



CE-FATF-ENG NEWSLETTER

Opinion: Civil society concerns about FATF R. 8.

In the bid to combat terrorist financing, FATF, the multilateral institutional entity saddled with this responsibility, introduced measures such as Recommendation eight which despite its good intentions, have had some unintended consequences on Non Profit Organizations. The crux of the issue stems from the particularly abstruse language, strict adherence requirements and unbending stance on penalties for lack of absolute compliance.

Operational and legal restrictions have been at the top of challenges faced by NPOs as a result of counter-terrorism regulations. Over the years, there have been reports of closure of bank accounts of some organizations; especially those located in areas considered terror-prone, human rights defenders have been prosecuted and the ability to protest has been curtailed making it more difficult for NPOs to carry out their primary duties.

The creation and subsequent implementation of restrictive laws, rules, regulations and audit requirements as well as the cutting back of society space with Recommendation

8 reinforcing the already existing tools in the state tool box to clamp down further on civil society.

FATF gains vast influence over NPO regulation due to the measures put in place as penalty for countries who fail to excel at the 6-7 years peer review and follow-up which are used to assess and improve states' compliance with each of the Recommendations. They must agree to enact wholesale reforms, labeled 'non-cooperating territories' are named-and-shamed and face 'blacklisting'. Because FATF standards have become a central feature of the global 'good governance' agenda, good compliance ratings from the FATF are particularly important for developing countries seeking aid, trade and investment deals resulting in further decline in the freedom of the civil society activities in these countries.

Although the restrictions have often been justified by citing the Recommendation 8 regime and buttressed with reports of notable success of the institution in curtailing terrorist financing, it is gradually stifling civil society. This could be as a result of the general ambiguity or lack of clarity in FATF

standards as they do not always provide clear and illustrative guidance for implementation, thus creating space for misinterpretation and, most worryingly, for misuse by national regulators. The regulations single out the NPO sector as being vulnerable to terrorist abuse despite the lack of evidence, with the result that a growing number of countries are enacting laws that restrict the legitimate activities of NPOs.

However, while it could be said that these concerns are valid and present a huge cause for concern, the efforts of FATF to curb the threat it may inadvertently pose for the civil society or effective implementation of its activities should not be overlooked.

It is hoped that with careful implementation of the recently reviewed and rewritten Recommendation 8, the original intention of the FATF would be realized and an end would eventually come to limitation of civic space.



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