

Risk categories and operational impacts

TOOL 5

Risk category	Operational impact
Criminal and civil liability related to counterterrorism measures	<p>Investigation and prosecution under counterterrorism laws: Some countries' broad definition of prohibited support for terrorist groups or acts of terrorism in their domestic legislation poses a risk for humanitarian organisations and their staff, who could face investigation and prosecution if their activities are deemed to fall within the scope of the crime. Local staff may be particularly exposed to risks under the host country's counterterrorism legislation.</p> <p>Civil liability: In some countries such as the United States (US), organisations may also face civil liability under laws such as the Anti-Terrorism Act if it can be argued that their activities (even unintentionally) assisted in the commission of acts of terrorism.¹</p>
Civil and criminal liability for sanctions violation	<p>Liability for sanctions violation: Humanitarian organisations and their staff may be held accountable for violating sanctions, which is most likely to result in fines or civil penalties. A growing number of countries and sanctioning bodies, however, have introduced measures to punish violation or circumvention of sanctions more severely. For example, the European Union (EU) adopted a directive on the criminalisation of sanctions violations in 2024.</p>
Operational	<p>Delays in negotiating terms of grant agreements: The inclusion of sanctions and/or counterterrorism clauses in grant agreements can delay humanitarian activities while organisations negotiate with donors to avoid problematic requirements or seek clarity about wording. Some specific requirements, including screening and/or vetting procedures, may also delay the provision of assistance.</p> <p>Delays in obtaining specific authorisations: If humanitarian exemptions are not in place, the process of applying for licences or derogations for specific activities otherwise prohibited can be time-consuming. For example, obtaining an export licence or a specific authorisation to conduct a transaction necessary for humanitarian activities.</p> <p>Delays caused by private and financial sector derisking: Banks may refuse, or take longer than expected, to provide transfers to locations perceived as high risk to minimise their own exposure to accusations of facilitating the financing of terrorism. Other private sector actors, such as insurance companies and suppliers, may also refuse to offer services to humanitarian organisations for fear of violating sanctions.</p> <p>Increased costs: Large international organisations may have to invest hundreds of thousands of dollars in screening software, human resources and legal counsel to ensure their operations comply with overlapping sanctions and counterterrorism measures. Donors do not always cover such costs, and many local organisations are unable to afford them.</p>

¹ See for example: <https://tinyurl.com/4y9mnadp>

Risk category	Operational impact
<p>Operational</p>	<p>Establishing a bad precedent and weakening collective redlines: This can occur when one organisation accepts a sanctions or counterterrorism clause in a grant agreement that others deem unacceptable. Some organisations may not accept such clauses and instead continue to negotiate more acceptable terms, but their leverage and ability to do so is weakened if others have already accepted the problematic requirements.</p> <p>Lower quality and relevance of response: Compliance with donor sanctions and counterterrorism requirements may push organisations to choose activities perceived as lower risk even if they are less appropriate and effective, for example replacing cash with in-kind assistance to avoid beneficiary vetting requirements from the donor.</p> <p>Unintended risk transfer to staff: The wording of counterterrorism clauses in grant agreements can be opaque, vague and difficult to interpret, and it is not uncommon for humanitarian organisations to accept them without fully understanding the requirements. Staff tasked with implementing a project under a grant agreement may not have been involved in negotiating it, but they shoulder the burden of complying, and organisations often fail to provide the necessary guidance or support on how to do so.</p> <p>Unintended risk transfer to local partners: International organisations often pass on donor sanctions and counterterrorism requirements to local partners in “flow-down clauses” without ensuring that the partners understand what they entail or that they have the resources and capacity to comply. Local partners may accept requirements without a clear understanding of legal obligations that may be impossible for them to adhere to and that place their staff at risk as a result.</p>
<p>Financial</p>	<p>Loss of funding and donor disallowances: Some organisations have refused donor funding because they were unwilling to accept the terms of sanctions or counterterrorism clauses. Expenditure may also be disallowed under a contract if an organisation does not comply with all donor regulations.</p>
<p>Reputational</p>	<p>Compromised humanitarian principles: Engaging with ‘non-state armed groups’ (NSAGs) regardless of whether they are designated under sanctions or proscribed under counterterrorism measures is key to gaining and maintaining access to people in need. Engagement also helps to establish consent and acceptance for humanitarian organisations’ activities. Counterterrorism measures can create uncertainty for organisations about whether contact with designated NSAGs is permissible.</p> <p>Some organisations refrain from engaging with such groups as a result, which risks fuelling negative perceptions of their impartiality and neutrality, which in turn puts their staff and beneficiaries at risk.</p> <p>Other organisations do engage but do not provide their staff with support and guidance on doing so. This can create a “don’t ask, don’t tell” approach in which field-based staff engage with NSAGs without the knowledge of senior management and feel unable to openly discuss dilemmas and risks.</p>
<p>Security</p>	<p>Compromised staff safety: To minimise exposure to the risk of violating applicable sanctions and counterterrorism measures, organisations may choose not to operate in certain areas, such as those controlled by designated or proscribed NSAGs, regardless of the humanitarian needs there. Similar problems can also arise if de facto authorities are designated under sanctions. This compromises the impartiality of the response, and leaves affected people without assistance simply because of their location. If operations are not perceived as impartial, it can also put staff safety at risk.</p>