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# MAPPING ON TERRORISM FINANCING RISK IN NONPROFIT ORGANIZATIONS IN MEMBER COUNTRIES OF THE FINANCIAL ACTION TASK FORCE OF LATIN AMERICA:

A NONPROFIT ORGANIZATION SECTOR  
REGIONAL REPORT - EXCERPT

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## FOREWORD

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The report you have in your hands is not an academic publication on the implementation of Recommendation 8 of the Financial Action Task Force (FATF). It is the result of numerous dialogues held over the years with representatives of civil society, FATF standards specialists, regulatory agency authorities, and financial institution representatives. It is also the result of research conducted by FATF experts and experts from the Global Non-profit Organization (NPO) Coalition on FATF on the impact of the preventive framework against terrorist financing on the daily practice of organizations that exercise their freedom of association and contribute to the common good.

In almost all countries in the region, the not-for-profit sector has been kept out of discussions on regulations and procedures to protect it from potential abuses by terrorist organizations. This has led to numerous tensions arising from onerous regulatory requirements, discriminatory banking practices, and a marked lack of sensitivity towards a sector that operates with an approach that is different than the for-profit sector.

So far, the debate on the problem of misuse of NPOs for terrorist financing in Latin America has been characterized by assertions based on generalizations rather than on data. Stakeholders have not been able to sit around the table to identify evidence of risk or discuss deficiencies in policies or procedures. The lack of a shared basic understanding of the proper implementation of Recommendation 8 is a major challenge.

### HOW DO WE INTEND TO COLLABORATE THROUGH THIS REPORT?

We understand the importance of anti-terrorism financing controls to protect the non-profit sector. However, we have seen that in some countries, new laws, regulations, and banking procedures were introduced to implement Recommendation 8 that are not in line with FATF standards, mainly the Risk Based Approach, nor do they take into account the good practices that organizations use to manage the funds they receive and disburse on charitable causes.

We present here the regional perspective, reflected in the responses of 729 surveyed organizations located in 17 Latin American countries. It is our interest that organizations operate under reasonable standards that work in practice without hindering the fulfillment of their missions. This will only be possible if all stakeholders contribute their knowledge and expertise to identify, assess, and mitigate terrorist financing risks related to the non-profit sector. We therefore consider this to

be a collective mission and are extremely enthusiastic about the sustained and fruitful support of both the FATF and its regional body, GAFILAT, in this endeavor.

Through the collection of a large volume of surveys, this team has observed that the challenge of complying with the revised Recommendation 8 by countries is still pending. This is especially the case because we still need to move away from a focus on technical compliance and enter an era of commitment to results.

We found that there has been good progress by civil society organizations and networks in implementing good governance and transparency measures. We have been pleased to note that non-profit entities are open to deepening their knowledge in the field of Recommendation 8 and to engaging in a constructive relationship with their country's authorities and representatives of financial institutions. This is evidence of the sector's commitment to ensuring that NPOs continue to thrive for the benefit of their communities.

Finally, this report was written by four professionals—the undersigned—who, located in different countries and with diverse backgrounds, share a common view on the importance of empowering the voice of civil society to fight more effectively for the protection of entities against the possibility of their misuse for terrorism financing purposes. The perspectives of each of us have converged—throughout the four sections that make up this report—in reaffirming the importance of increased cooperation, evidence sharing, and dialogue among stakeholders.

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*The authors gratefully acknowledge the support of WINGS in translating this excerpt from the original Spanish.*

## EXECUTIVE SUMMARY

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### Introduction

Global standards for the regulation of non-profit organizations (NPOs) in the fight against terrorism financing (TF) are relatively favorable for the sector. The Financial Action Task Force (FATF)<sup>1</sup> sets the standards that countries must implement and evaluates their compliance through regular mutual evaluations. In summary, and as explained in the following sections of this report, FATF Recommendation 8<sup>2</sup> on NPOs requires countries to implement TF regulatory and oversight regimes focused on a subsector of NPOs that, by virtue of their activities or characteristics, have been identified as presenting a high risk of being misused to finance terrorist activities. Countries should ensure that regulation of the sector is proportionate, without disrupting or discouraging the legitimate charitable work of NPOs, and always in line with their obligations under international human rights treaties. The implementation of a risk-based approach, moreover, should be periodically updated based on new assessments of the adequacy of the legal framework, and the results of these assessments should be disseminated to, and informed by, NPOs through sustained outreach.

It is particularly important to bear in mind that Recommendation 8 does not apply to the entire NPO sector, but only to those that pose the greatest risk of misuse for terrorism financing. The FATF notes that “[n]ot all NPOs are high risk and some may represent little or no risk at all. It may be possible that existing measures are sufficient to address the current TF risk to the NPO sector identified in a country...”<sup>3</sup>

The 40 FATF Recommendations are observed by more than 200 jurisdictions around the world.<sup>4</sup> The current Recommendation 8 is largely the fruit of a process of dialogue between the FATF and an informal alliance of organizations, the Global NPO Coalition

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<sup>1</sup> The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognized as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard. For more information visit the website: <https://www.fatf-gafi.org/about/>.

<sup>2</sup> Financial Action Task Force (FATF) International standards on the fight against money laundering and terrorist financing and the financing of the proliferation of weapons of mass destruction. Updated as of December 2019. PARIS. (GAFILAT, trans.). Page 10.

<sup>3</sup> FATF, Best Practices Paper on Combating the Abuse of Non-Profit Organizations (unofficial translation). Page 7, section II.7.b. <https://www.gafilat.org/index.php/es/biblioteca-virtual/gafilat/documentos-de-interes-17/informacion-ala-cft-relevante-sobre-las-osfl/3868-mejores-practicas-del-gafi-sobre-la-lucha-contra-el-abuso-de-las-osfl/file>.

<sup>4</sup> <https://www.fatf-gafi.org/countries/>.

on FATF (the Global Coalition),<sup>5</sup> who successfully advocated to reform the standard that previously characterized NPOs as “particularly vulnerable” to abuse for TF.

The collaboration between the FATF and the Global Coalition was consolidated through the analysis of evidence of disproportionately burdensome regulations for the sector and a low volume of cases of NPOs abused for TF. Nevertheless, Recommendation 8, as amended in 2016, remains little known to stakeholders in many regions of the world.

In Latin America, members of the Global Coalition have collaborated on a sustained basis for several years to promote the proper implementation of Recommendation 8 through training programs; pilot risk assessments with the participation of NPOs; creation of a community of experts; and facilitated dialogues between representatives of NPOs, regulatory agencies, financial institutions, and universities.

Since 2018, members of the Global Coalition have found in the FATF-style regional body for Latin America, GAFILAT,<sup>6</sup> a generously open partner interested in collaborating with this effort. GAFILAT and the Global Coalition have engaged in a constructive and close dialogue, which made it possible to bring together authorities from Financial Intelligence Units and other TF specialists from member countries on Recommendation 8 through sub-regional workshops. In addition, GAFILAT’s leadership has provided a formal space during its plenary meetings in Panama City, Asuncion, and Arequipa for the Global Coalition to present regional trends in the implementation of Recommendation 8. These exchanges have had three main pillars:

- Improving the level of awareness of the revised Recommendation 8 among member countries;
- Demonstrating that the over-regulation of NPOs through “one-size-fits-all” regulations, in addition to not meeting the standard, has had a widespread negative impact on the public benefit work that NPOs carry out; and
- Presenting NPOs well informed in FATF standards as partners ready and willing to collaborate for a correct implementation of Recommendation 8.

**This regional project seeks to deepen ongoing collaboration, replicating the good example of the constructive relationship between the Global Coalition and the FATF.**

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<sup>5</sup> For more information on the Global NPO Coalition on FATF visit the website at: <https://fatfplatform.org/>.

<sup>6</sup> The Financial Action Task Force of Latin America (GAFILAT) is a regionally based intergovernmental organization that brings together 17 countries in South, Central and North America: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, and Uruguay. For more information on GAFILAT visit the website: <https://www.gafilat.org/index.php/es/>.

With this in mind, the aim is to contribute the NPO perspective to the regional TF risk mapping exercise that is being developed by GAFILAT among the governments of the region. The final objective is to identify evidence, perceptions of TF risk in the NPO sectors, as well as good practices in the implementation of Recommendation 8 that could be replicated and poor practices that could be rectified. The ultimate aim at the end of this process is to foster evidence-based dialogues among stakeholders in GAFILAT member countries on TF-related legal frameworks and procedures affecting NPOs. It is expected that these dialogues will contribute to a better implementation of Recommendation 8 and to a more effective fight against the abuse of NPOs for terrorism financing purposes.

## Regional Mapping Methodology

The methodology has been designed to address two fundamental needs: first, the low level of knowledge about Recommendation 8 in the region; and second, the lack of data on its implementation. Technical teams from the Global Coalition and the GAFILAT Executive Secretariat collaboratively prepared a survey aimed for public officials from the 17 member countries, which was disseminated and analyzed by the regional entity. In addition to the survey, members of the Global Coalition published a Guide with information on the FATF standards underlying the survey questions and an introductory video<sup>7</sup> for officials. To overcome the lack of Spanish-language reference materials accessible to country officials and other stakeholders, the Global Coalition published translations of key FATF publications on Recommendation 8. These translations are available on the websites of GAFILAT and the International Center for Not-for-Profit Law (ICNL).<sup>8</sup>

The Global Coalition technical group then finalized a parallel or “mirror” survey to be completed by representatives of the NPO sector. In order to promote completion of the survey by a broad range of NPOs, civil society leaders in each participating country were selected and trained to (a) conduct a workshop on Recommendation 8; (b) present the survey; (c) encourage representatives of diverse NPOs to complete it; and (d) write short reports analyzing key results of the survey from their respective countries in the national context (see Annex C). Extracts from these valuable country reports have been incorporated into this mapping to illustrate the findings and their impact at a practical level in a national context.

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<sup>7</sup> ICNL. (2020). Mapping Exercise Support Video. Available at: <https://www.youtube.com/watch?v=7YDIB7ITc2Q&feature=youtu.be>.

<sup>8</sup> AML/CFT reference material on NPOs. Available at:

<https://www.gafilat.org/index.php/es/noticias/107-material-de-consulta-ala-cft-sobre-las-osfl>; and at <https://www.icnl.org/post/news/materiales-de-referencia-proyecto-regional-de-mapeo-de-riesgo-osfl>.

As a result of these efforts, the survey was completed by 729 representatives of the sector in 17 countries.<sup>9</sup> The diversity of participating NPOs is presented in Annex B, reflected in terms of their country, size of annual budget, classification according to FATF categories of service activities or expressive activities, identification as a network or membership in networks, funding sources, and more.

This report is organized in four parts, each dedicated to answering key questions based on Recommendation 8:

- PART 1: Do countries apply targeted and proportionate measures in light of a risk-based approach to protect the non-profit sector from TF?
- PART 2: Do NPOs perceive TF risks? Do they have mitigation measures in place to protect themselves?
- PART 3: Have NPOs had the opportunity to contribute to the sustained work of assessing risk?
- PART 4: Do the measures adopted by countries interrupt or discourage the legitimate charitable activities of NPOs or limit the exercise of freedom of association?

## Main Findings and Recommendations

The following is a summary of the main findings of the survey, as well as recommendations to facilitate the proper implementation of Recommendation 8.

### PART 1

WHAT IS THE PERCEPTION OF NPOS ON THE USE OF THE RISK-BASED APPROACH?

- Evidence gathered from 729 surveys across 17 countries in Latin America has shown that most respondents consider that their countries have used one-size-fits-all approaches rather than approaches adjusted to risks identified in the non-profit sector. This is reflected in the fact that only 15% of the respondents consider that the country has taken measures according to identified risks.
- It is essential to urge stakeholders to move away from the logic of “Compliance = Completion,” i.e., that only superficial efforts to satisfy requirements are needed to make progress on effective implementation of Recommendation 8.

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<sup>9</sup> The survey was conducted by the same GAFILAT member countries with two exceptions:

El Salvador (a member of the Caribbean FATF-style regional body) was added because of the usefulness of covering similar Central American countries, and Cuba was not included because of difficulties in identifying and engaging sufficiently diverse non-profit organizations.

To this end, governments, NPOs, and financial institutions are encouraged to adopt two mutually reinforcing FATF-recommended courses of action:

- Given that the risk-based approach is built on evidence, there is a need to strengthen the levels of knowledge and research capacity to study threats and vulnerabilities in the non-profit sector.
- The expertise of NPOs on their own environment can help countries effectively prevent or disrupt high-risk activities. Therefore, mechanisms that facilitate continuous back and forth dialogue between governments, NPOs, and financial institutions are essential to ensure collaborative work at the national level.

## PART 2

DO NPOS PERCEIVE TF RISKS? DO THEY HAVE MITIGATION MEASURES IN PLACE TO PROTECT THEMSELVES?

- Combating the financing of terrorism is the highest priority for the FATF and a key part of the FATF's objectives to strengthen the integrity of the financial sector. However, it has been found that the surveyed NPOs have limited knowledge on the subject: The number of respondents who consider themselves well or very well informed about the risk of TF in their country is only 15%—a finding that is consistent with the vast majority of surveyed NPOs reporting no knowledge from official or media sources about terrorism financing cases and/or judicial investigations involving NPOs in the past five years. Likewise, with respect to the perception of TF risk, eight out of ten respondents stated that their organization has no risk or low risk of being misused for TF purposes.

Analysis of qualitative information provided by the organizations revealed a high level of confusion regarding the subject matter. The news items mentioned by the respondents referred to press articles on money laundering and/or corruption investigations involving churches and/or foundations linked to the fields of politics or soccer. There were a few select—but highly worrying—cases identified by organizations in which they indicated that authorities had criminalized NPOs exercising their right to protest by forcing application of criminal charges of TF.

It is recommended that the topic be integrated into institutional strengthening programs, both public and within the sector, with the aim of disseminating, promoting, and training on best practices to counteract TF risks that could affect the NPO sector.



- One very encouraging set of information has been collected in relation to the mitigation measures already implemented by NPOs based on their own internal requirements. The most frequently reported practices, with more than 60% of surveyed NPOs indicating that they either always or selectively implement them based on risk, are: implementing best practice financial management systems or procedures; adhering to third-party standards such as codes of conduct; and implementing donor due diligence and governance procedures.

Reviewing the practices that NPOs already apply to advance transparency and accountability is recommended, along with establishing agreements between regulatory agencies and NPO networks and umbrella organizations to disseminate and deepen these sector practices.

### PART 3

#### ARE NPOS EFFECTIVELY CONTRIBUTING TO THE SUSTAINED WORK OF ASSESSING RISK?

- Evidence shows that NPOs do not have sufficient information on the existence of a particular segment within the sector at higher risk of being abused for TF, or whether activities involving TF vulnerabilities have been identified. At the same time, evidence shows that NPOs have relevant information on measures taken by the sector to mitigate risks of abuse for TF—for example, due diligence practices and participation in self-regulatory systems—that has not been shared with their national authorities. In the absence of a common understanding between the authorities and the NPO sector on these issues, it will be difficult to achieve effectiveness in the measures adopted by countries to prevent abuse for TF.
- In order to improve outreach to the sector and promote effective information exchanges, it is recommended that the authorities increase their efforts to identify and coordinate with NPO networks in their respective countries in order to encourage NPO participation in:
  - National Risk Assessments and sector-specific Risk Assessments that must be conducted by countries to establish an evidentiary basis of risk, in order to incorporate their inputs into identifying activities involving TF vulnerabilities;
  - Mutual Evaluations carried out periodically by teams of experts in each country according to the schedule published by the FATF, so that they can exchange information with the evaluators during on-site visit to the country; and

- Designing educational campaigns on Recommendation 8 and TF risks identified by the country, accompanied by presentation of good practices and risk prevention models in the sector at the country and regional levels.
- Although some countries in the region have carried out certain awareness-raising activities, the impact of these activities is not reflected in the level of knowledge of the NPO sector. More than half of the respondents were unaware of whether such activities have been carried out in their countries. The lack of outreach by the authorities to NPOs representing the sector is evident in the fact that an important number of networks of organizations indicated that they lacked information in this regard. If outreach actions are not effective, if inclusion and diversity in participation are not promoted, then it will not be possible to achieve the necessary collaboration between the NPO sector and authorities for TF prevention.

Given the importance of promoting spaces for dialogue between NPOs, authorities, regulators, and even representatives of banking entities for an efficient fight against TF, familiarization with good practices and lessons learned from other countries is recommended to contribute to improving outreach strategies to the sector. The experiences of countries in this region, such as Argentina, Honduras, the Dominican Republic, and Peru, and beyond, such as the United Kingdom, the Netherlands, Switzerland, Tunisia, Kosovo—some highlighted in recent FATF publications as positive models—can provide lessons on organizing round tables for stakeholders to contribute to productive debate on these issues.

#### **PART 4**

##### **DO NPOS ENDURE LIMITATIONS ON THEIR LEGITIMATE CHARITABLE ACTIVITIES OR ON THEIR EXERCISE OF FREEDOM OF ASSOCIATION?**

- Surveyed NPOs report that they are subject to frequent and redundant oversight requirements from multiple government bodies, and that they devote significant resources to complying with these regulations. The vast majority of NPOs are not aware of efforts to simplify or harmonize measures on the part of the various public entities that regulate the sector. Regulatory systems that are neither targeted nor proportionate disrupt and discourage the work of NPOs. Moreover, by forcing allocation of disproportionate public resources to the regulation of the entire sector, including NPOs that pose little or no risk of being misused for TF, these systems lack the effectiveness required by the FATF.

In line with FATF standards and the right to freedom of association under international human rights treaties, it is recommended that countries collaborate with NPOs through participatory and coordinated efforts to reform their sector oversight systems. These systems should always be based on evidence of risk.

- The survey responses, provided by diverse NPOs from each of the 17 countries (see Annex B), also demonstrate the extremely high perception of NPO exclusion in the design of public policies and procedures related to TF. This exclusion is not only incompatible with FATF standards; it also limits the exercise of freedom of association, including the right to participate in the creation of the legal framework that governs the sector.

Good practices exist at the regional and global levels to facilitate effective participation of NPOs in discussions on the adequacy of laws regulating the sector, evidence of risk and mitigation, and more. The Global Coalition offers to collaborate with GAFILAT and other stakeholders in socializing and adapting these best practices in the region.

- Approximately half of the NPOs surveyed are aware of cases of financial exclusion of NPOs— denial of financial services or excessive and onerous delays in banking procedures—and half of them consider that the situation has worsened in the context of the COVID-19 pandemic. In several countries, the problem of lack of access to financial institutions is serious and NPOs do not perceive that countries are promoting solutions.

Especially at this time of health, humanitarian, and economic crises due to the pandemic, the problem of financial exclusion of NPOs serving these urgent needs deserves priority attention. Dialogues based on successful models of collaboration between NPOs, regulators, banks and other entities are needed to help develop solutions to the problem.

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