

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

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6 October 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 59/4, 52/4 and 58/14.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning the Non-Profit Organizations Bill, 2024 (NPO Bill), which introduces several provisions that could unduly restrict the right to freedom of association and impose excessive regulatory burdens on non-for-profit organizations (NPOs) in Eswatini.**

We express our concern that the 2024 NPO Bill, in its current form, proposes a new regulatory framework for non-profit organizations (NPOs), including mandatory registration, re-registration, which could allow for arbitrary suspension or cancellation of registration. The NPO bill would replacing the current regulatory framework under section 17 of the Companies Act 8 of 2009. While we acknowledge that the intention of this bill is to establish a distinct legal framework for NPOs, we are of the view that certain provisions of the Bill may significantly limit the independence and autonomy of civil society organizations in Eswatini, in a manner contrary to the right to freedom of association and freedom of expression as protected under international human rights law. We encourage your Excellency's Government to revise this Bill, considering our comments, to ensure that it does not unduly restrict the ability of civil society organisations to carry out their essential activities. In this regard, we also draw your attention to earlier communications concerning the environment for civil society actors ([SWZ 2/2023](#), [SWZ 1/2023](#)).

Observations regarding the Bill

According to the information received, the Bill is introduced with the justification of addressing risks related to terrorist financing and money laundering in line with the Financial Action Task Force (FATF) recommendations. However, Eswatini already has a robust legislative framework to combat these risks, including measures specifically applicable to the non-profit sector. Additionally, the Bill appears to redefine the relationship between NPOs and the government, portraying them as partners of the state rather than independent actors. The proposed additional requirements, including extensive internal controls and government oversight, do not appear to align with FATF's risk-based approach and could disproportionately limit NPOs' access to funding and operational freedom.

The requirement for NPOs to undergo mandatory re-registration could disrupt the operational continuity of legally established organizations. The broad discretionary powers granted to the Registrar risk excessive state control over NPO activities, including suspensions and terminations without clear safeguards against arbitrary application. This would risk undermining the independence, impartiality, and autonomy of civil society organizations and human rights defence in Eswatini.

As the FATF has stated, while authorities must counter money laundering and terrorism, any measures must be in response to a clearly identified risk¹ and, even if a risk is demonstrated, must not unduly restrict the right to freedom of association. As mentioned, existing laws in Eswatini already include reporting obligations for civil society associations, which impose measures that FATF explicitly states should not apply to NPOs under the revised recommendation 8.² The draft law appears not to be consistent with Financial Action Task Force recommendation 8 and its update, as it is not risk-based, focused or proportionate, nor does it fully comply with the international human rights law standards.³ Task Force guidelines indicate that any legal changes affecting civil society should involve genuine consultation with all affected stakeholders, in particular civil society associations.

We respectfully urge your Excellency's Government to ensure that the Bill's regulatory requirements are necessary, proportionate, and aligned with international human rights standards. The re-registration requirement should be reconsidered to avoid undue administrative burdens, and safeguards should be put in place to prevent discretionary government control from limiting the ability of NGOs to operate freely.

Relevant international human rights standards

We wish to remind your Excellency's Government of its obligations under international human rights law, including under the International Covenant on Civil and Political Rights (ICCPR), which Eswatini ratified on 26 March 2004. Article 22 of the ICCPR protects the right to freedom of association and article 19 of the ICCPR protects the right to freedom of expression. Any restrictions on these rights must be prescribed by law, serve a legitimate public purpose, and be necessary and proportionate in a democratic society, with a strong and objective justification.

The right to freedom of association is further protected by article 20 of the Universal Declaration of Human Rights, article 10 of the African Charter on Human and Peoples' Rights, which Eswatini ratified in 1995, the ILO Convention on Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), ratified in 1978, and article 25 of Eswatini's Constitution. The right to freedom of expression is also protected by article 19 of the UDHR and article 9 of the African Charter on Human and Peoples' Rights and article 24 of Eswatini's Constitution. We would also like to refer to UN General Principles on CSOs' Right to Access Resources, and the UN Human Rights Council resolution 22/6, calls on States "to respect, protect

¹ Paragraph 6 of the Best Practices Paper mentions "*intrusive supervision of NPOs without any consideration of risks*" as an example of a measure which unduly disrupts legitimate NPO activity.

² Paragraph 5(e) of the (binding) Interpretive note to recommendation 8 is explicit that that "NPOs are not reporting entities". See also paragraphs 46, 60, 76, 80, Box 4 and Box 6 of the Best Practices Paper.

³ [FAFT recommendation 8](#).

and ensure the right to freedom of association of human rights defenders and, in this regard, to ensure, where procedures governing the registration of civil society organizations exist, that these are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation, and are in conformity with international human rights law.” (A/HRC/RES/22/6, para. 8).

Mandatory registration and re-registration under Bill

According to the information received, clause 7(2) of the Bill prohibits the operation of unregistered Non-Governmental Organizations (NGOs) without a certificate of registration, while clause 43 requires existing NGOs to re-register within 90 days under the new Bill. These requirements contravene international standards on the right to freedom of association, which protect both registered and unregistered associations.

Moreover, the re-registration requirement is at odds with international standards and best practices, and it imposes a disproportionate burden on the right to freedom of association. It could also be selectively enforced against existing NGOs based on their activities, mission, or political stance. Article 22 of ICCPR, which guarantees the right to freedom of association, has been interpreted to prohibit mandatory registration of NGOs. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association emphasizes that the right to freedom of association equally protects unregistered associations. Individuals involved in unregistered associations should be free to carry out any activities, including holding and participating in peaceful assemblies, without being subject to criminal sanctions. This is particularly important when the procedure to establish an association is burdensome and subject to administrative discretion, as such criminalization could be used to quell dissenting views or beliefs.

The ACHPR guidelines on freedom of association and assembly in Africa explicitly stipulate that “Associations shall not be required to register more than once or to renew their registration” (ACHPR Guidelines, para. 17). The African Commission guidelines on freedom of association and assembly in Africa clearly state that associations should not be compelled to register in order to exist and operate freely. This aligns with UN Human Rights Council resolution 22/6, which calls on States to ensure that registration procedures for civil society organizations are transparent, accessible, non-discriminatory, expeditious, and inexpensive, and that they allow for the possibility to appeal and avoid requiring re-registration ([A/HRC/RES/22/6, para. 8](#)).

The ‘Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms’ (the UN Declaration on Human Rights Defenders) calls on states to protect citizens’ rights; to form, join, and participate in non-governmental organizations; to solicit, receive, and utilize resources for promoting and protecting human rights and fundamental freedoms through peaceful means; and to freely publish, impart, or disseminate views, information, and knowledge on all human rights and fundamental freedoms (articles 5-6).

Rejection of registration

If approved as is, under clause 7(4)(e)(iii), the Registrar would have the authority to reject an application for registration if the name under which the non-governmental organization is to be registered contains profane language. This provision is problematic in its vagueness and could lead to arbitrary rejections, particularly for NGOs whose names are associated with the rights of marginalized groups. Similar issues have been observed in other jurisdictions ([A/HRC/20/27](#), 2012). This overly broad and undefined formulation could allow for arbitrary measures when registering or denying registration, potentially contradicting article 22 of the ICCPR.

The Special Rapporteur on the rights to freedom of peaceful assembly and of association has raised concerns regarding mandatory registration procedures, particularly where authorities are granted wide discretion to approve or deny registration. Such discretion may provide the State with an opportunity to refuse or delay registration for groups that do not hold "favourable" views ([A/HRC/26/29, para. 54](#)).

Cancellation or suspension of registration

Moreover, the Bill, under Part V, significantly expands the powers of the Non-Governmental Organizations Council and the Minister responsible for Non-profit Organizations. The Council is granted the ability to recommend to the Registrar to cancel the registration of an NPO for failure or refusal to comply with the provisions of the Bill. The Registrar may also cancel or suspend the registration of a non-profit organization on several grounds, including engaging in activities identified as risks, failure to submit annual reports or accounts, and misappropriation of funds. These broad discretionary powers risk excessive state control over NPOs activities without clear safeguards against arbitrary application, further undermining the independence, impartiality, and autonomy of civil society organizations in Eswatini.

Application of Financial Action Task Force (FATF) recommendation 8 - Functions of the Registrar

Under its current form, Clause 5 of the Bill grants the Registrar broad powers to regulate NGOs in the areas of money laundering and terrorist financing. This includes identifying which subset of NGOs fall within the FATF definition and using all relevant sources of information to determine their risk of terrorist financing abuse. However, FATF recommendation 8 warns against broadly labelling NPOs as high-risk "by virtue of their activities or characteristics" without conducting a targeted risk assessment.

In addition, clause 5(6) further grants the Registrar unfettered discretion to define and monitor "at-risk" NGOs, enforce compliance, and even remove executives, freeze accounts, and deregister organizations without proper judicial oversight. The power to freeze accounts, remove executives, suspend activities, deregister organizations, and issue financial sanctions of fifty thousand Emalangeni may have a chilling effect on civic space. The powers granted to regulatory authorities to implement FATF Recommendation 8 should be carefully limited and explicitly listed. FATF has stated that "it is [...] important that the measures taken do not disrupt or discourage legitimate charitable activities and should not unduly or inadvertently restrict NGOs'

ability to access resources, including financial resources, to carry out their legitimate activities.”

Moreover, any NGO regulatory measure adopted for the purpose of combating the financing of terrorism must be narrowly tailored, necessary, and proportionate to the empirical reality of the differentiated risk identified and the stated aim of mitigating such risk. We would also like to refer to the Special Rapporteur on the rights to freedom of peaceful assembly and of association’s position that ‘[i]n order to meet the proportionality and necessity test, restrictive measures must be the least intrusive means to achieve the desired objective and be limited to the associations falling within the clearly identified aspects characterizing terrorism only. They must not target all civil society associations’ ([A/HRC/23/39, para. 23](#)). Additionally, ICCPR article 22 on freedom of association requires that any restrictions on NGOs be necessary, proportionate, and subject to independent review.

In view of the above, we respectfully urge your Excellency’s Government to ensure that any measures taken to comply with FATF recommendation 8 are narrowly tailored, necessary, and proportionate, and that they do not unduly restrict the ability of NGOs to access resources and carry out their legitimate activities. Proper judicial oversight should be implemented to prevent arbitrary application of these powers.

Prohibition of “engaging in partisan politics using the registered name of the NGO”.

We wish to express our concerns regarding clause 9(1)(ix) of the Bill, which grants the Registrar the authority to cancel or suspend the registration of an NGO if its controllers or members engage in partisan politics using the registered name of the NGO. While it may be appropriate under international law to regulate the participation of NGOs in partisan politics under certain circumstances—primarily to ensure transparency, prevent undue foreign influence, and maintain the integrity of democratic processes—such regulations must comply with key human rights principles, particularly those concerning freedom of association and expression.

Clause 9(1)(ix) of the Bill is overly broad and vague, as it does not specify what constitutes “engaging in partisan politics using the registered name of the NGO.” Absent a definition, activities such as voter education, highlighting government governance and human rights violations, and providing legal representation to political parties or candidates subjected to rights violations could fall into this category. Moreover, there appears to be a lack of adequate safeguards to prevent the prohibition from being applied selectively and in a discriminatory manner against politically disfavoured organizations. The harsh penalties that may result from violating this provision could unduly exacerbate risks for civil society, creating a hostile environment for the right to association.

Furthermore, the Special Rapporteur on the rights to freedom of peaceful assembly and of association has underscored that “the right to freedom of association necessarily entails the freedom of associations to decide and engage in activities of their own choosing, including election-related activities.” This includes the freedom to discuss issues of public concern, contribute to public debate, monitor and observe election processes, report on human rights violations and electoral fraud, initiate polls

and surveys, build coalitions and networks with other organizations, engage in fundraising activities, and provide technical assistance and international cooperation ([A/68/299, para. 43](#)). Associations should not be denied registration or subject to cancellation because they carry out what authorities consider to be ‘political’ activities. The term “political” has been interpreted in many countries in such a broad manner as to cover all sorts of advocacy activities, civic education, research, and activities aimed at influencing public policy or public opinion ([A/68/299, para. 44](#)).

We recommend that the dissolution of an association should always be a measure of last resort, applied only when an association has engaged in conduct that creates an imminent threat of violence or other grave violation of the law. Dissolution should never be used to address minor infractions ([A/HRC/20/27, para. 75](#)), and may only be applied by a judicial body, and only where there is a clear an imminent danger resulting in a flagrant violation of national law ([A/HRC/38/34 para. 34](#)).

The proposed Coordination Assembly in the NPO Bill

We consider that the establishment of a new Coordination Assembly of Non-Profit Making Organizations as proposed in the NPO Bill raises significant concerns regarding its composition and the potential for government overreach. With government officials dominating this assembly, it could allow the government to exert greater control over NPOs. This overrepresentation could undermine the independence and autonomy that non-profit organizations require to operate effectively and advocate for the communities they serve. The involvement of government representatives in the new assembly could lead to a situation where Non-profits and specially NGOs could be pressured to align their activities with government priorities, rather than addressing the needs of their constituents. Such shift in focus could compromise the integrity of NPOs’ efforts, as organizations may feel compelled to conform to government agendas rather than pursuing their own missions. Such a dynamic threatens to dilute the diverse voices within the NGO sector and stifle critical advocacy efforts on pressing social issues.

Moreover, the establishment of a government-dominated assembly could discourage collaboration among non-profits, as they may fear reprisals for opposing government positions. Such environment of apprehension would hamper the ability of NGOs to speak out on issues of public interest and diminish their role as relevant public actors. It is crucial for the government to recognize the importance of an independent civil society and to foster an environment where NGOs can operate freely, without undue influence or intimidation. It would be critical to avoid executive overreach and compulsory association of NGOs with executive projects, restricting NGOs’ autonomy and independence.

This proposal raises significant concerns and implications for the already existing Coordinating Assembly of Non-Government Organizations (CANGO). CANGO serves as an umbrella organization for numerous NGOs in Eswatini, facilitating collaboration, resource sharing, and advocacy. Introducing a new coordinating body not only creates confusion but also threatens the operational integrity and unity of the existing non-profit sector.

CANGO has been functioning effectively, representing a diverse range of organizations and providing essential support and guidance. The introduction of a

competing assembly could lead to fragmentation within the sector, diluting the collective voice of NGOs and complicating their efforts to engage with government and other stakeholders. Instead of fostering a cooperative environment, this move may inadvertently sow discord among non-profits, undermining their ability to advocate for important social issues.

Moreover, the creation of a new assembly could be perceived as an effort to diminish the influence of CANGO and its member organizations. No statute should be crafted with the intention of sidelining existing organizations that have demonstrated their commitment to serving the public interest. It is imperative for the government to recognize the vital role that CANGO plays in the civil society landscape and to engage in meaningful consultation with existing Non for profits, and specially NGOs before enacting such legislation. A collaborative approach that strengthens rather than undermines the current framework would be far more beneficial for the non-profit sector in Eswatini.

Lack of an Independent and Impartial Appeal Mechanism

Equally concerning is the lack of an independent and impartial appeal mechanism in the Bill. Across the entire Bill, the Registrar is granted multiple overly broad powers in the regulation of NGOs without adequate judicial oversight or with undue influence from the Minister responsible for NGOs. For example:

- (a) Under clause 10(3), the Registrar may vary the terms and conditions of a certificate when issuing a new certification.
- (b) Under clause 7(10), the Minister may give general policy directions to the Registrar regarding the exercise of the Registrar's functions, and the Registrar must comply with such directions.
- (c) Under clause 17(1), a non-profit organization may appeal to the Minister against a decision made by the Registrar to refuse an application for registration or to suspend or cancel its registration.
- (d) Under clause 17(2), if the non-profit organization is dissatisfied with the Minister's decision, it may approach the High Court for review, which may remit the matter back to the Minister or Registrar for further consideration.
- (e) Under clause 17(3), the Minister may revoke the Registrar's decision to refuse, cancel, or suspend the registration of a non-profit organization if there has been a change in circumstances justifying the revocation.

In his 2013 report to the UN Human Rights Council, the former Special Rapporteur on the rights to freedom of peaceful assembly and of association stated that “[a]ny restrictions [on organizations] should be subject to an independent, impartial, and prompt judicial review” A/HRC/23/39, para. 84 c. Clause 17 of the Bill provides a judicial review mechanism for NGOs dissatisfied with ministerial decisions. However, this provision only allows the court to remit the matter back to the Minister or Registrar for reconsideration, giving the Minister discretionary power to overturn the Registrar's

decision based on "a change in circumstances." The law does not define what constitutes a "change in circumstances," leaving room for subjective interpretation and for a limited ground for appeal. There are no clear options to appeal decisions such as denial of registration, cancellation, or suspension of registration to a neutral decision-maker. Additionally, there is no judicial or parliamentary oversight over the Minister's decisions, allowing for broad discretion and a lack of accountability. A "successful" appeal to the High Court of a high-risk designation would appear to result in the matter going back to the Minister for reconsideration, potentially without directions on how the decision should be reconsidered. The UN Special Rapporteur on the rights to freedom of association and assembly has emphasized that effective remedies should include judicial oversight with binding decisions, rather than allowing the same executive authority to review its own ruling.

Reporting requirements to the authorities and penalties for non-compliance

If approved, Part IV of the Bill would grant the Registrar broad powers to monitor NGOs, raising the risk of intrusive government oversight. These powers include extensive and burdensome annual reporting requirements to the Registrar (clause 18), obligations to maintain financial records (clause 19), requirements to report changes of particulars (clause 20), duties to provide information (clause 21), and the production of records (clause 22), including where the Registrar believes that an NGO is engaging in activities identified as risks. The sections also include fines and/or imprisonment up to five years for breaches of these provisions, including summary conviction for failure to provide records under clause 22.

Under international and regional standards, the freedom of association includes the right to be free from undue State interference. The African Commission on Human and Peoples' Rights at the Guidelines on Freedom of Association and Assembly in Africa, para. 33, notes that "the oversight powers of the authorities shall be carefully delimited, so as not to infringe on the right to freedom of association."

Human Rights Council resolution 22/6 has called on states to ensure that reporting requirements placed on individuals, groups, and organs of society do not inhibit functional autonomy.

Clause 20 on change of particulars conflicts with international best practices, which state that "[m]embers of associations should be free to determine their statutes, structure, and activities and make decisions without State interference" ([A/HRC/20/27, para. 64](#)). It also contravenes the ACHPR Guidelines, which state that "[a]ssociations shall not be required to obtain permission from the authorities to change their internal management structure or other elements of their internal rules" (ACHPR Guidelines, para. 36(b)). These best practices and guidelines are meant to ensure that the right of association is not unduly burdened and stifled by government interference, and to guarantee the existence of a robust and thriving civil society.

The UN Special Rapporteur on the rights to freedom of peaceful assembly and association notes that while independent bodies may examine an organization's records to ensure transparency and accountability, "such a procedure should not be arbitrary and must respect the principle of non-discrimination and the right to privacy as it would otherwise put the independence of associations and the safety of their members at risk."

Similarly, the African Commission Guidelines provide that "associations shall not be required to transmit detailed information such as the minutes of their meetings, lists of their members, or personal information of their members to the authorities." Clause 22(3) is overly broad and produces this risk.

Regarding offences and penalties, Part VI of the Bill, in addition to other high penalties within the Act, must be consistent with the principle of proportionality under international law. Penalizing with prison is not proportionate and may be aimed at suppressing civil society. When deciding whether to apply sanctions, authorities must take care to apply the measure that is the least disruptive and destructive to the right to freedom of association. Penalties for the late or incorrect submission of reports, or other minor offences, including under Parts IV and VI of the Bill, should never be harsher than penalties for similar offences committed by for-profit entities, such as businesses. Sanctions should be avoided and replaced by a warning with information on how a violation may be rectified, giving ample time to the association to repair the violation.

The Supervisory Body's oversight powers appear to be overly broad and not clearly defined, allowing for inspections without a court order; for NGOs to be directed to provide excessive documentation without a clear definition of what is required and when. Refusal of registration, suspension and termination of NGOs is at the discretion of the administrative Supervisory Body on vague and potentially arbitrary grounds. Such restrictions are not justified under international law because they are disproportionate and unnecessary in a democratic society. They also lack sufficient precision to enable NGOs to understand their obligations and comply with the law, and to avoid arbitrary, discriminatory, and authoritarian misapplication of the law.

Contrary to the UN Declaration and the international human rights norms highlighted above, in its current form, the Bill will severely undermine the ability of Eswatini human rights defenders and civil society organizations to organize themselves and operate freely and independently in the defence of human rights.

Given its apparent unconstitutionality, and the risk and dangers the Bill poses to fundamental freedoms and the rule of law in Eswatini, we encourage further revisions to the Bill. We encourage the Eswatini Parliament to initiate broad and inclusive processes of dialogue and meaningful consultation with Eswatini civil society and other stakeholders, to better understand NGOs' role, the nature of their work, the diversity of the sector, and their needs and concerns. This will allow for the drafting of new, less restrictive, more inclusive, and enabling, legislation that promotes the critical work of NGOs and ensures citizens' and beneficiaries' rights are protected, in accordance with Eswatini's constitutional and international human rights law obligations including the principles highlighted in the UN HRDs Declaration, the African Commission Guidelines, and the UN General Principles on CSOs' Right to Access Resources. Ongoing inclusive and targeted risk-based assessments and outreach may also be conducted with the non-profit sector in Eswatini to identify any risks of AML/CFT abuse, and to develop policies and effective self-regulation strategies to address these, without impacting on legitimate NGO activities, in accordance with the existing legal frameworks and international human rights standards.

In view of these observations, we invite your Excellency's Government to provide responses to the points raised in this communication and to take the necessary

measures to ensure that all legal texts comply with international standards relating to freedom of association.

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 observations.
2. Please indicate the measures that your Excellency's Government has taken or intends to take to ensure broad and inclusive consultations with civil society in the legislative process, including with marginalized and vulnerable groups.
3. Please indicate how your Excellency's Government plan to ensure that the Bill aligns with international human rights standards, particularly regarding the rights to freedom of association, expression, and the protection of human rights defenders.
4. Please indicate whether your Excellency's Government plans to amend the legislation and to limit with more specific criteria the broad discretionary powers granted to the Registrar and the Minister, to ensure that they are not applied arbitrarily or discriminatorily.
5. Please indicate whether your Excellency's Government has conducted an impact assessment of the proposed Bill on the operational freedom and independence of civil society organizations. If so, please provide the findings of this assessment.
6. Please indicate the measures that your Excellency's Government has taken or is envisaging to take to support and strengthen the capacity of civil society organizations to comply with the new regulatory requirements without compromising their independence and operational effectiveness.
7. Please indicate the manner in which your Excellency's Government monitor and evaluate the implementation of the Bill to ensure that it does not have unintended negative consequences on the ability of NGOs to operate freely and effectively.

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.

Gina Romero
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