

UN Counter Terrorist Financing Resolution 2462: Vague Safeguards for Civil Society Puts Focus on Implementation

The UN Security Council unanimously passed [Resolution 2462](#) to “Combat, Criminalize Financing of Terrorists, Their Activities” on March 28, 2019. It is binding on all member states and can be enforced by UN sanctions. Sponsored by France, Resolution 2462 is the results of [intense behind-the-scenes negotiations](#), including efforts by civil society to include clear safeguards for humanitarian and peacebuilding activities as well as cautions against further bank derisking of nonprofit organizations (NPOs). It is the first comprehensive UN resolution on countering financing of terrorism (CFT), incorporating a patchwork of previous resolutions and broadening CFT efforts to address new threats and improve investigation and enforcement activities. Notably, Resolution 2462 requires member states to take international humanitarian (IHL), human rights law (IHRL) and refugee (IRL) law into account and make CFT efforts consistent with these existing legal obligations. These safeguards, which are weaker than what civil society proposed, will require civil society engagement at both the UN and member state level to build understanding of what IHL, IHRL and IRL require and advocate for appropriate implementation. This engagement will be a major factor in how Resolution 2462 impacts civil society, as there are no clear enforcement mechanisms for violations of these human rights and humanitarian standards.

- **How Resolution 2462 Came About**

After 9/11 the UN adopted resolution 1373 requiring all member states to respond to global terrorist threats. Subsequent resolutions addressed terrorist financing, ISIL and al- Qaida, foreign terrorist fighters, organized crime and illicit trade in cultural property. After several attacks in France, the French government made CFT a priority, hosting a conference in Paris in April 2018 that drew participation from over 70 countries. The [final statement](#) from the conference participants outlined ten steps to “to improve the effectiveness of CFT efforts.’ At a subsequent [Arria-formula meeting](#) at the UN in January 2019 gaps in member state implementation of UN resolutions and new forms of terrorist were discussed. Such discussions led France to spearhead the process that led to resolution 2462. During consideration of Resolution 2462 Vladimir Voronkov, UN Under-Secretary General Office of Counter-Terrorism, said the resolution is being adopted at a “critical time,” citing recent terrorist attacks. FATF President Marshall Billingslea [noted](#) that fewer than 20 percent of countries have criminalized terrorist financing and [two-thirds](#) do not effectively prosecute it. He also [warned](#) that states must address factors that can lead to instability, such as corruption, weak governance and lack of respect for the rule of law. (Billingslea is also the U.S. Treasury Department’s Assistant Secretary for Terrorist Financing.)

The [UN summary](#) of the Security Council’s session notes that over 70 speakers took the floor during the open debate, and “strongly advocated respect for international humanitarian law, international human rights law and international refugee law, *with the United Nation playing a capacity-building role.*” (emphasis added) The observer from the International Committee of the Red Cross cautioned that although states have legitimate need for security measures, “[C]ertain measures, most notably counter-terrorism legislation and sanctions, can criminalize and restrict humanitarian action.”

- **Highlights Resolution 2462**

The Preamble describes the variety of ways terrorists can raise and move funds, including kidnap for ransom, organized criminal activities, abuse of legitimate businesses and non-profit organizations and use of communications technologies and evolving financial technologies and services. Binding operational paragraphs address issues include information sharing and international cooperation, the need for robust enforcement bodies and the need for many countries to adopt legal measures in line with the resolution.

- **Broad prohibitions on terrorist financing and support**

The binding operational paragraphs reaffirm resolution 1373 in broad terms, as follows:

2. *Emphasizes* its decision in resolution 1373 that all Member States shall criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts; and its decision in resolution 2178 that all Member States shall establish serious criminal offenses regarding the travel, recruitment, and financing of foreign terrorist fighters;

It then goes on to define prohibited activities broadly:

3. *Highlights* that the obligation regarding the prohibition in paragraph 1 (d) of resolution 1373 applies to making funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of terrorist organizations or individual terrorists *for any purpose*, including but not limited to recruitment, training, or travel, even in the absence of a link to a specific terrorist act;" (emphasis added)

The breadth of this sweeping prohibition is qualified by paragraphs 5, 6, 23 and 24, as described below.

- **Safeguards for humanitarian activities and IHL, IHRL and IRL provisions**

The resolution's Preamble notes the obligations of member states to "prevent and suppress the financing of terrorist acts" and ensure that terrorists and their supporters are treated as "serious criminal offenses..." It then goes on to caution that humanitarian and human rights obligations be respected by:

"Reaffirming that that Member States must ensure that any measures taken to counter terrorism comply with all their obligations under international law, in particular international human rights law, international refugee law, and international humanitarian law, *underscoring* that respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counter-terrorism measures, and are an essential part of a successful counter-terrorism effort, *noting* the importance of respect for the rule of law so as to effectively prevent and combat terrorism, and *noting* that failure to comply with these and other international obligations, including under the Charter of the United Nations, is one of the factors contributing to increased radicalization to violence and fosters a sense of impunity,"

The operative (binding) paragraphs on protections for humanitarian activities and human rights speak for themselves:

5. *Decides* that all States shall, in a manner consistent with their obligations under international law, including international humanitarian law, international human rights law and international refugee law, ensure that their

domestic laws and regulations establish serious criminal offenses sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offense the wilful provision or collection of funds, financial assets or economic resources or financial or other related services, directly or indirectly, with the intention that the funds should be used, or in the knowledge that they are to be used for the benefit of terrorist organizations or individual terrorists for any purpose, including but not limited to recruitment, training, or travel, even in the absence of a link to a specific terrorist act;

6. *Demands* that Member States ensure that all measures taken to counter terrorism, including measures taken to counter the financing of terrorism as provided for in this resolution, comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law;

The importance of civil society and protections afforded by human rights law is acknowledged and FATF's Recommendation 8 cited, as follows:

23. *Recognizes* the vital role played by non-profit organizations in national economies and social systems, *calls on* Member States to periodically conduct a risk assessment of its non-profit sector or update existing ones to determine the organizations vulnerable to terrorist financing and to inform the implementation of a risk based approach, *encourages* Member States to work cooperatively with the non-profit sector in order to prevent abuse of such organizations including front organizations by and for terrorists, while recalling that States must respect human rights and fundamental freedoms and *recalls* the relevant recommendations and existing guidance documents of the FATF in that regard, in particular its recommendation 8;

Specifically, the resolution:

24. *Urges* States, when designing and applying measures to counter the financing of terrorism, to take into account the potential effect of those measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law;"

An [analysis](#) of the resolutions provisions on humanitarian activities by Nathalie Weizmann, a Senior Legal Officer with the United Nations Office for the Coordination of Humanitarian Affairs writing in her personal capacity can be found [here](#).

Financial Inclusion

The resolution includes requirements for government financial oversight and regulatory systems and for information sharing by financial institutions, including reporting and disclosure requirements. While calling for transparency and traceability of financial transactions, paragraph 20 acknowledges that such measures must be "in compliance with international law and humanitarian law, including by:

(a) Fully exploiting the use of new and emerging financial and regulatory technologies to bolster financial inclusion, and to contribute to the effective implementation of AML/CFT measures;

There is no further language addressing financial inclusion and no specific provision on avoiding bank derisking. However, during the briefing the Council heard from Mercy Buku, an expert on CFT and anti-money laundering from Kenya. Ms. Buku

[spoke](#) about the 1.7 million people, mostly in Africa and South-East Asia, who do not have access to banking services and urged member states to take financial inclusion into account when implementing CFT measures.

- **Role of FATF**

The Preamble underscores the importance of the Financial Action Task Force's (FATF) standards to combat AML/CFT and encourages member states to cooperate with FATF's programs. In the binding operational section of the resolution explicitly:

4. Strongly urges all States to implement the comprehensive international standards embodied in the revised Forty FATF Recommendations on Combating Money Laundering, and the Financing of Terrorism and Proliferation and its interpretive notes;

The importance of FATF's standards is emphasized, without clearly requiring a risk-based approach. Paragraph 14 requires states to identify terrorist financing risks "in line with FATF standards" and establish "autonomous financial intelligence units with a view to strengthening their framework to prevent and counter the financing of terrorism, in line with FATF standards." (paragraph 15) In addition, FATF's country assessments are cited as a resource for effective financial oversight and regulatory systems. (Paragraph 18) The resolution cites FATF risk-based standards on regulation of virtual assets as a resource for states' monitoring and supervision of virtual asset service providers. FATF standards for information sharing on foreign terrorist fighters are also cited (paragraph 28(d))

- **Impact and Implementation Issues**

The resolution requires the UN's Counter Terrorism Executive Directorate (CTED) to produce a report "on actions taken by Member States to disrupt terrorist financing" prior to a "joint special meeting on terrorist financing threats and trends as well as on the implementation" of the resolution within 12 months of adoption. Member states are invited to submit information for the report by the end of 2019. The Analytical Support and Sanctions Monitoring Team is directed to work with CTED on the report. (paragraphs 36 and 37)

The resolution also calls for further research and information collection on the links between terrorism, terrorist financing and organized crime (paragraph 32) and calls on UN agencies to continue to provide technical assistance and capacity building upon requests from member states (paragraphs 34 and 35). FATF country evaluations will be used to help the UN Office on Counter Terrorism and Office on Drugs and Crime identify gaps in implementation and technical assistance and capacity building needs. (Paragraphs 33 and 35)

In his [briefing the session](#) UN Under-Secretary General Office of Counter-Terrorism Voronkov spelled out three priorities for his office to play a leading role moving forward:

- 1) Intelligence sharing, risk assessments and public-private partnerships
- 2) Awareness raising and development of a comprehensive approach
- 3) Working closely with FATF

This summary is online at https://charityandsecurity.org/humanitarian-safeguards/summary_unscr_2462/