

What can CSOs do in case of combating financing of terrorism and anti-money laundering overregulation?



European Center for
Not-for-Profit Law

Background

The 2019 report [Report of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism](#) found that since 2001 140 governments have adopted counter-terrorism measures.

Impact to CSOs includes:

- National legal provisions that restrict rights key to civil society: freedom of expression and opinion, freedom of association, freedom of assembly, and participation right.
- Limiting civil society access to financial services, refusal to open or arbitrary closure of bank accounts, inordinate delays or termination of transactions, and onerous administrative requirements.
- Accusing civil society they are “threats to national security” or “enemies of the State.”

How can CSOs push back when they face abuse or overregulation caused by anti-money laundering (AML), combating financing of terrorism (CFT) and counter-terrorism (CT) standards?

1. Raising the issues with the UN Special Rapporteur on Human Rights and Counter-terrorism

CSOs directly affected can provide information, material and description of the situation to the [UN Special Rapporteur](#). The *Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* is an independent expert appointed by the UN Human Rights Council. The Special Rapporteur can request inquiry from the government and address it also to the other AML/CT/CFT - related bodies (such as [the Financial Action Task Force \(FATF\)](#)). CSOs can submit their case directly to the UN Special Rapporteurs via [this platform](#).

The case of Serbia

Serbian CSOs [submitted a complaint to the UN Special Rapporteurs](#). They expressed concern that Serbian authorities are using oversight powers designed to target the financing of terrorism to investigate financial transactions of more than 50 watchdog and human rights CSOs, media and activists. UN Special Rapporteurs requested government and the FATF responses. The FATF [reiterated](#) that It is in direct contradiction to the FATF standards and categorically unacceptable if its measures are exploited and used to oppress human rights under the pretext of counter-terrorism. Should this be identified in the course of a mutual evaluation, a country would be assessed negatively for not implementing the risk-based approach outlined in the FATF's Standards. **This is a very clear message to all governments not to overregulate, over-investigate or restrict legitimate CSO activities in the name of AML/ CT/CFT.**

2. Raising the issue with the FATF and its regional body

The FATF welcomes input from CSOs in order to assist its teams that undertake the task of the Mutual Evaluations. CSOs can provide their concerns about overregulation, restrictions and information related to the implementation of FATF standards and measures [directly to the FATF](#).

CSOs input can include:

- Concerns about overregulation, non-effective measures that disrupt legitimate activities
- Lack of knowledge or awareness about terrorist financing risks among CSOs
- Lack of outreach or engagement by the governments towards CSOs on this issue
- Suggestions to help the evaluation team identify which CSOs to contact for more input during their country visit.

What is FATF?

The [Financial Action Task Force \(FATF\)](#) is the global money laundering and terrorist financing watchdog. The inter-governmental body sets international standards that aim to prevent these illegal activities and the harm they cause to society. The FATF has developed the FATF Recommendations, or FATF Standards, and one of those address non profit sector (CSOs). FATF also periodically evaluates how countries implement those standards.

What are FATF Mutual Evaluations?

[Mutual Evaluations](#) are peer reviews of each member on an ongoing basis to assess levels of implementation of the FATF Recommendations, providing an in-depth description and analysis of each country's system for preventing criminal abuse of the financial system.

3. CSOs can raise concerns with their regional human rights mechanisms

As an example, CSOs from countries that are [member states of the Council of Europe](#) can raise issues of overregulation or negative impacts of AML/CFT measures with the [Conference of INGOs](#) and [Human Rights Commissioner. Moneyval](#), which is both FATF-style regional body and Council of Europe institution, needs to apply European Human Rights Convention standards when implementing FATF AML/CFT requirements, therefore, CSOs can base their interventions on rights protected by the Convention.

What is the Conference of INGOs?

The [Conference of INGOs](#) is the main body of representation of INGOs to the Council of Europe. Since 2003, the CINGO enjoys participatory status within the Council of Europe. It is now a recognized institution. It plays a role in affirming the political role of CSOs. The CINGO decides on policy lines and defines and adopts action programmes. The CINGOs meets in Strasbourg twice a year normally during the ordinary sessions of the Parliamentary Assembly of the Council of Europe.