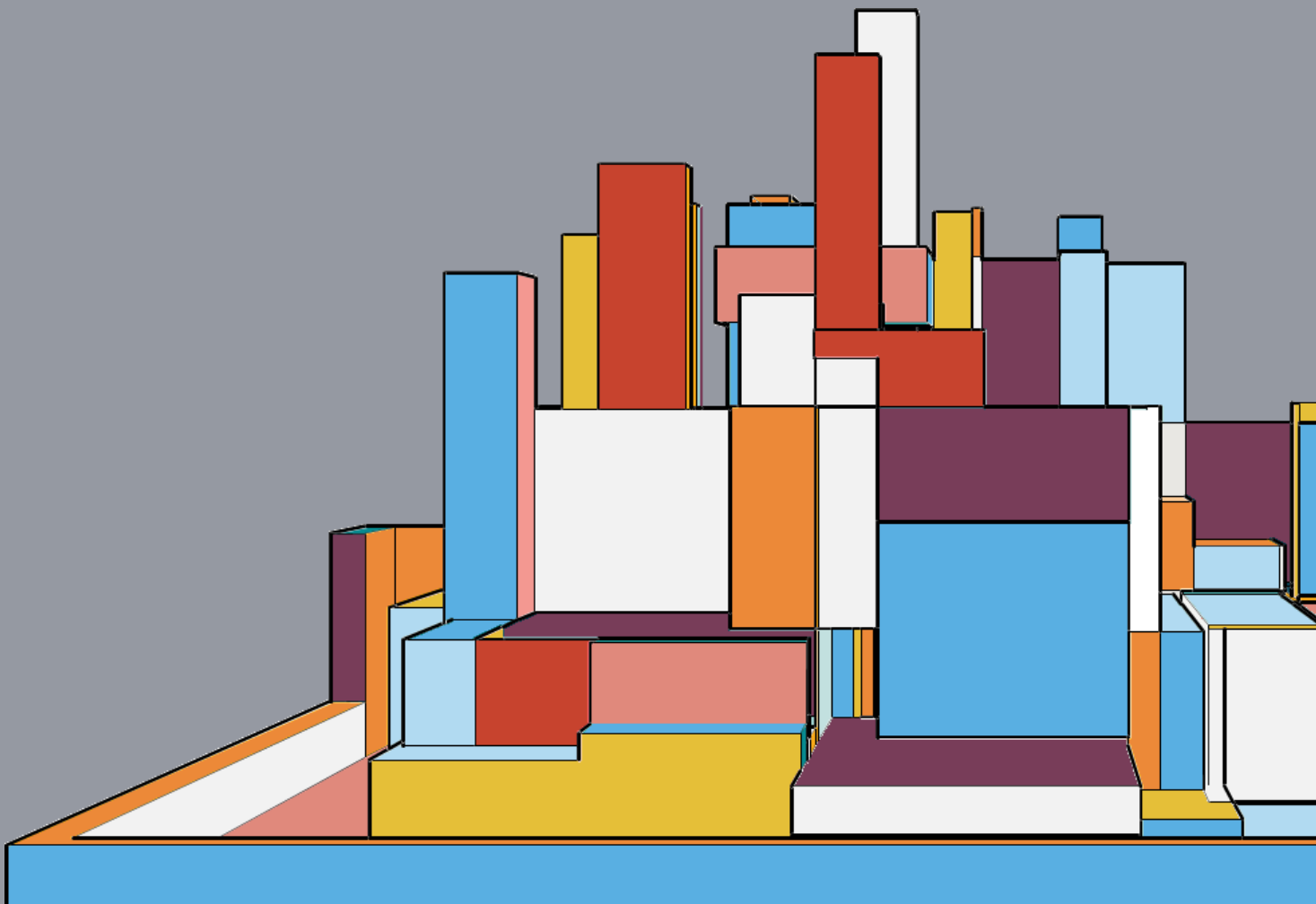


# AML/CFT Regulations and Implications on CSOs in the Western Balkans and Türkiye

Balkan Civil Society Development Network  
September 2023





# Policy Paper: AML/CFT Regulations and Implications on CSOs in the Western Balkans and Türkiye

Anja Bosilkova-Antovska  
September 2023

*In collaboration with European Center for Not-For-Profit Law Stichting*



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# Introduction

The dynamic landscape of global finance and security has led to the establishment of rigorous frameworks aimed at combatting money laundering and countering the financing of terrorism (AML/CFT). These efforts, spearheaded by international organizations like the Financial Action Task Force (FATF), are critical to maintaining the integrity of financial systems and safeguarding against threats to international security. While the primary focus of AML/CFT measures has been on financial institutions, the ramifications of these regulations extend beyond banks and companies to encompass civil society organizations (CSOs) – a diverse array of entities which plays a pivotal role in shaping societal progress, democratization, and the protection of human rights. However, the intricate interplay between AML/CFT regulations and CSOs presents complex challenges and implications that require careful examination.

CSOs, ranging from humanitarian associations to advocacy groups, occupy a critical space within the societies of the Western Balkans and Türkiye (WBT). Their ability to foster change, amplify marginalized voices, and address systemic challenges is indispensable. Yet, the introduction of stringent AML/CFT regulations has brought CSOs under heightened scrutiny, challenging their operational freedom and effectiveness. It is important to understand how the international standards, the national legislation related to AML/CFT and the terrorist financing risk assessments impacts the CSOs' legitimate activities.

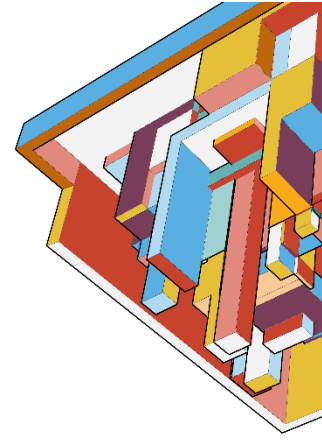
As these regulations are entwined with international efforts to combat financial crimes and terrorist financing, they inadvertently shape the CSO landscape in profound ways. While the intent is to curtail illicit financial activities, the implications for CSOs can range from increased administrative burdens to financial exclusion and reputational damage. Striking a balance between enhancing financial integrity (which often involves imposing stricter regulations and oversight) and upholding the autonomy of CSOs becomes a complex endeavor. Moreover, the lack of uniformity in the interpretation and application of AML/CFT regulations across the region has given rise to a landscape of varying practices, creating challenges for CSOs. The vague understanding of CSOs' functions and sources of funding among financial institutions and regulatory

bodies, underscores the need for a comprehensive analysis of the impact of the AML/CFT regulations on the sector.

This policy paper aims to provide a comprehensive analysis of the AML/CFT regulations' implications on civil society in the Western Balkans and Türkiye. By delving into the challenges faced by CSOs, the varying interpretations of international standards, and the potential pathways towards a balanced framework, this brief seeks to shed light on a critical juncture where security imperatives intersect with the preservation of a vibrant and thriving civil society sector. Through this exploration, we aim to promote informed dialogue among stakeholders, facilitating a deeper understanding of the multifaceted dynamics at play. In doing so, we hope to foster collaboration between CSOs, regulatory authorities, and financial institutions, envisioning a future where AML/CFT measures enable instead of hampering the contributions of civil society organizations in shaping the Western Balkans and Türkiye.

*This paper is a follow-up to the conversations that took place on the Regional workshop “Multi-stakeholder Dialogue and Cooperation Key for Effective Policies and Regulations that Protect Civic Space” on 28 April 2023 in Skopje, and builds upon the research done under the Monitoring Matrix for Enabling Environment for Civil Society Development, implemented by BCSDN member organizations: Partners Albania for Change and Development (Albania), Center for Civil Society Promotion (Bosnia and Herzegovina), Kosovar Civil Society Foundation (Kosovo), Macedonian Center for International Cooperation (North Macedonia), Centre for Development of NGOs (Montenegro), Civic Initiatives (Serbia), and TUSEV (Türkiye), as well as the support of Association Konekt (North Macedonia). The research undertaken with the Monitoring Matrix aims to provide evidence on the CSO enabling environment and to influence governments', EU, and donor's support towards more sustainable and strategic development of the sector.*

*This policy paper was supported by the Oak Foundation.*



# Background: CSO Landscape in the WBT

For a long time, the non-profit sector has been seen as mystique and inherently risky from the viewpoint of government institutions. Pressured by the commitment to comply with FATF standards, many governments have introduced regulations and measures that are inappropriate, burdensome, and ineffective, mainly due to the lack of understanding of the sector's principles and modus operandi. Yet, despite the lack of understanding, there are no systematic efforts by institutions in the Western Balkans and Türkiye to ensure a clearer overview of the CSO landscape, starting with the profound lack of basic data and statistics on CSOs in most of the countries.

In the region, it is a major challenge to obtain basic data and statistics on the CSO sector. Organizational, financial, human resources and employment data, among others, are not collected at all or are collected through a range of different institutions under a non-unified, non-systematic methodology, and thus are not always reliable.

While electronic registers enable easier registration of CSOs online and provide a clearer understanding of the size and economic value of the sector, none of the countries have a functional e-register, except in Kosovo, where all registered CSOs are presented in a single digital database. In Albania, the e-register is expected to be functional by the end of 2023, while in Bosnia and Herzegovina, the E-Register was developed four years ago but is not updated and well maintained, thus no longer serves as the only reliable source of CSO data in BiH at the state-level. Throughout the region, the number of unregistered initiatives is gradually increasing, as civic engagement on issues related to environment, local or urban challenges become more present within the civil society sector.

Table 1 Number of registered CSOs per country and per 10.000 inhabitants

Country	Number of CSOs registered by 2023	Population in millions	CSOs per 10.000 inhabitants
<b>Albania</b>	12.515	2.88	43
<b>Bosnia &amp; Herzegovina</b>	27.432	3.5	78
<b>Kosovo</b>	12.117	1.94	62
<b>Montenegro</b>	6.395 (2021)	0.62	103
<b>North Macedonia</b>	14.734	2.08	70
<b>Serbia</b>	36.491	6.66	54
<b>Türkiye</b>	121,987 (2021)	85.8	14

There is a lack of systematic data collection and publishing especially when it comes to different types of employment arrangements and contracts, such as temporary project contracts or volunteering. As an illustration, the Central Registry of Compulsory Social Insurance in Serbia collects and analyzes data on registered applications for compulsory social insurance for taxpayers who have the status of associations, foundations and endowments, however, they do not publish this information, and neither does any other state body. Only a few of the countries provide disaggregated statistics on the number of employees, based on the tax declarations and contributions paid by CSOs.

Table 2 Number of employees per country

Country	Number of employees (latest available data)
<b>Albania</b>	11.972 (2022)
<b>Bosnia &amp; Herzegovina</b>	5.555 in FBiH (2021); N/A in RS
<b>Kosovo</b>	5,321 paid contributions for 12 months without interruption; 10,451 have more than one job, one being in the CSO sector (2022)
<b>Montenegro</b>	N/A
<b>North Macedonia</b>	1.665 (2021)
<b>Serbia</b>	8.712 (2020)
<b>Türkiye</b>	42.784 in associations, N/A in foundations (2021)

Focusing on the **funding landscape** of CSOs in the WBT, funding from foreign donors, primarily from the EU, USAID, as well as funds from embassies and international organizations, is the major source of funding across the region. That funding makes up the biggest share in CSOs' budgets, especially of those organizations working on democracy, human rights, and rule of law issues. Most foreign donors have strict rules for their funds' recipients, requiring CSOs to go



through regular and comprehensive reporting, audit, and due diligence processes. Public (state) funding on the other hand is non-transparent, non-predictable, and available only for some CSOs (e.g. small and medium-sized service-provider CSOs), while being largely unavailable for others (e.g. democracy, watchdogs).<sup>1</sup> Other sources of funding still do not present a substantial funding source for CSOs, such as funds from service contracts, income generated from economic activity, membership fees, private sector donations, etc.

*Table 3 Overview of public funding per country in 2022*

Country	Public funding distributed to CSOs in 2022
<b>Albania</b>	Government total: 273,004,450 ALL or 2,294,115 EUR Local self-government total: 20,174,393 ALL or 169,532 EUR
<b>Bosnia &amp; Herzegovina</b>	N/A - Ministries at the entity and cantonal levels are the largest bodies that finance CSOs, then municipalities
<b>Kosovo</b>	Total: 7.861.439 EUR vs. 2.861.004 EUR (Government's report vs. KCSF's analysis) - Government: €5.674.984 vs. €2.186.455 - municipalities: €2.226.608 vs. €634.395
<b>Montenegro</b>	2.213.205 EUR (Ministry of Justice, Human and minority rights 1.433.205)
<b>North Macedonia</b>	Approx. 5.000.000 EUR excluding local self-government
<b>Serbia</b>	3.008.346,416 RSD or 25.651,064 EUR allocated at the local self-government, central and provincial and levels
<b>Türkiye</b>	Not possible to accurately ascertain the exact amount. The total amount of transfers made under the budget category including current transfers and capital transfers made to non-profit organizations in 2021 was 30.072.351 EUR

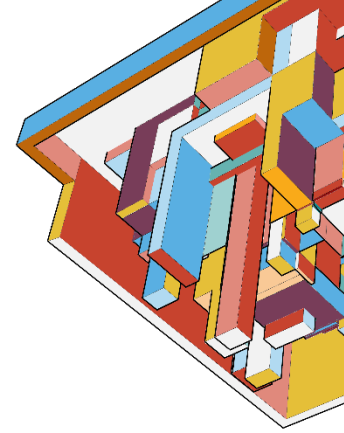
The total income of CSOs is a figure that is most difficult to obtain or calculate as data being collected for tax purposes in all countries are usually not recorded in a manner that distinguishes CSOs from other entities. For example, the Serbian Business Registers Agency has a special section for "non-profit institutions" in their annual Financial Bulletin (consolidated data from all financial statements submitted the previous year), but it also includes sports associations, chambers, and state-funded non-profit public institutions. While in all the countries in the region the funding public funding system is decentralized with specific budget lines for CSO support in the annual budget, the total public resources allocated and provided to CSOs during the year cannot always or easily be determined in most of the countries. This is due to a lack of systematic, effective, and regular

<sup>1</sup> <https://www.balkancsd.net/novo/wp-content/uploads/2023/04/62-3-MM-Regional-Report-2022.pdf>

collection of data on all types of state funding, available through different state bodies. As the reason for missing public data on CSOs may be governments' limited resources, bureaucratic inefficiencies, political dynamics, or the many nuances and unique characteristics of the CSO sector in each country, this lack of comprehensive and reliable data further hinders the understanding, recognition, and effective regulation of the CSO sector's activities and contributions to society.

The CSO sector plays a significant role in the Western Balkans and Türkiye, contributing to various aspects of society through a wide range of activities. These activities encompass social, economic, cultural, and environmental spheres, making the sector a vital component of the region's development and democratic progress. CSOs work to uphold democratic principles, protect human rights, and promote civic participation, they engage in advocacy campaigns and policy dialogues to address pressing societal issues, and they provide essential social, educational and health services to marginalized and vulnerable populations, among many other things. CSOs work for the public good and are required to respect state regulations, but also to comply with their donors' requirements.

Addressing financial crimes and terrorist financing is not just a matter of legal compliance but a fundamental necessity for ensuring safe, secure, and fair societies. By preventing the flow of illicit funds, countries can protect their citizens, bolster their economies, and contribute to the global effort to maintain a safe and prosperous world. AML/CFT regulations must aim to strike a balance between preventing financial crimes and facilitating the legitimate activities of CSOs. They should not be preventing their work, or control and restrict them, rather help them be protected from misuse of financing of terrorism. While these regulations may introduce compliance challenges, they should ultimately contribute to the overall health, security, and credibility of the civil society sector, respecting and advancing the freedoms of association and expression, and allowing CSOs to implement legitimate activities towards achieving their mission and positive social impact.



# International regulations and standards

The evolution of AML/CFT regulations on the international stage has been driven by a growing recognition of the threats posed by financial crimes, including money laundering and terrorist financing, to the global financial system and security. This process has been marked by the establishment of the Financial Action Task Force (FATF) in 1989 as an intergovernmental body with a mission to combat these financial crimes and safeguard the integrity of the international financial system. During the 1990s, FATF developed a series of 40 Recommendations<sup>2</sup> that outline comprehensive and internationally recognized AML/CFT standards. These Recommendations serve as a benchmark for countries to establish effective legal, regulatory, and operational frameworks for combating money laundering and terrorist financing. In addition to the Recommendations that measure technical compliance, FATF has also developed 11 standards that measure effectiveness, known as Immediate Outcomes.

When it comes to CSOs, the most relevant FATF Recommendations are Recommendations 8 and 24. Recommendation 8 (R8) focuses specifically on NPOs and on the risk that these organizations could be misused for terrorist financing or money laundering purposes, emphasizing the need for countries to take measures to prevent and combat these risks while ensuring that legitimate charitable activities are not disrupted. Recommendation 24 (R24), on the other hand, addresses the broader issue of transparency and beneficial ownership across various legal entities, including NPOs, and aims to ensure that beneficial owners of legal persons are identified, and their information is available to relevant authorities. In addition, another standard that deals directly with CSOs is the Immediate Outcome 10 (IO10). Similar to R8, IO10 requires that countries identify the subset of organizations that fall under the FATF's definition of NPOs, which by virtue of their activities or characteristics are likely to be at risk for terrorist financing abuse.

In the **FATF definition**, NPO 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” (as this term is used in the Interpretive note to R8).

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<sup>2</sup> <https://www.fatf-gafi.org/en/topics/fatf-recommendations.html>

Table 4 Overview of Recommendation 8 and Recommendation 24

Key points of R8	Key points of R24
<p>1. <b>Effective Regulation and Supervision:</b> Countries are encouraged to adopt regulations that prevent NPOs from being misused for terrorist financing or money laundering. These regulations should include measures to identify, assess, and understand the potential risks associated with NPOs.</p> <p>2. <b>Transparency and Accountability:</b> NPOs should be transparent in their operations and maintain accurate records of their activities and financial transactions. This transparency helps ensure that funds are used for legitimate purposes.</p> <p>3. <b>Outreach and Cooperation:</b> Governments, regulatory authorities, and law enforcement agencies are advised to engage in constructive dialogue with the NPO sector. This collaboration helps build mutual understanding and strengthens the overall effectiveness of AML/CFT measures.</p> <p>4. <b>Risk Assessment:</b> Countries are expected to conduct a risk assessment to determine the level of risk posed by the NPO sector within their jurisdiction. This assessment informs the development of appropriate regulations and safeguards.</p> <p>5. <b>Dissuading Misuse:</b> Countries should take measures to dissuade terrorists and criminals from abusing NPOs for their illicit activities. This may involve conducting outreach and providing guidance to NPOs on best practices for compliance.</p> <p>6. <b>Information Sharing:</b> Effective information sharing between government agencies, NPOs, and the financial sector is essential to detect and prevent misuse of NPOs for money laundering or terrorist financing.</p>	<p>1. <b>Beneficial Ownership Identification:</b> Countries should take measures to ensure that accurate and up-to-date beneficial ownership information is available for legal persons, including NPOs. Beneficial ownership refers to individuals who ultimately own, control, or benefit from the legal entity.</p> <p>2. <b>Centralized Registers:</b> Countries are encouraged to establish central registers or mechanisms that hold beneficial ownership information. This information should be accessible to competent authorities, including those responsible for AML/CFT enforcement.</p> <p>3. <b>Availability and Accessibility:</b> Beneficial ownership information should be made available to designated authorities promptly and without restrictions. It helps prevent anonymous ownership that can be exploited for money laundering or terrorist financing.</p> <p>4. <b>Verification and Reliability:</b> The information provided in the beneficial ownership registers should be accurate, complete, and regularly updated. Effective verification mechanisms are crucial to maintain the reliability of this information.</p> <p>5. <b>International Cooperation:</b> Countries are encouraged to cooperate with each other and share beneficial ownership information to combat cross-border money laundering and terrorist financing effectively.</p> <p>6. <b>Legal and Regulatory Framework:</b> Countries should have robust legal and regulatory frameworks that compel legal entities, including NPOs, to provide accurate and updated beneficial ownership information.</p>

The FATF Recommendations have been the cornerstone of global efforts to combat money laundering and terrorist financing, and their widespread recognition resulted in a more uniform approach to AML/CFT globally. This uniform approach, however, has affected CSOs in a negative manner. As regional bodies started adopting these standards and incorporating them into their own regulatory frameworks, they did not take into consideration the nuances of the CSO sector functioning, resulting in both inappropriate measures and unintended consequences.

### **FATF Mutual evaluations and the Grey-list**

In addition to setting the standards, FATF is engaged in evaluating and monitoring their implementation in FATF member countries. Over 200 jurisdictions around the world have committed to the FATF Recommendations through the global network of FATF-Style Regional Bodies (FSRBs) and FATF memberships. Türkiye is a member of FATF and the FSRB for Europe (including the Western Balkan countries) is MONEYVAL - The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism. Established in 1997, MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the AML/CFT international standards and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Out of the six Western Balkans countries, only Kosovo is not a MONEYVAL member, and a Mutual Evaluation relating to the implementation of AML/CFT standards has not yet been undertaken for Kosovo due to its non-membership in the Council of Europe.<sup>3</sup>

The so-called mutual evaluations address the countries' compliance with the FATF Recommendations. Through these evaluations, FATF assesses whether countries have established the necessary legal and regulatory frameworks and effectively implemented measures to combat money laundering and terrorist financing. The evaluation process includes assessing adequacy of laws, regulations, enforcement mechanisms, and institutional frameworks. As of June 2023, FATF has reviewed over 125 countries and jurisdictions and publicly identified 98 of them. The

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<sup>3</sup> Two assessments on "Compliance of Kosovo with intentional anti-money laundering and combatting the financing of terrorism standards" have been conducted pursuant to Council of Europe evaluation methodologies, within the framework of the two phases of the EU/Council of Europe Project against Economic Crime in Kosovo (PECK I and II).

assessment of the countries' compliance with FATF Recommendations is carried out through peer review which results in adoption of mutual evaluation reports.

Countries where FATF has identified deficiencies in their regimes to counter money laundering, terrorist financing, and proliferation financing, are part of a list of jurisdictions under Increased Monitoring, known as the grey list. Two countries from the region – Albania and Türkiye – are currently on the list of the “grey list”, actively working with the FATF to address the identified strategic deficiencies. FATF grey-listed Türkiye in October 2021 for not effectively mitigating ML/TF risk and for over-pressurizing civil society, among other factors. Since then, certain steps have been taken by public authorities to ameliorate the situation, such as efforts to improve a risk-based approach for the supervision of CSOs to prevent their abuse for terrorist financing, but a top-level political commitment is still lacking. Albania has been placed in enhanced follow-up since July 2018 when the last (5th) Mutual Evaluation Report (MER) was adopted. Since then, four enhanced follow-up reports have been prepared (December 2019, April 2021, May 2022, and May 2023), and Albania continues to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures.

Bosnia and Herzegovina was grey-listed for three years before being cleared after implementing MONEYVAL's recommendations and adopting the required legislation in 2018. Serbia too, since 2019, is no longer on the FATF List of Countries having strategic AML deficiencies, after these were identified in February 2018. Kosovo, Montenegro, and North Macedonia are not on the FATF List of Countries that have been identified as having strategic AML deficiencies. Montenegro is waiting on the results of MONEYVAL's latest assessment, launched in March 2023, amid pressure to improve cooperation between institutions in tracking, detecting and prosecuting illegal money flows.

*Table 5 FATF Country assessments and compliance*

Country	Last MER	R8 Compliance	R24 Compliance
<b>Albania</b>	Jul 2018 (last follow up May 2023)	LC (Dec 2019 follow up)	LC (May 2022 follow up)
<b>Bosnia &amp; Herzegovina</b>	Sep 2020	NC	NC

<b>Kosovo<sup>4</sup></b>	Second assessment 2018-2019 <sup>5</sup>	Partially Compliant (Technical Compliance)	Partially Compliant (Technical Compliance)
<b>Montenegro</b>	Mar 2023 (not yet published)	PC (May 2020)	PC (May 2020)
<b>North Macedonia</b>	July 2023	LC	PC
<b>Serbia</b>	Apr 2016 (last follow up Nov 2021)	LC (Dec 2019 follow up)	LC (Dec 2019 follow up)
<b>Türkiye</b>	October 2019 (last follow up Jul 2023)	LC (2023 follow up)	LC (2022 follow up)

## Implications and Challenges for CSOs

In the wake of the 9-11 terrorist attacks in USA in 2001, and the growing fear that terrorists can abuse organizations (including non-profits) for transferring funds and financing of their actions, the international CTF framework became stricter. As a result, FATF Recommendation 8 portrayed the whole non-profit sector as particularly vulnerable to abuse. The absence of adequate proof for this caused some countries to misuse this recommendation for control and over-regulation of the sector. The number of known cases of or convictions for illicit financing in non-profit is very small, and there is little evidence to suggest a systemic problem.<sup>6</sup> Yet, counter-terrorism and countering violent extremism are being used to target and attack civic space across the globe.<sup>7</sup> With no globally-agreed definition of terrorism, states have unilateral and extensive power to define and combat terrorism or extremism without consequences – but also a convenient justification to stifle dissidents.

### Risk-based approach

The FATF revised its standards in 2016 after long-term global advocacy efforts, calling on states to apply a risk-based approach, respect international law, and avoid over-regulation of CSOs. In 2015, FATF published the paper Best Practices

<sup>4</sup> No official data available by FIU Kosovo.

<sup>5</sup> Second assessment on “Compliance of Kosovo with intentional anti-money laundering and combatting the financing of terrorism standards” conducted pursuant to Council of Europe evaluation methodologies, within EU/CoE PECK II project.

<sup>6</sup> [https://www.global-amlcft.eu/wp-content/uploads/2022/10/FINAL-Report-NPO-10082022\\_compressed.pdf](https://www.global-amlcft.eu/wp-content/uploads/2022/10/FINAL-Report-NPO-10082022_compressed.pdf)

<sup>7</sup> [https://unglobalstudy.wpengine.com/wp-content/uploads/2023/06/SRCT\\_GlobalStudy.pdf](https://unglobalstudy.wpengine.com/wp-content/uploads/2023/06/SRCT_GlobalStudy.pdf)

on Combating the Abuse of Non-Profit Organisations<sup>8</sup>, with the aim to facilitate these efforts and to protect the integrity and reputation of the CSO sector by providing examples of ways that government and the CSOs can work together towards protecting the global CSO sector from terrorist abuse. FATF promotes the inclusion of CSOs in the national risk assessment process, urging governments to include CSOs' perspective regarding the sector's susceptibility to terrorist financing risks. This paper, originally published in October 2002, and updated in June 2013, was revised to take into account the findings of the typologies report on the 'Risk of Terrorist Abuse in Non-Profit Organisations'<sup>9</sup>, published in June 2014 as well as input from governments and private sector. In 2023, FATF initiated the update of its 'Best Practice Paper to Combat the Abuse of NPOs', in parallel to the proposed amendments to R8 and its Interpretive Note to better clarify the implementation of a risk-based approach.

The 2021 report 'Typologies of illicit financial abuse of the NPO sector', prepared by the EU Global Facility on Anti-Money Laundering and Countering the Financing of Terrorism shows there is no obvious correlation between the strictness of a jurisdiction's ML regulations for CSOs, and the level of observed risk. Moreover, it notes that a number of money-laundering regulations are inconsistent with the risk-based targeted approach mandated by FATF.

The focus towards a risk-based approach emphasizes proportionate, targeted, and effective compliance measures. In order to comply with the FATF standards, countries can no longer adopt broad regulations that affect all CSOs by claiming the whole sector is at risk. Instead, countries must use a risk assessment process to identify specific organizations at risk and then take appropriate legislative action or other measures proportionate to the risk and targeted only to those found at risk. The risk assessment represents a comprehensive process of collecting and analyzing relevant data with the aim of assessing the level of exposure of individual sectors to money laundering and terrorist financing. In addition, the purpose of the risk assessment is to assess the possibility of effectively engaging the available financial, technical, and human capacities and resources in the fight against financial crime.

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<sup>8</sup> <https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Bpp-combating-abuse-npo.html>

<sup>9</sup> <https://www.fatf-gafi.org/en/publications/Methodsand trends/Risk-terrorist-abuse-non-profits.html>



## Definition of beneficial ownership

Following the international standards, namely FATF Recommendations 24 and 25, and the EU 5th anti-money laundering directive<sup>10</sup>, the countries are required to have adequate, accurate and timely information on the beneficial owners of the legal persons which can be obtained or accessed in a timely fashion by the competent authorities. The term “owner” is not common for CSOs, and this is a subject of international debate because CSOs do not have owners in the classical sense of the term.

AML/CFT legislation often does not provide a clear definition of beneficial ownership for CSOs. This ambiguity can lead to confusion among CSOs, financial institutions, and regulatory authorities about who should be considered the beneficial owner. Due to the diverse legal structures of CSOs, determining beneficial ownership becomes more complicated when considering the roles of founders, board members, executive directors, and other individuals involved in these organizations. Differentiating between the individuals who founded the CSO and those who currently control or manage its activities can be difficult. Founders might not be actively involved in daily operations, while those responsible for decision-making may not have initiated the organization.

Addressing the problem of beneficial ownership for CSOs in AML/CFT legislation requires a nuanced and context-sensitive approach. It is essential for governments, regulatory authorities, and international organizations to engage with CSOs and relevant stakeholders to develop practical definitions and guidelines that accurately reflect the unique nature of CSOs. This includes considering the organization's mission, governance structure, and sources of funding.

## Unintended consequences

While the intention behind AML/CFT international standards is to safeguard financial systems and prevent illicit activities, it is important to recognize and address the negative impacts they have on CSOs. Around the world, there have been a number of cases when overregulation related to AML/CFT has intentionally or unintentionally negatively affected CSOs. Governments often justify those measures as necessary for compliance with the FATF standards. While the list is much longer, some examples of a negative impact on NPOs include:

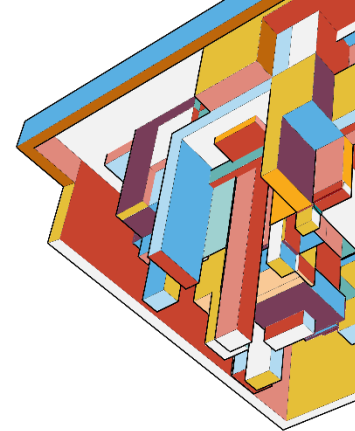
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<sup>10</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018L0843>

- **Bank de-risking and financial exclusion:** Banks and financial institutions may introduce disproportionate requirements or directly limit the access to financial services for CSOs, based on the perception of CSOs as high-risk entities, often supported by legislation in place that considers CSOs as such. This can disrupt CSOs' ability to receive and manage funds, make payments, and carry out their programs effectively.
- **Bureaucratic burdens:** A complex regulatory environment may include submitting detailed documentation, reporting transactions, and conducting stricter due diligence on donors and beneficiaries, taking CSOs' focus away from their primary mission. The legal requirements are often applied for the whole sector instead of targeted, risk-based measures to those CSOs at high risk.
- **Chilling Effect on CSOs:** Stricter regulations can discourage CSOs from engaging in advocacy and activism due to fears of being targeted or labelled as suspicious. Excessive compliance measures can also create a public perception that CSOs are involved in illicit activities. This negative image can erode trust in CSOs and undermine their credibility in the eyes of the public.

The implementation of the FATF Recommendation 8 on how states should prevent the financing of terrorism needs to be improved to ensure that states in fact protect CSOs from financing of terrorism abuse. It should not be used to target CSOs and the FATF should hold states accountable when they misuse the Recommendation for silencing dissent.

# AML/CFT regulations and practices in the WBT region



AML/CFT regulations are interpreted and applied differently across the Western Balkans and Türkiye, and there are inconsistencies in implementation, compliance, and reporting practices. This comes mostly due to the lack of proper understanding from policy-makers on the main principles of civil society, and lack of targeted and risk-based approach towards the sector.

Although the legal frameworks of all countries in the region, with the exception of Türkiye, protect against unwarranted state interference in the internal matters of CSOs and protects CSOs' autonomy to regulate their own internal structures and activities, the legislative framework on AML/CFT places burdensome requirements on CSOs throughout the region. In Turkey, the administration has various tools to control CSOs such as the authority to audit CSOs not only criminal cases, but also matters related to their institutional operations.

Moreover, the AML/CFT regulations are not fully in line with the FATF Recommendations or the EU Directive 2015/849, while the alignment with these standards often goes at the expense of the CSO sector. The only exception is Montenegro, where the AML/CFT legislation of 2014 is not considered problematic and restrictive of civil society's work, as it does not recognize CSOs as liable under this law, although this was the case according to the legal solution previously in force. The most outdated law still in place is the one in Bosnia and Herzegovina, enacted in 2009 and one of the oldest laws in Europe, according to which CSOs are considered at the same level as banks/financial institutions. Legal amendments have been drafted to harmonize the country's legislation with international standards and recommendations from the evaluations, but the Republika Srpska entity is obstructing the changes.

The table below lists the key laws and strategies in the countries of the Western Balkans and Turkey, as well as the central government institutions dealing with the AML/CFT issues in the countries.

Table 6 Overview of AML/CFT regulatory frameworks in the Western Balkans and Türkiye

Country	Relevant laws, regulations, and measures	Central institution in the AML/CFT system
<b>Albania</b>	<ul style="list-style-type: none"> <li>- Law no.9919, dated 19.05.2008 “On prevention of money laundering and terrorism financing”, as amended, (Official Gazette of Albania no. 83 dated 10.06.2008)</li> <li>- Instruction no.19, dated 9.7.2019 “On the supervision of non-profit organizations for preventing money laundering and terrorist financing”</li> </ul>	Albanian Financial Intelligence Unit
<b>Bosnia &amp; Herzegovina</b>	Law on the prevention of Money Laundering and financing of terrorist activities	State Investigation and Protection Agency
<b>Kosovo</b>	<ul style="list-style-type: none"> <li>- Law on Preventing Money Laundry and Fighting the Financing of Terrorism</li> <li>- National Strategy of the Republic of Kosovo for the Prevention and Combating of Informal Economy, Money Laundering, Terrorist Financing and Financial Crimes 2019-2023</li> </ul>	Financial Intelligence Unit (FIU)
<b>Montenegro</b>	Law on Preventing Money Laundry and Fighting the Financing of Terrorism (2014, last amended in 2019)	Financial Intelligence Unit – Police Directorate
<b>North Macedonia</b>	<ul style="list-style-type: none"> <li>- Law on Prevention of Money Laundering and Financing of Terrorism (June 2022)</li> <li>- National Strategy for Combating Money Laundering and Terrorist Financing (2021 – 2024)</li> </ul>	Financial Intelligence Office (FIO) - Ministry of Finance
<b>Serbia</b>	<ul style="list-style-type: none"> <li>- Law on the Prevention of Money Laundering and the Financing of Terrorism (2017, last amended in 2020)<sup>11</sup></li> <li>- National Strategy Against Money Laundering and Terrorism Financing 2020-2024, AML/CFT Strategy Action Plan 2022-2024<sup>12</sup></li> </ul>	Administration for the Prevention of Money Laundering and Terrorist Financing (APML) - subordinate to the Ministry of Finance
<b>Türkiye</b>	The Law on the Prevention of Financing of Proliferation of Weapons of Mass Destruction (entered into force on December 31, 2020)	MASAK (Financial Crimes Investigation Board)

<sup>11</sup> <https://mfin.gov.rs/en/decrees-2/law-on-the-prevention-of-money-laundering-and-the-financing-of-terrorism-2>

<sup>12</sup> <https://www.apml.gov.rs/english/national-strategy>

## Legal implications and challenges

The AML/CFT regulations in the WBT have been reflected in many areas: the reporting requirements by the state, the registration of NPOs and related administration requirements, as well as the supervision, monitoring and control over the sector.

Since Montenegro removed CSOs from being obliged entities in 2015, Kosovo is now the only country in the region where the AML/CFT legislation designates all NPOs as **obliged reporting entities**. Obligated entities are responsible for establishing an internal system for AML/CFT which consists of internal rules, a separate organizational department, a designated responsible person and an electronic system for automatic data processing. Kosovo's Law on Preventing Money Laundry and Fighting the Financing of Terrorism contains a number of provisions impossible to be implemented by many registered CSOs (such as the requirement to have AML-certified staff and to keep track of all CSO beneficiaries), as well as some undue limitations on cash donations. Being standard measures for banks and well-established entities, these obligations can hardly be implemented by the majority of the registered CSOs, which are small and grassroot organizations. This restrictive law is expected to be changed with the conclusion of the work on a Concept Document on AML/CFT in Kosovo, which started in 2021, while civil society representatives are advocating that the sector stops being considered as vulnerable for terrorist financing. Despite active participation from civil society in the working group in the early stages of this process, during 2022 the rigid approach of the FIU has not allowed for proper participation from civil society, thus no information of the current state of the Concept Document is available.

Overall, reporting requirements as well as sanctions for failing to fulfil these reporting requirements (partially) recognize the specific nature of CSOs in Albania, Bosnia and Herzegovina, North Macedonia, Serbia, and Turkey, while they are identical/proportionate to businesses in Kosovo and Montenegro. Table 7 presents more detailed information on the reporting requirements by state. It is worth noting that in Bosnia and Herzegovina, the 2016 amendments to the Law on Associations and Foundations, which reflected MONEYVAL and FATF requirements and recommendations, introduced a more complicated reporting procedure for CSOs. Namely, organizations registered at the State level need to submit additional financial and performance reports to the Ministry of Justice, in addition to the requirements of Entity laws to submit financial reports to entity

financial agencies. This discriminates against CSOs at the State level since those registered only at other levels do not have this additional administrative obligation.

*Table 7 CSO reporting requirements by states*

Country	Reporting requirements by state
<b>Albania</b>	Annual financial statements submitted to Tirana Judicial District Court and to Tax Authorities (simplified reporting for NPOs with assets or income < 42.000 eur - only statement of cash flow and explanatory note about the type of activities or services offered; if assets or income > 235.000 eur CSO performance report also needed)
<b>Bosnia &amp; Herzegovina</b>	Financial statements to competent tax authority (entity tax department office); those registered on state level need to additionally submit a copy of financial/performance report to Ministry of Justice
<b>Kosovo</b>	Twofold reporting requirements: annual financial statements to the Tax Administration and NGO Registration Department, mandatory for orgs with Public Benefit Status (>100.000 eur external audit)
<b>Montenegro</b>	Balance sheet and income statement to the Tax Administration <i>(need for creating new regulations for submitting financial reports is recognized in the Strategy)</i>
<b>North Macedonia</b>	Annual financial statements to Public Revenue office and the Central Registry (< 2.500 eur, only keep cash book and income/expense book) + publish annual performance report <i>(revision of Accounting for Non-Profit Organizations planned with the Strategy)</i>
<b>Serbia</b>	Separated accountancy framework for NPOs, however w/ numerous unnecessary elements that are not relevant for the non-profits operating and make difficulties in recording data
<b>Türkiye</b>	Mandatory financial statements and internal audits are the main oversight tools. CSOs are audited at different frequencies according to the risk assessment determined by the officials.

In all the WBT countries, NPOs have the legal obligation to register their **beneficial owners (BO)**. Still, legislation as well as bank rules and practices are problematic when it comes to identifying BO in NPOs, drawing upon the problematic international definition that is not applicable to NPOs. Some advocacy efforts have been successful in addressing this. When introduced as a legal obligation in Kosovo, civil society organizations started engaging in advocacy and dialogue with all relevant stakeholders, eventually succeeding to improve the institutions' understanding of NPO beneficial owners as the ones that control the organization (i.e., the Executive Director or another legally authorized person who has a

decision-making power), and not its founders, as it was previously considered. In Serbia too, some banks required submitting personal documents of CSO founders, instead of just of the representatives of the management structures as they have no legal role in the organization or may even be deceased.

While the discussion on BOs is rather nuanced due to the complex structures of different civil society entities, AML/CFT laws in the countries should refer to applied laws on CSOs, which define the responsible bodies and regulate the work of CSOs, including how money is used (e.g., money cannot be distributed to the founder, it has to be used for the NPO mission). This considered, the inclusion of NPO beneficiaries, grantees, or trainees in the register of beneficial owners (as previously required in Kosovo) is futile in efforts to identify ML or TF.

In 2022, the regulation of BO registration was amended both in North Macedonia and Albania. The Law on Prevention of Money Laundering and Financing of Terrorism in North Macedonia was amended to specify provisions on the registration of beneficial owners of foundations. The changes, however, did not affect the challenges that CSOs faced before - if the final owner is not registered within the stipulated period of 15 days, organizations face high fines (up to approximately 1.000 EUR) and blocking of their bank accounts. This has been very problematic for small and grassroots organizations, as the fines brought about by their lack of awareness about this requirement drove some of them to shut down their activities, or to register a new organization. In Albania, the Parliament approved legal amendments to extend the deadline for the initial registration of ultimate beneficial owners by reporting entities from 30 to 40 days. However, the amendments also increased all administrative sanctions related to the (1) delays in the initial reporting of beneficial owners by reporting entities registered in the respective register and (2) non-registration of respective changes part of the registry ranging from 50 thousand ALL (420 EUR) to 600 thousand ALL (5,000 EUR). For CSOs, the new level of fines is high and comes as a response to MONEYVAL's recommendation for Albania "to implement proportionate and dissuasive sanctions". In Serbia, not registering the BO/new BO in 15 days carries fines of up to 500.000 RSD (4.200 EUR) to 2.000.000 RSD (17.000 EUR) fine for the organization, and 50.000 RSD (420 EUR) to 150.000 RSD (1.300 EUR) for the legal representative. If the wrong BO is registered or information is amended/deleted with "intent to conceal" the real BO, it can constitute a criminal offence with imprisonment from 3 months to 5 years, but there have been no such cases known in practice.

CSOs are subject to **supervision and control** from state bodies with regards to anti-money laundering and financing of terrorism. As the FATF promotes targeted risk-based supervision or monitoring of CSOs, some countries have intensified their efforts to align with these standards, but not in the most effective or appropriate way. The legal framework on inspections of CSOs is most restrictive, bureaucratic and ambiguous in Türkiye, especially since the amendments made by the Law No. 7262 on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction (commonly named Anti-Terror Law) introduce new sanctions and higher and disproportionate penalties to those in charge of the bodies of the associations. In Bosnia and Herzegovina lack of effective supervision has been an issue, and it is expected that the new Law on financing association and foundations in FBiH, announced by the Federal Ministry of Justice and still in procedure until September 2023, may aim to address this. In some countries concerns have been raised over the over-supervision of CSOs. In practice, in addition to the disproportionate and excessive inspections reported in Türkiye, unannounced inspections by state authorities related to AML/CFT were reported in North Macedonia in 2020, while in Serbia cases of increased CSO oversight have been considered as being related to their watchdog activities. Nevertheless, institutions across the region continue to have a low record of effectively conducting investigations, and there have been very few legal actions taken and convictions related to isolated money laundering incidents.

The latest legal changes in Albania have been the amendments to the main law and the adoption of the Instruction “For supervision of NPOs in function of money laundering and financing of terrorism”, both implemented in 2019. Under the adopted Instruction, which stipulates 38 risk indicators of terrorist financing, CSOs are subject to periodic inspection by the relevant Regional Tax Directorate, which controls the financial statements and exercises operational control. This authority controls the source of incomes and monetary transactions, to assess whether they come from lawful sources or not. In both Serbia and Kosovo, the recommendations stemming from the implemented risk assessments pointed to the need for further monitoring and inspecting of CSOs, ensuring the exercise of effective supervision and coordinated work of inspectional services. In Serbia, a document called ‘Procedures and Criteria for Supervising NPOs’ introduced steps in preparing and developing a plan for consolidated supervision of CSOs, as well as exercising the consolidate supervision. Nonetheless, it is important to make a distinction between supervision and control – CSOs are independent entities, with



designated bodies that control the organization and its finances, so the state should not control, but rather supervise them based on risk.

In Bosnia and Herzegovina, the Risk Assessment for the period 2018-2022 showed that there is no data on performed CSO supervision and that CSO financial reports are not subject to analysis but are only formally received and recorded. As public officials consider that the CSOs' vulnerability of abuse is directly related to the lack of appropriate supervision and oversight, but also prompted by the 2023 MONEYVAL visit, the State Agency for Investigation and Protection planned to create an improved mechanism or measures for control in the civil sector. However, the **absence of an updated and relevant CSO register** or any classification of organizations in the country hinders the efforts not only to strengthen the capacity of supervisory authorities, but also to raise the awareness of CSOs about the susceptibility to the risks of money laundering and financing of terrorist activities. It is expected that the implementation of the procedures for closing CSOs should eventually lead to a decrease in the number of inactive organizations and present a better overview of the CSO sector.

Creating an appropriate mechanism for monitoring and control in Montenegro is also considered by authorities to be hampered by the problem of inadequate and ineffective CSO register. Namely, the register records all CSOs under one code and does not differentiate between CSO subgroups, such as humanitarian or religious organizations, which are considered by authorities to be of higher risk than the other subgroups. Although there has been a notable lack of evidence of wrongdoing that can support such claims in the WBT countries, authorities tend to refer to international documents, regional and supranational risk assessments to uphold this position. Still, lack of distinct codes and classification of CSOs presents an issue in most of the countries. In Albania, for example, all civil society organizations are registered at the Tirana Judicial District Court under three legal forms: association (membership organization), centres, and foundations, but tax authorities have different categorizations: (i) religious, humanitarian and charitable organizations (ii) political organizations and (iii) non-profit organizations. With the new register in Albania, planned to start at the end of 2023, changes are expected to be introduced in the registration process and in the use of the different classifications. In North Macedonia, too, this challenge has been identified through the implemented RA and after the MER from 2023. Follow-up actions will be taken to streamline registration to reflect this aspect. In any case, for the risk-based approach to be properly implemented, authorities should

not try to identify a concrete list of specific organizations to be closely monitored based on the group they belong, rather implement efforts to ensure better protection from potential abuse based on the risk factors defined in the SRA.

Measures that are based on a **one-size-fits-all approach instead of a risk-based approach**, thus not reflecting the nature and characteristics of CSOs and posing additional administrative burdens on the sector, are common across the region. CSOs in Albania have strongly reacted against three such legal initiatives aiming to respond to MONEYVAL and FATF recommendations, specifically related to the Register of beneficial owners, the Central register of bank accounts, and the registration of CSOs. All these initiatives, despite their importance for the sector, have been prepared without participation and effective consultation with CSOs. The draft law “On the Registration of NPOs” attracted the most attention because of its implication on the operation of the sector, including the establishment of an electronic register for CSOs, and a set of issues affecting the freedom of association, introducing duplication, and unjustified reporting requirements, including disproportional and unjustified penalties. Despite the heated public debate and criticism related both to the non-transparent and non-inclusive consultation process, but also the problematic content, in 2021 the Law entered into power. Positively, as a result of the wide mobilization of the non-profit sector, the legal analyses and proposals submitted, 32 articles of the draft law were changed.

Recognizing the importance and implications of the issues above, in several countries, efforts are being made to address the raised concerns, especially with the implementation of national and sectoral risk assessments with the involvement of CSOs, such as in Albania, Kosovo and North Macedonia. However, throughout the region, there is a general lack of collaboration and cooperation between relevant stakeholders (state authorities, CSOs, financial institutions) to effectively address the concerning issues with regards to AML/CFT in the CSO sector. As a result of this missing dialogue between the sectors, there is a low level of trust and understanding of each other’s mandate and operation, as well as of the roles and responsibilities toward each other. Should the authorities’ perception of CSOs as high-risk entities change, then this would translate into proper implementation of the policies based on a risk-based approach.

## Banks treatment of CSOs

Banks are the entry point in the financial system and face pressure – including fines in line with legislation – to ensure that they are not being used as a money laundering channel and abused to remit funds to terrorist groups. With the CSO sector being considered (highly) vulnerable for financing terrorism, to a great extent due to the FATF measures and inappropriate definition of NPOs, strict bank requirements can lead to banks abandoning non-profits as clients, limiting bank transfers and raising suspicious flags when non-profits want to raise funds or deliver aid.

Commercial banks in WBT continue their de-risking approach through hidden barriers to CSOs in opening and maintaining bank accounts, as well as limiting the scope of financial services for the CSO sector. Concerns regarding banks' excessive monitoring the CSOs' accounts and their transactions were raised in North Macedonia and Serbia, while CSOs in Kosovo have the most difficulties accessing commercial banks services. Limited access to certain financial services such as loans has also been noted, as banks regulations in some countries assume the entire NPO membership to have the legal burden of a loan. While loaning to CSOs is not legally restricted, it is not a common practice around the region. However, Erste Bank in Serbia has initiated the practice of giving loans to CSOs as a way to demonstrate their mission to provide support to civil society. As an additional example of limiting access to e-commerce services, CSOs in Kosovo cannot get these services needed to support online donations (e.g., adding a 'donate' button to a CSO website).

Civil society in Kosovo has reported pervasive de-risking practices, such as closing of their bank accounts without prior notification, or higher maintenance fees for CSO accounts as opposed to individual or corporate ones. In addition, due to legislation in place that considers all CSOs as high risk, unusual and enhanced due-diligence requirements are put on CSOs as clients, and banks need to make sure all beneficiaries, grantees, and trainees of an NPO are safe to work with. In North Macedonia, the latest legal changes as of 2022 redefine the approach towards CSOs, directing obliged entities to perform enhanced due diligence only to some and not all organizations, according to the risk factors identified national risk assessment. Unfortunately, the law does not refer directly to the sectoral 'NPO TF Risk Assessment', rather the national one. A related problem in the region is that some banks perform due diligence processes according to their mother-banks

based abroad, thus overriding and going beyond the national legislation. This has resulted in denying bank services to certain groups, based on their profiling.

The Macedonian Financial Intelligence Office in 2019 published the 'Guidance for Risk Assessment and Decision for Establishing an Indicators List pertaining to Suspicious Transactions', and in June 2022 revised some of the general and problematic indicators, such as banks being responsible for assessing whether the purpose of a donation is aligned with the work of the organization. The revisions were done through intersectoral collaboration between banks, regulators and CSOs, and is considered a step forward in reducing the knowledge gap between the banks and CSOs. However, CSOs in North Macedonia are still treated as high-risk, despite the latest RA findings that for most CSOs the risk is low, and banks are pressured to monitor all transactions and operations, which is both challenging and costly. According to the RA, only for 13% of CSOs the risk is low to medium, thus there is no justification to look in their final beneficiaries. This also means that, although they may not do anything wrong, the banks should only analyze these organizations as their client, with the main intent to help them protect themselves from fines by the regulatory bodies related to not reporting suspicious transaction reports (STRs). Having in mind the RA findings that for 87% of the non-profits the risk is low, monitoring all CSOs as clients – instead of only those more exposed to the risk factors – shows an uneven cost-benefit approach. Throughout the region, in practice, banks tend to classify or perceive all CSOs as high risk, in spite of existing official documents (such as laws or sectoral risk assessments) stating otherwise.

Different practices are noted in the region when it comes to CSOs receiving funds on their bank accounts in terms of the procedures, requirements, and scrutiny that organizations face when accepting funds, particularly from foreign donors or sources. For example, in several countries, CSOs need to provide the bank with the contract and other supporting documents to verify the source of funds for each incoming transfer. In Turkey, on the other hand, foreign grants must be notified to the General Directorate of Civil Society Relations (STİGM) and are open to inspection, both the donor and the grantee organizations fulfil their obligations regarding accountability. In the context of the problematic risk-based approach applied by the government, this further narrows down the financial opportunities for CSOs within the already limited funding source.

Some success has been achieved through CSOs advocacy action and cooperation with bank institutions. In Kosovo, through building a long-term dialogue with bank

associations and the Central Bank of Kosovo (CBK), CSOs have managed to build a better understanding of the banking sector for CSOs. As a result of this cooperation, all banks have been informed that the founders of a CSO do not have any decision-making function, therefore the banks should not ask for information about the founders, but only for the board or the assembly of members. In addition, CBK has also changed the AML regulation by removing the request for verification of the data of the founders of the organization. Nevertheless, the regulation has not been formally approved yet. In North Macedonia, civil society led by Konekt worked jointly with FIO and the banking sector on implementing the measures and recommendations that derive from the sectoral RA, which also contributed towards a common understanding of the application and interpretation of the STR indicators, aiming to enable risk-based analysis and prevent the phenomenon of de-risking.

## Misuse of regulation

There have been several cases where the AML/CFT legislation in the region has been used as a basis for excessive, disruptive, and targeted inspections. Civil society in North Macedonia, Serbia, and Türkiye has experienced abuse due to authorities violating FATF standards and intentionally targeting specific groups of organizations whose positions and work is not in line with the government's stances or values.

In **North Macedonia**, in December 2016, the Public Revenue Service launched a series of inspections and financial audits of 21 CSOs, which concurrently were under threats and smear attacks in pro-government media for receiving “mercenary” money.<sup>13</sup> As part of the six-months-long inspections, auditors asked CSOs to submit five years' worth of documentation of their funds and spending, and it has required that these documents be submitted in the Macedonian language, despite not requiring translations before in any communication with the state involving English-language contracts with foreign donors. While this requirement has placed substantial administrative and financial burdens on CSOs, the legal basis for the request was not officially explained. In addition, the CSOs were requested to prepare additional information regarding financial flows in and out of the organization detailing the names, tax/personal ID numbers, the purpose, country, amount, date, currency for each grant or revenue instance, as

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<sup>13</sup> <https://advox.globalvoices.org/2017/02/26/macedonias-ruling-party-is-draining-civil-society-groups-time-and-money/>

well as for each payment made. The time necessary to comply with this order (months of man-hours) far surpassed the initial deadlines set by the Public Revenue Office. The controls and inspections of the 22 CSOs concluded at the end of 2017 without revealing any illegal action on the side of CSOs.

In **Serbia**, in July 2020, the FATF standards were violated as the Administration for Prevention of Money Laundering and Terrorist Financing officially requested from all commercial banks in the country – with no legal basis – information on the accounts and financial transactions undertaken by 57 entities including human rights defenders, watchdog organizations, investigative media, and individual journalists and activists. As the common denominator of everyone on the leaked “list” is their critical stance towards the government, the event was considered an abuse of the government’s anti-money laundering and anti-terrorist financing mechanism to intimidate and restrict the work of the civil society. Despite the fact that there were no official findings that incriminate any of the targeted CSOs, this event has caused great non-material and reputational damage to civil society in Serbia, especially given the dominant narrative against this sector in recent decades.

Following “the List” case, administrative pressures were also recorded the next year, as the Center for Judicial Research (CEPRIS), a CSO whose members were prominent critics of Constitutional amendments to the judiciary proposed by the government, had been subject to a month-long inspection by the financial police, allegedly in order to determine the regularity of their funding. The unreasonable duration of this inspection, and its intrusiveness, with inspectors being physically present on their premises for the whole duration, point to this being a deliberate exercise of institutional pressure on CSOs.

**Türkiye’s** new law on Prevention of Financing of the Proliferation of Weapons of Mass Destruction, adopted in 2020, has greatly affected the freedoms and operations of CSOs. Prompted by the country Mutual Evaluation Report in 2019, the rationale behind the law was to bring domestic legislation in line with international standards in combating terrorism financing and money laundering, including FATF recommendations and United Nations Security Council (UNSC) resolutions. However, the law was prepared without the involvement of NPOs and contains lots of clauses which go beyond FATF recommendations. The scope of association audits has been expanded under Law No. 7262, specifying that they should be conducted annually for a period not exceeding three years, based on risk assessments. With the amendment of the Regulation on Associations on

October 21, 2021, risk assessment and audits are defined in more detail: according to the annual risk assessment carried out by STİGM (the General Directorate of Relations with Civil Society), associations are categorized into high, medium and low risk groups. Annual audit schedules are prepared for associations in high and medium risk groups by the Minister of Interior or the local authority, whereas audits of associations in the low-risk group are carried out if deemed necessary as a result of requests from judicial and administrative authorities or complaints and evaluations. These changes have made the legal framework governing audits a lot more restrictive and ambiguous for CSOs. The inadequacy of information and guidance to address uncertainties regarding the new implementation has raised concerns among CSOs that audits will be utilized in a manner that restricts freedom of association.

The number of audits in 2021 increased and the audits focused on financial records related to the foreign funds received by many Turkish organizations. Although the MASAK (Financial Crimes Investigation Board-Turkish FIU) Guidelines defined no risk for rights-based CSOs, it has been observed that there are many rights-based CSOs among the organizations that are subjected to detailed audits. In March 2022, a few (presumably medium and high risk) CSOs received a letter from the local governorships stating that risk categories could be lowered if they apply self-regulatory measures to protect themselves from the risk of terrorism financing and, report on them. The letters resulted in disquiet among CSOs since they did not explain the risk assessment process, why they are categorized as risky and how their reports will affect their risk rating. Moreover, among the associations that received the letter there are many CSOs that adopted a right based approach in their works with LGBTI+, women, migrants, or minority groups. The opinion that any self-regulatory measures will not change their risk rating according to these criteria is especially common among rights based NPOs.

The law changes had a chilling effect on CSOs' operations and lead to further shrinking of civic space.<sup>14</sup> Regulations preventing associations from their activities and filing closure proceedings expand the limits of interference with freedom of association. In practice, Turkish CSOs, especially those with a strong rights-based approach and high capacities, find the state inspections carried out as disproportionate and excessive, often carried out to obstruct the work and harass the organization. Many rights-based organizations receiving foreign funds that

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<sup>14</sup> <https://www.amnesty.org/en/wp-content/uploads/2021/07/EUR4442692021ENGLISH.pdf>

are defined as high and medium risk group are also subjected to smear campaigns by media outlets.

In some of the other countries, AML has been broadly used as a pretext to threaten the sector. In Bosnia and Herzegovina, in 2016, the assistant Minister of Justice of FBiH announced that CSOs will be put under surveillance as a part of anti-money laundering procedure to prevent illegal activities.<sup>15</sup> This statement was considered by CSOs to be a threat to the entire sector and a way to put the blame on CSOs for any wrongdoing.

## Risk assessments

National risk assessments have been implemented in all of the countries in the region except Kosovo, but many of them have not been made available to the public. Sectoral risk assessments, analysing only the CSO sector, have been concluded only in Albania, North Macedonia, and Serbia, with the latter being confidential and not available for the public. In Kosovo and Montenegro, SRAs have been recently initiated but are being implemented with slow pace of progress.

Table 8 Overview of risk assessments implemented in WBT

Country	National RA	NPO (sectoral) RA
<b>Albania</b>	2019 (confidential): "high risk" <sup>16</sup>	2022 (not officially adopted): "low risk" overall
<b>Bosnia &amp; Herzegovina</b>	2018: "high risk"	/
<b>Kosovo</b>	2018: "high risk"	initiated in 2022
<b>Montenegro</b>	2020: "low risk"	initiated in 2022
<b>North Macedonia</b>	2016	2021: "low risk for most, low to medium for about 13%"
<b>Serbia</b>	2021	2018 (confidential)
<b>Türkiye</b>	2018	2018 (confidential)

<sup>15</sup> <http://www.avaz.ba/clanak/240831/taletovic-pod-nazorom-drzave-bit-ce-24-000-nevladinih-organizacija?url=clanak%2F240831%2Ftaletovic-pod-nazorom-drzave-bit-ce-24-000-nevladinih-organizacija>

<sup>16</sup> Although the NRA is not public, in the Fifth Round Mutual Evaluation Report, MONEYVAL, July 2018, it is mentioned that "Albania considers all NPOs to pose a high TF risk": <https://rm.coe.int/committee-of-experts-on-the-evaluation-of-anti-money-laundering-measur/16808ff138>



In all national risk assessments implemented, with the exception of Montenegro, CSOs are classified as of 'high risk' for abuse, which translates into stricter legal regulations and bank policies and practices. On the other hand, the sectoral assessments in Albania and North Macedonia, point to a 'low risk' for CSOs overall.

The SRA in North Macedonia shows that only 13% of the CSOs are subject to 'low to medium risk'. This finding, however, does not point to a list with the names of those 13%, but rather describes the risk factors identified, such as operation in certain areas, transactions in conflict zones or high-risk jurisdictions/tax heavens, or no financial management. Moreover, this does not mean that 13% are risky per se, but that they are more exposed to risk, and this is why they should be more closely supervised. The Macedonian SRA has been officially adopted by the Government, however the one in Albania is not, although it was supported by the authorities. In fact, the Albanian government in 2022 initiated a separate NRA, with the support and guidance of Council of Europe, but so far it has implemented behind closed doors and without the involvement of civil society.

In Albania, the 'NPO risk assessment' was implemented in the framework of a Partnership Agreement between Partners Albania for Change and Development, General Directorate of Taxation, and GIZ. Overall, the risk assessment noted that there is no definitive evidence of the abuse of CSOs for terrorist financing in Albania. The perception of the risk varies, although it is notable that the authorities with direct responsibility for combatting terrorist financing consistently assess the risk as lower than financial institutions. Whilst the overall assessment of the level of risk is not clear, there is more consistency on the specific risk factors (e.g. large sums of foreign funding from high-risk sources, use of cash or alternative transactions outside of the formal banking system, and activities in remote areas). In this context, the overall inherent risk for terrorist financing abuse of CSOs in Albania was assessed as Low. For the majority of CSOs the risk is very low, while for the CSOs with humanitarian aid and charity activity, and religious organizations with educational and/or charity activity the risk is low-medium.

Following the success of the NPO RA in North Macedonia in 2021 implemented as per the Greenacre methodology, which ensured a truly participative approach among FIU and CSOs, the RA in Albania in 2022 also followed the same methodology. In Kosovo, on the other hand, the NPO RA is currently being implemented under the developed Council of Europe Methodology. This analysis is preceded by a risk assessment conducted in 2018 that presented a long list of problematic issues. Despite the detailed comments provided by civil society and

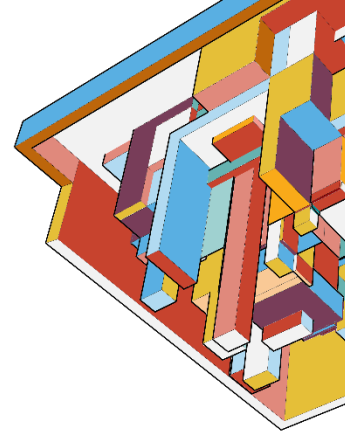
accepted by the RA working group, this resulted in the government listing CSOs among the few sectors representing high risk to terrorism financing in the National Strategy on Prevention and Fighting the Informal Economy, Money Laundering, Financing Terrorism and Financial Crimes 2019 – 2023.

A new NRA is currently underway also in Bosnia and Herzegovina, following the Assessment for the period 2018-2022, as per the World Bank methodology, which assessed that for the CSO sector in BiH there is a 'high risk' of vulnerability to money laundering, based on processing 16 variables inherent and intermediate to the activity of the sector. In Montenegro, too, a targeted RA for CSOs was initiated in response to the upcoming MONEYVAL visit, with civil society participation from the early stages, but with slow pace of progress.

In Turkey, Guidelines on the prevention of abuse of NPOs for the purpose of terrorist financing were published in 2019 to explain the result of the RA and the measures to be taken by CSOs to prevent the risk of TF, however it did not explain the methods and the criteria by which risk analysis is based on. According to the Guidelines, humanitarian organizations that mostly operate in the regions close to conflict zones (Syria and Iraq), are defined as the most vulnerable group to the risk of TF-abuse, while there is no risk of ML/TF for rights/advocacy-based NPOs. More information on the risk-based approach was shared by STIGM and MASAK only in 2022, explaining that geographic location, scope and type of the activities, annual revenue, number of employees, the number of foreign donations received and/or given, and the total amount of foreign donations were sorted as some of the significant and high-weighted criteria for the risk assessment. It is important to note that CSOs were neither included in the national risk assessment process nor able to contribute to the preparation of guidelines. Risk assessments in Serbia have also been done so far in a non-participatory process – without any CSO involvement, only based on data maintained by the authorities involved in the assessment. This both casts doubt on how accurately the NRA has mapped the sector's internal vulnerabilities, but also means that any measures undertaken based on it, not consulted with CSOs, have a higher likelihood of having unintended consequences on CSOs and civic space.

The RA should serve as a bridge between institutions and the CSO sector, and effectively including CSOs input into the process brings great value, not only because it will reflect the real state of the sector, but also having in mind the scarce public data on the sector available, in comparison with the sundry sector analyses done by CSOs.

# Best practices and solutions - Case studies



## North Macedonia: Multi-stakeholder Cooperation towards Improved FATF Compliance and CSO-appropriate Measures

In 2020, the North Macedonian civil society organization Konekt reached out to the Financial Intelligence Unit to update the national terrorist financing risk assessment before a FATF evaluation. The FIU established a multi-stakeholder working group with a high level of engagement of CSOs, with data collected both through surveys and direct consultations with the CSO sector. In 2021, the Government of North Macedonia completed the NPO risk assessment process and showed that effective collaboration with the non-profit sector is possible, enabling a meaningful assessment and an inclusive process.

The high level of engagement of the CSOs in the process was crucial to the quality of the risk assessment in several ways<sup>17</sup>: a) helped to properly identify the FATF NPO subset; b) provided knowledge, expertise and understanding on the ways CSOs operate resulting in improved understanding of the collected data and of the implementation of the CSO legislation; c) supported the data collection; and d) raised awareness among the CSOs themselves on the issue. The NPO risk assessment motivated a set of policy, outreach and capacity building measures which lead to improved compliance with international standards and operationally focused preventive and mitigation measures. CSO risk-based approach measures were subsequently introduced in the Government's Strategy for combating money laundering and financing terrorism 2021. To raise awareness and disseminate the results of the risk assessment, FIU in cooperation with a CSO organized a series of informational and educational events and shared the risk assessment with over 5.000 CSOs. In addition, a user-friendly briefer on the NPO TF RA<sup>18</sup> was developed and widely disseminated, based on the need for capacity building and awareness raising for CSOs to be able to identify risks and protect their organizations from

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<sup>17</sup> Public Consultation on the FATF Best Practice Paper to Combat the Abuse of Non-Profit Organisations (fatf-gafi.org)

<sup>18</sup> <http://konekt.org.mk/wp-content/uploads/2021/12/One-pager-lzvestaj-za-procenka-ENG.pdf>

being misused for terrorist financing, identified as one of the preventive measures in the Risk Assessment. Following the principles of cross sector partnerships, the CSOs and institutions jointly developed a capacity building program that was comprised of: a) The "Handbook for NPOs: Protect your organization – Prevention of the exposure of the non-profit sector to ML and FT"<sup>19</sup>; b) A targeted risk assessment tool for CSOs in identifying and understanding the potential risks of ML and TF abuse; and c) 1 day training module for CSOs named "Protect your organization".

After the conducted Risk Assessment, a working group was formed in cooperation with Konekt, the FIU, and the Macedonian Banking Association and they jointly reviewed the STR indicators to increase their effectiveness, enable risk-based analysis and prevent the phenomenon of de-risking. In addition to the revision of the existing indicators, the working group also prepared interpretative notes of the indicators for them to ensure a unified approach and become part of banking practices at state level. The multi-stakeholder participatory approach contributes to a common understanding of the application and interpretation of indicators. As an added value of the process of joint work, through the meetings of the working group it was concluded that it is important for CSOs to understand the work of banks, but at the same time banks and regulators need to get more information about the nature of the CSO sector, which differs from that of other entities. This process also identified the need to conduct training for the banks to improve and facilitate their work with CSOs as clients.

## Serbia: National Coalition-building and International Community Support to Push Back Against Overregulation

In response to the 2020 "List" case in Serbia, civil society created an informal national CSO coalition to ensure an effective joint action of solidarity, support, and advocacy. Civic Initiatives focused on engaging with the international community to ensure the issue is internationalized and the government is pressured into taking action. With the support of ECNL<sup>20</sup>, who provided strategic guidance, arguments and information to national organizations, a rapid response action was launched, and civil society reached out to international relevant stakeholders in the country (embassies, donors, EU Delegation, etc.) and relevant international

<sup>19</sup> [https://ufr.gov.mk/wp-content/uploads/2020/05/KONEKT-Priracnik-za-SPP-FT\\_ENG.pdf](https://ufr.gov.mk/wp-content/uploads/2020/05/KONEKT-Priracnik-za-SPP-FT_ENG.pdf)

<sup>20</sup> <https://ecnl.org/impact-story/push-back-against-counterterrorism-overregulation>

bodies, including the UN Special Rapporteur on Counter-terrorism and Human Rights, UN Special Rapporteur on Freedom of Associations and Assembly, Council of Europe Conference of INGOs, Council of Europe High Commissioner, the FATF Secretariat, and the MONEYVAL Secretariat.

As a result of the international outreach<sup>21</sup>, both FATF and MONEYVAL responded they will investigate the issue with the Serbian government during their Spring 2021 plenary session. Furthermore, the MONEYVAL Executive Secretary, upon ECNL initiative, took part in the dialogue with affected CSOs to understand concerns first-hand. The office of the UN Special Rapporteur on Countering Terrorism and Human Rights issued a public statement on the situation. The Rapporteur also published its full exchange of communication with the government on this inquiry. This resonated in the Serbian media and gave CSOs additional support in requesting concrete answers from the government about the potential abuse of official power. The FATF issued clear and strong statement against states misusing security and counter-terrorism legal framework as justification to restrict civic freedoms.

All these actions led to the authorities back-tracking on the investigation and claiming it was merely a part of the regular assessment activities and not at all implicating any type of responsibility of those on the list as investigated for AML/CFT purposes.

## Self-regulation initiatives

Self-regulation is an effective way for CSOs to define higher standards of governance/soft regulation and to strive towards best practices (e.g., the issue of cash handling can be mitigated by stronger self-regulation). Improvement in the internal governance systems and capacities of CSOs has been noted in the past couple of years, as more CSOs than before report having internal documents, although this has often been donor-driven. Self-regulation activities are not yet recognized enough by authorities around the region, but self-assessments and self-regulation mechanisms are becoming more popular in the NPO sector, and there are several such initiatives in the region.

The “**Trust Mark**”<sup>22</sup> is a self-regulating system developed by Konekt in North Macedonia, with the purpose to ensure safeguarded donating and facilitate the

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<sup>21</sup> <https://fatfplatform.org/assets/Backgrounder-on-the-case-of-The-List.pdf>

<sup>22</sup> <http://konekt.org.mk/en/filantropija/individualna-filantropija/sto-e-oznaka-za-doverba/>

access of citizens and companies to trusted organizations. CSOs that hold the Trust Mark are considered trustworthy, dedicated to their mission and with sound governance and financial management since it sets higher standards for good performance, thus strengthening the trust in the sector. The mark is obtained through a carefully created process and criteria for transparency, accountability, performance results, compliance with legal regulations, etc. CSOs that possess the Trust Mark are good partners of institutions, companies, and other stakeholders in the community. Recognized by both banks and state institutions, the Macedonian government has encouraged banks to use the Trust Mark and impose less administrative burdens to organizations that have it, as the alignment of the Trust Mark with FATF's R8 ensures they are protected from the risk of being misused for money laundering and terrorist financing.

Further efforts in North Macedonia have prompted the establishment of an informal platform for transparency and accountability, uniting over 50 CSOs in the shared goal to develop and impose better standards of work in the sector. These standards comprise the **Civil Society Code in North Macedonia**<sup>23</sup> which aims to strengthen the self-regulation system and to contribute to greater professionalism and accountability of CSOs in the country. The Code is voluntary, and every civil society organization that joins it assumes responsibility for complying with and practicing the commitments, values and standards set out in it. The Code is a living matter, and it will be promoted and improved by the civil society organizations consistently and continuously.

In a similar manner, the **Code of standards for Non-profit Organisations in Albania**<sup>24</sup> represents a self-regulatory mechanism that aims to strengthen CSO work effectiveness, good governance, transparency, and accountability. It guides CSOs towards a higher standard, thus developing trust with stakeholders and enhancing their legitimacy and credibility. It is a set of principles and commitments on operation, governance, resource management, transparency and accountability, relationship-building, and management of conflicts of interest. The initiative was introduced in 2018, and 16 CSOs joined the volunteering working group to develop the code. Based on international experiences and models of standards for CSOs such as the Global Standard for CSO Accountability, the code was adapted to the dynamics of development of the non-profit sector in Albania. Besides the code, an implementation framework that enables monitoring

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<sup>23</sup> <https://www.otcetnigo.mk/wp-content/uploads/2021/11/Civil-Society-Code.pdf>

<sup>24</sup> <https://resourcecentre.al/code-of-standards-for-non-profit-organizations-in-albania/>

and self-assessment of the organization was established. Since its launch in 2021, 21 organizations have gone through the self-assessment process. Fulfilment of the basic obligations and requirements set out in the Code and the Self-Assessment Framework are ensured by the Code Committee, which serves as an evaluation structure for participating CSOs. A dedicated online platform was established<sup>25</sup>, serving as an informative and promoting tool that enables a preliminary and rapid evaluation of CSOs' practices and opportunities for improvement, in compliance with the Code.

There have been a number of successful self-regulatory initiatives within the Serbian NPO sector, with the first steps in this direction having been taken as far back as 2008. Civic Initiatives initiated the development of a **Code of Ethics**<sup>26</sup> for CSOs in 2008 through the then active Federation of NGOs in Serbia (FeNS), an umbrella organization of CSOs with over 550 members. The Code was opened to signing in 2011, and NPOs can still access it by filling out a form provided by Civic Initiatives. By signing on to the Code of Ethics, CSOs pledge to adhere to key principles of respecting human rights, social change and not-for-profit character, activism and responsibility. Some of the key principles CSOs pledge to follow when signing on to the Code are: following laws and regulations, providing the highest quality management, having a clear policy to prevent conflict of interest, making activities, results and financial information available to the public, principled fundraising, as well as responsible, efficient and effective spending.

Another self-regulatory tool in Serbia is Neprofitne.rs, an information service / public online platform owned and run by Catalyst Balkans. By publishing their program, project and financial data on this, organizations earn a badge that confirms their level transparency. In order to acquire the highest transparency badge, the NPO must publish all programmatic and financial data for the past three years. The database contains data on over 29,900 NPOs, while the total number of registered CSOs in Serbia is 36.491, with some being inactive.

Other initiatives in the region aimed at fostering CSOs development, accountability and transparency include the Quality Assessment System for CSOs in Serbia from 2016 and the establishment of the first Quality Assurance System for NGOs in Bosnia and Herzegovina in 2009, as different tools for assessment and self-assessment of organizations have been created, but this has not gained much

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<sup>25</sup> <https://standards4npo.al/>

<sup>26</sup> <https://www.gradjanske.org/wp-content/uploads/2013/01/Eticki-kodeks-organizacija-civilnog-drustva.pdf>

traction in the sector. On regional level, Trag Foundation and five other partner foundations in the Western Balkans partnered to develop **regional "Standards for Transparency in Fundraising"**<sup>27</sup> based on the principles valid in 11 EU countries and consultations with NPOs that contributed to their adaptation to the situation in the region. The intention of these standards, signed by over 130 CSOs from all countries of the Western Balkans, is to establish the principles of good practice in the fundraising process, which will increase citizens' trust in the activities of CSOs and improve their legitimacy, sustainability and impact.

Overall, self-assessments aim to help civil society organizations adopt appropriate practices to mitigate the risks of money laundering and terrorist financing. This is achieved through developing a set of questions on management responsibilities, reporting, risk-based approach, training, suspicious activity and customer identification, designed to encourage CSOs on some of the areas they should focus on in order to meet their legal and regulatory obligations in the fight against financial crime. These self-regulatory and self-assessment tools and measures are yet to be recognized and acknowledged by states.

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<sup>27</sup> <https://sign-network.org/>



# Conclusions

In the pursuit of better compliance with FATF regulations and international AML/CFT standards, our primary goal is to enhance the safety and security of societies while upholding and advancing the essential freedoms of association and expression. Our focus lies in enabling CSOs to carry out their legitimate activities without unnecessary hindrance, bearing in mind the vital contributions of civil society to society at large. Rather than imposing stringent controls that stifle their operations, our aim is to safeguard these organizations from the potential misuse of funds for financing terrorism. It is essential to identify gaps in existing policies and regulations to develop measures that safeguard financial integrity and ensure our systems remain safe and our sectors secure.

The challenge of harmonizing AML/CFT regulations with the diverse functions of CSOs calls for thoughtful strategies that ensure a **balance between security and the autonomy of civil society**. The existing problematic provisions in legislation and the challenging practices stem from a lack of proper understanding among policy-makers and stakeholders about the core principles of civil society, as well as a deficiency in adopting a targeted and risk-based approach. To achieve a balanced approach, several strategies can be explored:

- **Inclusive Engagement in Risk Assessment (NRAs):** CSOs possess valuable knowledge and expertise about their activities and operations. Their involvement in Risk Assessments can provide insights that help develop a nuanced understanding of their sector's risks and vulnerabilities. By actively participating in these assessments, CSOs can contribute to a more accurate evaluation of AML/CFT risks.
- **Building Collaborative Processes:** Collaborative efforts involving CSOs, regulatory authorities, and financial institutions can create effective AML/CFT measures that align with civil society's goals. Involving operational-level experts with technical knowledge and an understanding of CSOs' activities is critical. Developing joint initiatives and task forces can foster trust, shared insights, and practical solutions. Developing processes based on transparency and trust is paramount. Governments, CSOs, and financial

institutions should collaboratively design and implement procedures that protect the sector while maintaining financial integrity.

- **Early Engagement in Legislative Processes:** Ensuring effective inclusion of CSOs in consultation processes, discussions, and joint working groups during the formulation of draft laws and regulations is essential. By involving CSOs at the early stages of legislation development, governments can create regulations that are both effective in countering financial crimes and considerate of the unique needs and roles of civil society.

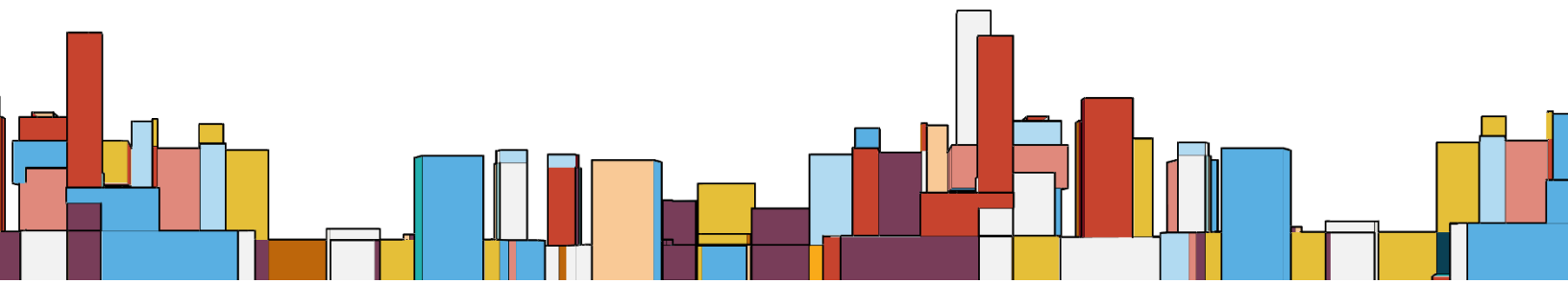
- **Revising Restrictive Legislation:** In cases like Türkiye, where laws contain restrictive clauses that allow excessive discretion and intervention, revising such legislation to provide a balance between security concerns and the autonomy of CSOs is imperative. Governments should focus on supervision, as any strong regulation allows room for abuse.

- **Capacity Building and Knowledge Sharing:** Fostering a deeper understanding among all stakeholders, including policy-makers, financial institutions, and CSOs, is crucial. Providing targeted capacity-building initiatives can enhance awareness of AML/CFT risks and ways to address them without unnecessarily burdening CSOs.

- **Enhancing Self-Regulation:** CSOs can play an active role in improving their internal governance and self-regulation mechanisms. Governments should focus on supervision rather than overly restrictive regulation. Strengthening CSOs' capacity for transparent financial management and accountability can mitigate the potential for misuse of funds while maintaining their autonomy.

The path to effective AML/CFT regulations and their harmonious implementation in the non-profit sector lies in fostering multistakeholder dialogue and cooperation. Beyond the current multistakeholder dialogue, the focus should shift towards a collaborative framework where all parties dedicate time and resources to collectively strengthen the system. A participatory approach is vital, encompassing the diverse experiences and resources that each stakeholder brings. This approach enhances the proper and improved implementation of FATF Recommendations, ensuring policies are proportionate, legitimate, and necessary. The multistakeholder dialogue becomes a platform for policy development, allowing for a comprehensive consideration of suspicious indicators that various entities interpret differently. For successful implementation, Financial Intelligence Units and CSOs must form a partnership, bridging knowledge gaps

and facilitating a more direct connection for risk assessment. Notably, banks' involvement in policy development offers a rare opportunity to address questions and fears about practical implications. Such constructive dialogue increases the outreach of state authorities and nurtures continuous engagement, enabling robust consultation on ML/TF issues in the CSO sector. This approach is critical for bridging the knowledge gap, ensuring that all stakeholders, including banks, understand CSO operations and work collaboratively to protect against misuse while preserving legitimate activities and human rights.



# Recommendations

## To regulatory authorities/national institutions

- To strike a balance between security and CSO autonomy, regulatory authorities should **adopt a risk-based approach towards CSOs**. It is imperative to implement a risk assessment specific to CSOs, as this approach ensures that resources are directed where risks are identified, avoiding unnecessary burdens on low-risk entities. Recommendation 8 does not apply to the CSO sector as a whole. Countries should take a targeted approach to implementing the measures, including oversight and regulatory mechanisms, based on an understanding of the sector's diversity and the terrorism risks faced by the domestic CSO sector. Effective CSO involvement and collaboration between regulatory bodies and CSOs in this process will foster a more comprehensive assessment of risks and vulnerabilities, leading to more effective policies.

- Regulatory authorities should ensure **clear, non-interpretable guidance to both CSOs and financial institutions, and deliberate implementation of AML/CFT regulations**. A measured and unrushed approach, as well as communication of AML/CFT concepts in a way that resonates with the unique nature of the non-profit sector, allows for effective integration of regulations without hindering legitimate CSO activities. Authorities should define its CSO sector based on local legislation and provide clarity in the definition to ensure a targeted and relevant regulatory framework that aligns with the local context.

- Regulatory authorities, particularly tax authorities, should **undergo capacity building initiatives** to enhance their understanding of the nature, characteristics and functioning of the CSO sector. This facilitates a better exercise of supervisory roles using a risk-based approach and equips them with the insights required to create policies that preserve CSO autonomy while countering misuse.

- Regulatory bodies should **establish effective and transparent accountability mechanisms to prevent the abuse of AML/CFT regulations**, ensuring that powers granted to Financial Intelligence Units (FIUs) are not exploited to

silence criticism or intimidate civil society actors. Taking accountability in cases where regulations have been abused is crucial for preventing similar events in the future and for maintaining public trust.

- As technology advances, regulatory authorities should **adapt AML/CFT regulations to address threats posed by emerging technologies** such as fintech, cryptocurrencies, and online platforms, that are proportionate and do not impede access to financial resources for the CSO sector. Staying abreast of technological advancements ensures that financial systems remain resilient in the face of new challenges.

## To financial institutions

- Central banks, including institutions akin to the central banks, **should incorporate a risk-based approach into their guidelines**. This approach should extend to measuring the de-risking of CSOs, which involves assessing the extent to which banks reduce their exposure to CSOs as a response to regulatory and compliance concerns, particularly related to AML/CFT requirements. By quantifying individual financial exclusion alongside CSO financial exclusion, a comprehensive view can be obtained, enabling better policy decisions.

- **Tailored policies for the banking sector** should be developed in collaboration with CSOs, regulatory bodies, and the National Bank. CSOs often gain insights into the implications of AML/CFT regulations through their interactions with banks. As part of the participatory approach, Suspicious Transaction Report (STR) indicators should be jointly developed, with explanatory notes for these indicators to create a unified approach for banks, promoting consistent practices at a national level.

- All financial institutions should **increase their capacities to better understand the CSO sector** and their operations. Capacity-building efforts enhance the banks' ability to differentiate between legitimate CSO transactions and potential risks related to money laundering or terrorist financing.

- As financial institutions **adapt AML/CFT measures using emerging technologies** such as fintech, they need to make sure measures do not discriminately profile CSOs or impede access to financial resources for the sector.

## To CSOs:

- CSOs must **increase their capacity with the help of the public sector** to better understand the potential risks of ML/TF, the mitigating measures to address the risks, and the reporting obligations toward state authorities. Increased knowledge of the implications of international standards on their operations will help them strengthen their financial management and implement risk-based measures for prevention of illegal money flows or terrorist abuse, thus protecting the integrity of the organizations.

- In addition to raising awareness and capacities of the sector, CSOs should **leverage their expertise in the dialogue with public institutions** and offer their support in outreach and capacity-building efforts, as required by FATF's Recommendation 8. Active participation in multi-stakeholder processes is essential for CSOs to ensure AML/CFT regulations are appropriate and effective.

- CSOs should implement and promote non-obligatory **self-regulation mechanisms**, such as the "Trust Mark" in North Macedonia or the Code of standards for CSOs in Albania, which set higher standards for good performance, where it is useful and applicable. This not only aligns with both local regulations and FATF's Recommendation 8, but enhances transparency, accountability, and performance standards, thereby shielding CSOs from potential misuse.

- By focusing on **enhancing their accountability and transparency**, CSOs contribute to dispelling misconceptions, raising awareness about the sector's legitimate contributions, and improving the public image of civil society. Efforts to clarify the role and contributions of CSOs will foster a better understanding among the public and policymakers alike.

- Regular regional discussions on AML/CFT and **building regional advocacy coalitions** strengthens the sharing of knowledge and expertise among CSOs in the Western Balkans and Türkiye. Such coalitions give rise to advocacy and solidarity actions to counter negative developments in any of the countries, as well as support the sharing of best practices.

- Furthermore, **participating in international CSO networks**, such as the FATF Global NPO Coalition or the Global Expert Hub on AML/CFT, will further strengthen CSO's capacities and opportunities to advocate for global standards that safeguard their operations. Establishing regional coalitions and **leveraging international advocacy platforms and mechanisms**, like the UN Special Rapporteur or the Venice Commission, can amplify CSOs' voices on the international stage.

## To FATF/MONEYVAL/EU institutions:

- The **FATF** must act decisively and coherently on the problem of states referring to FATF standards and recommendations when imposing burdens on raising and transferring funds and additional obligations to CSOs, which are not proportionate to the size and activity of CSOs. These practices can be changed by clarifying the terminology and putting forward more explicit guidelines, mitigation measures, and clearer rules for assessment methodology that are adequate to the work and nature of the nonprofit sector.
- **MONEYVAL** needs to be more open for continuous dialogue with CSOs and more transparent about the activities undertaken, so that CSOs are able to participate effectively and contribute to the country evaluation processes. In a similar manner as the FATF, MONEYVAL should commit to a formalized regular dialogue and engagement with the CSO sector, providing official avenues for the sector to raise concerns on misuse and unintended consequences of the standards in MONEYVAL member jurisdictions, and conducting annual and ad-hoc consultations, as well as thematic briefings with NPOs.
- All **EU and other international bodies** must ensure a clear use of language and careful framing of their official documents, reports, and positions, in order to minimize the risk of misinterpretation by authorities that may lead to restrictive regulations or abusive practices towards CSOs for compliance purposes. Continuous outreach and inclusive dialogue around these documents must be ensured with all relevant stakeholders.

