

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

Ref.: OL AGO 2/2023
(Please use this reference in your reply)

29 August 2023

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 50/17, 52/4 and 49/10.

In this connection, we offer the following comments on the **Law on the Status of Non-Governmental Organizations Bill (the Bill)**. We note that many provisions in the proposed law would be contrary to Angola's international human rights obligations, including the right to the freedom of association, the right to freedom of opinion and expression, and the right to non-discrimination.

We note that if the Bill is passed in its current form, it would impose excessively strict regulations and grant unjustified governmental control over the operations of non-governmental organizations (NGO). This would significantly limit the independence and autonomy of civil society organizations in Angola, contrary to the right of associations to operate freely and without undue government interference. We also note there appears to have been a lack of genuine consultation with NGOs in drafting the provisions of the Bill.

We understand that the National Assembly of Angola approved the Bill in general terms on 25 May 2023, but that the Bill is yet to be debated before the 'Specialty Committee', after which it will go back for final approval by the National Assembly, before being referred to the President to sign into law. We strongly urge your Excellency's Government to refrain from approving the Bill in its current form, and we respectfully request your Excellency's Government to consult broadly with all sectors of civil society to develop a new comprehensive NGO law, which ensures an enabling environment for civil society, and which complies with Angola's international human rights obligations and best practices.

Background

In 1991, Angola enacted the Law of Private Associations, which was replaced by the 2012 Law of Private Associations, which is still in force. In 2002, the Council of Ministers introduced an NGO Regulation (through Decree No. 84/02) to govern NGOs as a distinct category of private law associations. This regulation contained provisions which were not in line with the right to freedom of association, including: excessively burdensome registration procedures that necessitate registration with multiple ministries and the then NGO coordinating body; excessive state involvement, including requirements for pre-authorization of activities and projects, including fundraising; excessive reporting obligations; and the granting of authority to the

Public Prosecution Service to suspend a NGO if there was compelling evidence of *'the practice of illicit acts harmful to the sovereignty and integrity of the Republic of Angola'*.

In 2010, Angola passed its Constitution, which protects freedom of association. Article 48 of Angola's Constitution provides that all citizens shall have the right to freely associate with one another, without requiring any administrative authorisation, on condition that such associations are organised on the basis of democratic principles, under the terms of the law. It also states that associations shall pursue their purposes freely and without interference from the public authorities and may not be dissolved or have their activities suspended, except in cases prescribed by law.

In 2015, Presidential Decree no. 74/15 repealed the 2002 NGO Regulation and replaced it with a new NGO regulation. The 2015 decree required complex registration procedures, mandatory affiliation of NGOs with the executive branch of government, limitations on freedom of expression, extensive supervisory powers granted to the NGO supervisory body, and broad discretionary grounds for the suspension and termination of NGOs through administrative orders.

The Angolan Bar Association applied to the Constitutional Court to challenge the 2015 NGO Regulation, arguing that it allowed for excessive and unlawful government interference in the work of civil society. In 2017, the Constitutional Court nullified the 2015 NGO Regulation, stating that it had been unconstitutionally enacted through Presidential Decree instead of approval by the National Assembly (the parliament). The Constitutional Court ruled that the 2002 NGO Regulation should be reinstated until specific legislation on NGOs is passed.

However, the validity and application of the 2002 NGO Regulation are in doubt, because, similarly to Decree no. 74/15, the 2002 NGO Regulation was not approved by the National Assembly as required by article 164(b)-(c) of the 2010 Constitution of Angola. Furthermore, many provisions within it contravene the 2010 Constitution, which protects the right to freedom of association. Adding to the legal ambiguity, the regulatory body established by the 2002 NGO Regulation, was dissolved by the 2015 Decree.

We understand that many civil society actors in Angola were hopeful, in light of the protections provided in the 2010 Constitution and the 2017 decision of the Constitutional Court, that they would be meaningfully consulted to help develop more enabling NGO legislation. However, like previous NGO regulations, the Bill appears to not recognise that NGOs must be allowed to pursue their activities freely and without interference from the state.

Relevant international human rights standards

Article 22 of the ICCPR, which Angola acceded to in 1992, protects the right to freedom of association and provides that any restriction on the exercise of this right must meet three conditions: 1) It should be 'prescribed by law', in language that is sufficiently clear and accessible, and that does not allow for arbitrary application; 2) It should serve a legitimate public purpose as recognised by international standards, namely national security or public safety, public order, the protection of public health or morals, and the protection of the rights and freedoms of others; and 3) The

restrictions must be a necessary and proportionate means of achieving that purpose within a democratic society, with a strong and objective justification.

Under article 2 of the ICCPR, states have a responsibility to take deliberate, concrete, and targeted steps towards meeting the obligations recognised in the Covenant, including by adopting laws or other measures as necessary to give domestic effect to the rights stipulated in the Covenant. States are obliged to ensure that the domestic legal system is compatible with the State's treaty obligations and duties.

The right to association is also protected by article 20 of the *Universal Declaration of Human Rights*, article 10 of *The African Charter on Human and People's Rights*, which Angola ratified in 1975, and article 48 of Angola's 2010 Constitution. Furthermore, Angola ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (no. 87) of the International Labour Organization (ILO), on 13 June 2001, which establishes the right of workers to establish organisations without previous authorisation; the right of workers to draw up their constitutions and rules, elect their representatives, organise their activities and formulate their programmes in full freedom and without interference by the public authorities; and the prohibition of administrative dissolution of such associations.

We further refer your Excellency's Government to the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples' Rights which stipulate that national legislation on freedom of association shall be drafted to facilitate and encourage the establishment of associations and promote their ability to pursue their objectives. Such legislation shall also be created with meaningful consultation with civil society. These Guidelines also state that any limitations on the permissible purposes of associations must be 'in accordance with the principle of legality', 'have a legitimate public purpose', and 'be necessary and proportionate means of achieving that purpose within democratic society'. Associations' rights of expression include the right to criticize state action; to advocate for the rights of marginalized and vulnerable people and communities; and to publicly comment on a state's human rights record to both national and international institutions. Indeed, States have a positive obligation to 'establish mechanisms that enable associations to participate in the formulation of law and policy'. Fundamental Principle VII of the Guidelines calls for decisions on associations to be 'clearly and transparently laid out', 'defended by written argumentation', and 'challengeable in independent courts of law'.

The Guidelines also provide that 'associations shall not be required to transmit detailed information [...] to the authorities'. The Guidelines also prohibit State inspections for the purpose of verifying an organization's compliance with its own internal procedures. In fact, no inspections at all are permissible unless there is a 'well-founded evidence-based allegation of a serious legal violation', and even in those situations, inspections can occur only 'following a judicial order in which clear legal and factual grounds justifying the need for inspection are presented'. While some reporting requirements are permissible, they must be based 'on the presumed lawfulness of associations and their activities and shall not interfere with the internal management activities of associations'. Any reporting requirements must be focused on ensuring financial propriety.

Furthermore, the Guidelines provide that suspension or dissolution of an organization can only take place in the context of a serious violation of national law,

in compliance with regional and international human rights law and as a matter of last resort. Suspension may only be taken following court order, and dissolution only following a full judicial procedure and the exhaustion of all available appeal mechanisms. Such judgments shall be made publicly available and shall be determined based on clear legal criteria in accordance with regional and international human rights law.

We also recall the Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the Declaration on Human Rights Defenders, which stresses, in article 5, the right of everyone to form, join, participate, and communicate with NGOs for the purpose of promoting and protecting human rights and fundamental freedoms. Articles 16 and 18 of the Declaration further note the important role that these NGOs play in safeguarding democracy and delivering on these fundamental freedoms.

Comparison of the Bill to international human rights standards

NGOs activities

The Bill would allow for extensive overreach of the government and control over NGO activities. NGOs will only be able to implement programs in provinces or regions selected by the Supervisory Body (which is appointed by the President) (article 7(d)), NGO projects must be complementary to the actions of the Executive (article 7(c)-(d)), NGOs must define their activities based on the social and economic policy defined by the Executive (article 12), and NGOs must participate in the implementation of economic and social programs approved by the Executive (article 19(1)(c)).

Furthermore, article 19 introduces ambiguous obligations on NGOs, which would be enforced an administrative NGO Supervisory Body, including:

- Avoiding subversive actions or ‘actions that could be perceived as such’;
- Abstaining from engaging in or being connected, directly or indirectly, to money laundering, peddling, and terrorist financing activities;
- Promoting, preserving, and respecting the traditional customs and habits of the operating environment;
- Informing the NGO Supervisory Body about the movement of expatriate staff regarding hiring, transfer, and dismissal;
- Reporting on the origin of funds/financial resources; and
- Providing a list of imported and domestically acquired goods, an action plan for the following year, and an assessment of established partnerships.

These provisions, which would effectively allow authorities to control the activities of NGOs, and which would impose burdensome reporting and oversight requirements, would be in contradiction to the right of associations to operate freely, organize their activities and formulate their programmes, without interference from the State, as protected both by the ICCPR and Angola's Constitution.¹ We recall that NGOs should not be limited to activities that have been defined and approved by the Government. Furthermore, associations should not be required to perform a certain type of activity or to operate in a particular domain; and 'members of associations should be free to determine their statutes, structure and activities and make decisions without State interference' (A/HRC/20/27, para. 64) so that they can effectively exercise their rights to freedom of association, opinion, and expression.

We also note the vagueness of these obligations, and the serious consequences for failure to comply (including suspension or termination of the NGO). This vagueness would increase the risk of these provisions being abused to target NGOs critical of government policies or those perceived as dissidents. We also note the obligations to promote, preserve, and respect 'the traditional customs and habits of the operating environment', which could allow for the denial of rights of marginalised communities.

We respectfully remind your Excellency's Government that the free expression of ideas and information is crucial for a vibrant civic space, and good governance.

registration procedures

Article 5 of the Bill requires NGOs to register themselves with the Government and to receive authorisation from the Ministry of Justice to carry out their activities. We note the Bill does not provide grounds on which authorisation may be rejected, thereby giving the Ministry of Justice broad discretion to interfere with NGO activities. We also note that article 9 requires NGOs to present additional documents after complying with the procedure in article 5, and registrations can be silently rejected if the required documents are not submitted within the short 10-day timeframe. If the Bill is passed in its current form, NGOs will be required to obtain approvals from multiple Government entities, including the Ministry of Justice and Human Rights, the NGO Supervisory Body, and the Ministry of Foreign Affairs (for international NGOs). We also note the lack of the right to appeal a decision to reject an application for registration.

We recall Human Rights Council resolution 22/6, which calls upon States to ensure that procedures governing the registration of NGOs are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal, and avoid requiring re-registration and are in conformity with international human rights law.² Although States enjoy a margin of discretion in establishing the rules and procedures for registering and granting legal personality to an association, it is vital that the responsible authorities act in good faith, expeditiously and in a non-selective manner.³ It is best practice to establish procedures that are simple, expeditious, non-burdensome, or even free of charge. An authorisation regime requiring the authorities

¹ See also *Guidelines on Freedom of Association and Assembly in Africa*, para 23.

² Human Rights Council Resolution, Protecting Human Rights Defenders, A/HRC/RES/22.

³ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Maina Kiai, A/HRC/20/27, para 57.

to pre-approve an association should not be applied. Instead, and at most, authorities should apply a notification regime.⁴

We would also like to underline that the right to freedom of association equally protects associations that are not registered, and members of not registered associations should be free to carry out any activities, including the right to hold and participate in peaceful assemblies, and should not be 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 then be used as a means to quell dissenting views or beliefs’.⁵

Noting that the draft legislation does not provide for a right to appeal the decision to reject an application for registration, we further recall that ‘associations whose submissions or applications have been rejected should have the opportunity to challenge the decision before an impartial and independent court’ (A/HRC/20/27, para. 61).

Application of Financial Action Task Force recommendation 8

The Bill provides that:

- Citizens are obligated to report any suspected money laundering or terrorism financing by NGOs to the Financial Intelligence Unit and the Public Prosecution Service (article 32(4));
- NGOs that commit or have an influence on money laundering and terrorism financing offenses can be suspended (article 33(c));
- The NGO Supervisory Body must maintain a register of NGOs' beneficiaries and individuals who control or manage their activities (article 7(f)); and
- The NGO Supervisory Body must monitor the national and international financial transactions of NGOs (article 7(h)).

We acknowledge your Excellency’s Government’s stated purpose to address concerns related to terrorist financing and money laundering in the non-profit sector, following the guidelines set by the Financial Action Task Force (FATF). We note the Bill's Justification Report states that the purpose of the Bill is to prevent funding from institutions with questionable motives that could pose a threat to national security, and to prohibit funding from organizations involved in ‘mercenary activities’. However, we also note that Angola already possesses a robust legislative framework aimed at tackling issues such as money laundering, terrorism financing, and proliferation, with dedicated provisions catering to the non-profit sector. These existing laws already require NGOs to report every six months and annually, to be audited, to pay taxes, and to conduct financial transactions through the regulated banking system. The laws also provide for the investigation and prosecution of terrorism and money laundering

⁴ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Maina Kiai, A/HRC/20/27, para 59. See also, African Commission on Human and Peoples’ Rights, *Guidelines on Freedom of Association and Assembly*, para. 13

⁵ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Maina Kiai, A/HRC/20/27, para 56.

offences.

We also note that the Bill's proposed anti money laundering and terrorism financing provisions diverge from the FATF recommendations, in that they do not take a risk-based approach proportional to the situation nor respond in a tailored manner to the detailed recommendations found in Angola's Mutual Evaluation of 2023, specifically 8.1, 8.1(a)-(d). A risk-based approach requires States to identify the types of organizations most at risk of terrorist financing, and adopt targeted measures, rather than broadly restricting all NGOs. FATF explicitly revised its recommendation on NGOs to counter the trend of misuse or overly broad restrictions on the civil society sector, under the guise of anti-money laundering and anti-terrorism policies.

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 echo the Special Rapporteur on the rights to freedom 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.).

In June 2023, the East and Southern Africa Money-Laundering Group conducted a review of Angola and determined that no comprehensive review of the NGO sector by the Government had taken place to properly understand terrorist financing risks, that the means to conduct a targeted risk assessment had not been established, nor had Angola engaged the NGO sector in any efforts to raise risk-awareness and help facilitate self-regulation. However, the review identified that the existing Law on Preventing and Combating Money Laundering and the Financing of Terrorism (5/2020) could be used for this purpose. Therefore, the inclusion of anti-money laundering and counter-terrorism measures in the Bill would be redundant.

We also note the vagueness of these provisions, increasing the risk of these being applied discriminately, and used to target NGOs with which authorities disagree. Furthermore, we note that the specific anti-money laundering and counter-terrorism measures under the Bill, are not applied to other private associations. This seems to unfairly portrays NGOs as involved in criminal activities.

Monitoring, inspection, and termination powers given to governing body

We note that the Bill grants excessive powers to the State Administrative NGO Monitoring and Supervisory Body, that would compromise the independence and rights of NGOs. As the Supervisory Body is appointed by the President, it would lack autonomy from the Government, and act as an executive entity (article 6). The Bill grants it broad authority to monitor, supervise, and dissolve NGOs without judicial oversight (articles 7, 8, 14, 19(3), and 32).

The Bill also imposes burdensome supervision and inspection requirements on NGOs. NGOs are obligated to disclose detailed financial information, submit various reports on projects, including funding sources and goods, report on expatriate staff movements, and reveal the identities of beneficiaries and individuals controlling their activities (articles 7(h), 14, 19(1)(f), 19(2), 19(1)(l), and 7(f)). We recall that NGOs

should be free to determine their statutes, structure, and activities and make decisions without state interference.⁶ The above-mentioned articles appear to be an unjustified and disproportionate limitation on the freedom of association, contrary to international human rights standards.

While States may have a legitimate interest in establishing reporting requirements to NGOs to ensure compliance with the law, these requirements ‘should not inhibit associations’ functional autonomy and operation’,⁷ by adding costly and protracted burdens. The need to dedicate more time and resources to administrative requirements is highly detrimental to the activities of many organisations, as they are particularly time-consuming, and may have a negative impact on their budgets and ability to carry out their mandates and activities.⁸ The previous Special Rapporteur on the rights to freedom of peaceful assembly and association noted that the use of ‘onerous and bureaucratic reporting requirements’ can eventually ‘obstruct the legitimate work carried out by associations’.⁹

We also recall that authorities should not be entitled to: condition any decisions and activities of CSOs; reverse the election of board members; condition the validity of board members’ decisions on the presence of a Government representative at the board meeting or request that an internal decision be withdrawn; request associations to submit annual reports in advance; and enter an association’s premises without advance notice.¹⁰ Independent bodies may have a legitimate interest in examining an association’s records, but 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.¹¹ We consider that in its current form, the draft law would impose an undue interference with non-governmental organisations and their members, with the risk of limiting the free exchange of ideas and may have a chilling effect on the rights to freedom of expression, association and religion or belief.

We also note that the Bill grants the NGO Supervisory Body excessive powers to suspend and terminate NGOs without judicial process. Grounds for suspension include failure to comply with prescribed duties (article 19(3)), committing illicit acts (article 32(1)), exhaustion or impossibility of purpose (article 33(a)), pursuit of immoral means (article 33(a)), or activities not in conformity with statutory purpose (article 33(b)). These vague discretionary powers may lead to discriminatory decisions against NGOs challenging the status quo. Denunciations can be made by any interested party, lacking procedural safeguards for natural justice and fair trial rights (article 32(2)). These provisions conflict with the requirement for judicial decisions in the Private Associations Law (law no. 6/12) and lack legal certainty.

The suspension or involuntary dissolution of a NGO are severe restrictions on the freedom of association and should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with

⁶ A/HRC/20/27 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, para 65.

⁷ Human Rights Council Resolution A/HRC/RES/22/6.

⁸ See African Commission on Human and Peoples’ Rights (ACHPR), *Guidelines on Freedom of Association and Assembly*, para. 48.

⁹ A/HRC/23/39, para 38

¹⁰ A/HRC/20/27 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, para 65.

¹¹ A/HRC/20/27 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, para 64.

international human rights law. It should be strictly proportional to the legitimate aim pursued, and used only when lesser measures would be insufficient. Moreover, such drastic measures should only be taken by independent and impartial courts, and appeal recourses against decisions of such courts should be available.¹²

Financial and Operational Restrictions

We note that the Bill imposes restrictive measures on NGOs resources, affecting their financial operations, independence, and ability to operate efficiently. Under the proposed provisions, NGOs are required to:

- Notify the NGO Supervisory Body about their means of financing upon registration (article 14(1));
- Have their national and international financial transactions monitored by the NGO Supervisory Body (article 7(h));
- Be subject to increased state control if they receive state support through technical or financial aid. This includes inspections, inquiries, and investigations by the competent Public Administration bodies. Any irregularities found can lead to suspension, restitution of funds, and disqualification from receiving funds for a period of 5 years, without the involvement of judicial process (article 15);
- Account for all projects in the budget, including 'indirect donations' received from the Angolan State, which may include exemptions from taxes, fees, and other benefits (article 19(1)(i));
- Establish partnerships and enter into contracts for the acquisition of goods and provision of services with individuals or legal entities, following public bidding procedures if required by law or special regimes (article 19(1)(j));
- Only acquire goods and equipment from the national market (article 19(1)(h)); and
- Obtain prior authorization from the Public Finance Ministry and the NGO Supervisory Body for the disposal of assets received as donations from abroad (article 30(2)).

NGOs are also prohibited from:

- Obtaining financing from individuals or legal entities convicted of prescribed unlawful activities, including offenses such as 'xenophobia' and 'activities that call into question constitutionally enshrined interests'. Violation of this provision may result in the deprivation of NGO status without any judicial process (article 14); and

¹² Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Maina Kiai, A/HRC/20/27, para 75 - 76. See also, African Commission on Human and Peoples' Rights (ACHPR), *Guidelines on Freedom of Association and Assembly*, para. 62.

- Re-exporting or reselling goods and equipment acquired or imported using funds 'donated to the Angolan people'. Instead, they must deliver these items to the community through the NGO Supervisory Body 30(3).

These provisions are vague and have the potential to curtail fair comment and criticisms of State policies, thereby restricting freedom of expression, association, assembly, thought, and conscience. For instance, NGOs will face restrictions on receiving funding from organizations or individuals "involved in activities that question constitutionally protected interests" (article 14(2)(j)), as well as engaging in acts that could be *perceived* as subversive (article 19(1)(b)). These vague provisions may lead to the suppression of NGOs and hinder their ability to form partnerships with international organizations that do not explicitly align with, or challenge, government policies, thus limiting freedom of conscience, thought, expression, and association.

As the Special Rapporteur on the rights to freedom of assembly and of association stated in his report to the Human Rights Council on Access to Resources, the right of associations to freely access human, material and financial resources – from domestic, foreign, and international sources – is inherent in the right to freedom of association and essential to the existence and effective operations of any association.¹³ This right includes funding from domestic, foreign and international entities, whether individuals, corporations, civil society organisations, governments or international organisations.¹⁴ The Special Rapporteur called on States to create and maintain an enabling environment for the enjoyment of the right of NGOs to solicit, receive and utilise resources, to ensure that any restrictions are in accordance with international law, and to repeal laws and regulations that impose restrictions contrary to human rights standards.¹⁵

In interpreting article 22 of the ICCPR, the Human Rights Committee has affirmed that '*the right to freedom of association relates not only to the right to form an association but also guarantees the right of such an association to freely carry out its statutory activities*',¹⁶ including using equipment received as foreign aid.¹⁷ The Human Rights Committee has recognised that funding restrictions that impede the ability of associations to pursue their statutory activities constitute an interference with article 22. In several concluding observations to States on the implementation of the ICCPR, the Committee has raised concerns regarding restrictions on access to foreign funding for NGOs,¹⁸ and has repeatedly stressed that legal provisions restricting foreign funding must not risk the effective operations of NGOs.¹⁹

¹³ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Clement N. Voule, Access to Resources, A/HRC/50/23, para 9. See also A/HRC/23/29; and Human Rights Council Resolution 32/31.

¹⁴ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Clement N. Voule, Access to Resources, A/HRC/50/23, para 11. See also African Commission on Human and Peoples' Rights, *Guidelines on Freedom of Association and Assembly*, para. 37-38.

¹⁵ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Clement N. Voule, Access to Resources, A/HRC/50/23, para 64.

¹⁶ Belyatsky et al. v. Belarus (CCPR/C/90/D/1296/2004).

¹⁷ Korneenko v. Belarus (CCPR/C/105/D/1226/2003) and Korneenko et al. v. Belarus (CCPR/C/88/D/1274/2004).

¹⁸ See, for example, CCPR/C/VNM/CO/3, CCPR/C/BLR/CO/5, CCPR/C/HUN/CO/6, CCPR/C/BGD/CO/1, CCPR/C/AZE/CO/4, CCPR/C/RUS/CO/7 and CCPR/C/ISR/CO/4.

¹⁹ See also CCPR/C/VEN/CO/4 and CCPR/C/ETH/CO/1.

We respectfully urge your Excellency's Government to ensure that associations – registered and unregistered – can fully enjoy their right to seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without prior authorisation or other undue impediments.²⁰ We consider it best practice that legislation does not require prior state approval for the receipt of resources, both domestic and foreign.²¹ Although States have the responsibility to combat money laundering and terrorism, this should not be used as a pretext to undermine the credibility of non-governmental organisations or hinder their work.²²

We also note that many NGOs in Angola provide food, health care, education, human rights monitoring, and oversight, and that these restrictions on access to resources would severely limit their ability to continue to provide essential services.

Concluding observations

Enabling and protecting the right to freedom of association is key to providing an effective response to the multiple challenges facing Angola. This right is vital for the realisation of a wide range of other rights, including civil, political, economic, social, and cultural rights. The guarantee of this right is instrumental for civil society to contribute to the achievement of SDG, and is an essential component of democratic societies, enabling them to respond to the needs, grievances, rights, and desires of their populations.²³ Also, as stated by the Special Rapporteur on the rights to freedom of peaceful assembly and of association in his guidelines on access to resources, the undue and excessive limitations on CSOs access to resources, not only affect their operational capacity, but have detrimental impact on the communities they serve.²⁴

We would like to remind Your Excellency's Government that States have the primary responsibility and duty to protect, promote, and realise all human rights and fundamental freedoms by taking necessary measures to create the social, economic, political and other conditions and legal guarantees required to ensure that all persons under their jurisdiction, individually or collectively, can enjoy these rights and freedoms in practice.

For these reasons, we encourage Your Excellency's Government to refrain from approving the Bill in its current form. We further encourage the Parliament to initiate broad and inclusive processes of dialogue and meaningful consultation with Angolan civil society and other interested parties, to better understand the roles of NGOs, 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 ensure citizens' and beneficiaries' rights are protected, in accordance with Angola's constitutional and international human rights law obligations.

²⁰ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Clément N. Voule, Access to Resources, A/HRC/50/23, para 64.

²¹ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Clément N. Voule, Access to Resources, A/HRC/50/23, para 11. See also African Commission on Human and Peoples' Rights, *Guidelines on Freedom of Association and Assembly*, para. 37-38.

²² Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Maina Kiai, A/HRC/23/39, para 23. See also, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/61/267, para 11.

²³ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément N. Voule, The essential role of social movements in building for the better, A/77/171, para 1.

²⁴ HRC53/38/Add.4.

It is imperative that Your Excellency's Government seek ways to streamline the regulatory framework applicable to civil society, in line with international human rights standards, ensuring that compliance with administrative duties does not become an impossible burden for these organisations or a disincentive to the exercise of the right to freedom of association.

We remain at your disposal to provide further technical assistance on the issues addressed in this communication, should Your Excellency's Government deem it necessary and request it.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all matters 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 analysis.
2. Please indicate what measures will be taken to ensure that the legal framework applying to local and international NGOs in Angola complies with Your Excellency's Government's obligations under international human rights law, in particular article 22 of the ICCPR.
3. Please indicate what measures Your Excellency's Government have taken or will take to ensure broad consultation with civil society, including minority associations and women's groups, in developing the regulatory framework for NGOs in Angola.
4. Please provide more detailed information on the measures your Excellency's Government plans to take to ensure the oversight body for NGOs is independent and does not have unrestricted powers. Please also advise what safeguards will be put in place to ensure that the measures adopted by this body are necessary and proportionate, and whether there will be appeal mechanisms to a competent, independent, and impartial judicial authority.
5. Please provide information on how this draft legislation conforms to the "risk-based" approach required by FATF recommendation 8.

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.

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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