



SPECIAL PROCEDURES
UNITED NATIONS
HUMAN RIGHTS COUNCIL

DATE: 16 September 2026

TO: Mr. Giles Thomson
President
Financial Action Task Force

E-MAIL: ExecutiveSecretary@fatf-gafi.org; Contact@fatf-gafi.org;
Francesco.POSITANO@fatf-gafi.org

FROM: Federica Donati
Officer-in-charge
Special Procedures Branch
OHCHR

A handwritten signature in blue ink, appearing to read 'Federica Donati'.

TEL: +41 22 917 9220

E-MAIL: ohchr-registry@un.org

REF: OL OTH 74/2026 (PLEASE USE THIS REFERENCE IN YOUR REPLY)

PAGES: 7 (INCLUDING THIS PAGE)

SUBJECT: **COMMUNICATION FROM SPECIAL PROCEDURES**

Please find attached a joint communication sent by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the right to education; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the human rights to safe drinking water and sanitation.



SPECIAL PROCEDURES
UNITED NATIONS
HUMAN RIGHTS COUNCIL

PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • Tel: +41 22 917 9220 • E-mail: ohchr-registry@un.org

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the right to education; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the human rights to safe drinking water and sanitation

Ref.: OL OTH 74/2026

(Please use this reference in your reply)

16 September 2026

Dear Mr Thomson,

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 right to education; Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 58/14, 62/8, 58/10, 60/10 and 51/19.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. I am part of the special procedures system of the United Nations, which has 56 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention concerns regarding Financial Action Task Force (FATF) recommendations 5 (terrorist financing offence) and 6 (targeted financial sanctions related to terrorism and terrorist financing). We are concerned that these Recommendations currently do not fully exempt humanitarian

Financial Action Task Force

activities by impartial humanitarian organizations in accordance with international humanitarian law. As such, these Recommendations are likely to prompt States to criminalize or sanction impartial humanitarian activities contrary to international law, resulting in potential unjustified interferences in the rights to life, food, water, sanitation, shelter, health, an adequate standard of living, and education of civilian populations in need, including children and other vulnerable groups.

The FATF Recommendations

FATF Recommendation 5 provides that countries should criminalise terrorist financing based on the Terrorist Financing Convention, but also the financing of terrorist organisations and individual terrorists even in the absence of a link to a specific terrorist act or acts. FATF recommendation 6 provides that countries should implement United Nations Security Council counter-terrorism sanctions under resolution 1267 (1999) and subsequent resolutions (concerning Al Qaeda and Islamic State in Iraq and the Levant and their associates), and unilateral national designations of individuals or entities pursuant to resolution 1373 (2001).

While impartial humanitarian assistance is not intended to contribute to the commission of terrorist acts, FATF recommendations 5 and 6 extend to the financing of terrorist individuals or entities, even where there is no intention that the funds contribute to terrorist acts. The Recommendations accordingly have the potential to criminalize or sanctions certain types of essential and principled humanitarian engagement with armed groups regarded as terrorist, as where engagement is necessary to ensure humanitarian access and distribution of assistance. Examples include the supply of humanitarian assistance (i.e. if treated as assets) in coordination with a de facto governmental authority in effective control of a territory and the population; or the payment of administrative, customs, tax, utilities, logistics or transport fees to such group as a prerequisite for humanitarian operations.

Human rights concerns

We are concerned that the lack of sufficiently comprehensive and explicit exemption under recommendations 5 and 6 for impartial humanitarian assistance is inconsistent with international law.

It is welcome that in June 2026 FATF updated Recommendation 6 to recognize need for States to comply with the humanitarian exemptions under Security Council sanctions, including counter-terrorism sanctions (para. 5 *bis* and footnote 15; and para. 6 and footnote 17) and acknowledges that countries “may” similarly apply exemptions to unilateral sanctions. Security Council resolutions 2664 (2022), and 2761 (2024) expressly exclude from all Security Council sanctions (including counter-terrorism sanctions) “the provision, processing or payment of funds, other financial assets or economic resources, or the provision of goods and services, necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs” by specified impartial humanitarian actors.

However, concerning the separate issue of unilateral /autonomous national sanctions under recommendation 6, and the criminalizing of the financing of terrorist individuals or entities under recommendation 5, international humanitarian law

requires the parties to a conflict to “allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control” (International Committee of the Red Cross, Customary International Humanitarian Law, rule 55). The rule is designed to ensure that a civilian population in need is entitled to receive humanitarian relief essential to its survival. The duty to allow relief further requires that the parties must refrain from deliberately impeding the delivery of relief supplies (ICRC rule 55), which would include through criminalization or sanctions. Further, humanitarian personnel must be respected and protected (ICRC, rule 31), which includes that they should not be penalized for undertaking impartial humanitarian activities; and humanitarian relief objects must be respected and protected (ICRC, rule 32), including from the freezing of assets.

The facilitation of humanitarian assistance further serves to protect the human rights to life, food, water, sanitation, shelter, health, an adequate standard of living, and education of the beneficiary civilian population, including children and other vulnerable groups.

The General Assembly, Security Council, and Human Rights Council have repeatedly affirmed that all counter-terrorism measures must be implemented in accordance with international humanitarian law and international human rights law.¹ Most relevantly, Security Council resolution 2462 required (under chapter VII of the UN Charter) that all States ensure that all counter-terrorism measures comply with international humanitarian law (para. 6), and specifically that States must take into account the impact of measures to counter terrorist financing on humanitarian activities.

Terrorist financing measures thus do not, and legally cannot, override international humanitarian law; security aims cannot justify depriving civilians of their means of survival.

An exemption for impartial humanitarian assistance

Wide and more explicit exemption under recommendations 5 and 6 are accordingly necessary for humanitarian activities by impartial humanitarian organizations in accordance with international humanitarian law. Such exemption from terrorism offences and sanctions has been recommended by the International Committee of the Red Cross² and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in reports to the Human Rights Council.³ The Counter-Terrorism Executive Directorate (CTED), which monitors implementation of Security Council measures, has also emphasized that “tailored and well-defined exemptions can enhance the clarity and foreseeability of the domestic legal and policy framework [and] provide much-needed

¹ See, inter alia, Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017), and 2396 (2017); Human Rights Council resolution 35/34; and General Assembly resolutions 49/60, 51/210, 72/123, and 72/180.

² International Committee of the Red Cross, “Humanitarian exemptions in domestic counterterrorism legislation”, legal factsheet (2025).

³ See A/HRC/61/52 (2026), paras. 56 and 57 and 68(1)(c)) and General Assembly (A/80/284 (2025), paras. 21, 29 and 30.

legal certainty for humanitarian actors and their operations”.⁴

In addition to implementing an exemption from Security Council counter-terrorism sanctions, various actors, influenced by resolutions 2664 (2022) and 2761 (2024) and international humanitarian law, have also extended an exemption to autonomous/unilateral counter-terrorism sanctions, including the United States and the European Union. Many actors have also incorporated an exemption into terrorism offences (e.g. European Union,⁵ Switzerland, Canada, Chad, Ethiopia, and the African Union Model Law on Counter-Terrorism (s. 9(5)) or adopted prosecutorial guidance to the same effect (e.g. UK).

Impartial humanitarian organizations also have sophisticated policies and procedures in place, in addition to contractual and regulatory obligations, to prevent aid diversion, and the blunt instruments of criminalization and sanctions are an unnecessary and disproportionate response in the light of the humanitarian imperative of assisting civilian populations in need.

To address the concerns raised in this letter, we encourage FATF to:

- (a) Further review and revise both recommendations 5 and 6 to explicitly strengthen and add language on exempting from those recommendations humanitarian activities by impartial humanitarian organizations, including by expressly invoking the requirements of international humanitarian law and not limiting the legal grounds to Security Council resolutions;
- (b) Publish best practices and model provisions, for instance in additions to the Interpretive Notes on recommendations 5 and 6, to provide practical guidance to States, for instance drawn from progressive national laws (e.g. Canada). At present, the revision of recommendation 6 recognizes that States have “flexibility” in implementing Council resolutions and that the recommendation does not prescribe methods, but it would be helpful to provide concrete guidance on options to States. Guidance should address the design of exemptions, including their permanent and non-time-bound nature, material and personal scope, and alignment across jurisdictions. It should also clearly emphasize both the legal requirement and practical importance of exempting humanitarian activities, and explain how it is not only consistent with but positively aids in complying with FATF and Security Council terrorist financing standards;
- (c) Disseminate the requirement of humanitarian exemptions to States, including legislators and regulators, and to FATF-style Regional Bodies (FRSBs), through awareness-raising, training, capacity building and technical assistance.

⁴ CTED, “The interrelationship between counter-terrorism frameworks and international humanitarian law” (2022), 34.

⁵ Directive (EU) 2017/541 of the European Parliament and of the Council, recital 38.

- (d) Ensure that mutual evaluations of States by FATF and FSRBs appropriately scrutinize and safeguard the international legal protection of impartial humanitarian activities when assessing compliance with recommendations 5 and 6 and give it appropriate weight in “grey-listing” decisions.
- (e) Monitor and review implementation of the Unintended Consequences procedure, to ensure it is responsive to humanitarian exemption issues.

As it is our responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my 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 analysis.
2. Please indicate whether recommendations 5 and 6 will be reviewed and revised to incorporate more comprehensive and explicit exemptions for humanitarian activities by impartial humanitarian organizations, in accordance with international humanitarian law.
3. Please indicate whether further best practice guidance will be developed for States and FSRBs, for instance in the Interpretive Notes, along with training, awareness-raising and capacity building.
4. Please explain how mutual evaluations of States by FATF and FATF-style Regional Bodies take into account the international legal protection of impartial humanitarian activities when assessing compliance with recommendations 5 and 6.
5. Please explain how the Unintended Consequences procedure will be monitored and reviewed to ensure its effectiveness, including regarding humanitarian exemptions.

We stand ready to provide FATF with any technical advice it may require in ensuring that recommendations 5 and 6 are fully compliant with international law.

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, Mr. Thomson, the assurances of my highest consideration.



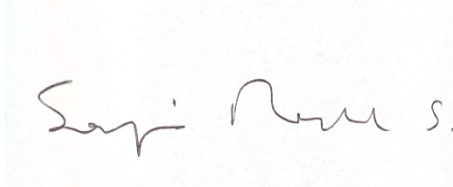
Ben Saul

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



Farida Shaheed

Special Rapporteur on the right to education



Sofia Monsalve Suárez

Special Rapporteur on the right to food



Mariângela Batista Galvão Simão

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health



Pedro Arrojo-Agudo

Special Rapporteur on the human rights to safe drinking water and sanitation