

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the situation of human rights in Belarus; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the situation of human rights in Belarus; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 40/16, 44/19, 41/12 and 43/16.

In this connection, we express our concern with **Law No. 14-Z of 13 May 2020 which amends Law No. 165-3 of 30 June 2014 on “actions to be taken to prevent legitimization of the proceeds of crime and the financing of terrorism and financing the weapons of mass destruction proliferation” and the Decree N° 153-1 issued by the Ministry of Justice on 7 November 2020 on “information about the activities of public associations and foundations”**, in view of their lack of conformity with Belarus’ obligations under international law, in particular those contained in the International Covenant on Civil and Political Rights (ICCPR). We are particularly concerned that their application may result in the imposition of serious restrictions to non-profit civil society organizations including those working for the promotion and protection of human rights in Belarus.

We recommend review and reconsideration of certain aspects of this legislation to ensure its compliance with Belarus’ international human rights obligations. We note that best international practice encourages States to independently review counter-terrorism and emergency law regularly so as to ensure that it remains necessary and international law compliant.

I. Context

The financing of terrorism has been a concern for States evidenced by negotiation and agreement on the 1999 International Convention for the Suppression of the Financing of Terrorism which was designed to criminalize acts of financing terrorism.¹ In parallel, a number of Security Council resolutions expressly call for the criminalization of terrorism financing from references in the landmark UNSC Resolution 1373 to the more recent UNSC Resolution 2462, which is the first comprehensive resolution addressing the prevention and suppression of terrorism financing. That resolution also reaffirms that Member States must ensure that any measures taken to counter terrorism comply with all their obligations under

¹ 189 States are parties to the Convention, including Belarus who ratified it on 6 October 2004.

international law, in particular international human rights law.²

In parallel, the Financial Action Task Force (FATF) has set forth practices and guidelines aiming at preventing global money laundering and terrorist financing.³ The FATF practice and guidelines supplement treaty law obligations concerning financing of terrorism. The Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG)⁴ was created in 2004 to enable and support the application and monitoring of these recommendations in the Eurasian space. Belarus is one of its founding States. The FATF recommendations, while non-binding,⁵ provide recognized international guidance for the countering of terrorism financing.⁶ Notably, the FATF recognizes “the vital importance of the non-profit organisation (NPO) community in providing charitable services around the world, as well as the difficulty of providing assistance to those in need, often in remote regions, and applauds the efforts of the NPO community to meet such need”.⁷ In parallel, Recommendation 8 provides guidance to States on the laws and regulations that should be adopted to oversee and protect non-profit organizations (NPOs) that have been identified as being vulnerable to terrorist financing abuse. The FATF has made clear that Recommendation 8 only applied to those “NPOs which fall within the FATF functional definition of a non-profit organisation, and not a country’s entire universe of NPOs”.

In 2019, EAG experts visited Belarus with the objective of assessing the measures applied to combat money laundering and terrorist financing. As a result of this visit, EAG published a report where it stated that the risks of terrorist financing are low in the country.⁸ To support this assertion, it explained that “[t]he activities of international terrorist organizations, their cells, members and affiliated persons have not been detected in the territory of the Republic of Belarus; no cases of persons and organizations included in the UN sanctions list have been detected in the territory of the Republic of Belarus; no local organizations have been recognized as terrorist by the decisions of the courts of the Republic of Belarus; no citizens of the Republic of Belarus participating in the conflicts as foreign terrorists fighters (FTFs) have been identified”.⁹

Concerning NPOs and their role in financing terrorism, the Report on national assessment of money laundering and financing of terrorism risks published by your

² We highlight specifically that, in Resolution 2462, the Security Council “[demanded] 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”; and paragraph 23 of the Resolution on non-profit organizations.

³ See FATF Recommendations, available at <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

⁴ See article 2 of the Agreement on the Eurasian Group on Combating Money Laundering and financing terrorism (Moscow, 2004). https://eurasiangroup.org/files/documents/Soglashenie_o_EAG_anglijskij_.pdf

⁵ On the role of “soft law” generally in the counter-terrorism contest see Report of the Special Rapporteur A/74/335

⁶ [Security Council Res. 2462](#) (2019), para. 4. We note that mandate of the FATF was extended to include the prevention of terrorism financing in the weeks following 11 September 2001, without any consultation with national parliaments or civil society, A/HRC/40/52, see para. 31.

⁷ FATF, Public Consultation on the Revision of the Interpretive Note to Recommendation 8 (Non-profit organisations), available at <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/public-consultation-npo-inr8.html>.

⁸ EAG (EURASIAN GROUP on combating money laundering and financing of terrorism), Mutual Evaluation Report of the Republic of Belarus (2019), available at <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/EAG-Mutual-Evaluation-Report-Belarus-2019.pdf>, paras. 70 and 316.

⁹ *Ibid.*, para. 70.

Excellency's Government in 2019¹⁰, asserts that "there is no evidence of non-commercial organizations being used to finance terrorist activities in the Republic of Belarus". While the EAG report validates this assertion, it nuances it by explaining that there is a limited understanding of the risks this sector may present which is a consequence of the lack of comprehensive risk-based supervision of the NPO sector on the national level.¹¹

With this contextual background, Law N° 14-Z which amends the 2014 Law N° 165-3 on "actions to be taken to prevent legitimization of the proceeds of crime and the financing of terrorism and financing the weapons of mass destruction proliferation" was adopted on 13 May 2020 and published six days later. In its final provisions, it is stipulated that the act would come into force six months following publication, *i.e.* in November 2020.

II. Concerns

i. Entities subjected to the law

Within the first article of its original version, Law N° 165-3 of 2014 imposed reporting and financial obligations upon 17 entities ranging from banks and Forex companies to insurance and leasing organizations. This catalogue was reportedly expanded by Law N° 14-Z of 2020 which adds to the existent list many other entities including investment funds, tax consultants and crypto exchangers *inter alia*.¹² In addition, article 9² vests the Ministry of Justice with the responsibility of determining the specific modalities non-profit organizations (foundations, public associations and funds) will be subjected to in the framework of Anti-Money Laundering / Combating the Financing of Terrorism national endeavors.

On 30 October 2020, the Ministry of Justice executed this assignment by issuing Decree N° 153-1 which establishes the requirements that all public associations and foundations need to comply with when drafting their reports by the 1st of March of every year.

The stated motivation for these provisions imposing new obligations to all public associations and foundations is to increase transparency of the activities they perform and prevent their potential involvement in terrorism financing or laundering criminal procedures.¹³

According to the information received, EAG experts visited Belarus in March and in September 2019 and contacted different local stakeholders as part of their national assessment work. Reportedly, their consultations with the civil society sector and particularly with NPOs were very limited which may have lessened their

¹⁰ *is* итоговый отчет о национальной оценке рисков отмывания денег и финансирования терроризма; <https://pravo.by/novosti/obshchestvenno-politicheskie-i-v-oblasti-prava/2019/january/32184/?fbclid=IwAR0wP4czzBwTY1-ZYbf-x1BurEqsp3O4LP1fWeNqFGflr2SzFIVvPIUMCzU>

¹¹ EAG (EURASIAN GROUP on combating money laundering and financing of terrorism), Mutual Evaluation Report of the Republic of Belarus (2019), available at <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/EAG-Mutual-Evaluation-Report-Belarus-2019.pdf>, para. 28.

¹² See articles 1 and 15 of the Law No. 14-Z.

¹³ The State Control Committee of the Republic of Belarus on Law N° 14-Z. Available at: <http://kgk.gov.by/en/news-press-center-en/view/important-innovations-in-the-field-of-combating-money-laundering-and-the-financing-of-terrorism-were-110910/>

possibilities of expressing themselves and proposing alternative measures.¹⁴

In this regard, we call the attention to the role that civil society plays in advancing the totality of rights contained in both the ICCPR and the CESCR, both ratified by Belarus on 12 November 1973, as well as in advancing the 2030 Agenda in particular SDG 16, with particular emphasis on freedom of expression and opinion, association and peaceful assembly and the right to participate in public affairs. Empowered civil society and its participation are essential to building secure societies. Civil society is also rightfully subject to rule of law-compliant public supervision in the framework of Anti-Money Laundering/Combating the Financing of Terrorism. However, the duties imposed on them, as with any counter-terrorism instrument, must be strictly guided by the principles of legality, necessity and proportionality.

The need to respect proportionality in measures is also entrenched in FATF Recommendation 8, which requires that the laws and regulations that govern non-profit organizations be reviewed so that these organizations cannot be abused for the financing of terrorism. Indeed, through interpretative notes, the FATF has made clear that when applying its Recommendation 8, certain conditions ought to be respected: “Measures to protect NPOs from potential terrorist financing abuse should be targeted and in line with the risk-based approach. A “one size fits all” approach to address all NPOs is not appropriate.¹⁵ Furthermore, the Interpretive Note to Recommendation 8 also stresses the vital role played by NPOs “providing essential services, comfort and hope to those in need around the world,” and that the focused measures adopted by countries to protect NPOs from terrorist financing abuse “should not disrupt or discourage legitimate charitable activities.”¹⁶ In this sense, assessment proceedings should address not only problems caused by under-regulation of the NPO sector but also tackle shortcomings linked to over-regulation, a phenomenon negatively affecting civil society globally.¹⁷ It is also important for such measures to be implemented in a manner which respects States’ obligations under the Charter of the United Nations and international human rights law”.¹⁸

Given that the risk presented by NPOs in Belarus was rated as being very low both by national and international evaluations, we believe that the proportionality requirement indispensable to impose human rights compliant obligations and restrictions has not been applied in this legislation.

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has previously called on the FATF and FATF-style regional bodies to implement human rights benchmarking and guidance with similar levels of specificity and comprehensiveness as the recommendations addressing financial measures to facilitate human rights-compliant

¹⁴ See, on limits of civil society actors, A/HRC/44/55.

¹⁵ Interpretive Note to Recommendation 8, pp. 58 and ff. See also FATF, Best Practices: Combating the Abuse of Non-Profit Organisations (Recommendation 8), paras. 7(b), 22.

¹⁶ FATF Recommendations, Interpretive Note to Recommendation 8.

¹⁷ Interpretive Note to Recommendation 8, pp. 58 and ff. See also e.g. [A/HRC/40/52](#); <https://www.ohchr.org/Documents/Issues/Terrorism/hrc-impactofsoftlaw.pdf>; Human Security Collective, ‘How Can Civil Society Effectively Engage in Counter-Terrorism Processes?’ (2017), p. 3; FATF, Best Practices: Combating the Abuse of Non-Profit Organisations (Recommendation 8), paras. 7(b), 22.

¹⁸ FATF – International Standards on Combating Money Laundering and The Financing of Terrorism & Proliferation (October 2020). Available at: <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

implementation¹⁹. The Special Rapporteur has also emphasized that application and enforcement of “soft law” counter-terrorism standards, such as the FATF recommendations, cannot be allowed to result in a *de facto* undermining of binding international law norms.²⁰

ii. Reporting activity

Until 2019, it is our understanding that NPO’s had relatively straightforward reporting requirements.²¹ These entities had the onus of submitting an annual activity report to judicial authorities including a list of the governing bodies and another one to tax agencies. Three years of reiterated infringement of these obligations would entail liquidation of the entity concerned.²²

The application of both Law 14-Z and Decree N° 153-1 could further exacerbate the difficulties already facing NPOs. As we noted above, NPOs will now be obliged to present an extensive annual report on the 1st of March, significantly increasing the administrative burdens on them across small, medium and large-sized NPOs.²³

This document will need to include a detailed account on the activities performed by the organization and a formal statement of income and expenditure. The latter will contain information and receipts of cash and bank transfers, membership fees, revenues from lectures, exhibitions and sports events held for statutory purposes, property, voluntary donations, the number of employees and their remuneration and expenses on material and technical support.

We are concerned that the above-mentioned reporting obligations may result in the imposition of burdensome duties to NPOs that could seriously impinge on their capacity to perform their statutory activities. Furthermore, NPOs will have to abide by these new obligations regardless of their size, purpose, income or relation to external stakeholders. This lack of proportionality could present grave challenges to small entities counting on limited resources.

Moreover, this annual report will not only be submitted to judicial authorities but will have to be published on mass media or on the NPO’s official website.²⁴ The release of such data, including personal data relating to employee private employment would have serious privacy implications impinging upon article 12 of the Universal Declaration of Human Rights, and article 17 of the Covenant and may also endanger the exercise of other fundamental rights.

We wish to emphasize that the use of legislation to create undue and complex burdens on NPOs has the effect of limiting, restricting and controlling civil society.²⁵ The right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association to freely carry out its legitimate

¹⁹ A/74/335, para. 37.

²⁰ *Ibid.*, para. 38.

²¹ See CSO Meter, “Assessing the civil society environment in the Eastern Partnership countries”, available at, <https://csometer.info/wp-content/uploads/2019/12/CSO-Meter-Belarus.pdf>.

²² The Law “On public associations” of October 4, 1994 with subsequent amendments <http://law.by/document/?guid=3871&p0=V19403254e>, articles 24 and 29.

²³ We note that the Decree N° 153-1, para. 1, specifies various requirements for various types of public organizations.

²⁴ Article 1.1, Decree N° 153-1.

²⁵ A/HRC/40/52, Recommendation d, p. 17.

activities.²⁶

In this regard, we respectfully bring to the attention of your Excellency's Government the international good practices enshrined in the "Recommendations on the Legal Status of Non-governmental Organizations in Europe" that the Council of Europe has adopted in 2007.²⁷ These guidelines set out that "[t]he activities of NGOs should be presumed to be lawful in the absence of contrary evidence".²⁸ Regarding reporting, it is stipulated that NGOs' books should be required when there are reasonable grounds to suspect that serious breaches of the law have occurred or are about to. Furthermore, it is explained that donors, beneficiaries and staff related to these entities should always have their legitimate business confidentiality respected.²⁹

iii. Special control over NPOs financial transactions and funding

We note that article 7 of the Law N° 165-3, that will henceforth be applicable to NPOs, subject financial transactions, whether conducted or not, to special control by banks and judicial authorities upon occurrence of one of these three conditions:

- when a person engaged in conduct of a financial transaction is suspicious that such financial transaction is associated with deriving and/or legitimization of the proceeds of crime and the financing of terrorism and financing the weapons of mass destruction proliferation
- when the transaction is inconsistent with the NPO's constituent documents, type and/or nature of activities.
- when the operation is conducted with a view to evading registration in a special form.

In this regard, we express our concern at the wide scope of possibilities, and the lack of a reasonableness standard in the activation of additional surveillance and review of NPOs. In this view, NPOs' transactions may be subjected to special control and we caution that overly broad regulations like this one may be applied in an arbitrary fashion that could limit NPOs legitimate activities.

We also believe this reinforced supervision could have a negative impact on the revenues NPOs dispose of in pursuit of their lawful objectives which protected by international law. Indeed, these provisions may deter potential law-abiding donors from funding civil society entities on fear of having their personal and banking data being scrutinized. Such discouragement could constitute a new obstacle to NPOs financing which, according to reports we have received, faces already numerous restrictions.

The Law on Public Associations N° 3252-XII adopted in 1994 and amended in 2005³⁰ establishes in its article 20 that public associations or unions can carry entrepreneurial activities only insofar as it is necessary for their statutory purposes

²⁶ [CCPR/C/88/D/1274/2004](#), para. 7.2.

²⁷ CM/Rec (2007) 14, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d534d

²⁸ *Ibidem*.

²⁹ *Ibidem*.

²⁹ *Ibidem*.

Law "On public associations" of October 4, 1994 with subsequent amendments.

and through the creation of a commercial organization and/or the participation in one, unless otherwise provided by law. As a consequence, donations occupy a privileged place in NPOs financial balances. These grants are regulated by two executive legislative pieces: the Decree of the president on “foreign gratuitous aid” N°5 of 31 August 2015 and the Edict of the President N° 300 of 1 July 2005 on “provision and use of gratuitous (sponsor) aid”. The former sets out a limited number of situations where funding coming from abroad is authorized. We are concerned by the fact that this *numerus clausus* does not include human rights, gender equality or democracy and promote a system supporting democracy.³¹ Furthermore, all foreign gratuitous assistance received by NPOs, regardless of its quantum, must be submitted to registration and approval of the Department of Humanitarian Activity under the Secretariat of Affairs of the President of the Republic of Belarus. The President is the only one that can make exceptions to the rules established in this Decree.³² We therefore fear that this may affect the right to participate in public affairs given that the lack of separation of powers impacts on the exercise of this right.

Local donations are also restrained to a certain number of objectives included in the Edict. Article 2 of this legal instrument bestows to the President of the Republic of Belarus the capacity of making exceptions to this enumeration.³³ Furthermore, both local and foreign gratuitous aid are submitted to public control and in case of foreign aid, the transaction can be refused even if the objective is part of the enumerated ones. Finally, grants coming from Byelorussian citizens living abroad go under the category of foreign aid.

We respectfully recall that the freedom “to solicit and receive voluntary financial and other contributions from individuals and institutions”³⁴ is essential for associations to carry out its legitimate activities.³⁵ In this regard, experts have noted that profound limitations on access to foreign funding severely restrict the existence of NGOs, which are often wholly dependent on such funding, particularly affecting human rights and women’s organizations.³⁶

iv. Sanctions

Article 14 of the Law N° 165-3 states that “the persons guilty of violation of the legislation on preventing legitimization of proceeds of crime and financing of terrorism and financing weapons of mass destruction proliferation shall bear responsibility established by legislative acts”. In the case of NPOs which are now included on this law, the sanctions regime is established by the Law on Public Associations N° 3252.

We note that chapter 6 of Law N° 3252 establishes that NPOs can be liquidated on decision of the court for a single violation of legislation. We are particularly troubled that this provision could be easily applied in an arbitrary way representing a profound undermining of the right to freedom of association. We are concerned such a provision may fall short of the required level of legal certainty and proportionality necessary when imposing punishment for unlawful conduct. Indeed,

³¹ Decree of the President “On foreign gratuitous aid” N°5 of 31 August 2015.

³² *Ibidem* (Chapter 7).

³³ Edict of the President N° 300 of 1 July 2005 “On provision and use of gratuitous (sponsor) aid”.

³⁴ Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, General Assembly [Res. 36/55](#), 25 Nov. 1981, art. 6(f). See also A/HRC/23/39 and A/61/267.

³⁵ CCPR/C/88/D/1274/2004, para. 7.2.
A/HRC/40/52, para. 42.

the fact that any infringement to this piece of legislation, from the least serious to the gravest, can ultimately lead to liquidation is *prima facie* disproportionate. We fear that the wide discretionary powers granted to courts by this provision could lead to an arbitrary application of the law posing a clear threat to the right of freedom of association in Belarus. As per the necessity of respecting the principle of legal certainty, we underscore that article 15(1) of the Covenant requires precision concerning what conduct constitutes criminal offences under law and what the legal consequences of committing such offences are. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has called on States to ensure that their counter-terrorism and national security legislation, is sufficiently precise in order to comply with the principle of legal certainty, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds.³⁷

Liquidation is also incorporated as a possible sanction for NPOs that have not adhered to the provisions related to the acceptance of foreign aid. In the same provision of the legislation (article 369-2 of the Criminal Code)³⁸ creates criminal liability for NPO managers that have infringed the provisions established to regulate foreign aid. Specifically, individuals leading NPOs can be condemned to up to three years of imprisonment for receiving, keeping, or transferring foreign gratuitous aid for conduct of extremist activity or other actions banned by the legislation. They can also be subject to this penalty for using this aid to fund political parties, prepare or hold elections, referenda, organize assemblies, meetings, processions, demonstrations, picketing, strikes, distribute agitation materials, organizing seminars and undertaking other forms of mass-agitation work. We express concern about the broad scope of possibilities included in this clause and the vagueness of the language used. In particular, we have grave concerns regarding the ambiguity of the terms “agitation/campaigning materials”³⁹ or “other forms of mass agitation work”.⁴⁰ We believe any interpretation of such provisions could run the grave risk of being targeted at, inter alia, the legitimate activities of political opposition, critics, dissidents, legislators and civil society and would lead to a violation of the right to participate in public affairs.

We also note that article 193-1 of the Criminal Code establishes criminal responsibility for organizing or participating in the activity of a political party or other public association, religious organization, or foundation regarding which there is an effective decision of a competent state body to liquidate or suspend their activity, and for organizing or participating in the activity of a political party or other public association, religious organization, or foundation which has not been registered with appropriate state authorities in accordance with established procedure. Such actions can be punished by a fine, detention for up to six months, or imprisonment for up to two years. We recall that even if article 22 of the ICCPR allows signatory States to take legislative measures to impose lawful restrictions to associative activities, such measures should respect principles of legality, necessity and proportionality in order to guarantee freedom of association and other human rights included in this Covenant and other Human Rights treaties. We also recall that international human rights law recognizes the right to participation in public affairs, described by the UN Human Rights Committee as a right that “lies at the core of democratic government based on

³⁷ A/70/371, para. 46(b).

³⁸ https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=54631.

³⁹ агитационных материалов,

⁴⁰ агитационно-массовой работы среди населения

the consent of the people and in conformity with the principles of the Covenant”⁴¹ Public affairs is understood broadly to encompass the “exercise of political power, in particular the exercise of legislative, executive and administrative powers”⁴², covering all aspects of public administration. As set out below, participation in public affairs is also clearly relevant to the global and regional regulation of preventing and countering terrorism and violent extremism.⁴³

In all of the legal bodies we have analyzed, fines are provided as a possible sanction for transgression. On this matter, we recall the need for legal certainty around fines. We believe the criteria used to evaluate the quantum of sanctions should be expressed in the law in order to avoid abuses. Furthermore, we esteem that proportionality should be taken into account when gauging fines since fixed amounts can lead to unfair results. Indeed, for small NPOs with limited resources, being imposed a fine, even if low-rated, could equal liquidation.

III. Final remarks

We express concern that Belarus’s Law N° 14-Z which amends Law No. 165-3 and the Decree N° 153-1 in its current form presents serious problems of compatibility with your Excellency’s Government’s obligations under international law. While we do not dispute that States have a legitimate interest in adopting national legislation to combat financing terrorism,⁴⁴ any measure of this type must be in itself compatible with international law in general and with human rights law in particular.⁴⁵ As the General Assembly noted in the United Nations Global Counter-Terrorism Strategy, effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing.⁴⁶ The ability of civil society to lawfully exercise its freedoms of expression, association and right to participate in the conduct of public affairs is critical to any effective counter-terrorism strategy, and protected by articles 19, 22 and 25 of the Covenant. Civil society plays a vital role in channeling discontent and allowing for constructive engagement with States, and in directly undermining the factors leading individuals to be drawn to terrorism and violent extremism.⁴⁷ The actions allegedly taken by your Excellency’s Government may have serious implications for the right of NPOs to exercise these fundamental rights and freedoms. In this regard, we wish to express particular concern in relation to the impact that such actions may have on NPOs working to promote human rights in Belarus, and the indirect affect that such actions will have on human rights defenders as members and directors of NPOs, to carry out their legitimate work.

In view of these observations, we encourage your Excellency's Government to review the laws that are the subject of this communication, open a public space for discussion of their content with civil society, actors and experts on the matter, and allocate additional time for legislative and public consideration to ensure that it aligns with international human rights norms and the standards described herein. For this, it

⁴¹ General comment No. 25 (1996) on participation in public affairs and the right to vote, para. 1.

⁴² *Ibid.*, para. 5.

⁴³ Krisztina Huszti-Orban and Prof. Fionnuala Ní Aoláin, *The Impact of “Soft Law” and Informal Standard-Setting in the Area, of Counter-Terrorism on Civil Society and Civic Space*, 2020, available at <https://www.law.umn.edu/sites/law.umn.edu/files/hrc-impactofsoftlaw.pdf>, p. 7.

⁴⁴ Security Council Res. 1373 (2001), para. 1; International Convention for the Suppression of the Financing of Terrorism, adopted by General Assembly Res. 54/109.

⁴⁵ S/RES/2462 (2019), para. 6. See also, International Convention for the Suppression of the Financing of Terrorism, art. 21.

⁴⁶ General Assembly Res. 60/288. See also A/HRC/40/52.

⁴⁷ A/HRC/40/52, para. 12.

is desirable to convene all interested parties and develop open processes in which NPOs and stakeholders of the field can participate.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned information.
2. Please provide information on how the assessment of the threats and vulnerabilities presented by the NPO sector was carried out and on how the inclusion of the proper involvement of the NPO stakeholders was guaranteed in this assessment.
3. Please provide any information about the process and criteria that were used to establish these new obligations on NPOs and any information about how those factors were risk-based and proportionate to the threat presented, in line with FATF guidance.
4. Please provide information on internal control and oversight mechanisms led by the banking sector and the Ministry of Justice.
5. Please provide information about the criteria adopted to rate fines or evaluate the application of other sanctions against NPOs.
6. Please provide information on what steps are being taken to ensure that measures taken to combat anti-money laundering and terrorism financing do not infringe upon the rights to freedom of association, opinion, and expression as well as the right to take part in the conduct of public affairs guaranteed under the International Covenant on Civil and Political Rights.
7. Please indicate what measures have been taken to ensure that human rights defenders and other civil society actors are able to freely carry out their legitimate activities, including the freedom to solicit and receive financial support from domestic and international sources.
8. Please indicate what remedies are taken when measures to combat anti-money laundering and terrorism financing are undertaken without due process of law, or in contravention of domestic or international legal standards.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Anaïs Marin
Special Rapporteur on the situation of human rights in Belarus

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders