maintaining focused dialogues with the NPO sector, humanitarian partners and financial institutions to understand any concerns and challenges they may have encountered in relation to counter-terrorism and sanctions measures; involving government authorities in donors' initiatives and discussions, including on humanitarian exemptions; regularly and strategically assessing the balance between supporting humanitarian partners' rapid and unimpeded access to crisis-affected populations and achieving counter-terrorism and sanctions objectives; encouraging private-public partnerships; and issuance of relevant guidance and/or joint trainings and other awareness raising initiatives.

Human Rights Guidance:

States should ensure that exclusive humanitarian activities are not treated as financing or support for terrorism and suppressed and criminalized on that basis. Impartial humanitarian actors operating in accordance with international humanitarian law should be protected from any form of harassment, sanctions, or punishment linked to measures to counter terrorism or its financing.

States should implement tailored and context-specific CFT approaches and solutions entailing an effective combination of measures responding both to the potential security threats, as well as the humanitarian needs that arise, with full regard for corresponding responsibilities under international law, including international humanitarian law as applicable.[197]

[195] SG report on the implementation of Resolution 2664 (2022) S/2023/658https://documents.un.org/api/symbol/access?j=N2325846&t=pdf, paras 40, 42.
[196] SG report on the implementation of Resolution 2664 (2022). S/2023/658https://documents.un.org/api/symbol/access?j=N2325846&t=pdf, para. 42.
[197] CTED's study on The interrelationship between counter-terrorism frameworks and international humanitarian law, January 2022, pg. 30, available at

States should consider the adoption of provisions, such as unambiguous humanitarian exemption clauses, in their national legislation to exclude the activities of impartial humanitarian organizations from measures criminalizing various forms of financing or support for terrorism. Such measures should be drafted clearly and precisely. States should mitigate any negative impact of counter-terrorism measures on impartial humanitarian activities and include adequate safeguards.

States should engage consistently with impartial humanitarian organizations, as well as human rights and international humanitarian law experts, and address any negative impact of counter-terrorism financing regulations on the delivery of humanitarian activities, including on respect for human rights and international humanitarian law in this context.

The domestic implementation of Security Council resolution 2462 (2019), paragraphs 6 and 24, and resolution 2482 (2019), paragraph 16, may be facilitated through domestic authorities' monitoring of the impact of counter-terrorism measures on humanitarian action and medical activities. Such mapping and monitoring may take multiple forms and be incorporated as a component of the monitoring and evaluation of policies and programmatic activities aimed at preventing and countering terrorism. The resulting information and analysis may further complement information collected and shared by humanitarian actors in this respect.[198]

States should review and amend national/regional measures to ensure that the provision, processing or payment of funds, other financial assets or economic resources or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by the relevant stakeholders are permitted and are not considered a violation of the asset freezes imposed by the UN Security Council Sanctions Committees, as per Security Council resolution 2664 (2022) and 2761 (2024).

H. GENDER IMPACT

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) aims to eliminate all forms of discrimination against women on the basis of sex and requires States to take all appropriate measures to guarantee women equal recognition, and the enjoyment and exercise of all human rights and fundamental freedoms on a basis of equality with men. Both the ICCPR (articles 2, 3, and 26) and ICESCR (articles 2) also require the States Parties to ensure the equal right of men and women to the enjoyment of all rights set forth in the Covenants.

https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2022/Jan/cted_ihl_ct_jan_2022.pdf.

[198] CTED's study on The interrelationship between counter-terrorism frameworks and international humanitarian law, January 2022, pg. 31, available at, https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2022/Jan/cted_ihl_ct_jan_2022.pdf.

The UN General Assembly has urged States to ensure that gender equality and non-discrimination are considered when shaping, reviewing and implementing all counter-terrorism measures, and to promote the full and effective participation of women in the development of counter-terrorism and countering violent extremism conducive to terrorism (CVE) policies. Indeed, organizations which are women-led or pursuing gender equality may play an important role in effective counter-terrorism efforts. As of 2015, there has been a growing focus on addressing the unique obstacles faced by women in relation to violent extremism conducive to terrorism within various women's peace and security resolutions. Security Council Resolutions 2242 (2015), 2467 (2019) and 2493 (2019) have emphasized the importance of incorporating gender perspectives into all endeavors aimed at countering and preventing violent extremism conducive to terrorism. Furthermore, Security Council resolutions 2242 (2015) and 2617 (2021) highlight the importance of integrating gender as a cross-cutting issue throughout counter-terrorism activities, and request CTED, in consultation with UN Women and other Global Compact entities, to collect data on the impacts of counter-terrorism strategies on women's human rights and women's organizations.

As underlined by the Committee on the Elimination of Discrimination against Women, integrating gender perspectives into counter-terrorism requires taking into account a set of "socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women".[199]

Despite the efforts made in recent years to incorporate a gender perspective and comply with gender equality and non-discrimination obligations into the national security arena, concerns continue to be raised on the negative impact of CFT measures on gender equality and the empowerment of women and the extent to which these measures, while being on their face gender-neutral, may be discriminatory in practice.[200] CFT measures that are not gender-sensitive and/or those that do not comply with gender equality and non-discrimination obligations can have consequential violations of freedom of association, peaceful assembly and expression. It may also result in the exclusion of women's rights organizations from access to funding; and in some instances, they may lead to reluctance of donors or financial service providers to fund assistance programs.

CFT measures can also have a discriminatory impact on men and boys, including in relation to profiling (for example, women and girls are subject to less control at borders and thus are often used as cash couriers; and money transfers by women are less scrutinized).

In the course of its ongoing dialogue with Member States with respect to the implementation of the counter-terrorism related requirements of Security Council resolution, CTED observed that when conducting CFT risk assessments, States are generally not including gender sensitive approaches. Such

[199] Committee on the Elimination of Discrimination against Women, General recommendation No. 28 (2010), para 5, CEDAW/C/GC/28, https://digitallibrary.un.org/record/711350?ln=en&v=pdf ; General Assembly resolution 74/147, para 17.

[200] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/46/36, https://docs.un.org/A/HRC/46/36; see also FATF, Comprehensive Update on Terrorism Financing Risks, July 2025, para. 118, available at https://www.fatf-gafi.org/content/dam/fatf-gafi/publications/Comprehensive-Update-on-Terrorist-Financing-Risks-2025.pdf.coredownload.inline.pdf .

gender-blind risk assessments fail to consider how the adoption of legal, institutional and programming responses may violate fundamental rights and disproportionally affect women, including the underlying needs of women living in geographic areas where terrorist groups are active. Gender-blind assessments may lead to false assumptions in analyzing gender roles in the financing of terrorism and thus miss the real risks.[201]

Women can face both legal and social barriers to accessing financial services, including because of underlying structural inequalities which themselves violate human rights. The continuing abuse by terrorists of informal remittances to transfer funds has resulted in direct action against hawalas and other similar service providers (HOSSPs), which in some parts of the world, are the only financial instruments women can use since they are not able to open bank accounts.[202]

Financial inclusion efforts have also been revolutionized by technology, particularly by "mobile money", and some experts suggest that cryptocurrencies have the potential to give women financial independence and freedom while also fuelling their entrepreneurial pursuits. Indeed, digital financial services can be designed to benefit women in particular - reducing the gender gap in financial inclusion - and other marginalized and vulnerable communities.[203] Furthermore, seed crowdfunding is one method that women are using to bypass traditional financial gatekeepers and raise capital directly from funders. However, many States are unable to effectively and proportionally regulate these new technologies, including for AML/CFT purposes. Faced with increasing pressure, including from international standards and requirements, many States opt for blanket prohibitions instead of risk-based regulations, thus eliminating legal access to these financial products.

With respect to targeted financial sanctions and as noted by the Special Rapporteur on Human Rights and Counter-Terrorism, women whose family members or spouses are listed for asset freezing purposes may not have independent access to work, bank accounts or independent sources of income or the ability to own property.[204] In certain situations, women may have less access to information, limited knowledge of a spouse's or family member's activity or may not be able to challenge such behaviour even if it is known. It is thus important that States ensure the access of family members to necessary funds through effective mechanisms to allow for access to frozen funds for basic and/or extraordinary expenses (see Section E above on 'Asset freezing stemming from Security Council

[201] See also FATF, Comprehensive Update on Terrorism Financing Risks, July 2025, para. 118, available at https://www.fatf-gafi.org/content/dam/fatf-gafi/publications/Comprehensive-Update-on-Terrorist-Financing-Risks-2025.pdf.coredownload.inline.pdf .

[202] According to the World Bank, while 1.2 billion people opened a financial account between 2011-2017, there are still an estimated 1.7 billion adults worldwide who do not have a basic transaction account, and half of unbanked people include women poor households in rural areas or out of the workforce (see The Global Findex Database, 2017, https://globalfindex.worldbank.org/). For more details on the role of HOSSPs in money laundering and terrorist financing, see https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Role-of-hawala-and-similar-in-ml-tf.pdf.coredownload.pdf (FATF, October 2013).

[203] Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, position paper on International Human Rights Law Considerations for Counter-Terrorism Financing Regulation of Crowdfunding, Virtual Assets, and New Payment Technologies, https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/activities/2023-06-09-CFT-New-Payment-Tech-Position-Paper.pdf P.2.

[204] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin A/HRC/46/36, para 13 and 16, https://docs.un.org/A/HRC/46/36.

resolution 1373 (2001)'). This would enable States to fulfil their obligation under article 15 (1) of CEDAW and ensure that women enjoy financial independence, which is critical to her ability to earn a livelihood and to provide adequate housing and nutrition for herself and for her family.[205]

Many NPOs working on women's rights and gender are grassroots organizations, often with fewer resources and more informal structures, which could impede their ability to produce required paperwork under CFT policies. This may affect their access to both financial services and donor funding. The Special Rapporteur on Human Rights and Counter-Terrorism has expressed concern that counter-terrorism financing laws have had a negative impact on women's rights organizations by limiting civic space for advocacy, the advancement of gender equality and the empowerment of women.

Not only is the "small scale" of women's civil society work perceived as a risk to donors and financial institutions, but the "divergent voices" of women's rights organizations and their challenges to traditional gender norms can result in backlash and governmental efforts to curb women's rights, including freedom of expression and association. Women's rights organizations are therefore often dependent on foreign funding. The need to ensure accessible, safe and effective channels for funding to such organizations is particularly important in humanitarian crisis situations, which often have disproportionate impacts on women and girls. Hindering women's rights organizations' work aimed at conflict resolution, advancing the rule of law and human rights, and realizing equality, political inclusion, and socio-economic empowerment can have a negative impact on efforts to effectively address the conditions conducive to terrorism.[206] In this regard, the Special Rapporteur on the rights to freedom of peaceful assembly and of association has recommended States to increase investment in feminist and women's rights organizations and women peacebuilders, particular organizations led and working for women belonging to racial and ethnic minority groups and to also, support the development and growth of independent women's funds.[207]

Overall, there continues to be a lack of harmony between the counter-terrorism and gender equality agendas. Counter-terrorism actors often lack gender expertise, and the national security apparatus in most countries continues to be mainly composed of men, notably in law enforcement and intelligence agencies, including FIUs.

These examples and concerns are far from being exhaustive. More work is needed to fully grasp the scale and nature of gender implications related to countering the financing of terrorism, and such work should be systematic and integrated in all stages of design, implementation and risk/impact assessment of CFT.

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[205] CEDAW General recommendation No. 21: Equality in marriage and family relations, para. 26, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FGEC%2F4733&Lang=en .

[206] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism A/64/211, para 42-43, https://documents.un.org/doc/undoc/gen/n09/437/55/pdf/n0943755.pdf .

[207] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, General principles and guidelines on ensuring the right of civil society organizations to have access to resources, A/HRC/53/38/Add.4, para. 60, https://docs.un.org/A/HRC/53/38/Add.4 .

Human Rights Guidance:

States should systematically fulfill their international human rights obligations in relation to gender equality and non-discrimination and incorporate a human rights-based gender perspective into counter-terrorism law and policy across all areas, including CFT. They should investigate, document, monitor, and redress all gender-based human rights violations and gendered impacts of CFT measures in accordance with their obligations under international human rights law, including, where applicable, pursuant to the CEDAW. CFT legislation, regulations, and policies should include provisions on the obligation to prohibit discrimination on grounds of sex, sexual orientation or gender identity.

States should, in consultation with CSOs and especially women-led organizations, collect gender and age disaggregated data and statistics to assess the gendered impacts of CFT laws and policies.

States should address the gendered effects and gender-based violation of human rights of sanctions and listing at the national level, including in the context of national action plans for the implementation of Security Council resolution 1325 (2000) and ensure that exemptions are available in cases where the spouse cannot own property or has no access to work, funds, bank accounts or independent sources of income.[208] States should address gender-based procedural impediments to justice, including limits on access to justice and lack of legal representation that can particularly affect women and girls.

States should ensure that sanctions and listing at the national level are not misused to target individuals who do not conform to traditional gender roles or to suppress social movements that seek gender equality.

States should ensure that organizations which promote gender equality, including women's rights organizations, enjoy freedom of association including the ability to access funding, and that they are not disproportionately affected by CFT measures. States should pay particular attention that financial institutions and reporting entities do not contribute to limiting financial access (including the ability to seek, receive and use funding) to civil society actors, notably women's rights organizations.

Financial institutions and FIUs should respect international human rights law and standards relating to gender and be sensitized to gender when making their assessments. Policies guiding operations of financial institutions, especially as it relates to CFT, should adopt gender sensitive approaches in their design and implementation. States should continue to strengthen the representation of women in law enforcement, criminal justice, and intelligence agencies, including FIUs.

[208] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/46/36, para 16 and 39, https://docs.un.org/A/HRC/46/36.

I. THE NEXUS BETWEEN TERRORISM FINANCING AND TRAFFICKING IN PERSONS

Paragraph 25 of Security Council resolution 2462 (2019) encourages Member States to improve efforts and take decisive action to identify cases of trafficking in persons that finance terrorism with a view to holding those responsible accountable. Security Council resolutions 2331, 2388 and 2467 also address trafficking in persons, including when perpetrated in connection with terrorism.

The Trafficking Protocol defines trafficking as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".[209] Trafficking can occur within a country or may involve movement across borders. Women, men and children are trafficked for a range of purposes, including forced and exploitative labour in factories, farms and private households, sexual exploitation, and forced marriage. Trafficking affects all regions and most countries of the world.[210] Article 6 of CEDAW provides that States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women. Article 35 of the Convention on the Rights of the Child provides that States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of, or traffic in children for any purpose or in any form. The Security Council has noted that trafficking victims should be "treated as victims of crime and in line with domestic legislation, not penalized or stigmatized for their involvement in any unlawful activities in which they have been compelled to engage".[211] The Special Rapporteur on trafficking in persons especially women and children highlighted the particular risks of child trafficking and the targeting of children by proscribed groups, as well as the risks faced by persons, who are forcibly displaced, including unaccompanied and separated children.[212] Similarly, the Global Report on Trafficking in Persons has raised particular concern about the phenomenon of child recruitment and exploitation by terrorist and violent extremist groups.[213] However, trafficking may also affect men and boys, who are often overlooked as victims of trafficking and related exploitation. The integration of a gender perspective is therefore important.

[209] Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (article 3(a)). For children, the "means" element is not required.
[210] OHCHR Fact Sheet no. 36, Human Rights and Human Trafficking, p. 1, available at https://www.ohchr.org/Documents/Publications/FS36_en.pdf.
[211] Statement by the President of the Security Council S/PRST/2015/25, p. 2.
[212] A/76/263, https://docs.un.org/A/76/263 .
[213] UNODC, Global Report on Trafficking in Persons 2024, p.76, available at https://www.unodc.org/documents/data-and-analysis/glotip/2024/GLOTIP2024_BOOK.pdf

Human trafficking has become increasingly attractive to terrorist groups, both as a terrorist tactic and an opportunistic source of revenue.[214] Terrorists and terrorist groups have used trafficking as a tool to forcibly recruit new members, as well as to attract new recruits by exploiting women and girls.[215] Persons deemed to be "associated with" terrorist groups might themselves have been trafficked. Persons who have traveled to join terrorist groups have different reasons for why and how they traveled, as well as varying motivations for potentially wanting to return to home countries. States need to examine the whole timeline, as under the UN Trafficking Protocol, trafficking can occur either through an exploitative process, or when an exploitative situation results or is maintained without any preceding exploitative process. When women who originally agreed to marry a member of a terrorist group ended up in domestic servitude or sexual slavery, this might change the voluntary nature of their association to an involuntary stay. In the case of children, in line with the UN Trafficking Protocol, they may have been trafficked if there is an "act" (for example, recruitment or transportation) with the specific intent or purpose to exploit. Unlike trafficking of adults, there is no requirement to show "means," such as actual deception or grooming.[216]

Member States are required to take decisive action to identify cases of trafficking in persons that finance terrorism, including through proactive financial investigations. However, important challenges persist in this area, including the difficulty in collecting evidence. The lack of expertise required to conduct proper investigations undermines efforts to fully understand and effectively address the human trafficking-terrorism nexus. Additionally, investigating and bringing perpetrators of trafficking in persons to justice is often not a priority for the authorities in counter-terrorism cases. As noted in CTED's 2021 Global Implementation Survey, there continues to be near-complete impunity for human trafficking and sexual violence crimes perpetrated in a terrorism context.[217] It is therefore essential to address gaps in investigations, prosecutions and sentencing, which must be rooted in a human rights-based and gender-sensitive approach, including full respect for equality and non-discrimination. This is critical to strengthening collective efforts to deter human trafficking by terrorist groups, address the impunity of perpetrators, and to facilitate victims' access to justice and support services.

In its resolution 2331 (2016), the Security Council calls on those Member States that have not yet done so to develop the capacity of their FIUs to analyze cases of trafficking in persons that finance terrorism. Serving as the national centre for the receipt and analysis of suspicious transaction reports and other information relevant to terrorism financing, FIUs can play a key role in the fight against

[214] See also, FATF, Comprehensive Update on Terrorism Financing Risks, July 2025, para. 274, available at https://www.fatf-gafi.org/content/dam/fatf-gafi/publications/Comprehensive-Update-on-Terrorist-Financing-Risks-2025.pdf.coredownload.inline.pdf

[215] See CTED's report on "Identifying and exploring the nexus between human trafficking, terrorism, and terrorism financing", 2019, available at https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2021/Jan/ht-terrorism-nexus-cted-report.pdf .

[216] Just Security, "When Human Trafficking and Terrorism Connect: Dangers and Dilemmas", (2019), available at https://www.justsecurity.org/62658/human-trafficking-terrorism-connect-dangers-dilemmas/.

[217] Global survey of the implementation of Security Council resolution 1373 (2001) and other relevant resolutions by Member States, para 798, available at: https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/2021105_1373_gis.pdf

human trafficking, by analyzing and detecting transactions that may be linked to human trafficking, as well as in disseminating guidelines and risk indicators.[218]

Human Rights Guidance:

States should take a human rights-based and gender-sensitive approach when addressing the nexus between terrorism, terrorism financing and trafficking in persons. This entails treating victims as rights-holders, and prosecuting perpetrators in line with international human rights standards, including the right to a fair trial. This should be undertaken within a broader action of ensuring that States incorporate human rights-based and gender-sensitive approaches in their national counter-terrorism strategy and policy.

Men, women and children suspected of terrorism or associated with a terrorist group or terrorist financing may also be victims of trafficking. Victims of human trafficking should be treated with compassion and dignity, and should not be detained, charged, or prosecuted for activities that are a direct consequence of having been trafficked.

Victims of trafficking are entitled to an effective and appropriate remedy, including compensation and rehabilitation, as well as legal and other assistance to access remedies.219

States should enhance the capacity of relevant practitioners to address trafficking in persons, including by ensuring that FIUs have sufficient expertise to detect and analyze suspicious transactions/financial flows associated with human trafficking that finances terrorism.

States that have not yet done so should consider becoming party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and take all necessary measures to prevent and combat trafficking in persons, and protect and assist the victims of such trafficking, with full respect for their human rights.

States should be guided by the Recommended Principles and Guidelines on Human Rights and Human Trafficking.[220]

[218] CTED Report on identifying and exploring the nexus between human trafficking, terrorism, and terrorism financing, para. 133, available at: https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/files/documents/2021/Jan/ht-terrorism-nexus-cted-report.pdf

[219] The Trafficking Protocol requires State parties to ensure that their domestic legal systems contain measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered (art. 6.6). See also Recommended Principles and Guidelines on Human Rights and Human Trafficking: https://www.ohchr.org/sites/default/files/Documents/Publications/Traffickingen.pdf

[220] OHCHR, "Recommended Principles and Guidelines on Human Rights and Human Trafficking", available at https://www.ohchr.org/Documents/Publications/Traffickingen.pdf.

J. THE ROLE AND RESPONSIBILITIES OF THE PRIVATE SECTOR, INCLUDING FINANCIAL INSTITUTIONS

Several provisions of Security Council resolution 2462 (2019) address the private sector, including with respect to effective implementation of reporting and disclosure requirements, the use of relevant financial information obtained from the private sector, information sharing, and the establishment of partnerships with the private sector, including financial institutions, the financial technology industry, and internet and social media companies.

Under the AML/CFT frameworks, entities, including financial institutions, designated non-financial businesses and professions, and virtual asset services providers that are subject to financial monitoring have obligations to perform certain checks, assess potential risks associated with certain transactions and report required information to the FIUs for further analysis and/or investigation.

Customer due diligence conducted by financial institutions has allowed greater scrutiny of the activities of civil society, which has sometimes resulted in unwarranted restrictions and controls on their activities.[221] As banks have started demanding more information about the activities of both donors and recipients of funding for NPOs in the name of due diligence, more of this information has found its way into the hands of security services.[222] The increased role of private actors in the implementation of counter-terrorism and other security legislation or regulation can seriously impact on fundamental rights and freedoms necessary for the existence of civil society for two main reasons. First, because the processes involved often lack judicial oversight and transparency, and remedies, where they exist, are difficult to access and onerous. Second, because such devolved powers, sometimes resulting from vague or ambiguous legislation and the threat of legal action, will almost inevitably lead companies to over-regulate and/or over-comply.[223] Ultimately, it is the States'–and not the private sector's–obligation to ensure human rights due diligence and protections.[224]

Correspondingly, the United Nations Guiding Principles on Business and Human Rights (UNGP) provides that the private sector should respect human rights and this responsibility to respect includes avoiding the infringement of the human rights of others and addressing adverse human rights impacts with which they are involved. The responsibility to respect human rights exists independently of States' abilities and/or willingness to fulfil their own human rights obligations and does not diminish those obligations. And it exists over and above compliance with national laws and

[221] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/40/52, para 51, https://docs.un.org/en/A/HRC/40/52 .
[222] Human Security Collective and European Centre for Not-For-Profit Law, " At the Intersection of Security and Regulation: Understanding the Drivers of 'De-Risking' and the Impact on Civil Society Organizations", (2018), p. 27, available at https://www.hscollective.org/assets/Uploads/Reports/8f051ee3cb/Understanding-the-Drivers-of-De-Risking-and-the-Impact-on-Civil-Society-Organizations_1.pdf.
[223] See Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/40/52, para 49, https://docs.un.org/en/A/HRC/40/52 .
[224] Position paper of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism*, June 2022, p. 33, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .

regulations protecting human rights. Addressing adverse human rights impacts requires taking adequate measures for their prevention, mitigation and, where appropriate, remediation.[225] The UNGPs represent the first global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity and continue to provide the internationally accepted framework for enhancing standards and practices regarding business and human rights. They set out the role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to be responsible for respecting human rights.[226]

The commentary to Principle 17 of the UNGP also addresses the issue of business enterprises complicity in criminal offences where it noted that most national jurisdictions prohibit complicity in the commission of a crime, and a number allow for criminal liability of business enterprises in such cases. It further added that international criminal law jurisprudence provides that the relevant standard for aiding and abetting is knowingly providing practical assistance or encouragement that has a substantial effect on the commission of a crime.

To comply with the reporting requirements, employees working in these private sector industries (for example financial actors) have access to data sources containing personal information about their customers and their transactional activity. This may result in the abuse of the right to privacy by the private sector and violations by the State of a customer's right to privacy protected under Article 17 of the ICCPR, where sensitive financial information on suspicious transactions or particular targets is disclosed in an arbitrary or unlawful manner. Human rights implications arise from the information requirements placed upon individuals and organisations including identity documentation for opening and using accounts, requirements to explain the reasons of financial transactions; generation of profiles and suspicious transaction reports based on the characteristics of the transactions; sharing of these reports and other financial data with FIUs, who then sometimes share data with law enforcement agencies; and bulk sharing and access to data by government authorities, without safeguards.[227] The expanding freedom to share information among agencies and with the private sector represents a substantial weakening of traditional data protections.[228] Therefore, States are not only under a duty themselves not to engage in interferences inconsistent with article 17 of the ICCPR but States are also required to provide the legislative framework prohibiting such acts by natural or legal persons, including the private sector.[229] Every individual should also be able to ascertain which public [authorities] or private individuals or bodies control or may control their files[230] (see section C above on the right to privacy and data protection).

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[225] UN Guiding Principles on Business and Human Rights, p. 13, available at https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf
[226] UN Guiding Principles on Business and Human Rights, p.1, available at https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.
[227] See Privacy International, How financial surveillance in the name of counter-terrorism fuels social exclusion, 2019, available at: https://privacyinternational.org/long-read/3257/how-financial-surveillance-name-counter-terrorism-fuels-social-exclusion .
[228] A/HRC/27/37, para 27, https://docs.un.org/A/HRC/27/37 .
[229] Human Rights Committee General Comment No 16, para 9, https://digitallibrary.un.org/record/778525?v=pdf , A/HRC/13/37, para 61, https://docs.un.org/A/HRC/13/37 ; and A/HRC/17/27, para 56, https://docs.un.org/A/HRC/17/27 .
[230] Human Rights Committee General Comment No 16, para 10, https://digitallibrary.un.org/record/778525?v=pdf .

The FATF guidance on private sector information-sharing states that individuals have a right to privacy and to the protection of their personal data.[231] In addition to being protected under international human rights law, FATF guidance notes that CFT, and data protection and privacy, are significant public interests. It is incumbent on national authorities responsible for CFT and data protection to provide clear and consistent guidance to the private sector to prevent misunderstandings on these issues. At the same time, the private sector should avoid causing or contributing to the violation of the customer's right to privacy, address such impacts when they occur, and seek to prevent or mitigate the adverse impact of their operations, products and services on the right to privacy.

The establishment of public-private partnerships presents opportunities for a more cooperative and proactive engagement between government agencies and private sector entities, (including digital payment service providers, crowdfunding sites and social media) to actively exchange information on terrorist financing typologies, share relevant financial information, and in some cases even launch joint projects or investigations bringing together the expertise of both sectors.[232] The right to privacy and data protection must be safeguarded in such public-private partnerships.

The Global NPO coalition has noted that financial regulators are becoming more forceful on CFT compliance by financial institutions and other sectors such as NPOs. Financial institutions face large fines and reputational damage if they are found to be in contravention of these regulations. Many NPOs, especially those that work in conflict zones, have been affected by these stringent requirements. Banks consider NPOs to be high risk for financial crime, and to bring a high cost for compliance, and low profit in general, resulting in the reduction of business relationships with many NPOs.[233] NPOs have raised concern that there is no risk-sharing between governments, donors, banks and NPOs – the risk is being borne entirely by NPOs. Due to a lack of guidance, financial institutions often end up following the "risk avoidance" (rather than risk mitigation) approach even with respect to large humanitarian organizations that are partially funded by Governments and are subject to thorough risk assessments. Many banks have implemented risk-averse protocols that go beyond the specific requirements of the FATF Recommendations in order to shield themselves from any possible risk of liability under counter-terrorism legislation. In some countries there is no legal recourse and NPOs have no way of alerting authorities about restrictive banking practices. Some NPOs have found that their ability to access financial services, including banking services, has been severely impaired, while others have seen their bank accounts closed.[234] The denial of access to financial services for civil

[231] FATF Guidance - Private Sector Information Sharing (November 2017), para.14; see also FATF, "Partnering in the Fight against Financial Crime: Data Protection, Technology, and Private Sector Information Sharing" (2022).
[232] CTED Analytical Brief on "Establishing effective public-private partnerships on countering the financing of terrorism", December 2023, available at https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/cted_analytical_brief_on_ppps_cft_2023.pdf ; RUSI, "The Role of Financial Information-Sharing Partnerships in the Disruption of Crime", (2017), available at: https://rusi.org/publication/occasional-papers/role-financial-information-sharing-partnerships-disruption-crime.
[233] Global NPO Coalition on FATF, "De-risking and Financial Access" available at https://fatfplatform.org/issues/over-regulation-2/ .
[234] Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/70/371, para 42, https://docs.un.org/A/70/371 .

society affects a range of human rights, including the right to freedom of association (see above section F on 'Non-profit organizations, CFT, and the protection of civic space').[235]

De-risking[236] can have a negative impact on NPOs, including by increasing the physical risk to staff, as larger amounts of cash are transported and used to enable ongoing operations. Others have resorted to performing financial transactions outside the formal banking sector, thereby reducing transparency. Some NPOs have had to scale down or close down, where financial services were refused or delayed. Where bank accounts are refused or closed, the reputation cost and costs of continued operations for the NPO is severe.[237] Additionally, for NPOs operating in conflict areas, the inability to access financial services or having their bank accounts closed results in delayed aid/humanitarian delivery.[238]

The FATF Stocktake analysis suggests that AML/CFT rules are not the main cause of de-risking, but can be a related factor, and AML/CFT improvements can be part of the solution, along with a proper implementation of the risk-based approach.[239] This is also reflected in the FATF's 2025 revision of Recommendation 16, which supports the G20 roadmap to make cross-border payments faster, cheaper, more transparent and more inclusive.[240] The FATF has emphasized that clear guidance from regulators and correct application of the risk-based approach are key elements of response, including clarifying regulatory expectations on due diligence on correspondent banking. This includes several dedicated guidance documents issued by the FATF, as well as multi-organisation efforts coordinated through the Financial Stability Board, regional initiatives led by FSRBs, and ongoing work by the International Monetary Fund (IMF) and World Bank.

To better support financial inclusion through increased focus on proportionality and simplified measures under the risk-based approach, the FATF updated its Standards in February 2025, introducing changes to Recommendation 1 and its Interpretive Note, with corresponding amendments to Interpretive Notes to Recommendations 10 and 15, as well as related Glossary definitions[241]. By incentivising jurisdictions to create a more enabling environment, the amendments aim to provide greater confidence and assurance to financial institutions when implementing simplified measures, with a view to giving more people access and use of financial services. The FATF

[235] For more detailed overview on the implications of de-risking on human rights, see United Nations Human Rights Special Procedures, *The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism*, June 2022, pp. 33-34, https://www.ohchr.org/sites/default/files/2022-06/2022-06-13-SRCT-HR-CFT-Position-Paper.pdf .
[236] The FATF defined de-risking as "the phenomenon of financial institutions terminating or restricting business relationships with clients or categories of clients to avoid, rather than manage, risk in line with the FATF's risk-based approach." (FATF clarifies risk-based approach: case-by-case, not wholesale de-risking (fatf-gafi.org), October 2014).
[237] See Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism A/HRC/40/52, para 62, https://docs.un.org/A/HRC/40/52 .
[238] A/70/371, para 42, https://docs.un.org/A/70/371 .
[239] FATF High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards (October 2021): https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Unintended-consequences-project.html .
[240] See https://www.fatf-gafi.org/en/publications/Fatfrecommendations/update-Recommendation-16-payment-transparency-june-2025.html
[241] The changes were informed by a public consultation which gathered more than 140 responses, including from non-profit organisations, banks, payment providers, insurers, academics, accountants, lawyers and other international organisations.

further published revisions to its assessment methodology to bring it in line with the changes to Recommendation 1 and reflect a stronger focus on the application of the risk-based approach.[242]

FATF's new Guidance on Financial Inclusion and Anti-Money Laundering and Terrorist Financing Measures[243] follows the strengthening of Recommendation 1 and highlights that financial inclusion and the fight against financial crime are mutually supportive. It focuses on facilitating access to and use of formal services by unserved and underserved persons — including individuals in low-income and rural groups, those in fragile contexts who may lack easy means to verify their identities, and those who are underserved by existing financial products and services. The updated Guidance also includes examples of how policy-makers, supervisors, the private sector, industry associations and others have implemented the risk-based approach.

Outreach and education are key to ensure the proper implementation of a risk-based approach to support financial inclusion. In that respect, the FATF launched an e-learning course in November 2023, that provides an in-depth insight into the FATF standards on financial inclusion. Through practical exercises, quizzes and scenarios, users can learn more about the meaning of financial inclusion, the relevant FATF measures and how these can be implemented in practice.[244]

Human Rights Guidance:

States should provide regulatory clarity and concrete guidance to the private sector, including financial institutions, on how to approach CFT compliance. They should promote the implementation of a risk-based approach that is human rights compliant (including equality and non-discrimination) and gender-sensitive, evidence-based and take the necessary steps to reverse the harmful effects of de-risking and clarify the due diligence expectations for financial institutions. "Such measures should promote accountability and engender greater confidence among NPOs, across the donor community, the financial institutions and with the general public [...]".[245]

States should supervise financial and other relevant financial institutions (including through onsite inspections) to make sure that procedures used to monitor and analyze transactions, and the implementation of targeted financial sanctions, are conducted with respect for human rights and the principles of non-discrimination. Monitoring tools should encompass human rights and gender sensitive approaches. Failure to comply should result in remedial action and penalties, as appropriate.

Implementation of CFT measures by financial institutions, Designated Non-Financial Businesses and Professions (DNFBPs) and Virtual Asset Service Providers (VASPs) and other reporting entities should be aimed at managing and mitigating, not avoiding, risks. States should take effective action

[242] https://www.fatf-gafi.org/en/publications/Mutualevaluations/Fatf-methodology.html (July 2025).
[243] https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Guidance-Financial-Inclusion%20-Anti-Money-Laundering-Terrorist-Financing-Measures.pdf.coredownload.pdf (June 2025).
[244] This course is available to officials of FATF member countries, FSRB member countries and Secretariats and FATF Observer Organizations on the FATF website and requires approximately 4 hours to complete (https://www.fatf-gafi.org/en/pages/FATF-academy.html#accordion-7508aabf60-item-93be26796d).
[245] FATF Interpretive Note to Recommendation 8, para. 5(c).

against those reporting entities which unduly limit access to financial services, including through delays in transfers of funds, refusal to open bank accounts, and the imposition of onerous information requests.

States should consider setting up a mechanism for NPOs to alert authorities about restrictive banking practices which affect access to financial services. States must take appropriate measures to investigate, punish and redress abuses committed by financial institutions.

In implementing a risk-based approach, States, financial institutions and other reporting entities should start from the premise that not all NPOs are high-risk, and the majority may represent low risk.[246]

States should design mechanisms for establishing shared approach, understanding, and responsibility for mitigating risk between government, financial sector, and non-profit actors.

States should convene multi-stakeholder dialogues/partnership between regulatory authorities, financial institutions, and a diverse range of civil society organizations, including women's rights organizations, to identify risk factors and develop a mutual understanding of a risk-based approach while taking into account gender and human rights considerations.

The private sector, including financial institutions, the financial technology industry, crowd-funding platforms, internet and social media companies, should have in place policy commitments to meet their responsibility to respect human rights; a human rights due diligence process to identify, prevent, mitigate and account for how their activities impact on human rights; and processes to remedy any adverse human rights impacts they may cause.[247]

Financial institutions should increase the transparency and accessibility of CFT compliance policies to promote dialogue on effective risk mitigation instead of risk avoidance.

Under the UN Guiding Principles on Business and Human Rights, financial institutions, as business enterprises, should respect human rights. This means that when they impose measures to counter financing of terrorism, financial institutions should avoid infringing on the human rights of others and should address adverse human rights impacts by taking adequate measures for their prevention, mitigation and, where appropriate, remediation.

States should establish independent authorities with powers to monitor the data privacy practices of State and private sector, including financial institutions investigate abuses, receive complaints from individuals and organizations, and issue fines and other effective penalties for the unlawful processing of personal data by private and public bodies.[248]

States must ensure that effective remedies are available for violations of human rights.

[246] FATF, "Best Practices: Combatting the Terrorist Financing Abuse of Non-Profit Organisations (Recommendation 8)", (November 2023), para. 123 and p. 13, available at https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/BPP-Combating-TF-Abuse-NPO-R8.pdf.coredownload.inline.pdf.
[247] UN Guiding Principles on Business and Human Rights #15, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf .
[248] A/HRC/39/29, para. 61(d), https://docs.un.org/A/HRC/39/29 .