

# CSOs Under Pressure: Navigating AML/CFT Regulations in the Western Balkans and Türkiye

Regulations dealing with anti-money laundering and countering the financing of terrorism (AML/CFT) in the Western Balkans and Türkiye present a complex landscape with significant implications for civil society organizations (CSOs) in the region.

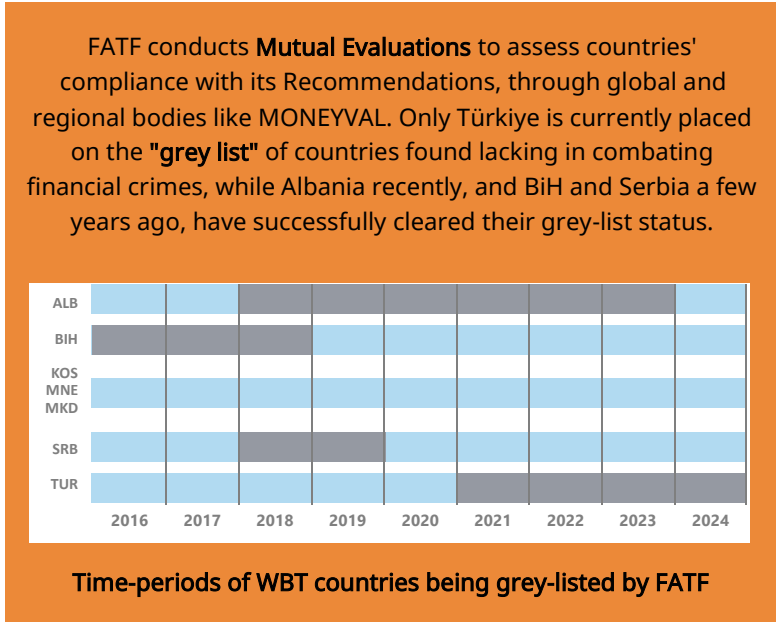
Pressured by the commitment to comply with FATF international standards, many governments have introduced regulations and measures that are **inappropriate, burdensome, and ineffective**, mainly due to the lack of understanding of the sector's principles and modus operandi. This often comes at the expense of the CSO sector's autonomy and operational efficiency. More worryingly, some countries have even misused the FATF recommendations to excessively regulate and control CSOs, despite limited evidence of systemic issues.

The global fight against financial crimes has been spearheaded by the Financial Action Task Force (FATF), established in 1989. During the 1990s, FATF **developed 40 Recommendations**, on AML/CFT, complemented by 11 Immediate Outcomes, that serve as an benchmark for countries worldwide.

Two key **Recommendations for CSOs** are Recommendations 8 and 24. **R8** focuses on preventing misuse of nonprofit organizations (NPOs) for illicit purposes while preserving their legitimate charitable activities. **R24** aims to enhance transparency and identify beneficial owners across legal entities, including NPOs.

However, the uniform application of FATF standards has negatively impacted CSOs and resulted in **unintended consequences**.

While the legal frameworks in the Western Balkans generally protect CSOs from undue state interference – which is not the case for Türkiye – AML/CFT legislation places onerous requirements on them, starting from their registration. FATF standards mandate **beneficial owner registration**, but the term "owner" doesn't neatly apply to CSOs, leading to ambiguity in legislation. Distinguishing between founders, board members, and decision-makers within CSOs is complex and requires nuanced approaches with collaborative efforts between authorities and CSOs.



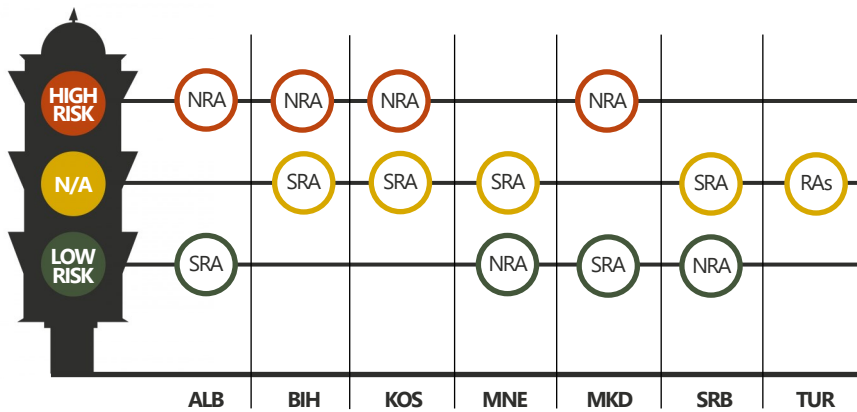
CSOs face diverse compliance and reporting **challenges** due to AML/CFT regulations in place. Supervision and control mechanisms for CSOs differ across the region, but there is a tendency for excessive oversight in practice. With CSOs deemed vulnerable for financing of terrorism, due to the nature of their work but also due to FATF initially portraying the whole sector as vulnerable (before revising Rec8 in 2023), strict bank requirements limit CSOs' access to financial services. Bureaucratic burdens divert CSOs from their missions, and excessive compliance measures deter advocacy and activism.

While initially portraying the whole non-profit sector as particularly vulnerable to abuse, FATF revised its standards calling on states to apply a **risk-based approach**. Countries should 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 latest revision of the FATF Recommendation 8 and its Interpretative Note in 2023 further clarifies the implementation of a risk-based approach.

Inconsistent interpretation and application of regulations across the region result from **policymakers' limited understanding of civil society and a lack of a targeted, risk-based approach** toward the CSO sector.

In national **risk assessments (NRA)**, except for Montenegro, CSOs are often classified as 'high risk,' leading to stricter regulations and bank policies. Conversely, sectoral risk assessments (**SRA**) in Albania and North Macedonia indicate a 'low risk' for CSOs overall. Sectoral assessments have proven to involve CSOs more effectively compared to national assessments, highlighting the importance of inclusive participation and value of CSOs' contributions in the process.

Findings on CSOs in Risk Assessments in the WBT



**SRA findings explained:**

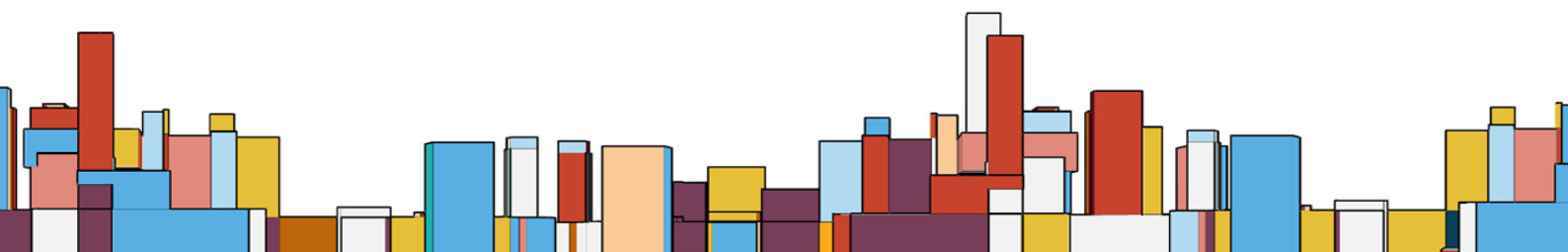
The sectoral risk assessment in North Macedonia shows that only 13% of the CSOs are subject to 'low to medium risk'. This finding, however, does not point to a list with the names of those 13%, but rather describes the risk factors identified, such as operation in certain areas, transactions in conflict 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.

Efforts to address these issues are underway in several countries, including Albania, Kosovo, and North Macedonia, through national and sectoral risk assessments involving CSOs. Additionally, CSOs are increasingly paying attention to **self-regulation** tools and measures to mitigate the risks of money laundering and terrorist financing, though recognition from states remains limited.

Despite these efforts, collaboration among relevant stakeholders (state authorities, CSOs, financial institutions) remains lacking in the region, resulting in a low level of trust and understanding between sectors. Establishing collaborative multi-stakeholder dialogue and trust-building is crucial to crafting effective AML/CFT policies that **align with international standards while preserving the autonomy and integrity of the CSO sector**, bearing in mind the vital contributions of civil society to society at large.

Further reading:

- [Policy Paper: AML/CFT Regulations and Implications on CSOs in the Western Balkans and Türkiye](#) (detailed overview of the state of play in the region, as well as concrete recommendations, tailored to regulatory authorities, financial institutions, CSOs, and international bodies)
- [FATF Recommendation 8 revised](#): Protecting non-profits from abuse for terrorist financing
- [Best Practices on Combating the Abuse of Non-Profit Organizations](#)



## KEY CONCERNS

**Kosovo** is the only country in the region where AML/CFT legislation designates all CSOs as obliged reporting entities and thus imposes provisions impossible to be implemented by most CSOs, and where CSOs face most difficulties accessing commercial banks services.

**Bosnia and Herzegovina** has intricate reporting procedures, creating administrative complexities for CSOs registered at different levels, while effective supervision is reported difficult to ensure.

**Türkiye's** legal framework on inspections of CSOs related to AML/CFT is most restrictive, bureaucratic and ambiguous, often used to target rights-based organizations.

**Serbia's** 'List' case represented an abuse of the government's AML/CFT mechanism to intimidate and restrict the work of targeted CSOs.

**Albania's** law on NPO registration introduced duplication, and unjustified reporting requirements, including disproportional and unjustified penalties.

**North Macedonia** CSOs were faced with high penalties and lack of clarity regarding registering beneficial owners.

Only **Montenegro** does not recognize CSOs as liable under the AML/CFT legislation of 2014, therefore is not considered restrictive to civil society's work.

## KEEPING EYES ON

Conclusion of the work on a Concept Document on AML/CFT in **Kosovo**, which started in 2021, as well as the implementation of a sectoral risk assessment.

Implementation of a targeted risk assessment for CSOs in **Montenegro**, as a response to the MONEYVAL evaluation.

Adoption of the new Law on prevention of money laundering and financing terrorism by the House of Peoples in **Bosnia and Herzegovina**, and MONEYVAL's visit in the country scheduled for 12-28 February 2024.

Implementation of the National Risk Assessment in **Albania**, guided by the Council of Europe, so far implemented behind closed doors and without the involvement of civil society. Amendment of the legal framework for the de-classification of CSOs as 'high-risk' clients for the banking sector is expected after the publication of the National Risk Assessment in 2024.

In the latest FATF Follow-up Report (June 2023), **Türkiye** has been assessed as largely compliant with 25 recommendations, compliant with 14 and partially compliant with only one recommendation. It is crucial for Türkiye, after being removed from the grey list, to continue avoiding practices that would deter civil society or hinder CSOs' legal activities.

## PROMISING WINS

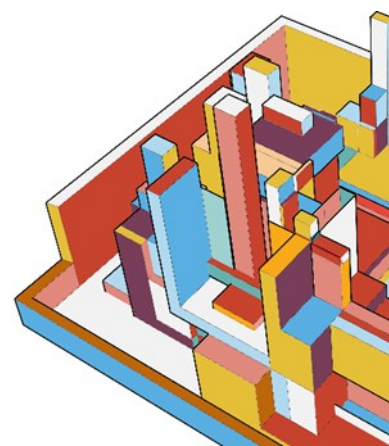
Multi-stakeholder cooperation in **North Macedonia** led to improved FATF compliance and CSO-appropriate measures.

National coalition-building and international community support helped pushing back against misuse of AML/CFT regulation in **Serbia**.

Through advocacy and dialogue, CSOs in **Kosovo** changed institutions' understanding of beneficial owners as those that control the CSO and not its founders, as previously considered.

As a result of the wide mobilization of the non-profit sector in **Albania**, the legal analyses and proposals submitted, 32 articles of the draft law "On the Registration of NPOs" were changed.

Applying a risk-based approach to supervision of NPOs became one of the main conditions for **Türkiye** to exit the gray list due to collective CSO efforts.



# THE WAY FORWARD (OUR RECOMMENDATIONS)

## TO REGULATORY AUTHORITIES/NATIONAL INSTITUTIONS:

- ◆ Adopt a risk-based approach for CSOs, through implementation of a participatory risk assessment of the CSO sector that identifies the sector's risks and proposes measures proportionate to the risk and targeted only to those found at risk. Periodically identify organizations that fall within the FATF definition and assess the risks posed to them.
- ◆ Provide clear guidance and non-interpretible instructions to both CSOs and financial institutions.
- ◆ Undertake capacity-building initiatives to enhance understanding of the CSO sector, as a basis for developing more effective policies.
- ◆ Establish effective and transparent accountability mechanisms, preventing abuse of regulations, and take accountability if such cases occur.
- ◆ Adapt AML/CFT regulations to address emerging technologies in a proportionate manner, not impeding the work of the sector.

## To CSOs:

- ◆ Increase capacity to understand potential ML/TF risks, mitigating measures to address the risks, and reporting obligations, as well as the implications of international standards on your operations.
- ◆ Leverage expertise in dialogue with public institutions, and support outreach and capacity-building efforts as part of the multi-stakeholder processes.
- ◆ Focus on enhancing accountability and transparency, including through self-regulation mechanisms, to dispel misconceptions, raise awareness about CSOs' legitimate contributions, and improve the public image of civil society.
- ◆ Participate in regional discussions on AML/CFT, build regional coalitions, and engage in international CSO networks to strengthen capacities and advocate for effective global standards.

## TO FINANCIAL INSTITUTIONS:

- ◆ Central banks should incorporate the risk-based approach into their guidelines, extending it to measure the de-risking of CSOs.
- ◆ Develop tailored policies for the banking sector in collaboration with CSOs, regulatory bodies, and the National Bank, that ensures a unified approach and consistent practices at the national level.
- ◆ Increase capacities to better understand the CSO sector, differentiating between legitimate CSO transactions and potential risks related to money laundering or terrorist financing.
- ◆ Ensure AML/CFT measures using emerging technologies (e.g. fintech) do not discriminately profile CSOs or impede access to financial resources for the sector.

## TO INTERNATIONAL INSTITUTIONS:

- ◆ **@FATF:** Clarify terminology, provide explicit guidelines, mitigation measures, and clearer rules for assessment methodology that are adequate to the work and nature of the nonprofit sector.
- ◆ **@MONEYVAL:** Ensure continuous dialogue and transparency with CSOs, committing to regular engagement, consultations, and thematic briefings, allowing the sector to contribute to country evaluations and raise concerns on misuse or unintended consequences of standards.
- ◆ **@EU institutions:** Ensure clear language and framing of official documents, reports, and positions to minimize the risk of misinterpretation by authorities and conduct continuous outreach and inclusive dialogue with all relevant stakeholders.