



COUNTERTERRORISM MEASURES AND SANCTION REGIMES

Shrinking Space for Humanitarian Aid Organisations

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Abstract

Over the last decades, both states and intergovernmental organisations have increasingly adopted restrictive legislation and guidelines in an attempt to combat or counter terrorism. Reports from humanitarian organisations about the disastrous consequences of these counterterrorism measures and sanction regimes on their daily work, especially within conflict settings, are growing. However, the complexity and sensitivity of this topic complicate the urgently needed exchange between humanitarian organisations as well as the exchange between organisations and donors. Both perspectives require a sincere and transparent debate on the negative impact of counterterrorism legislation and sanction regimes on humanitarian action, which first and foremost aims to protect the well-being of an affected population and the humanitarian space as a whole. This contribution will therefore set out the current state of the debate in order to stimulate further exchange on this topic.

Principled humanitarian action under pressure

Conversations with humanitarian workers and related studies by organisations make clear that measures to counter terrorism have a multi-faceted impact on humanitarian action and substantially limit the humanitarian space. Laws and sanctions employed to counter terrorism and their implementation practices are putting increasing pressure on principled humanitarian action, with the consequence that aid organisations are no longer able to reach people in need. The risk of humanitarian action being refused due to political motives is particularly high within war and conflict zones.

The co-optation of the humanitarian response into counterterrorism strategies harbours the potential danger that humanitarian organisations will no longer be regarded as neutral. They are already frequently perceived as biased – gathering information and passing it on to governments – and therefore come under scrutiny from non-state armed groups thus risking the loss of trust among local populations.

Given that aid is often provided in areas that are under de facto control of non-state armed groups, which are themselves considered to be terrorist, humanitarian organisations must balance compliance with (inter)national counterterrorism norms and the execution of their mandate. However, due to increasingly restrictive legislation and the associated criminalisation of aid, the primary victims of this diminishing humanitarian space are the individuals who continue to be deprived of access to humanitarian aid.

Whereas the fight against terrorism is a legitimate state interest, its multi-layered measures must be consistent with international humanitarian law and other legal regimes and allow for principled humanitarian action. Not only does this require correspondingly robust legislation, but it also necessitates better support by donors, whose current contractual obligations are tailored around counterterrorism legislation and sanction regimes which increasingly put humanitarian actors under pressure.

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Multiple levels, confusing structures

Efforts to advance the fight against terrorism on an international level can be traced back to the 1960s. One of the consequences of 9/11 and the so-called 'War on Terror' was an increasing consolidation and further spelling out of international counterterrorism measures. From the beginning, the debate was plagued by the difficulty of reaching consensus on a generally valid and shared definition of terrorism. To this day, UN member states have not been able to agree on a comprehensive anti-terrorism convention or said definition. Furthermore, a multitude of regional and national regulations and measures have been put in place which are difficult to comprehend for the layman and even confusing for experts due to their impenetrability. It is also difficult for humanitarian organisations to maintain an overview of this complex, confusing and constantly evolving web of legal requirements and to act and position themselves according to their mandate within the jungle of sanction regimes and counterterrorism measures.

The fight against terrorism is being led at an **international level**, particularly within the framework of the UN. The legal foundation for UN-measures and sanctions by the UN Security Council can be found in Chapter VII of the UN Charter. Measures adopted under it are binding for all Member States. Such measures also include sanctions imposed by the UN Security Council. To date, the Security Council has imposed 30 sanction regimes against states and individual groups such as ISIL, Al-Qaida and the Taliban to fight terrorism. Two important sanction regimes were created by Resolutions 1267 (1999) and 1373 (2001). These continue to set the decisive framework for the global fight against terrorism, partly because their scope has been extended over time.

In 2006, the United Nations General Assembly developed the Global Counter-Terrorism Strategy, providing for the pooling of national, regional and international counterterrorism efforts. Appropriate bodies and institutions were created to implement and enforce legal regulations and sanction regimes, and the fight against terrorism also became institutionally anchored. Moreover, multilateral cooperation takes place within the informal framework of the Global Counterterrorism Forum, the Global Coalition against ISIL/Da'esh and the Financial Action Task Force (FATF). The latter is an intergovernmental body which seeks to develop and promote measures to combat money laundering, the financing of terrorism and other threats to the integrity of the international financial system. In order to comply with the FATF guidelines, banks, for example, have taken measures that hinder or even prevent humanitarian organisations from opening bank accounts or transferring money in certain countries.



Figure A:
Sinjar - Iraq: Ruined side-street in Shingal (Singar)
following war with the Islamic State.
Source: Levi Clancy/ Unsplash.

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At the same time, measures and laws to combat terrorism have emerged at a **regional level**. Although these are strongly oriented to international norms, they have also developed independently over time. An example of this is the sanction list maintained by the EU. In 2005, the European Council also adopted the EU Counterterrorism Strategy to provide a mutual response to

perceived terrorist threats. Nevertheless, a generally applicable definition of terrorism was not agreed within this framework.

Directive 2017/541 of the European Parliament and of the Council of 15 March 2017 is the most recent directive to advance and harmonise the legal framework embedding anti-terrorism legislation at the EU level. The directive criminalises the financing of terrorism, which is a central aspect of the EU's anti-terrorism strategy.

In addition to the EU, other regional bodies also deal with counterterrorism issues, for example, the Organisation for Security and Cooperation in Europe (OSCE), the African Union (AU) and the Association of South East Asian Nations (ASEAN). Thus far, the regulations developed on this level are only regional in scope. However, for humanitarian aid organisations operationally active in these respective regions, this poses another complication in an already highly unclear legal framework.

International and regional legislation are translated into national laws and strategies by respective member states, with individual interpretations and designs of counterterrorism measures sometimes varying considerably. Furthermore, individual countries also develop their own set of measures and legislation. National legislation can have a global impact. An example of this is a US law which makes it an offence, punishable with up to 15 years imprisonment, for persons in the US, regardless of their nationality, to provide material support to an organisation listed as a foreign terrorist organisation.¹⁸

Germany has also taken national counterterrorism measures which are incorporated into international obligations. For example, the German constitution prohibits support for terrorism and terrorist groups,¹⁹ and German criminal law penalises the financing of terrorism as a criminal offence under the Money Laundering Act.²⁰ Whilst some states, such as Great Britain or the US, maintain their own lists, Germany does not keep its own official list of individuals or designated terrorist organisations.²¹

The interaction and mutual influence of international, regional and national legislation and counterterrorism measures result in a highly complex and multi-layered web of applicable regulations. These various sets of rules differ greatly from one another. For example, the definition of what is seen as 'support' for terrorism and 'designated' terrorist organisations. This lack of clarity results in a high degree of uncertainty for humanitarian organisations and runs the risk that they may engage in deemed criminal activities.²²

Restriction of the humanitarian space

In practice, multi-faceted sanction regimes and counterterrorism measures have a considerable impact on humanitarian action. They limit the scope for principled aid, hinder the work of humanitarian organisations and even criminalise them. Since humanitarian action is often provided in areas controlled by non-state armed groups, humanitarian organisations must negotiate or cooperate with these groups in some way in order to gain access to the affected area. Many of these groups are proscribed terrorist organisations. As a result, interactions with them can be sanctioned or prosecuted under counterterrorism legislation. This is not a purely theoretical risk for organisations and their workforce. Examples are World Vision in Gaza,²³ Oxfam in the Palestinian Autonomous Territories²⁴ or Norwegian Peoples Aid.²⁵

In addition, anti-money laundering laws and measures to prevent the financing of terrorism have caused banks to implement more risk-averse financial policies. As mentioned above, the fear of criminal prosecution has resulted in humanitarian organisations, in certain countries, being unable to open accounts or carry out transactions, a phenomenon known as de-risking. A consequence of this is that it forces humanitarian organisations to transport large sums of physical currency to operational areas, which exposes them to heightened security risks. It also results in delays to project implementation as well as increased transaction costs.

The increasing demand of donors to subject partner organisations on the ground, contracted partners, suppliers and even aid recipients to security checks violates the humanitarian principles of humanity, impartiality, neutrality and independence. Under the so-called partner or beneficiary vetting system, aid organisations must ensure that none of their partners or beneficiaries is on an EU or UN sanctions list or associated with terrorist groups. Whilst the screening of partner organisations is common practice and part of the standardised procedure of aid organisations, the screening of aid recipients is not only difficult to practically implement, but also highly problematic in terms of principled aid. Many organisations have therefore drawn a red line on beneficiary vetting because it leads to a delay in humanitarian responses, violates data protection regulations and undermines the humanitarian principles.²⁶

The situation is further complicated by the existence of different lists of designated terrorist organisations. For example, Hamas is listed as a terrorist group by the US and the EU, but it is not on the corresponding UN list. Moreover, both the process of adding to and removing groups from these lists is opaque. Since 2011, however, some sanction regimes allow an Ombudsman to review listed persons or groups which may lead to their removal.²⁷

International and regional legislation are translated into national laws and strategies by respective member states, which sometimes vary considerably.

De-risking of banks results in significant hurdles for aid organisations such as opening bank accounts or carrying out transactions in certain countries.

The interpretation of what exactly constitutes support for groups designated as terrorist also varies according to legislation at the international, regional and domestic levels. The US has a very broad definition of what constitutes material and financial support to designated terrorist groups. In one case,²⁸ the Supreme Court ruled that even the provision of training or other services amounts to material support and is therefore subject to criminal prosecution. In other cases, 'support' for terrorist groups is criminalised but not further defined, as is the case in Australia. In addition, there are various interpretations in relation to intent, and whether it can be presumed or whether there is a requirement for support to have been given knowingly.

Furthermore, the work of humanitarian organisations is delayed and complicated by bureaucratic hurdles such as increased difficulty in obtaining residence and work permits, travel bans and extensive bureaucratic requirements for importing materials and relief supplies. A general or absolute ban on material and financial support for persons listed as or associated with terrorists (potentially including close or distant relatives who may be completely uninvolved in terrorist activities) also affects vital relief supplies for affected population groups.

Highly complex and constantly evolving regulations and a lack of corresponding (legal) expertise and capacity within organisations to keep track of and operationally implement these extensive and changing requirements fuels a general feeling of uncertainty. Often, it is unclear which actions are still legitimate and which ones already violate counterterrorism legislation. As a result, organisations implement tougher restrictions upon themselves than legally necessary, out of fear, triggering the so-called chilling effect.

Even more affected than the large international organisations are the smaller international or national humanitarian actors from the Global South. These suffer from flow-down clauses whereby donors transfer all risks to their beneficiaries, mostly northern NGOs, who in turn pass them on to implementing organisations and local staff.²⁹ In the end, however, the real victims are the affected populations, who lose access to humanitarian aid. In some areas affected by humanitarian emergencies, anti-terrorism legislation has already severely limited humanitarian action or had other negative consequences, as has been the case in Gaza.³⁰ It is believed that the restriction imposed by counterterrorism legislation in the US and the UK has contributed to a lack of supplies and care for people during the famine in regions of Somalia controlled by the Islamist militia al-Shabaab in 2011. The famine resulted in the death of 250,000 people.³¹



Figure B:
Sinjar - Iraq: A ruined old home in Shingal (Singar)
following war with the Islamic State.
Source: Levi Clancy/ Unsplash.

Exemptions enable humanitarian organisations to access the affected population and thus, despite sanctions being in force, provide life-saving aid.

All the above leads to a more restricted room for manoeuvre for humanitarian organisations, limited access to suffering populations and greater difficulty to uphold humanitarian principles. This can be remedied by humanitarian exceptions, such as those provided for in Directive 2017/541 of the European Parliament and the Council of 15 March 2017. Paragraph 38 of this Directive contains an exception for humanitarian organisations and is therefore often cited as a good example for the further development of sanction regimes and counterterrorism legislation. The clause reads as follows:

The provision of humanitarian activities by impartial humanitarian organisations recognised by international law, including international humanitarian law, do not fall within the scope of this Directive, while taking into account the case-law of the Court of Justice of the European Union.³²

The need for humanitarian exemptions in order to make sanction regimes more effective and reduce negative impacts has also been recognised by the Security Council and individual member states and attempts to review and reform sanction regimes have been made.³³ Recent UN Security Council resolutions, such as Resolution 2374 (2017) on Mali,³⁴ Resolution 2462 (2019) or 2482 (2019), contain paragraphs on humanitarian exemptions.³⁵ A new feature of the latter is the explicit requirement that sanction regimes implemented by Member States must be in accordance with international humanitarian law and take potential negative consequences for humanitarian activities into account.³⁶ Such exemptions enable humanitarian organisations to access the affected population and thus, despite sanctions being in force, provide life-saving aid. Hereby, a distinction between individual and standardised exemptions must be made. Standardised exemptions, applying to the entire sector,³⁷ are preferable to individual exemptions, since the latter are granted on a case-by-case basis and thus entail a great deal of bureaucracy which causes delays.

Notwithstanding the above, recent draft legislation in the UK and the Netherlands give cause for concern about the continuous limitation of the humanitarian space. In the UK, a proposed law designated certain areas as 'no-go'. Individuals travelling to these areas could be sued for supporting designated terrorist organisations.³⁸ As a result of joint advocacy efforts by British NGOs, since the beginning of 2019, the law, which is now in force, has contained an exemption for independent humanitarian action.³⁹ However, the Dutch government is currently discussing similar legislation without a humanitarian exemption. This has already been passed by parliament and is now in the process of examination by the Senate.

German donor recommendations: preservation and defence of the humanitarian space

In compliance with national and international laws and measures to combat terrorism, German donors have also incorporated clauses in their financing agreements and procedures. However, the individual provisions differ considerably from one donor to another.⁴⁰ In their financing agreements, donors can put forth drastic requirements regarding the observance of counterterrorism legislation and they increasingly do so. Humanitarian organisations are bound by the counterterrorism provisions laid down in contracts with German donors such as the German Credit Institution for Reconstruction (KfW), the Federal Ministry for Economic Cooperation and Development (BMZ), the Federal Foreign Office (AA) or the German Society for International Cooperation (GIZ).

Humanitarian exemptions laid down in legislation, sanction regimes and donor contracts are fundamental instruments for granting emergency aid. However, such clauses have not yet established clear criteria for exemptions, but rather serve as a discretionary basis for individual cases. In order to obtain a humanitarian exemption, humanitarian organisations may have to wait months before they can provide critical, life-saving assistance. Standardised exemptions should therefore be incorporated into the relevant regulations and in practice.

In order to protect the space for principled humanitarian action and maintain access to populations in need, a better balance between security interests and humanitarian obligations is needed. This calls for a joint strategy amongst humanitarian actors, drawing attention to the impact counterterrorism measures have on their work, developing red lines and negotiating these with donors. This is as important as the sensitivity and appropriate positioning of both donors and governments. A good example of working together to resist the restriction of the humanitarian space was the joint efforts by humanitarian organisations in obtaining the veto of six states to block Kenya's proposal to the UN Security Council to list Al-Shabaab in Somalia as a designated terrorist group⁴¹ (under Resolution 1267).⁴²

As an influential humanitarian actor, Germany should call for a reconsideration of the current sanction regimes from a humanitarian perspective and explore possibilities for the inclusion of humanitarian exemption clauses on both a EU and international level. In this regard, within Germany, responsibilities must be clearly defined and made transparent, so humanitarian organisations know whom to turn to when necessary. Moreover, the implementation of European Directives on anti-money laundering and terrorist financing as well as the compliance with sanctions must not hinder the transfer of funds towards humanitarian organisations on the ground. It is clear that the application and granting of humanitarian exemptions calls for political support.

The *Call for Action* aims to mobilise UN member states towards a more effective and stronger implementation of international humanitarian law and the protection of humanitarian aid workers.

Finally, a differentiated approach and humanitarian positioning on all sides is necessary in order to ensure both the accessibility of people in areas managed and controlled by designated terrorist organisations as well as the protection of humanitarian aid workers. The Humanitarian Call for Action⁴³ that was announced by Germany and France on the first of April 2019 in New York on their shared Security Council presidency was an important first step towards making these issues internationally visible. Among other things, the Call for Action aims to mobilise UN member states towards a more effective and stronger implementation of international humanitarian law and the protection of humanitarian aid workers. In April 2019, German Foreign Minister Heiko Maas called for the protection of the humanitarian space in a UN Security Council statement.⁴⁴ This also requires the consideration of humanitarian principles whilst drafting sanctions and counterterrorism laws.

So far, systematic consideration of international or regional laws through national implementation is still lacking. It requires Germany's ongoing commitment in relevant forums, such as the UN Security Council or within the framework of its chairmanship of the Council of Europe's Committee of Ministers from November 2020 to May 2021.

Moreover, on the national level the German Federal Government can have a positive impact on its implementing organisations and thereby protect the space for principled humanitarian action.

To further draw attention to this topic and develop suitable countermeasures, the involvement of aid organisations is also required. They have an obligation to highlight the extent of restrictions imposed by counterterrorism legislation and sanction regimes by providing examples of its effects on their day-to-day-work. This requires both a transparent sectoral dialogue and the development of a joint strategy as well as an exchange with the donors. It also necessitates corresponding behaviour on the side of the donor, as aid organisations are currently challenged with the dilemma of naming issues whilst at the same time fearing financial repercussions. Therefore, an open debate and presentation of dilemmas must not lead to aid organisations finding themselves under general suspicion or negatively affect financial flows, as this would significantly hinder the resolution of remaining issues.

Endnotes

¹ The core principles of humanitarian aid are humanity, neutrality, impartiality and independence.

² Pantuliano et al., 2011, p. 8.

³ Efforts towards a comprehensive Convention on International Terrorism, based on UN General Assembly A/RES/51/210 (16 January 1997), remain at a standstill.

⁴ Charter of the United Nations, 1945, Chapter VII, Articles 39-51.

⁵ See <https://www.un.org/securitycouncil/sanctions/information>, last accessed 10.12.2019.

⁶ See <https://www.un.org/en/sc/1540/documents/Comparative%20Table.pdf>, last accessed 16.12.2019.

⁷ See: <https://fairtrials.org/news/arrest-kisa-director-reflects-wider-european-trend-criminalising-support-migrants>, last accessed 09.10.2019.

⁸ Sanction regulation 1373 under Resolution 1373 (2001) calls on Member States to criminalise the support for terrorism by freezing funds of those suspected of providing financial resources to listed groups. It also introduces national legislation that classifies the support for terrorist acts as a serious crime, which is to be sanctioned accordingly (allowing for a "decentralised" listing system). An anti-terrorism committee was established to monitor the implementation of the resolution.

⁹ UN General Assembly, The United Nations Global Counter-Terrorism Strategy, A/RES/60/288 (20 September 2006).

¹⁰ In fulfilment of the 2005 World Summit pledge of the UN General Assembly. See World Summit Outcome, A/RES/60/1 (24 October 2005) and the 2006 Recommendations of the UN Secretary-General A/60/825 (27 April 2006). Other UN conventions and Security Council resolutions aimed at combatting terrorism include the 1997 International Convention for the Suppression of Terrorist Bombings, the 1999 International Convention for the Suppression of the Financing of Terrorism, the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism, the 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation and Resolutions 1624 (2005), 2178 (2014) and 2462 (2019).

¹¹ For example, this brought into being the Security Council Counter-Terrorism Committee (CTC), the Counter-Terrorism Executive Directorate (CTED) and the United Nations Office of Counter-Terrorism (UNOCT).

¹² The FATF currently comprises 37 member countries and two regional organisations, representing the major financial centres in all parts of the world.

¹³ Mackintosh and Duplat, 2013, pp. 104-105.

¹⁴ However, UN sanction regimes are not implemented on the European level by Member States themselves, but by the EU. See: The United Nations and European Union terrorist lists. On the functioning of the listing procedure, Wissenschaftliche Dienste, Deutscher Bundestag, elaboration WD 11-3000-11/11, 2011. available at <https://www.bundestag.de/resource/blob/414428/e86b7f9d816665d23845594fb339c037/WD-11-011-11-pdf-data.pdf>, last accessed on 05.02.2020.

¹⁵ See <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2014469%202005%20REV%204>, last accessed 16.12.2019. The counterterrorism strategy was confirmed in the European Security Agenda 2015-2020 and the establishment of the European Counter Terrorism Centre (ECTC), which belongs of Europol, was further expanded in the 2016 Global Strategy on Foreign and Security Policy for the EU. Both are designed to facilitate cooperation between EU countries in the fight against terrorism, organised crime and cybercrime. See https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/basic-documents/docs/eu_agenda_on_security_en.pdf, last accessed 25.02.2020.

¹⁶ See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISUM%3A133168>, last accessed 16.12.2019.

¹⁷ Corresponding provisions are also contained in Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for purposes of money laundering and terrorist financing as well as in Directive 2019/1153 laying down rules to facilitate the use of financial and other information for the prevention, investigation, detection or prosecution of certain criminal offences. In 2018, the European Parliament updated the anti-money laundering directive to fill gaps. The amendments will enter into force in 2020 and mainly concern risks related to virtual currencies and anonymous prepaid cards. See <https://www.europarl.europa.eu/news/de/headlines/security/20180316STO99922/terrorismus-bekämpfung-massnahmen-der-eu-infografik>, last accessed 10.12.2019, and EU Directive 2019/1153 of the European Parliament and of the Council of 20 June 2019, laying down rules to facilitate the use of financial and other information for the prevention, detection, investigation and prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA, <https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=CELEX:32019L1153>, last accessed 10.01.2020.

¹⁸ Established by the United States Code 18 U.S.C. sections 2339A und 2339B

¹⁹ See §§ 129a und 129b StGB (German Criminal Code).

²⁰ Generally, criminal law applies to acts committed within Germany as well as to offences committed abroad which go against German or internationally protected legal interests. The offense of supporting a designated terrorist group can also be prosecuted by Germany if the act occurred on EU territory, if it takes place with the consent of the Federal Ministry of Justice, if the perpetrators or the victims are German nationals or if the perpetrators or the victims are on German territory. However, the Directive (Act on the Improvement of the Suppression of Money Laundering and Combatting the Financing of Terrorism) only applies to specific listed entities such as credit and financial services institutions, insurance companies, lawyers and persons dealing in commercial goods. Humanitarian actors are not listed and therefore excluded from this law. See https://www.unocha.org/sites/unocha/files/CounterTerrorism_Study_Full_Report.pdf, last accessed 04.12.2019.

²¹ The United Nations and European Union terrorist lists. On the functioning of the listing procedure, Wissenschaftliche Dienste, Deutscher Bundestag, WD 11-3000-11/11, 2011. Available at <https://www.bundestag.de/resource/blob/414428/e86b7f9d816665d23845594fb339c037/WD-11-011-11-pdf-data.pdf>, last accessed 05.02.2020.

²² This merely has to do with the political character of the term terrorism and the different explanations on how to define or interpret this concept. Humanitarian organisations like the ICRC therefore use the term 'Non-State Armed Groups'. Whereas humanitarian law does not contain a definition of terrorism as such, it does prohibit terrorist acts, see 1949 Geneva Convention IV, article 33(1); 1977 Additional Protocol I, article 51(2); and 1977 Additional Protocol II, article 4(2)(d)).

²³ Parker, 2016.

²⁴ Parker, 2019b.

²⁵ NPA, 2018.

²⁶ See <https://www.nrc.no/globalassets/pdf/reports/nrc-risk-management-toolkit-2015.pdf>, last accessed 04.12.2019.

²⁷ See UN Security Council, Resolution 1989 (2011) [on expansion of the mandate of the Ombudsperson established by the resolution 1267 (1999) and the establishment of a new Al-Qaida sanctions list], S/RES/1989 (17 June 2011).

²⁸ Holder v. Humanitarian Law Project, 561 U.S. (2010), Nos. 08-1498 and 09-89, 21 June 2010.

²⁹ Stoddard et al., 2019.

³⁰ Debarre, 2019b, p. 205.

³¹ Blog-entry by Christine Meissler (Brot für die Welt): "Shrinking Space in Konfliktgebieten", 17. July 2019, <https://info.brot-fuer-die-welt.de/blog/shrinking-space-konfliktgebieten>, last accessed 10.01.2020. See also Burke, 2017.

³²See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISUM%3AI33168>, last accessed 16.12.2019.

³³See http://hs.umt.edu/mun/documents/topicGuides/NY2018_BGG_SC-Sec2-Sanction_Reg_Exc.pdf, last accessed 7.2.2020.

³⁴ See paragraphs 2 and 5 of UN Resolution 2374, S/RES/2374 (5 September 2017).

³⁵ Paragraph 24 of UN Resolution 2462, S/RES/2462 (28 March 2019): "Urges States, when designing and applying measures to counter the financing of terrorism, to take into account the potential effect of those measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law."

³⁶ McKeever, 2020, p. 63.

³⁷ This raises the question of which organisations are included in the sector. This can be limited, for example, to UN actors and humanitarian organisations that have observer status at the UN General Assembly, see http://hs.umt.edu/mun/documents/topicGuides/NY2018_BGG_SC-Sec2-Sanction_Reg_Exc.pdf, last accessed 7.2.2020.

³⁸ Metcalfe et al., 2015.

³⁹ United Kingdom's Counter-Terrorism and Border Security Act 2019, Chapter 1, Section 4, Subsection 5(a).

⁴⁰ Germany does not keep a separate list. Like other EU Member States, Germany is bound to EU regulations on the implementation of the lists pursuant to UN Security Council Resolution 1267 and UN Security Council Resolution 1373. This is how sanctions against listed persons or organisations are imposed. The maximum penalty for violations of the sanction regime is five years imprisonment, a lesser penalty consists of a maximum of three years of imprisonment or a fine. See Mackintosh and Duplat, 2013, p. 30.

⁴¹ Al-Shaabab is already listed as a terrorist group in other resolutions, albeit with the inclusion of humanitarian exemptions.

⁴² Debarre, 2019a.

⁴³See https://onu.delegfrance.org/IMG/pdf/humanitarian_call_for_action.pdf, last accessed 20.12.2019.

⁴⁴ See <https://www.auswaertiges-amt.de/en/newsroom/news/maas-security-council-humanitarian-space/2206124>, last accessed 19.12.2019.

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