



Foundation Human Rights in Finance (EU)

Annual Report 2023

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1. The origins of HRIF.EU

This is the first annual report of the Foundation [Human Rights in Finance \(EU\)](#), which was founded on August 24, 2023, by Simon Lelieveldt and Jacob Boersma. The establishment was preceded by a long preparatory phase, during which it became increasingly clear how necessary it is to protect human rights in economic transactions through a Foundation. Although this annual report covers only six months of formal activities, we would like to clarify the origins of the foundation, what we do, why we do it, and how we do it.

1.1 Establishment of Human Rights in Finance (EU): inception since 2019

Everyone (unfortunately) knows the phenomenon in their own environment. Your bank account gets blocked by the bank. With a bit of bad luck, the bank accounts for which you are authorized get blocked as well. Subsequently, the customer is asked to provide various information with very short deadlines. And if you don't comply, your account can be terminated. All this is done with the tone of: you must prove that you are not a money launderer or terrorist.

The significant irritation caused by this among bank customers is justified. In their approach, banks (but also sometimes: payment service providers or other parties falling under financial or anti-money laundering supervision) violate the fundamental right to privacy of the customers and, through lengthy and complicated blocking procedures, unjustly prevent the customer from accessing their own money. Additionally, the customer must prove their innocence instead of the bank proving its suspicion of money laundering.

Exactly because customers feel the impact on their wallets/debit cards, they hesitate to individually advocate for their interests. Because you might risk losing your account or not being able to use your card for a week. There is thus a significant power imbalance. The reality in today's digital society is that unrestricted access to your own digital or cash money, and especially access to your own bank account, is a prerequisite for exercising your human rights.

This is also clarified in the advice of Advocate General Pitruzella from 2020 to the Court of Justice (Joined Cases [C-422/19](#) and [C-423/19](#)). He argues that by itself cash might not be, but a bank account certainly is a necessary condition to exercise human rights:

134. The status of legal tender given to cash may be linked to the exercise of certain fundamental rights, although in my opinion this link is indirect. Indeed, while there is no doubt that cash may be used to exercise certain fundamental rights linked to the use of money, its use is not generally necessary for the enjoyment of those fundamental rights, which can be achieved through the use of forms of money or means of payment other than cash. (73)

1.2 Our goal: Safeguarding human rights in economic transactions

The foundation HRIF.EU aims to alert banks and governments through advocacy, publicity, and legal procedures to the interconnectedness and importance of protecting and respecting fundamental human rights in financial transactions or economic transactions.

This starts with the crucial importance of availability, free access, and respect for human rights in the use of (cash) money. As a readily accessible basic means of payment, cash is the most widely available and simple means at humanity's disposal. Inherent in its use are confidentiality, free disposal, non-discrimination, and unhindered transfer of ownership.

When, in a society, digitalization leads to such widespread use of bank accounts that they are necessary to participate in social interactions, then that society has no choice but to legally anchor the right to a bank account (and the ability to access cash by withdrawing from that account). However, it can be observed that in our current digital world, the safeguards of confidentiality, non-discrimination, and free disposal (blocks) are too much under pressure due to regulations from financial-economic supervision. This underscores the importance of protecting them.

1.3 Science: Foundations and NGOs play an important role at the national level in protecting international human rights within the Netherlands!

How this protection could take place was articulated by scientist Jasper Krommendijk in his 2015 publication, "Between Pretence and Practice: The Dutch Response to Recommendations of International Human Rights Bodies." Particularly for courts, parliament, media, and non-governmental organizations (including local foundations like HRIF.EU), there is a clear role to play here:

This chapter shows that there is frequently a gap between rhetoric and reality. On the one hand, there is the pretence that The Netherlands is a strong defender of international human rights monitoring mechanisms which takes recommendations and criticism seriously. On the other hand, this rhetoric is not always matched by the actual reality which is characterized by reluctance on the part of the Dutch government to accept international criticism and a hesitation to ratify new human rights treaties or protocols. The situation is, however, not so black or white as it may look at first sight. The initial gap between pretence and practice can be closed, especially when the government is pressured to change its policy or legislation by other domestic actors, such as courts, MPs, NGOs and the media.¹

¹ Krommendijk, J. (2016). Between Pretence and Practice: The Dutch Response to Recommendations of International Human Rights Bodies. In: Heijer, M., van der Wilt, H. (eds) Netherlands Yearbook of International Law 2015. Netherlands Yearbook of International Law, vol 46. T.M.C. Asser Press, The Hague. https://doi.org/10.1007/978-94-6265-114-2_15

1.4 Acknowledge that there are shortcomings in the adherence to human rights in the Netherlands,

A similar analysis was published in the report "Human Rights: Core Interest in a Geopolitical Playing Field" ([Mensenrechten: kernbelang in een geopolitiek krachtenveld](#)) by the Dutch Advisory Council on International Affairs. One of their recommendations was to acknowledge that shortcomings also exist in the Netherlands concerning the safeguarding of human rights:

"In the promotion of human rights in foreign policy, we should also take into account the shortcomings in the adherence to human rights in the West and in the Netherlands. The Dutch government should not trivialize its own human rights issues – such as the childcare benefits affair; but address them vigorously and avoid double standards. Government should emphasize that in the Netherlands (and many other countries), the presence of a constitutional, political, and societal infrastructure contributes to the prevention, detection, and remediation of problems or violations."

What is challenging in this respect is the lack of awareness and knowledge on fundamental rights. This is seen in a representative survey conducted in 2010 among 400 Dutch citizens, which were asked about "a treaty or another document containing fundamental rights and freedoms." While 20% mentioned the Constitution, 9% cited the Universal Declaration, and 5% mentioned the Convention on the Rights of the Child, less than 4% mentioned the European Convention on Human Rights (ECHR).²

This greater familiarity of citizens with the Constitution and the lesser familiarity with international treaties prompted the Constitutional Review Commission at the time to recommend incorporating international treaty obligations into a new Constitution. Specifically, regarding the respect for human dignity, the Commission noted (p. 43) that its inclusion in the Constitution would contribute to strengthening the normativity and significance of the Constitution for the citizen:

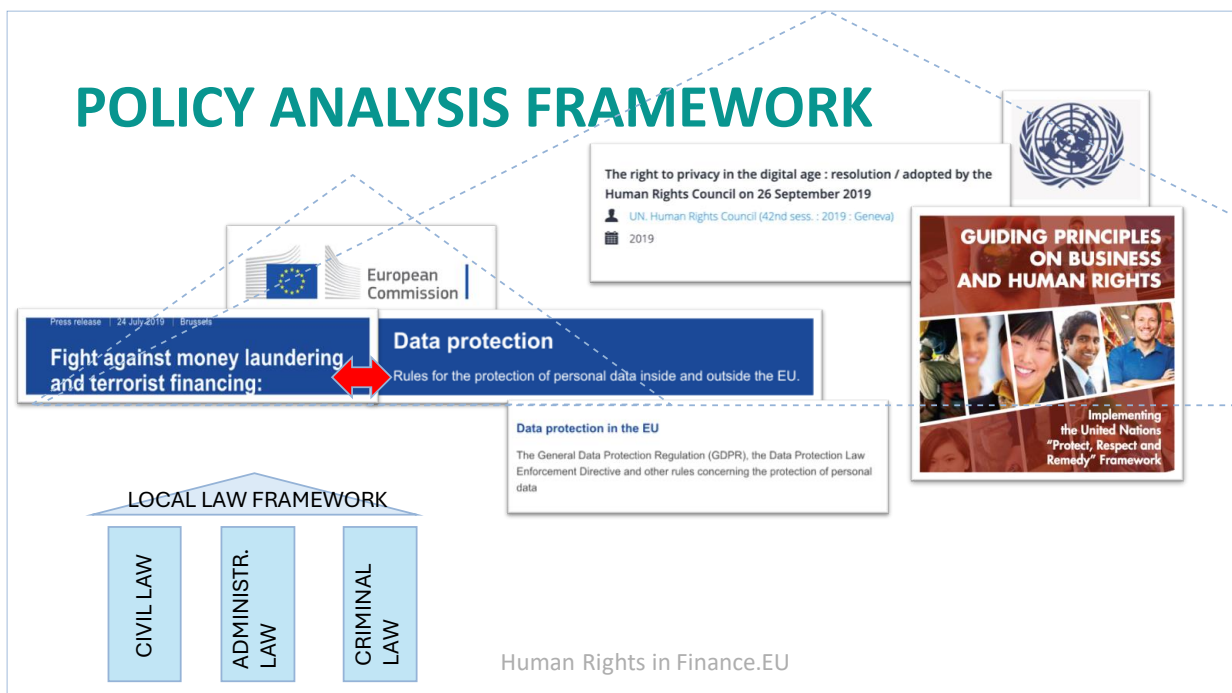
Respect for human dignity underlies many of the catalogs of human rights developed after the Second World War. In fact, all human rights, including the fundamental rights enshrined in the Constitution, can be seen to varying degrees as an expression of the principle of respect for human dignity. This principle is present in various constitutions as well as in the EU Charter, the United Nations Charter (UN Charter), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Universal Declaration of Human Rights (UDHR). 73

² B. Oomen & M. Vrolijk, *Inspiratie voor mensenrechteneducatie: democratisch burgerschap en mensenrechten in het (burgerschaps)onderwijs*, Leiden: Stichting NJCM-Boekerij 2010.

1.5 apply international treaties when advocating for human rights in the Netherlands, and...

To emphasize the importance of protecting human rights based on these international treaties, the Foundation Human Rights in Finance deliberately opted for a .EU domain name. From international and European rules, it can be examined whether infringements on human rights are shaped with the appropriate safeguards required for this purpose. It is important to note that international treaties and agreements directly bind the Dutch government and Dutch independent administrative authorities (which are part of the government). Therefore, financial regulators are also required to adhere to these treaties. Similarly, under comparable resolutions in the UN framework, private enterprises may also consider themselves bound by international human rights norms.

Below, the foundation outlines its policy analysis framework. This involves examining at the local level which national legal columns (civil law, administrative law, and criminal law) problems or human rights violations occur in. Subsequently, an investigation is conducted to determine which rules at a higher European or international level ensure that there is a sufficient balance between the various human rights at stake (see the figure on the house of regulations).



The strength of the human rights framework is that it does not prioritize one legal norm centrally, but rather serves as a safety valve, compelling a careful balancing of interests.

1.6 **...consider that in the financial sector, the balance is lost in anti-money laundering regulations!**

The inception of HRIF.EU is also traced back to a dissertation by Carolin Kaiser. The dissertation is titled: "[Privacy and Identity Issues in Financial Transactions: The Proportionality of European Anti-Money Laundering Legislation](#)." In it, the author concludes that the European anti-money laundering directives are actually in violation of fundamental human rights. A range of arguments shows how the fifth anti-money laundering directive could potentially be annulled by the European Court of Justice based on rulings for other sectors due to disproportionality.

For founder [Simon Lelieveldt](#), the dissertation served as a catalyst for greater professional involvement in human rights. For instance, in 2019, he acted as a ghostwriter for [the letter from Privacy First and United Bitcoin Companies Netherlands to the Dutch Ministry of Finance](#). In this letter, Minister Hoekstra was asked not to approve regulations leading to the widespread export of personal data. The [Minister's response](#) stated that the Netherlands is committed to translating the international anti-money laundering recommendations into regulations at the European level and subsequently implementing them at the national level:

"...where European and national parliamentary processes and democratic safeguards apply."

Even afterwards, during legislative proceedings, the Minister of Finance referred to the obligation included in [Article 65g of the European anti-money laundering Directive](#) to conduct an evaluation regarding human rights:

1. By 11 January 2022, and every three years thereafter, the Commission shall draw up a report on the implementation of this Directive and submit it to the European Parliament and to the Council. That report shall include in particular:

...()

(g) an evaluation of how fundamental rights and principles recognised by the Charter of Fundamental Rights of the European Union have been respected.

The first report, to be published by 11 January 2022, shall be accompanied, if necessary, by appropriate legislative proposals... ()

However, Human Rights in Finance.EU must conclude that the mentioned evaluation has never taken place. Furthermore, national and European regulators have adopted an even more extensive package of anti-money laundering regulations [without any evaluation](#) (which is contrary to European principles of better regulation). Human Rights in Finance

No evaluation of the existing AML Directive has taken place to date prior to the preparation of the present impact assessment (see annex 4).

HRIF.EU observes that the legislative process in Europe exhibits serious flaws, and there is a significant importance – particularly beforehand (!) – to protect human rights. We consider ourselves a Human Rights Defender under UN Resolution: A/RES/53/144 of March 8, 1999.

1.7 The HRIF.EU approach: inspire through publicity and invite through the pen...

Following from the analysis above, the primary goal of HRIF.EU is to raise awareness among all societal actors through media, publicity, and education about the functioning and impact of international human rights in economic transactions, and to encourage these actors themselves to strive for improvement. Because one thing is certain: change must come from within, from a desire to do good. If we can convince people and organizations with inspiring examples, explanations, and appeals to human decency, then that is the best path towards ensuring human rights are safeguarded as effectively and broadly as possible for the future.

Our starting point is to contribute to legislative consultations through letters, public appeals, petitions, position papers, and concrete substantive suggestions. In doing so we extend our invitation to all organizations and actors in society to protect human rights in economic transactions. We therefore also use the LinkedIn platform extensively to inspire and educate the professional compliance industry about human rights (protection) in economic transactions.

Additionally, we explain to various societal organizations and the media the technical rules from financial-economic supervision that jeopardize human rights. In relevant cases, we also provide practical advice (or referrals to lawyers) to clients or organizations facing issues with their bank or payment service provider.

1.8 ... while not shying away to advocate for human rights via legal procedures

However, the reality at this moment is that it's not just ideals, but also money and fines that strongly influence which rules receive more priority in economic transactions. This is also the prevailing incentive structure in the financial sector. Only after fines for cartel formation in payment transactions were imposed, real efforts were made towards open competition. And only after settlements for insufficient attention to anti-money laundering measures did the banks take further (excessive) actions via intrusive controls and mass surveillance.

Meanwhile, in the realm of human rights, including privacy, attention is lacking. Few fines have been imposed, and there is insufficient focus on the lawsuits where those human rights are protected by the courts. It is precisely up to advocacy organizations like HRIF.EU to be active in this regard.

To the extent that it fits our priorities – which we also must set ourselves – we do not hesitate to, in addition to advocacy and publicity, use legal procedures to ensure that human rights are protected or infringements are stopped. We will advocate for rights and also potentially claim damages through legal means, but we do not envision (yet) a role as an explicit mass damage-claim foundation (as possible under Dutch law).

2. Policy analysis HRIF.EU

2.1 Human rights and financial transactions: historically not the Netherlands' strongest point.

Anyone studying Dutch financial history cannot avoid the uncomfortable conclusion that since 1602, the establishment of the Dutch East India Company, a substantial part of Dutch prosperity is directly linked to systematic exploitation and violations of human rights. The acknowledgment of these systematic infringements, which occurred both within the Netherlands itself and through trade with other countries, has been long overdue.

It is encouraging, however, that gradually, space has emerged in society to offer apologies and provide forms of redress for historical human rights abuses. The most recent example is the apologies regarding slavery, as made by President Knot of De Nederlandsche Bank. But even earlier, since the 1990s, issues such as Jewish war assets have appeared on the international agenda. Questions about looted gold and stolen Jewish property, dormant bank accounts, and insurance policies led to further arrangements and restitution.

2.2 ..and current human rights violations seem to be a blind spot.

Looking at what is happening in the Netherlands with this perspective, one can see that both the government and businesses still do not always respect human rights. For banks, it is far cheaper to violate privacy than to violate anti-money laundering legislation. Therefore, attention to privacy remains limited. The fact that excessive bank account closures amount to a violation of the right to property also does not seem to penetrate the top management of banks. And when it comes to discrimination, the primary reaction of bankers and supervisors seems to be: we do not recognize that there could be any (possible) discrimination. Is that a blind spot?

The blind spot also appears to exist within the governments involved in human rights violations concerning money and citizens in recent years. The largest fine ever imposed by the Dutch Data Protection Authority was [€3.7 million against the Tax Authorities](#). This fine was for the unauthorized collection/storage of 'fraudulent data'. In second place, again, is the [Tax Authorities with €2.75 million](#), this time for discrimination based on nationality and ethnic profiling in the childcare allowance scandal. This scandal also led to the resignation of the Dutch government.

In the Netherlands, we see companies and governments not hesitating to 'move fast and break things'. They knowingly violate vital human rights and remediation only occurs when a formal authority or court intervenes. This only happens when interest groups reach the political sphere through the media or when politics itself actively engages in this matter. Increasingly, resorting to legal action is necessary. But even then, the process of rectification can take years, as seen in the [childcare allowance scandal](#) and the [Groningen gas issue](#).

2.3 SyRI en Dutch crypto-industry: intervention by courts is needed to safeguard human rights and to undo human rights infringements

A watershed moment in Dutch administrative practice in recent years has been marked by the court's ruling in 2020 concerning the System Risk Indication (SyRI). [The court ruled that the SyRI legislation was unlawful](#) because it did not meet the principles of proportionality regarding the human right to privacy. Consequently, the judge annulled the Dutch law as it contravened the requirements of international treaties.

In April 2021, the Rotterdam District Court issued a similar normative ruling in [a dispute between a crypto provider and the Dutch Central Bank \(DNB\)](#). The crypto provider argued that a requirement imposed by the DNB lacked legal grounds and amounted to unlawfully prescribed mass surveillance. Upon entering the market, the provider was forced by the DNB to violate the General Data Protection Regulation (GDPR) and requested interim relief to be freed from this obligation. [In its ruling, the court reaffirmed that the GDPR-violations indeed constituted an urgent interest](#) and instructed the DNB to reconsider the requirement. Six weeks later, the DNB acknowledged its error and fully and unconditionally withdrew the requirement. The provider subsequently [destroyed all unlawfully collected personal data](#).

In this legal case, which was guided by both founders of HRIF.EU (Simon Lelieveldt and Jacob Boersma) in their professional advisory roles, the Dutch Central Bank (DNB) was confronted for the first time in the Netherlands with the explicit tension between human rights, the right to privacy under the GDPR, and its broad interpretations of anti-money laundering regulations and the Sanctions Act. However, this tension subsequently emerged in several other aspects of ongoing anti-money laundering supervision. Some of these issues have been documented in an [article in the Dutch Journal of Compliance](#).

Noteworthy in this context was the procedural stance of the DNB, assisted by Pels Rijcken. While the entire crypto industry had faced an admission requirement not derived from the law, the DNB's first step was [to deny that the supervisory requirement had been imposed](#) and to seek to have the crypto company declared inadmissible in the procedure.

The discussion between DNB and the crypto sector continued in a lawsuit regarding the costs of DNB's supervision of the sector. Due to the additional activities carried out by DNB, which had no European basis, the supervisory fees charged by DNB to the crypto sector became excessively high. In the substantive proceedings, the [Rotterdam District Court found that DNB had exceeded what was prescribed by European regulations](#). The court itself annulled the overreaching parts of the Dutch AML Act (Wwft) based on higher European regulations and literally struck out the charges.

The legal cases above highlight the importance of upholding citizens' and businesses' fundamental rights through higher European law. When Dutch regulators, supervisors, or companies seek to go beyond what international laws or standards prescribe, market parties can turn to the courts to protect their fundamental rights to property, free enterprise, and the right to be free from discrimination and unlawful interference in private life, using those higher human rights as leverage. This pathway of substantive jurisprudence is becoming increasingly important.

2.4 Actors in the financial sector: FATF, EBA/AMLA, EDPB, EDPS, EU-courts

HRIF.EU's principle is that regulators and policymakers need to be made aware of the human rights violations caused by excessive financial and anti-money laundering / terrorism / sanctions supervision requirements at the earliest possible stage.

The root of this problem lies at the international level with the Financial Action Task Force on Fraud. [Numerous scientific studies](#) have been conducted on how an international group of financial policymakers, outside of democratic control, imposes a web of intrusive and mass-monitoring regulations worldwide. The formal objective is to combat money laundering, prevent terrorism financing, and enforce sanctions. In practice, however, a disproportionate web of human rights violations is prescribed, ranging from complete mass surveillance to discrimination at the state/national level.

The British Royal United Services Institute (RUSI) pays a lot of attention to the shortcomings in the FATF's approach ([podcast](#)), and the dissertation by scholar Wesseling ([The European Fight against Terrorism Financing](#)) also outlines how its own political dynamics lead to a multitude of measures that are not necessarily effective, but can be excellently analyzed from the perspective of the theater of compliance.

The shortcomings of the risk-based approach – lack of transparency and accountability – are important in the light of the finding that the Third Directive has a theatrical function in reassuring citizens and financial markets but is not well suited to combating terrorism financing.

A second group of important actors is at the [European level](#). These include the [European Banking Authority \(EBA\)](#) and, in the future, the European Anti Money Laundering Regulator (AMLA). These European bodies issue extensive guidelines in which human rights are not always the central focus. Notably, for instance, in the EBA's guidelines on privacy, privacy is only mentioned as a 'risk-increasing factor' and nothing is said about privacy as a human right.

On the other end of the spectrum, the [European Data Protection Board](#) and the [European Data Protection Supervisor](#) are relevant. Additionally, the European [Court of Justice](#) and the [European Court of Human Rights](#) play crucial roles. These are the institutions at the European level that can set standards and clarify how to handle the proportionality of regulations and the balancing of human rights.

Finally, at the national level, there are the local Ministries (of Finance, Economic Affairs, Justice etc) regulators, market participants, and civil society. This is where the issues concerning human rights and financial transactions are practically played out, and where Dutch regulations too often exceed what is prescribed by Europe. The result is that citizens and businesses in the Netherlands are unnecessarily constrained and their human rights are violated.

2.5 HRIF.EU approach: first we start with publicity, education, consultations (and prioritization)

HRIF.EU will be active at all geographical levels in promoting its vision of the balanced respect for human rights in economic transactions. Our focus will be on publicity, knowledge sharing, and contributing our expertise to consultations and discussions with regulators and supervisory bodies.

In selecting our topics, we prioritize based on 1) the scale, 2) the severity, and 3) the impact and consequences of specific human rights infringements. HRIF.EU investigates and publicly identifies massive and severe violations. Subsequently, we aim to address these violations by requesting cessation from the offender, initiating public campaigns, or through administrative procedures (such as requests under Freedom of Information Rules, complaints, requests for access, etc.), including legal actions.

Important in our selection of topics is also the nature of the interests affected. We assume that (large) companies can make their own choice to protect human rights and advocate for them. What is currently lacking in the market is an organization that stands up for the vast majority of citizens and businesses, who clearly feel their rights are being violated but lack the expertise or resources to address it. It is precisely this group that, out of fear of repercussions (being denied further financial services), hesitates to make themselves known and visible in the market and/or media. HRIF.EU enables them to voice their concerns and actively defends their human rights.

3. Projects and events

3.1 Start of website HRIF.EU and Twitter (2021)

After the summer of 2021, a series of incidents occurred in the realm of financial institution supervision in the Netherlands, prompting one of the founders of HRIF.EU [to establish the website/movement Human Rights in Finance.EU](#). The confidential nature of those incidents does not allow their disclosure, but suffice to say these were quite significant and relevant.

In our initial web posting, we clarify that the mandate for regulators is to establish consistent regulations, and that unresolved conflicts of law inherently lead to human rights violations. This must be prevented, as otherwise compliance professionals in the private sector are unfairly compelled to make Solomon-like judgments, when it is actually the regulator who has failed in the preparation of legislation:

We see that over the last 20 years the assumed constitutionality and consistency test for regulations and national laws has turned out to be a paper based theoretic principle. The consequence is that affected citizens, companies and lawyers/compliance experts are facing an a priori inconsistent legal framework and infringements of human rights by default. They will then have to make a Salomon's choice which law not to obey and can only hope to correct the issues with law suits after the fact.

Later in 2021, this tension regarding human rights and financial supervision also surfaced in the [five-year evaluation of the Dutch Central Bank](#) (DNB) by the research firm KWINK. The firm explicitly noted that DNB's ambitions concerning data-driven supervision do not always align well with the General Data Protection Regulation (AVG):

Another point of criticism concerns the coordination with the Dutch Data Protection Authority (Autoriteit Persoonsgegevens or AP). In various discussions with industry associations, it has been mentioned that DNB requests data that institutions are not authorized to provide according to the AP, or for which it is unclear whether they can provide it under the General Data Protection Regulation (GDPR). DNB's ambitions in data-driven supervision are juxtaposed with the principle of data minimization overseen by the AP. The outcome of this balance remains uncertain in many respects.

With the establishment of the [website HRIF.EU](#) and the first [Twitter account](#) in 2021, the digital presence of Human Rights in Finance.EU began.

3.2 HRIF.EU signs Privacy Manifest (June 2022)

In June 2022, Privacy First, with a group of winners and nominees of the Dutch Privacy Awards, launched the new Privacy Coalition. The primary goal of the Privacy Coalition is to raise public awareness about digital privacy and promote the development of privacy-friendly alternatives. To achieve this, the Privacy Coalition first drafted a manifesto and successfully presented it to the Digital Affairs Committee of the Dutch House of Representatives (Tweede Kamer).

On June 24, 2022, Human Rights in Finance.EU also signed the manifesto. We [noted on our website](#) the following:

Human Rights in Finance.EU has been admitted as a signatory to this Privacy Manifesto, in recognition of the work that our founder, Simon Lelieveldt, has carried out—both visibly and in his professional capacity—to use legal measures to enforce better respect from authorities and law enforcement for human rights.

3.3 Proposal anti-money laundering 5.0 (2022)

In June 2022 the National Anti-Money Laundering Congress was hosted by the Dutch Compliance Institute, where one of the founders delivers a keynote presentation on modern anti-money laundering efforts. In [this presentation, the analytical framework of HRIF.EU](#) (see page 7) is explained, highlighting how higher-level regulations and rulings from the European Court of Justice are directly relevant to the Dutch compliance landscape. The following four recommendations are made:

1. The concept of "gatekeeper" should be recognized as a policy framework that is less legally viable. It has been conveniently chosen for political discussions, but it should be acknowledged as a framework in which violations of fundamental rights and unauthorized surveillance by fellow citizens, including tip lines, are normalized. It is [time to discuss the utility and necessity of this framework](#).
2. It is important to establish the Dutch Court of Audit (Algemene Rekenkamer) and the Dutch Data Protection Authority (Autoriteit Persoonsgegevens) as permanent partners in policy discussions concerning anti-money laundering policies, as they currently do not have a fixed seat at the negotiating table and their input is sorely missed.
3. There should be an immediate cessation of unnecessary reporting of unusual transactions based on objective criteria/amount thresholds, as the EU directive only requires reporting of suspicious transactions, and merely the value of a transaction should never be in itself the basis for a report.
4. In the Netherlands, there should be an immediate transition in practice to reporting suspicious transactions based solely on subjective criteria, in line with the existing European standard and future European norms.

The proposal 4 appears to resonate with the policymakers at De Nederlandsche Bank. In September 2022, DNB publishes a memorandum titled "From Recovery to Balance," wherein on page 6, the suggestion is explicitly embraced for the sake of efficiency and harmonization at the European level.

The effectiveness of the chain for reporting and investigating unusual transactions can be enhanced. Legislators could choose to instruct institutions not to report merely "unusual" transactions, but to focus reporting on "suspicious" transactions where the institution suspects the customer's behavior is related to money laundering or financing terrorism. This could improve the quality of reports and reduce the number of reports. The FIU (Financial Intelligence Unit) could then concentrate on effectively forwarding these reports to law enforcement agencies. This would also align the Netherlands more closely with international practice of reporting suspicious transactions.

3.4 Reflection paper sanctions regulations (2022)

After the war in Ukraine started, much more attention was paid to the issue of sanction regulations. This type of regulation involves halting economic transactions for individuals or businesses based on political considerations. Such regulations are quickly embraced politically but are contentious from a human rights perspective. HRIF.EU addresses on its website an important warning and advisory note from a UN human rights expert: [Guidance Note on Overcompliance with Unilateral Sanctions and its Harmful Effects on Human Rights | OHCHR](#).

It is crucial to emphasize that even UN resolutions freezing assets do not automatically provide a valid legal basis under European law for blocking someone's bank account or assets. Particularly significant in this regard is the Court of Justice's ruling from 2008 in cases [C-402/05 P en C-415/05 P](#). In this ruling, the Court of Justice underscores that international agreements do not diminish the necessity or authority of the European Court of Justice to assess the legality of such agreements.

The mentioned rulings are important for HRIF.EU because they assign such importance to the internal European validation of adequacy, proportionality, and justification of potential human rights violations. It is evident that on this point, there have been repeated rulings in recent years where the European Commission's careless preparatory work (such as too easily placing the son of an alleged oligarch on a sanctions list, for example) has resulted in the Court nullifying the sanction rules.

HRIF.EU believes that the fundamental reasoning in the aforementioned cases is also highly relevant when invalidating excessive anti-money laundering measures based on international FATF agreements, which are essentially blindly copied into European regulations. Additionally, as articulated in [this article on LinkedIn from spring 2022](#), it is crucial to keep focused on the core issue and not to easily succumb to politically motivated labeling of individuals, which unjustly denies them their right to property.

3.5 National Dutch Privacy Conference (2023)

On January 25, 2023, ECP and Privacy First jointly organized the sixth annual National Privacy Conference. The goal of this event was to collaborate with businesses, government, and academia to promote a privacy-friendly information society. The conference took place at the Glazen Zaal in The Hague, with nearly 200 professionals in attendance (and hundreds more via live-stream). Speakers included Marjolijn Bonthuis (Deputy Director of ECP), Ellen Timmer (independent research lawyer and publicist), Katja Mur (board member of the Dutch Data Protection Authority), Bert Slagter (entrepreneur and writer), Simon Lelieveldt (business engineering and compliance professional), Paul Korremans (chairman of Privacy First), and Magdalena Magala (jury chair of the Dutch Privacy Awards). The moderator for the day was Tom Jessen (RTL, BNR).

During the conference, HRIF.EU founder Simon Lelieveldt provided insights into compliance dilemmas at the intersection of anti-money laundering regulations and privacy. In his speech, he emphatically urged bankers to reconsider existing choices in anti-money laundering policies, such as those concerning suspicious and unusual transactions, citing both relevant European regulations and the moral obligation under the banker's oath. He also highlighted the significance of the SyRi ruling concerning the legality of initiatives like Transaction Monitoring Netherlands.

His speech can be viewed at the [site of Privacy First](#) en here are the [slides he used](#).



Presentation Simon Lelieveldt during the Dutch National Privacy Conference, January 25, 2023

3.6 Supporting AVROTROS Radar – petition 2023

In early 2023, the editorial team of TV-consumer show AVROTROS Radar approached HRIF.EU for comments on the Dutch anti-money laundering policy and the reporting of suspicious and unusual transactions. HRIF.EU participated in special segments of Radar twice in 2023, first in February and then again in November. By the latter broadcast, the Foundation had been formally established. In his capacity as chairman of HRIF.EU, Simon Lelieveldt called on viewers to sign a petition regarding the right to a bank account and against extensive anti-money laundering monitoring. Within just two weeks, the petition garnered over 12,000 signatures, aided by collaborations with organizations such as Privacy First, Stichting Donateursbelangen, Vereniging Partin, Stichting Grenzeloos onder één dak, Vereniging Belangenbehartiging Nederlands Gepensioneerden in het Buitenland, Stichting Nederlanders buiten Nederland, Vereniging Nederlandse Organisaties Vrijwilligerswerk, Verenigde Bitcoinbedrijven Nederland, the Dutch Accidental American Group, and Bits of Freedom.

4. Political: lobby

4.1 Human-centered perspective ('Menselijke Maat') in payments

In the fall of 2023, HRIF.EU reached out to various stakeholders in the Netherlands, namely De Nederlandsche Bank, the Ministry of Finance, and the Dutch Banking Association. The goal was to achieve the following change in course, which we deem more desirable and human rights–friendly:

- Immediate transition in the Netherlands to reporting only subjective suspicious transactions,
- Immediate termination of banking cooperation regarding Transaction Monitoring Netherlands,
- Recognition that the courts have established a legal reality where the right to a business bank account is indisputable, prompting the enactment of legislation to that effect,
- Acknowledgment by banks (and/or the Authority for Consumers and Markets) that unfair clauses in the General Banking Conditions, which violate fundamental rights and civil law, can and should be removed.

4.2 Banking surveillance dragnet (Transaction Monitoring Netherlands)

In October 2022, the government introduced the draft bill "Plan of Approach Money Laundering." This bill establishes a centralized database to analyze all financial transactions of Dutch citizens to detect financial crime. This database will be managed by the new organization called Transactie Monitoring Nederland BV (TMNL).

HRIF.EU is, like the Council of State, the Dutch Data Protection Authority, and Privacy First, vehemently opposed to a dragnet by the joint banks over the complete financial transaction data of all Dutch citizens, companies, and organizations. The Dutch policy stance to pursue and continue this approach is entirely irreconcilable with the reality of European regulations and the established positions of the European Data Protection Board.

Considering the 4 billion transactions that have been unlawfully processed annually by TMNL since 2020 (encompassing all Dutch account holders whose entire payment behavior is monitored and profiled), one of HRIF.EU's key objectives is [to halt this massive human rights violation through publicity](#), media, and legal procedures.

5. Procedures and litigation

Human Rights in Finance.EU aims to operate as effectively as possible with our limited resources. When quiet diplomacy, political lobbying, and campaigns prove insufficient, we pursue principled legal actions against legislation and policies that lead to large-scale human rights violations. Each time, we carefully consider how far we want to go, given the nature of the problem, and determine the most appropriate course of action. Litigation is, in our view, only a last resort, but sometimes it is necessary to safeguard human rights.

5.1 Annulment procedure Travel Rule (2023/1113)

Shortly after our establishment in August, HRIF.EU submitted a request for legal aid on September 4, 2023, to initiate an annulment procedure against the excessive mass surveillance prescribed by EU regulation 2023/1113. We have fundamental objections to the mentioned regulation, as it mandates massive monitoring of transactions and the transfer of personal data. The scale, nature, and impact of the regulation are substantial, prompting HRIF.EU to take legal action.

HRIF.EU's request has been forwarded for comments to the European Commission and the European Parliament, who responded with the position that the Foundation would not be admissible under the applicable EU rules. These rules are indeed strict (with a 1 in 30 chance of being recognized), but HRIF.EU hopes to be heard by the General Court in Luxembourg.

However, due to the procedural nature of the process and the subpar state of Dutch postal services, communication with Luxembourg has not yet been properly established. As of the end of April 2024, we are still awaiting a re-sent letter from 2023, providing clarification on the next steps. Once we receive this information, HRIF.EU, in consultation with a human rights law firm we have since engaged, will proceed with the further steps of the procedure.

5.2 Cost, invoices for DNB-AFM supervision in the Netherlands

In a [substantive procedure between crypto companies and DNB](#), the Rotterdam District Court found that DNB had exceeded European regulations. The judge annulled the overly extensive parts of the Dutch Anti-Money Laundering and Counter-Terrorist Financing Act (Wwft) based on higher European legislation, effectively canceling the bill. However, it later became clear that DNB did not intend to comply with the mandatory repayment of supervision costs to the crypto companies.

It is important to note that the Financial Supervision Funding Act has a very unfair character, and the successive rulings of the College van Beroep voor het bedrijfsleven (CBB) strongly resemble the unfair stance of the Council of State regarding the all-or-nothing repayment obligation in the child benefits scandal.

An important point is that the complete funding of financial supervision by regulated companies results in an unfair process between companies and DNB. DNB can decide to go to court with costly external lawyers for any minor issue, while companies have to make a very different assessment both financially and in terms of risk aversion.

For Human Rights in Finance.EU, the discussion on this topic was the reason to write a position paper on the matter. Based on a historical analysis of the legislation and rulings, we concluded that:

1. To ensure the fundamental right to a fair trial, all costs of enforcement, investigation, and legal expenses of regulators should be fully borne by the state and also kept outside supervision budgets.
2. To limit the disproportionate infringement on private property, the government contribution to financial supervision should be reduced to levels with the standard: at least 50% for the government and a maximum of 50% for the supervised companies.
3. A categorical ban should be established on passing uncovered costs from one-time supervisory activities onto the market; it is up to the government to establish these costs fully or explicitly decide on state aid or sponsorship for new entrants (under relevant EU rules).

he discussion also led to the first appearance of the Foundation in the press. The name of the Foundation was seen for the first time in an [article in De Telegraaf](#).

'Eigendom aangetast'

„DNB ontzegt de cryptobedrijven nu de toegang tot hun eigen geld. Dat gaat wel heel ver. Hier is dus het grondrecht op eigendom in het geding voor het toezichtbedrag dat ten onrechte geheven is”, reageert Simon Lelieveldt, voorzitter van de Stichting Human Rights in Finance, die de zaak al langer volgt.

'Property Rights Violated'

"DNB is now denying crypto companies access to their own money. This is quite extreme. Here, the fundamental right to property is at stake for the supervision fee that was wrongly imposed," responds Simon Lelieveldt, chairman of the Human Rights in Finance Foundation, who has been following the case for some time.

5.3 Infringement procedure EC – EU Ombudsman

Immediately after the Rotterdam District Court pronounced its judgment, HRIF.EU formulated an infringement complaint for the European Commission. For some time, HRIF.EU had been communicating with the Commission about the unlawful requirements imposed on crypto companies in the Netherlands. The excessive Dutch reporting system for unusual transactions was also raised in this context. HRIF.EU utilized the EU Ombudsman procedure to ensure swift and factual handling of the complaint (since it was not expected that the Commission would respond promptly).

In the previous dialogue on human rights violations, the European Commission closed the discussion in October 2020 by referring to the evaluation of human rights to be conducted under the anti-money laundering directive by January 2022. Indeed, this was the much-touted and promised evaluation that was never carried out, after which the European Commission added a whole new set of intensified anti-money laundering regulations.

largely to be determined at national level. The EU legislator carefully considered the fundamental rights aspects of 5th Anti Money Laundering Directive at time of its adoption, and concluded it remains limited to what is necessary and proportional.

In addition, you do not indicate how the Dutch law at stake would go beyond the processing provided for under the 5th Anti Money Laundering Directive and constitute unlawful processing.

As pointed out by the Dutch Data protection authority, the European Commission will draw up a report on the implementation of the Anti-Money Laundering Directive by January 2022. Pursuant to Article 65 of this Directive, the report will include in particular “an evaluation of how fundamental rights and principles recognized by the Charter of Fundamental Rights of the European Union have been respected”.

Given the above, the European Commission does not intend to open an infringement procedure.

I therefore wish to inform you that it is intended to close this case. However, should you have any new information that might be relevant for the re-assessment of your case, I invite you to contact the Commission within four weeks of this letter, after which date the case might be closed.

Yours sincerely,

(e-signed)

The procedure will continue into 2024 and aims to keep pressure on policymakers in the Netherlands as well.

5.4 Procedures en support for citizens

HRIF.EU took the step of lodging a [disciplinary complaint with the banking disciplinary judge](#) against the three top bankers of the Netherlands in late December 2023, after the Dutch Banking Association (NVB) refused to engage in discussions regarding the letter on the humane scale in payment transactions. This action is a significant ethical gesture that is expected to lead to a verdict in several years, but it has been deemed appropriate to amplify the public voice.

Following publicity from various organizations and individuals, we receive inquiries about the workings of financial supervision and anti-money laundering measures. We provide support to clients and organizations by offering advice tailored to their situations and referring them to legal counsel. In urgent cases, we leverage our network to ensure that pressing issues with banks are promptly addressed. Additionally, we assist other lawyers and advocacy groups in technical compliance preparation concerning cases related to account freezing, profiling, and discrimination.

6. Organisation and contacts

HRIF.EU was established in 2023 as an extension of a project initiated by one of its founders, Simon Lelieveldt, aimed at challenging EU Regulation 2023/1113 through a request for legal assistance and annulment procedure before the General Court of the European Union. The project was structured on a professional basis, and the foundation costs from August 2023 to the end of December 2023 were covered through contributions and donations received for this purpose.

For the year 2024, the agenda includes further organizing the foundation, starting with obtaining a bank account. The market for bank accounts is quite restricted for foundations, and foreign providers are also reluctant to open new accounts (or charge very high fees). A primary focus of the foundation will be to obtain an account so that donations and support can be received directly for its activities.

Later in 2024, the further development of the organization and its operational procedures are scheduled on the agenda. However, the main priority will be to promptly end the human rights violations associated with Transaction Monitoring Netherlands. The actual organizational development in this context is not a priority and is limited to fulfilling basic formalities and ensuring continuity of representation (which is necessary as long as Simon Lelieveldt, one of the founders, remains the sole board member).

Netwerkorganisatie en externe contacten

HRIF.EU's approach involves closely collaborating with related interest groups, forming coalitions, and sharing knowledge about human rights violations in the financial sector. HRIF.EU shares compliance knowledge with various stakeholders in civil society, gathering case materials related to potential human rights infringements. This enables us to gain an accurate and factual understanding of the situations faced by clients of financial institutions, businesses, and citizens.

In addition, we maintain contacts with various universities, professors, and specialized journals such as the Dutch Jurists' Journal (Nederlands Juristen Blad) to share our experiences regarding human rights in the financial sector and to acquire new knowledge. We exchange experiences regarding administrative law or civil procedures. Furthermore, we engage with numerous journalists and television programs, including AVROTROS–radar, major newspapers, Follow the Money, and specialized media like BNR and BNR Cryptocast.

7. Financials in 2023

Over the course of 2023, Human Rights in Finance.EU effectively relied entirely on the voluntary efforts of its founders. The foundation had no bank account, no formal assets, and its website/communication was conducted through provisional social media accounts under the personal name of one of the founders. The focus for 2024 will be on further professionalizing and structuring the organization, establishing communication channels, administration, and a bank account in the name of the Foundation as a legal entity.

For its operations, the Human Rights in Finance (EU) Foundation relies largely on individual donations. However, without a bank account, these donations cannot be received. The main focus in 2024 will be on acquiring bank accounts to enable donations to be received and to facilitate transactions through Transactie Monitoring Nederland (and requests under the GDPR). The Foundation does not anticipate or plan any commercial activities in 2024.

HRIF.EU's policy is to allocate income primarily to substantive matters and to keep operational costs as low as possible. Communication is largely conducted via the internet. Our policy ensures that donations designated for specific purposes (e.g., legal fees/advice) are used exclusively for those purposes. Generic donations cover the Foundation's operational expenses and any compensation for board members.

Below you will find the financial overview for 2023, which essentially consists of a Pro Forma income/cost statement.

OVERVIEW 2023 dated 31-12-2023

<u>Income:</u>			<u>Expenses:</u>		
Donations	€	PM	Office costs – hosting etc.	€	PM
Other	€	PM	Compensation (legal) services	€	PM
			Other costs	€	PM
<u>TOTAL</u>	€	PM	<u>TOTAL</u>	€	PM

8. Outlook and plans for 2024

In 2024, alongside our ongoing activities in awareness and education, we are focusing specifically on achieving the following policy changes, which we have also identified as desired in our letters to the Dutch Banking Association and in communications with the Ministry of Finance:

- immediate transition in the Netherlands to reporting only subjective suspicious transactions.
- Immediate termination of banking collaboration regarding Transaction Monitoring Netherlands.
- Recognition that the judiciary establishes a legal reality where the right to a business bank account is indisputable, necessitating the enactment of corresponding legislation.
- Acknowledgment by banks (and/or the Consumer and Market Authority) that unfair clauses in the General Banking Conditions, which conflict with fundamental rights and civil law, should be deleted.

These objectives do not mean that our work is limited to national organizations. Specifically on an international level, we will use consultations and (infringement) procedures to communicate our concerns about protecting fundamental rights in economic transaction flows with regulators and supervisors.

On an organizational level, we will work on further developing the organization, promoting the philosophy of our foundation, and ensuring a more continuous flow of funding for activities. Overigens betekenen deze doelen niet dat ons werk tot nationale organisaties beperkt zou blijven. Juist ook in internationaal verband zullen we consultaties en inbreuk procedures gebruiken om in contact met regelgevers en toezichthouders onze zorgen rond de bescherming van grondrechten in het economisch transactieverkeer overbrengen.

Amsterdam, April 29, 2024

Human Rights in Finance.EU: objectives and activities (in brief)

Mission: proactively (through advocacy, publicity, administrative procedures and litigation) preventing, halting, and reversing infringements on fundamental rights in economic transaction flows. We seek to ensure that in the future, there is a robust (ex-ante) constitutional human rights assessment of practices by regulators, supervisors, and businesses facilitating economic transactions to prevent all infringements.

Article 2 of our articles of incorporation;

1. The objective of the foundation is that

– considering the missing and inadequate ex-ante assessment of human rights impacts of laws, regulations and of actual conduct of governments and private organisation –

we proactively defend the fundamental human rights of citizens and companies, as written down in international and European treaties and conventions,

and in particular aim at preventing future damages which may occur as a result of

all behaviour/conduct or legislation/regulation in which private or public actors in economic transactions – with the legal rationale/referral to anti-money laundering, financial sanction rules, prevention of terrorist finance or state security matters – are being forced to a disproportional infringement of private life, forced to monitor/store private data of citizens/companies, forced to violate the innocence presumption, the right to property, the right to equal treatment or any other infringement of fundamental human rights.

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Human Rights in Finance. EU is registered with the Chamber of Commerce Amsterdam: nr. 91170974.

Bank account: IBAN: NL94 TRIO 0320 7857 85 (BIC: TRIOBEBB) in the name of Human Rights in Finance. Human Rights in Finance (EU) is not recognised as an: Algemeen Nut Beogende Instelling (ANBI).