

SUPPLEMENTARY ITEM

DRAFT RESOLUTION

on

***The Protection of Civil Society from Financial
Exclusion***

PRINCIPAL SPONSOR:

**SEN. MARK DEMESMAEKER, DEPUTY HEAD OF THE
BELGIAN DELEGATION TO THE OSCE PA
BELGIUM**

VANCOUVER, 30 JUNE – 4 JULY 2023

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Principal Sponsor: Mr. Mark Demesmaeker (Belgium)

1. Recalling the commitments of the participating States to respect human rights, fundamental freedoms and the rule of law, as set forth in the Helsinki Final Act, the Paris Charter, the OSCE PA's 1992 Copenhagen Declaration, OSCE Guidelines on the Protection of Human Rights Defenders and OSCE Ministerial Council Decision No. 9/12 on the Protection of Human Rights Defenders,
2. Stressing the importance of preventing and combating money laundering and the financing of terrorism and recalling the OSCE Ministerial Council Decision No. 7/09 on Enhancing the Use of the OSCE Human Dimension Tools in the Area of Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT), which recognizes the importance of respecting human rights and fundamental freedoms in the implementation of AML/CFT measures,
3. Referring to the OSCE Guidelines on Human Rights and the Fight against Terrorism and the OSCE-ODIHR Guidelines on Human Rights and the Fight against Terrorism, which provide guidance on ensuring that AML/CFT measures respect human rights and are subject to effective oversight and accountability mechanisms,
4. Expressing concern over the misuse of AML/CFT mechanisms by authoritarian and oppressive regimes as tools of transnational repression to target democratic opposition, human rights organizations (NGOs) and activists, including anti-corruption watchdogs, and emphasizing the alarming rise of this phenomenon that has been hitherto underestimated,
5. Noting with concern that the misuse of AML/CFT mechanisms leads to financial exclusion and deprivation of property achieved by the means of terminating bank accounts and asset freezing of targeted NGOs and individuals, which harms the legitimate operations of targeted NGOs and those associated with them, ruins personal lives of targeted individuals and harms thousands more individuals who rely on their support,
6. Expressing concern about de-risking compliance policies and the de-banking phenomenon, which lead to the termination of financial services on the basis of

- perceived risk of AML/CFT violations, including "false positives" in financial institutions' automated systems that incorrectly flag individuals as potential criminals or other kind of high-risk clients, which can be, and often are, the result of negative press coverage produced by the propaganda apparatus of illiberal regimes, the abuse of international, European and bilateral legal assistance requests by autocracies and states descending into authoritarianism, or fake news or other kind of malicious content,
7. Voicing apprehension about the potential threats of financial surveillance, privacy violations, arbitrary actions by law enforcement and special services, and disclosure of sensitive information to authoritarian and other illiberal regimes under the guise of legal assistance mechanisms,
 8. Acknowledging that the emergence of crypto-assets, such as bitcoin and stablecoins, presents an opportunity for civil society to regain access to financial services and protect their rights, especially when subjected to de-banking, and recognizing that crypto assets can also be a valuable tool for civil society to deliver humanitarian aid to those in need, including refugees, migrants, victims of war, natural disasters and other crises, in an efficient manner, particularly in emergency situations, and in failed, oppressive and corrupt states,
 9. Stressing the importance of balancing the regulation of crypto-assets in a way that considers their benefits to the global civil society and marginalized groups, including various vulnerable minorities,

The OSCE Parliamentary Assembly urges all OSCE participating States to :

10. Ensure that AML/CFT mechanisms are not used as tools to stifle dissent or target human rights defenders, anti-corruption campaigners, exiled dissidents, diaspora communities, taking into account the potential unintended consequences of prevention-focused AML/CFT regulations and their side-effects, including the potential for increased financial exclusion and further malicious exploitation of strict AML/CFT and related provisions;
11. Prioritize the interest of ordinary people, small and medium-sized enterprises (SMEs), as well as individuals and NGOs that are subject to politically-motivated attacks, while maintaining the fight against money laundering and terrorism financing;

12. Establish transparent and accountable mechanisms to prevent the misuse of AML/CFT regulations by financial institutions, intelligence and consulting companies and governments, including clear definitions of "false positives" in AML/CFT compliance regulations, mechanisms for holding anti-money laundering authorities accountable for any potential misuse of their mandate, provisions for redress, remedy and compensation for those who have been unfairly targeted, including the appointment of a third-party ombudsman to determine the reasons for de-risking;
13. Address the increased bureaucracy and information overload in financial services and ever-increasing due diligence requirements, which can result in a prolonged process of opening a bank account and negatively affect SMEs, NGOs and activists' ongoing relations with financial institutions;
14. Ensure stakeholder engagement in addressing de-risking through multi-stakeholder platforms of banks, NGOs, regulators, and other stakeholders for joint solutions that balance regulatory requirements with the needs of NPOs to access financial services;
15. Recognize the potential benefits of crypto-assets, such as bitcoin and stablecoins in empowering civil society and members of marginalized groups worldwide, as well as in resisting oppression, refraining from imposing excessive restrictions on their use;
16. Conduct an analysis of the anticipated effects of the regulation, including the cost of compliance, on entrepreneurship and the business environment, including the FinTech sector, and the crypto industry, and, consequently, the OSCE Member States overall competitive position and their influence on innovation in these areas of the market;
17. Consider the potential risks of financial surveillance, privacy violations, and arbitrary actions of law enforcement, as well as the disclosure of sensitive information to authoritarian and other illiberal regimes through legal assistance mechanisms;
18. Promote the exchange of best practices among OSCE participating States on the application of AML/CFT regulations, and their impact on entrepreneurship, human rights and civil society,
19. Ensure that SMEs and members of civil society are not unfairly targeted and excluded from financial services because of their use of crypto-assets such as bitcoin and stablecoins for crowdfunding or humanitarian aid and human rights work. It is vital to prevent de-banking of individuals and organizations who rely on them;
20. Take into account the fact that traditional banking services, currencies and financial institutions remain vulnerable to money laundering, especially in connection with authoritarian countries and large-scale, profitable transactions that often occur, for

instance, in their dealings with sanctioned governments and individual employing third parties (including other countries and companies) as their, supposedly legitimate, proxies to violate restrictions imposed on them and prevent such practices by establishing appropriate monitoring and supervision mechanisms.

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Principal sponsor:

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Please return signed copies **no later than 26 May 2023** per email to:

- the Belgian Secretariat to the OSCE PA, Mr. Thierry de Ghellinck, tdg@senate.be, 0032 471 61 00 36;
- and to the OSCE PA Secretariat: vancouverdocs@oscepa.dk Fax: 0045 33 37 80 30