

A PRACTICAL GUIDE  
TO PREVENT POTENTIAL  
ABUSE OF  
NON-PROFIT  
ORGANISATIONS (NPOS)  
FOR MONEY LAUNDRY AND  
TERRORIST FINANCING

2023

This publication is prepared by *Partners Albania for Change and Development* with the support of the *Human Security Collective*.

This publication was produced with support of the *Global Programme “Combating Illicit Financial Flows”* implemented by the *GIZ* and financially supported by the *German Federal Ministry of Economic Cooperation and Development* and the *Norwegian Ministry of Foreign Affairs*.

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Tirana, Albania 2023



**ABSTRACT**

The original FATF<sup>[1]</sup> Forty Recommendations were drawn up in 1990 as an initiative to combat the misuse of financial systems by persons laundering drug money. In 1996 the Recommendations were revised to reflect evolving money laundering trends and techniques and to expand their scope beyond drug-money laundering. In October 2001, in response to the threat posed by terrorists and terrorist organisations, FATF expanded its mandate to include the combating of terrorist financing and terrorist organisations and issued Eight Special Recommendations (later expanded to Nine) on the Financing of Terrorism, including Recommendation 8, which designed to address specific vulnerabilities and terrorist financing threats to NPOs, as follows:

*Recommendation 8: Non-profit Organisations*

*Countries should undertake a domestic review of the adequacy of regulations and laws related to non-profit organisations which the country has identified as being vulnerable to terrorist financing abuse. Countries should apply focused and proportionate measures, in line with the risk-based approach, to such non-profit organisations to protect them from terrorist financing abuse, so that they cannot be misused:*

- (a) by terrorist organisations posing as legitimate entities;*
- (b) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures;*
- (c) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.*

At the FATF plenary session in June 2022, it was agreed to consider revising Recommendation 8, to address the issues of over-application of preventive measures to the NPO sector in some countries, recognizing the negative impact this can have on legitimate activities of NPOs. The draft amendments prepared by the Project Team established by FATF were published for public consultation on the FATF website<sup>[2]</sup>.

The FATF recommendations have been endorsed by over 180 countries and are universally recognised as the international standard for combating money laundering and countering the financing of terrorism (AML/CFT).

The implementation of the FATF recommendations in Albania is evaluated by MONEYVAL - The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, which is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal

[1] The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standards.

[2] <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/R8-public-consultation-jun23.html>

international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems[3].

In 2022, Albania Partners for Change and Development, in collaboration with the Albanian General Directorate of Taxation and with the support of GIZ - German Agency for International Cooperation, drew up the Terrorist Financing Risk Assessment Methodology for the NPO Sector in Albania[4]. The Risk Assessment Methodology was conducted through an inclusive process with representatives from state institutions responsible for the registration, supervision and reporting of NPOs, law enforcement authorities, and NPOs, in line with FATF requirements and guidelines. The methodology analyses the characteristics and categories of NPOs potentially at risk of being abused for terrorist financing and the nature of funding threats to the NPO sector. In conclusion, the assessment found that there is no conclusive evidence of NPO abuse for terrorist financing and that the level of inherent risk of the NPO sector being used for terrorist financing is considered **LOW**.

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[3] <https://www.coe.int/en/web/moneyval/moneyval-brief>

[4] <https://partnersalbania.org/ep-content/uploads/2023/01/Metodologjia-vleresimit-te-rrezikut-te-ojive.pdf>

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# INTRODUCTION



This practical guide aims to highlight the prevention of abuse and the possibility of abuse of NPOs for money laundering and terrorist financing. The guide is drafted in a simple user-friendly way without the need of a legal expert's help or service.

The guide consists of two parts:

***The first part: Legislation on Anti-Money Laundering (AML) and Counter-Financing of Terrorism (CFT)***

In this part, references are made to the main relevant legal framework applicable to NPOs so that organisations can orientate themselves for the implementation of the law or the solution of relevant practical cases. Law no. 80/2021 "On the Registration of Non-Profit Organisations" has been published in the official gazette number 121, making it easier for organisations to access this law. In a special case, when the NPO is faced with issues identified by the tax authorities or other structures of the General Directorate for the Prevention of Money Laundering (GDPML), for the implementation of the relevant legislation and the relevant legal remedies, a lawyer would be needed to provide the service.

The implementation of the relevant legislation in force enables the NPO, upon establishment and registration in the Registry of NPOs, to prevent involvement in money laundering and terrorist financing. To this end, this practical guide contains legal provisions that coincide with legal issues of the creation of NPOs, with the ongoing activity of NPOs, including financial and operational activity, with issues of updating data in the NPO Registry, and until the closure of the activity and the deregistration of NPOs. Furthermore, special attention is dedicated to this practical guide to some legal issues related to the registration of beneficial owners. To the convenience of NPOs, the legal provisions mentioned or cited in this guide are also accompanied by the number and date of the Official Gazette (or OG) of the Republic of Albania where the relevant legislation was published.

Particularly in this guide, making known to NPOs the risk factors used by tax authorities or GDPML structures in identifying issues related to the prevention of money laundering and the financing of terrorism for NPOs, interpretations and explanations are provided with, that guide NPOs on how to prepare and keep documentation related to the funding they receive from different donors, as well as improve operational aspects in order to avoid abuse or the involvement of NPOs in money laundering and financing of terrorism.

NPOs should be aware not only of administrative violations and the corresponding sanctions but also of special criminal offences related to money laundering and terrorist financing and their criminal liability as legal entities, but even of individuals exercising tasks in decision-making and executive bodies of NPOs. For this reason, the guide also contains information on administrative violations and related criminal offences, as well as related sanctions and punishments.

We express our gratitude to Attorney Ardjana Shehi for her contribution to the preparation of this part of the document.

## ***The second part: Case studies on the risk of terrorist abuse in the NPO sector***

This section introduces some case studies translated from the FATF Report “The Risk of Terrorist Abuse in Non-Profit Organisations”, June 2014[5]. Through 102 case studies submitted by FATF member states or compiled from open information sources, as well as through research on the environmental threat, the report aims to acknowledge the terrorist threat in the NPO sector. The analysis of the case studies resulted in several findings, summarized in the report as follows:

**Key finding 1:** The NPO sector has interconnected vulnerabilities and the terrorist entities seek to exploit more than one type of vulnerability. Based on the cases in the report, the diversion of NPO funds by terrorist entities proved to be the dominant method of abuse. However, other forms of non-financial abuse, such as the abuse of programming, or recruitment support, are also found to be present.

**Key finding 2:** The most posed-to-risk NPOs appear to be the ones involved in the “services” activities and operating in close proximity to an active terrorist threat. This risk refers to NPOs operating in a conflict zone where there is an active terrorist threat, but it can also refer to NPOs operating within the country but with a population that is actively targeted by a terrorist movement for affiliation and disguise. Considering both scenarios, the main risk variable is not geography, but proximity to an active hazard.

**Key finding 3:** Due to the nature of the threat and the nature of the results of the state response, cases of a substantial threat represent an important source of information for the analysis of risk typologies.

**Key finding 4:** The use of many types of information by different stakeholders is an important factor in detecting cases of abuse or in identifying substantial risk.

**Key finding 5:** Stopping abuse, or mitigating substantial risk, is addressed through a variety of penalties, that extend beyond mere criminal prosecution. Moreover, administrative penalties, financial fines, and targeted financial sanctions play an important role in stopping abuse.

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[5] <https://www.fatf-gafi.org/en/publications/Methodsand Trends/Risk-terrorist-abuse-non-profits.html>



# THE FIRST PART

*Anti-Money Laundering (AML) and Counter-Financing of Terrorism (CFT) legislation*

# I REGISTRATION OF NPOs

The first step for an NPO, to be established and exist as a legal entity in accordance with Albanian legislation, is the establishment according to the Law on NPOs and then, the initial registration in the Electronic Register of Non-Profit Organisations (referred to in this guide as 'Electronic Registry of NPOs'[6]). Pursuant to the legislation in force, the Registry of NPOs is established by the High Judicial Council (HJC) and administered by the Tirana Judicial District Court.

NPOs are registered by submitting a registration application request (electronically or in writing) to the Tirana Judicial District Court[7]. The registration application request is submitted within 30 (thirty) days from the date of establishment of the NPO[8]. The application request for registration is submitted either by all the founders of the NPO or by a duly authorized person.

The data submitted for the registration of NPOs are the name, form of organisation, date of establishment, personal data of the persons who founded the NPO (in case the founder of the NPO is a legal person, there is an obligation to submit the data, i.e. the name of the legal entity, legal form, NUIS, date of establishment and registration, legal representative of the entity or persons responsible for representation with third parties, electronic data), headquarters, purpose and activity of the NPO, the duration, the personal data of the persons who administer and represent the NPO, the asset value of the fund in case of establishment of a foundation, the persons entitled to sign in case of representation the NPO with third parties[9].

Due attention should be taken to avoid the use of the same or similar names, names in the prominent form or corresponding abbreviations of countries, cities, geographical regions, international organisations, religious organisations or central or local government institutions, without distinctive additions or with names that are in violation to the order or the mandatory provisions of the law[10]. Failure to meet these criteria results in non-registration of the NPO in the Electronic Registry of NPOs. The right to register the name is entitled on the basis of the priority principle of submitting the request for registration to the court.

Upon the initial registration in the NPO Electronic Registry, NPOs are obliged to file any changes they make to the mandatory data, as well as in the accompanying documents that are filed in the NPO Electronic Registry. In case of changes to the act of establishment or the statute, the full text shall also be deposited, reflecting respectively the subsequent changes[11].

NPOs are entitled, upon own will and request, to register in the Electronic Register of NPOs any other data related to their activity. Included in these voluntary data:

[6] According to the official statement of the High Council of Justice (HCJ), the Electronic Register of NPOs shall be operational in January 2024.

[7] Article 4 of Law No. 80/2021 "On the Registration of Non-Profit Organizations", Official Gazette 121, publication date 02.08.2021.

[8] Article 8 of Law No. 80/2021 "On the Registration of Non-Profit Organizations", Official Gazette 121, publication date 02.08.2021.

[9] Article 14 of Law No. 80/2021 "On the Registration of Non-Profit Organizations", Official Gazette 121, publication date 02.08.2021.

[10] Article 9 of Law No. 80/2021 "On the Registration of Non-Profit Organizations", Official Gazette 121, publication date 02.08.2021.

[11] Article 12/3 of Law no. 80/2021 "On the Registration of Non-Profit Organizations", Official Gazette 121, publication date 02.08.2021.

name/distinguishing signs of the activity, contact methods, decisions taken by the management bodies of the NPO, and other data related to their activity[12].

The judge of the commercial section of the Tirana Judicial District Court proceeds with the registration and de-registration of NPOs, while other mandatory or voluntary registrations are made by decision of the Chancellor.

Upon completion of the registration procedures, NPOs are provided with NUIS, which is a unique, unalterable number, which is set by the Court and serves to identify NPOs as taxpayers to the tax authorities, the social and health insurance scheme, for labour inspection authorities, as well as for any other statistical or identification purposes[13].

NPOs are provided with a registration certificate from the secretariat of the Electronic Registry of NPOs, issued within the deadline for initial registration, keeping the identification elements of the NPO[14].

Deregistration of NPOs is performed upon the free will and initiative of the NPO or based on a court decision[15]. After the moment of deregistration, NPOs are marked as “deregistered” in the Electronic Registry of NPOs and, consequently, are deprived of their legal personality[16].

Non-compliance with the deadlines for registration and de-registration of NPOs and filing of acts in the Electronic Registry of NPOs is punishable by a fine of not less than ALL 30,000 (thirty thousand). NPOs can file an appeal to the fine with the Court of Appeal[17].

In accordance with Law no. 8788/2001 “On Non-Profit Organisations”, amended[18], specifically, in article 20, point 'g' specifies the task of the highest decision-making body of NPOs to supervise the activity of the organisation to prevent the use of the organisation's resources for terrorist purposes, in accordance with the legislation in force for the prevention of money laundering and terrorist financing. In this law, the amendment made by Article 22 in point 'c' is also included. The executive body cooperates with the General Directorate for the Prevention of Money Laundering to ensure that partner organisations and those that provide funding, services and material support are not used or manipulated for terrorist purposes.

[12] Article 18 of Law No. 80/2021 “On the Registration of Non-Profit Organizations”, Official Gazette 121, publication date 02.08.2021.

[13] Article 37 of Law No. 80/2021 “On the Registration of Non-Profit Organizations”, Official Gazette 121, publication date 02.08.2021.

[14] Article 39 of Law No. 80/2021 “On the Registration of Non-Profit Organizations”, Official Gazette 121, publication date 02.08.2021.

[15] Article 20/2 of Law no. 80/2021 “On the Registration of Non-Profit Organizations”, Official Gazette 121, publication date 02.08.2021.

[16] Article 24 of Law No. 80/2021 “On the Registration of Non-Profit Organizations”, Official Gazette 121, publication date 02.08.2021.

[17] Article 39/1 of Law no. 80/2021 “On the Registration of Non-Profit Organizations”, Official Gazette 121, publication date 02.08.2021.

[18] Amended by Law no. 9814, dated 4.10.2007 and Law no. 92/2013, dated 28.02.2013.

The beneficial owner of NPOs is registered in the Electronic Registry of Beneficial Owners. The term Beneficial Owner<sup>[19]</sup> include the individual who owns or controls the entity and/or the individual on whose behalf a transaction or activity is being carried out. In the case of NPOs, it includes:

- The founder or legal representative or the individual exercising the last effective control in the administration and control of non-profit organisations, including foundations, associations, centres, as well as branches of non-profit organisations. The ultimate effective control is the relationship when a person: a) determines the decisions taken by the non-profit organisation; b) controls the election, appointment, and removal of the majority of decision-making bodies and/or executive bodies of the non-profit organisation.

NPOs can file the application for the registration of the legal entity and the registration of the beneficial owner at the same time. In cases of rejection of the initial registration application, the registration must be completed within 40 (forty) days from the date of rejection of the application. The registration of beneficial owners must be completed within 40 (forty) days from the date of registration of the NPO as a legal entity. In case there is a change of beneficial owners, the registration must be completed within 90 (ninety) days from the date of the change<sup>[20]</sup>.

NPOs and persons authorized to make the registration are responsible according to the laws in force for the authenticity of the facts, for the notified data and the accompanying documents, filed with the Electronic Register of Beneficial Owners.

NPOs should know that they are one of the reporting entities expressly provided by the Law on Beneficial Owners<sup>[21]</sup> and, therefore, have the corresponding obligations stipulated in this law.

[19] Article 3 of Law No. 112/2020 'On the Register of Beneficial Owners', amended by Normative Act No. 12, dated 25.3.2021 and Law No. 6/2022, dated 27.1.2022) (updated version) Official Gazette 149, publication date 13.08.2020.

[20] Article 5 of Law no. 112/2020 'On the Register of Beneficial Owners', amended by normative act no. 12, dated 25.3.2021 and Law No. 6/2022, dated 27.1.2022) (as amended) Official Gazette No. 149, publication date 13.08.2020.

[21] Article 2, "The area of implementation"

In addition to the obligations provided for in the previous sections of this guide, NPOs must consider the following obligations for implementation:

### **At least one bank account**

NPOs are obliged, within 20 days from the registration for tax purposes<sup>[22]</sup> (when the NPO Electronic Registry is operational, registration for tax purposes shall also be performed in this register), to open a bank account and declare it to the tax administration<sup>[23]</sup>.

### **Cash transaction limits**

Cash payments<sup>[24]</sup>: NPOs should be aware that cash transactions worth up to ALL 150,000 could be carried out. Legal actions carried out through electronic money financial institutions licensed by the Bank of Albania shall not be considered as payments made in cash.

### **Cash transfer limits at the customs within the territory of the Republic of Albania<sup>[25]</sup>**

Furthermore, NPOs should know that any person, Albanian or foreign citizen, who enters/leaves the customs territory of the Republic of Albania is obliged to declare amounts in cash, any type of securities<sup>[26]</sup>, metals or precious stones, valuables and antique objects, starting from the amount of EUR 10 000 or its equivalent in other foreign currencies, as well as the purpose of the transportation, for which supporting documents must be submitted. The customs authorities shall send a copy of the declaration form and the supporting document to the responsible authority. The customs authorities shall immediately report and no later than 72 hours to the responsible authority every suspicious act, information or data related to money laundering or financing of terrorism for the activities under their jurisdiction<sup>[27]</sup>.

### **Tax invoiced actions**

NPOs, as taxpayers, must issue an invoice for every supply of goods or services falling under the respective scope of activity, regardless of the annual turnover realized in the previous year or in the current one<sup>[28]</sup>. Also, NPOs are obliged to issue invoices as recipients of goods or services supplied as follows: (i) purchase goods or services from individuals not holding the status of a merchant and are not registered with the tax

[22] Article 59/1.3 of Law 9920 'On Tax Procedures in the Republic of Albania', as amended, Official Gazette No. 85, publication date 10.06.2008.

[23] Article 59/1.3 of Law 9920 'On Tax Procedures in the Republic of Albania', as amended, Official Gazette No. 85, publication date 10.06.2008.

[24] Article 59 of Law no. 9920, dated 19.5.2008 'On Tax Procedures in the Republic of Albania', as amended, Official Gazette No. 85, publication date 10.06.2008.

[25] Article 17/1 of Law no. 9917, dated 19.5.2008 'On the Prevention of Money Laundering and Financing of Terrorism', amended by Law No. 10 391, dated 3.3.2011, Law no. 66/2012, dated 7.6.2012, Law no. 44/2017, dated 6.4.2017, Law no. 33/2019, dated 17.6.2019, Law no. 120/2021, dated 2.12.2021, Official Gazette No. 83, publication date 10.06.2008.

[26] Other securities.

[27] Article 17 of Law No. 9917, dated 19.5.2008 'On the Prevention of Money Laundering and Financing of Terrorism', amended by Law no. 10 391, dated 3.3.2011, Law no. 66/2012, dated 7.6.2012, Law no. 44/2017, dated 6.4.2017, Law no. 33/2019, dated 17.6.2019, Law no. 120/2021, dated 2.12.2021, Official Gazette 83, publication date 10.06.2008.

[28] Article 4/c of Law No. 87/2019 'On the invoice and traffic monitoring system' as amended.

administration as taxpayers who issue invoices; (ii) purchase services supplied by a taxable person, not resident within the territory of the Republic of Albania, unless the respective taxable person, the seller from abroad, issues an electronic invoice, in accordance with the technical specifications included in the Albanian Standards (AS); (iii) purchase goods from agricultural producers, subject to the compensation scheme, in accordance with the legislation in force on value added tax[29].

NPOs no later than 24 hours before the issuance of the invoice in each country where they carry out business activity, are obliged to submit the data for the exercise of business activity through the central platform of invoices[30].

## IV LAW ON THE PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING

Supervisory body[31] of NPOs, in terms of the law covering the prevention of money laundering and terrorism financing, are considered tax authorities.

Tax authorities are tasked to collect sufficient information about NPOs to fully understand the sources of funding, the nature of the relevant scope of activity and the manner of administration and management, to determine through public information or by other means their reputation, to obtain approval from higher levels of administration/management bodies before establishing a business relationship with them and provide enhanced monitoring of the business relationship.

The financial statements of NPOs are checked and analysed by specialized employees of the Regional Tax Directorate (RTD)[32]. The funding sources of NPOs, economic activity, and the way in which funds and NPO capital are used shall be subject to audit.

In case of encountering suspicious cases, within 15 (fifteen) days, a report shall be filed with the central unit of the General Tax Directorate (GTD), where the latter forwards the case to the General Directorate of Prevention of Money Laundering (GDPML)[33].

[29] Article 7/2 of Law no. 87/2019 "On the invoice and traffic monitoring system", as amended by Law No.108/2020, dated 29.7.2020.

[30] Article 13/3 of Law No. 87/2019 'On the invoice and traffic monitoring system', amended by Law No. 108/2020, dated 29.7.2020.

[31] Article 41 of Law no. 8788/2001 'On Non-Profit Organizations', amended by Law No. 9814, dated 4.10.2007, Law no. 92/2013, dated 28.02.2013, Official Gazette No. 28, publication date 07.06.2001.

[32] Article 7 of Instruction no. 19, dated 07.09.2019, Official Gazette No 102, publication date 07.15.2019.

[33] Article 4 of Instruction no. 19, dated 07.09.2019, Official Gazette No 102, publication date 07.15.2019.



Accounting reports prepared by NPOs for the use of donor funds, as well as financial statements are subject to control by tax authorities, as well as the General Directorate of Prevention of Money Laundering whenever necessary.

The detailed rules for the supervision of NPOs by the tax authorities are determined by the instructions of the Minister of Finance.

The reporting by the tax authorities on the entities is based on the procedures provided for in Article 4 of Law No. 9917/2008 "On the Prevention of Money Laundering and Terrorism Financing", amended, by also implementing the requirements of Article 11 of this law. The tax authorities report to the responsible authority GDPML, immediately and in any case, no later than 72 hours after the registration of the action, for any suspicion, alert, notification or data, related to money laundering and terrorism financing.

NPOs are not subjects under the Law No. 9917. However, in cases of performing certain activities, they become reporting entities (Article 3/k of Law 9917 - Any natural or legal person, except those specified in points of Article 3, with the scope of activities as follows:

... ii) constructions; ...vi) providing and administering cash amounts or easily convertible securities on behalf of third parties; vii) delivery and transport activities; ...ix) travel agencies, and are obliged to be declared as reporting entities in order to make the relevant registrations with the GDPML and to act as a reporting entity whenever, due to their activity, they become aware of suspicious information which must be reported to GDPML. Illustrating examples of NPOs involved or that can be involved in the above activities, are those NPOs that, in addition to the non-profit non-economic activity, also perform non-profit economic activity in one of the above-mentioned sectors. In these cases, these NPOs qualify as reporting subjects under Law No. 9917.

Obligations of reporting entities: Reporting to the responsible bodies shall be performed within 72 hours when criminal activity is suspected. In case the entity doubts that the transactions carried out on the client's account will be a funding source of criminal offences, is entitled not to carry out this action. Within 48 hours of receiving the information, the relevant authorities come with an official reply on whether the client's funds should be blocked or not. When the responsible authority does not respond within the stipulated time, the entity may proceed with the execution of the legal action.

The General Directorate for the Prevention of Money Laundering (GDPML) as the main responsible authority to which reporting entities<sup>[34]</sup> must report has an official website with a structure that contains various laws, orders, instructions, and decisions related to the prevention of money laundering and terrorism financing. NPOs are strongly advised to visit the GDPML's website<sup>[35]</sup>.

[34] Article 12 of Law no. 9917, dated 19.5.2008 'On the Prevention of Money Laundering and Financing of Terrorism', amended by Law No. 10 391, dated 3.3.2011, Law no. 66/2012, dated 7.6.2012, Law no. 44/2017, dated 6.4.2017, Law no. 33/2019, dated 17.6.2019, Law no. 120/2021, dated 2.12.2021, Official Gazette 83, publication date 10.06.2008.

[35] <https://fiu.gov.al/sq/>

Furthermore, the GDPML website contains the blacklist of persons with whom legal actions should not be taken because these persons have been declared unfavoured and censured by specialized international organisations or by the Albanian authorities.

## V REGULATIONS OF THE BANK OF ALBANIA RELATED TO NPOs

NPOs are subject to assessment by second-tier banks, as the latter classify their clients based on their activity and funding sources.

In accordance with the Regulation of the Bank of Albania approved by Decision No. 44, dated 10.06.2009 “On the Approval of the Regulation ‘On the Prevention of Money Laundering and Financing of Terrorism’”, NPOs fall within the high-risk category of clients[36].

Client risk classification is performed, based on the possibility that the entities[37] are used by the client for the purpose of money laundering and/or terrorism financing, or that the client uses the business to mix illegal money with legitimate income. Entities take additional measures for those customers classified as high risk. Concrete circumstances (for example, in case a customer is classified as high-risk according to the assessment due to the ownership structure, entities should include a provision in their procedures to determine the need to obtain additional data and further verify submitted documents) determine the nature of the measures to be taken.

The entities, after having performed the identification and verification of the client/beneficial owner (establishment of the business relationship), the responsible structures, classify the customer in the appropriate category based on the relevant profile, as well as determine the level of risk. The entity is obliged to perform this process for existing customers as well.

Whether deemed reasonable, the responsible structures decide to reclassify the client's category to a higher risk level based on internal procedures related to the updating of the client's risk profile even if clients do not emerge an activity profile different from the initial one. The client not classified at the high-risk level, as well as the one categorized as a high-risk client, the case is again channelled into a deeper process of monitoring and analysis - enhanced due diligence. Also, the entity must save the client's data, subject to

[36] Table 1, Annex 3, of BoA Regulation no. 44 dated 10.06.2009.

[37] Article 2 point 14 of Law no. 9917, dated 19.5.2008 ‘On the Prevention of Money Laundering and Financing of Terrorism’, amended by Law No. 10 391, dated 3.3.2011, Law no. 66/2012, dated 7.6.2012, Law no. 44/2017, dated 6.4.2017, Law no. 33/2019, dated 17.6.2019, Law no. 120/2021, dated 2.12.2021, Official Gazette No. 83, publication date 10.06.2008 -

‘Entity’ is a natural or legal person that establishes business relations with clients, during the operational flow of relevant activity or as part of the business or professional activity.

submitting it to the relevant authorities to immediately start reviewing the procedures for reporting to the responsible body in case the actual analysis results in a potential risk<sup>[38]</sup>.

### **Suspicious Indicators<sup>[39]</sup>**

Suspicious indicators are intended to facilitate entities to assess/measure possible signs of money laundering or terrorism financing and to reduce the margins of uncertainty related to subjective assessments or discrete behaviours, as well as to contribute to ensuring the correct fulfilment and uniform reporting obligations of suspicious transactions.

Under the high level of risk and the extended enhanced due diligence provided for in the law or by-laws must be applied to the following:

#### **Transactions of Non-Profit or Charitable organisations:**

- a) the sources of funds are not consistent with the size of the collected funds, for example, large sums are collected from community members who have a low standard of living;
- b) a sudden increase in the frequency and size of transactions or the opposite, for example, funds remain in the organisation's account for a long time;
- c) donations originate exclusively from non-residents of the country where the organisation is registered;
- d) transfers of funds to different countries, especially in high-risk countries, when not compliant with the scope of activity of the organisation as specified in its articles of organisation;
- e) organisations without staff, headquarters, telephone numbers, etc.

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<sup>[38]</sup> Decision No. 44, dated 10.06.2009 'On the Approval of the Regulation 'On the Prevention of Money Laundering and Financing of Terrorism', Annex 1.

<sup>[39]</sup> Decision No. 44, dated 10.06.2009 'On the Approval of the Regulation 'On the Prevention of Money Laundering and Terrorism Financing', Point VI of Annex 1.



## RED-FLAG INDICATORS OF TERRORISM FINANCING IN THE NPO SECTOR[40]

Understanding the red-flag risk indicators guides NPOs to prepare and maintain the financial and operational documentation in the manner required by law and avoid abuse and/or involvement in money laundering and terrorism financing. The red-flag risk indicators for the financing of terrorism that are used by the tax authorities related to the NPO sector are as follows:

- The use of individuals to carry out monetary transfers of the NPO in areas with known terrorism activity;
- Transactions carried out in a disaggregated manner in order to avoid reporting by financial entities;
- Cases when requests for the transfer of NPO funds are accompanied by unjustified motifs;
- NPOs that secure funding from fictitious organisations or companies;
- Representatives of the NPO do not declare monetary values, negotiable instruments or precious stones/metals at cross-border points;
- Bank accounts of the NPOs are used by sanctions-imposed entities;
- NPO funds are transferred to other entities believed to be engaged in, or supporting, terrorist activities;
- NPOs receive funds from entities suspected of supporting terrorist activities;
- NPO's funds are combined with personal funds or from business sources;
- Hiding bank accounts related to certain programs or activities;
- NPOs funds are transferred to entities that are not related to the declared programs or activities;
- NPOs facilities are frequented by individuals suspected of supporting terrorist activities;
- NPOs procure dual-use goods;
- The resources of an NPO secure or transfer funds from/to an entity that is known for engaging in terrorist activities or supporting them;
- NPOs share their property with an organisation believed to support terrorist activity;
- NPOs that through their activity provide support to individuals or organisations whose identity corresponds to those of the entities listed by the United Nations Security Council;
- Evidence related to reliable information indicating that an NPO or its representatives are connected to third parties that support or are engaged in terrorist activities;
- Entities operating in areas with known terrorist activities deposit funds in the bank accounts of an NPO, its leaders or employees;
- NPO that transfer resources or conduct activities in an area where terrorist entities are acknowledged to have a significant presence;

[40] Appendix 1 of the Instruction of the Minister of Finance No. 19 dated 07.09.2019 'On the Supervision of Non-For-Profit Organizations in the Function of Prevention of Money Laundering and Terrorism Financing', Official Gazette No. 102, publication date 07.15.2019.

- NPO's data is kept in an area with a known presence of terrorist organisations;
- NPO's representatives often travel to areas where terrorist entities are known to have a substantial presence;
- NPOs that have unreported activities, programs or partners;
- NPOs that use an unusual financial network for the realization of respective operations;
- NPOs avoid mandatory reporting requirements;
- Explanations for the programs and activities of the NPOs to the supervisory or regulatory bodies are unclear;
- Third parties are used to open NPOs' bank accounts or conduct transactions on their own behalf;
- NPO expenditures are not consistent with its programmes and activities
- NPO is unable to provide information for the final use of all of its resources and for the origin of the income;
- Public data on the engagement of NPOs in activities related to terrorism;
- NPOs join another organisation believed to support terrorist activities;
- NPOs humanitarian assistance aims to support individuals directly linked to terrorist entities;
- NPO directing officials or employees are engaged in other criminal activities consistent with terrorist operations.
- NPO suffer from an internal conflict, where one fraction is known to be sympathetic or actively supportive towards terrorist entities.
- NPOs have inconsistencies in reporting of financial statements and other mandatory reports;
- NPOs have frequent changes in the management/decision-making structure;
- NPOs or their representatives use forged documents;
- NPOs support terrorism or terrorist entities through the publications or sermons of their representatives;
- Directing officials or employees of an NPO to engage in activities that support the recruitment of persons in international areas of conflict.

## VII

## SUSPICIOUS MODELS USED AS INTERNATIONAL/NATIONAL GUIDELINE STANDARDS FOR THE IDENTIFICATION OF MONEY LAUNDERING AND FINANCING OF TERRORISM<sup>[41]</sup>

Understanding the following suspicious models guides the NPOs to prepare and maintain the financial and operational documentation in the manner required by the law and to avoid abuse and/or involvement in money laundering and terrorism financing issues. Suspicious patterns used by tax authorities to identify suspicions related to the abuse or involvement of tax-paying entities, including NPOs, in the financing of terrorism and money laundering are as follows:

- The taxpayer runs a charitable, humanitarian, educational, etc. organisation that appears suspicious. The audit is conducted in accordance with the enhanced due diligence vigilance to these subjects, as determined by the legislation for banks and non-bank financial institutions.
- The taxpayer operates a business (e.g. a foreign exchange office) without having a Taxpayer Identification Number (NUIS).
- The taxpayer hesitates or refuses to provide information related to the business activity or provides unusual or suspicious documents to identify the business.
- The purpose of the transaction/legal action/contracts of the taxpayer is inadmissible from the point of view of the business or does not correspond to its stated business/strategy.
- The taxpayer's net wealth does not match the funds.
- The information provided by the taxpayer regarding the source of funds is false, misleading, or completely incorrect.
- In case of being asked, the taxpayer refuses to identify or fails to identify the legitimate sources of funds and other assets.
- The taxpayer (or the person officially known as an accomplice) has a controversial history or has been the subject of media coverage for possible criminal, civil offences, or regulatory violations.
- Using multiple "legal entities" for the sole purpose of receiving and delivering funds.
- Developing the activity without any clear business purpose in countries, states or territories identified by the responsible authority as non-cooperative countries/states.
- The taxpayer originates or has subsidiaries (branches) in a country or territory identified as not cooperative from FATF.
- The taxpayer appears as an agent of an undeclared person and refuses or avoids without having a legitimate business reason to provide information about the person or entity representing.
- The taxpayer finds it difficult to describe the nature of the business or lacks general knowledge of the relevant industry.

<sup>[41]</sup> Appendix I of the Instruction of the Ministry of Finance No. 16/2009 'On the Prevention of Money Laundering and Terrorism Financing in the Tax System', Official Gazette No. 14, publication date 20.02.2009.

- The taxpayer opens and maintains several accounting records.
- The taxpayer submits false invoices to the Tax Administration.
- The taxpayer, through appointed persons, uses fictitious façade transactions/legal actions/contracts/agreements (transactions that have no economic content).
- The taxpayer makes frequent transactions in cash, regardless of the penalties.
- The taxpayer's account evidences numerous transactions in currency or monetary instruments, that when aggregated present significant amounts.
- Purchasing and selling securities for no discernible purpose, in circumstances that appear unusual and unrelated to investment or risk diversification.
- Transactions that do not adhere to normal market practice (i.e. market size, frequency, pricing, early closing of loss products), especially when cash or checks payable to third parties are involved.
- Incoming payments made by checks of third parties or signed by several parties.
- The taxpayer engaged in transactions that do not make business sense or an obvious investment strategy or are inconsistent with the taxpayer's stated business strategy.
- The activities or legal actions (contracts, agreements, etc.) of the taxpayer are too complex.
- Taxpayer mixes "business assets" with personal assets.
- The taxpayer's account has telegraphic transfers that have no apparent business purpose from or to a country identified as a risk for money laundering, bank secret money, offshore countries and banks or a country associated with terrorist activity (i.e. countries/countries under sanctions, non-cooperative countries, sympathetic nations).
- The taxpayer makes a deposit of funds for the purpose of purchasing a long-term investment followed, immediately thereafter, by a request to liquidate the position and transfer the proceeds out of the account.
- The taxpayer requests that the transaction be processed in such a way as to avoid the signature's normal documentation requirements.
- The taxpayer, without compelling reasons or with unusual signs, has been involved in transactions involving certain types of securities, such as bearer securities, which, although legal, have been used in fraudulent schemes and money laundering activity. (These kinds of transactions may require verification procedures to prove the legality of the taxpayer's activity).
- The taxpayer's account shows an inexplicably high level of account transactions with exceedingly high levels of securities transactions.
- The taxpayer's account has inflows of funds or other assets that exceed the admissible limits of the taxpayer's income or resources.
- Transactions made in favour of unknown parties.
- Transfers circulated through multiple domestic or foreign banks.
- Maintaining and using too many unnecessary bank accounts.
- Re-evaluation of the assets of the company in values beyond the market value.
- Declaration of excessively high profits, unusual for the type and field in which this commercial activity takes place.

# VIII VIOLATIONS AND ADMINISTRATIVE SANCTIONS

NPOs and persons in the governing bodies of NPOs, but also persons working in NPOs, must be aware of administrative violations related to legal obligations for registrations based on the Law on the Registration of Non-Profit Organisations and the Law on the Register of Beneficiary Owners, the violation of which constitutes the potential for suspicions about the involvement of NPOs in the prevention of money laundering and terrorism financing, as well as on administrative violations directly related to money laundering and terrorism financing and respective administrative responsibility.

## **Law No. 9917/2008 “On Prevention of Money Laundering and Terrorism Financing”[42]**

In case the infringements do not constitute a criminal offence, violations of the provisions of this law constitute administrative offences and the responsible authority imposes one or several administrative measures such as a warning, an order that compels the subject to stop a certain behaviour, work practice or business, as well as not to repeat it in the future, an order for temporary suspension or replacement of the heads of the structures responsible for the prevention of money laundering and terrorism financing, a fine and public notice of the offender and the nature of the offence.

In order to determine the type and amount of sanctions, in addition to the criteria established by the Law “On Administrative Contraventions” criteria related to the financial power of the legal entity responsible for the violation, the benefits that the entity that committed the violation may have had, the losses that may have been caused to third parties due to the commission of the violation (if any), the level of cooperation of the subject with the competent authorities and the degree of responsibility of the subject that committed the violation are also taken into account.

In cases where the responsible authority assesses that a fine should be imposed for the detected violation, the subjects shall be sanctioned as follows:

a) for cases where they do not comply with the obligations provided for in the law, as well as in the by-laws issued in its implementation, for articles 4 (Cases when due diligence is required), 4/1 (Measures of due diligence), points 1 of 1/1, 4/2 (Simplified Due Diligence), 5 (Documentation required for client identification), 6 (Technological developments) and 6/1 (Third-party support), entities are fined from ALL 100,000 (one hundred thousand) up to ALL 6,000,000 (six million);

b) for cases where they do not comply with the obligations provided for in the law, as well

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[42] Article 27 – Administrative offences



as in the by-laws issued in its implementation, for articles 7 (Enhanced Due Diligence), points 1 and 2, 8 (Categories of clients and transactions, to which are subject to Enhanced Due Diligence), 9 (Correspondent banking or financial services), 10 (Obligations for money or value transfer service), 11 (Preventive measures taken by entities), 12 (Reporting to the responsible authority), point 3, 16 (Obligations for data storage) and 21/1 (Obligation of law subjects and public bodies to respond to information requests of the responsible authority), subjects are fined from ALL 200,000 (two hundred thousand) to ALL 8,000,000 (eight million);

c) for cases where they do not comply with the obligations and deadlines provided for in the law, as well as in the by-laws issued pursuant to this law, for reporting suspicious activity, provided for in articles 4/1, point 2, 7, point 3, and 12, points 1 and 2,[43] entities are fined from ALL 300,000 (three hundred thousand) ALL to 10,000,000 (ten million);

ç) for cases not falling under the scope of the obligations provided for in Article 3/1[44], organisations are fined from ALL 1,500,000 (one million five hundred thousand) ALL to 10,000,000 (ten million);

d) for cases of non-compliance with the orders, requirements, and deadlines of the responsible authority, issued according to the provisions of this law, the obligations provided for in Articles 14 and 15[45], persons and/or entities are fined from ALL 300,000 (three hundred thousand) to ALL 20 000 000 (twenty million).

Except as provided for in the points above, when the subject is a legal person, and the administrative contravention is committed:

**i)** by a non-executive employee and/or administration, or agent, the person or agent who committed the violation is fined from ALL 20,000 (twenty thousand) to ALL 300,000 (three hundred thousand);

**ii)** by an administrator or head of the entity, the person who committed the violation is fined from ALL 40,000 (forty thousand) to ALL 4,000,000 (four million).

[43] Article 4/1 - Due diligence measures: 2. Entities failing to meet the obligations for due diligence towards the client, according to this article and Articles 4, 4/1 and 5 of this law, must: a) not open accounts, not carry out transactions and not initiate business relationships; b) in case the business relationship has started, terminate it; c) send a report on suspicious activity to the "responsible authority"; ç) not to open or keep anonymous accounts, with fictitious names or identified only through a number or code, including deposits or other instruments of the holder. Whether such accounts exist, their holders shall be identified and verified in accordance with the provisions of this article. If this is not possible, the account should be closed, and a suspicious activity report should be sent to the "responsible authority".

Article 7 - Enhanced due diligence: 3. In cases entities fail to meet the obligations for enhanced due diligence, they must implement the measures provided for in point 2 of Article 4/1, of this law.

Article 12 - Reporting to the responsible authority: 1. Subjects submit a report to the responsible authority, in which they present suspicions for the cases when they know or suspect that laundering of the proceeds of crime or terrorism financing is being committed, was committed, or attempted to be committed or funds involved derive from criminal activity. The reporting is to be done immediately and not later than 72 hours. 2. When the entity is in doubt that the transaction may involve the laundering of proceeds of crime, terrorism financing or funds derived from criminal activity, the transaction must not be carried out, the case should be immediately reported to the responsible authority and ask for instructions on whether to carry out or not the transaction. Within 48 hours of getting notice, the responsible authority responds, expressing the opinion for allowing the transaction or issuing the blocking order. When the "Responsible Authority" does not respond within the stipulated period the reporting subject may proceed with the execution of the transaction.

[44] Article 3/1 - Obligations of legal organizations.

[45] Article 15 - Requests for non-declaration.

e) for cases where the contraventions of the obligations provided for in the law, as well as in the by-laws in its implementation are serious, repeated, systematic or a combination thereof, the maximum fine that can be imposed on the subjects is up to twice the amount of the benefit derived from the violation when that benefit can be determined or up to ALL 125,000,000 (one hundred and twenty-five million) in cases where it cannot be determined or is smaller.

ë) except for what is provided in the points above, for the cases when the contraventions of the obligations provided for in the law, as well as in the by-laws issued in its implementation, are carried out by the entities defined in Article 3, letters 'a', 'b' and 'c', when:

- i. the subject is a legal person, a fine is imposed up to 10 (ten) percent of the total annual turnover according to the approved audited consolidated financial statements of the last year, which also include the financial statements of subsidiaries in cases where the subject is a parent company. In the event that 10 (ten) percent of the total annual turnover is less than ALL 625,000,000 (six hundred and twenty-five million), the responsible authority imposes a fine of up to ALL 625,000,000 (six hundred and twenty-five million);
- ii. the subject is a natural person, a fine of up to ALL 625,000,000 (six hundred and twenty-five million) is imposed.

Fines are determined and applied by the responsible authority.

The responsible authority informs the licensing and/or supervising authorities about the sanctions imposed. The procedures for the verification, examination, proposal, and adoption of administrative measures by the responsible authority are defined by a decree of the Council of Ministers. Appeal procedures and the execution of fines, set forth in the decision of the responsible authority, are performed in accordance with the Law “On administrative contraventions”. 10 279, dated 20.5.2010 'On administrative contraventions'. The right to examine administrative offences, provided for in this article, cannot be exercised when 5 years have passed from the moment the administrative offence was committed.

### **Law No. 157/2013 “On the Measures Against Terrorism Financing”**

The authority responsible for the control and supervision of the entities' activity's compliance, subject to the law with the requirements of the legal and by-laws for measures against the terrorism financing is the General Directorate for the Prevention of Money Laundering.

Non-compliance by the responsible bodies and subjects with the obligations provided for in this Law, when it is not considered a criminal offence, constitutes an administrative violation and is punishable with a fine from ALL 50,000 (fifty thousand) to ALL 10,000,000 (ten million).

These administrative penalties are imposed by the Minister of Finance, with the proposal of the General Directorate of Prevention of Money Laundering.

Procedures for review, appeal, and execution of decisions on administrative offenses are made in accordance with Law no. 10279, dated 20.5.2010 'On administrative contraventions'[46].

### **Law No. 80/2021 'On the Registration of Non-Profit Organisations'[47]**

According to this law, NPOs and persons authorized to make the registration shall be responsible according to the laws in force for the authenticity of the facts, of the notified data and of the accompanying documents, filed with the Electronic Register. The declaration of false data in the electronic register, when it does not constitute a criminal offence, constitutes an administrative contravention and is punishable by a fine from 0.1% to 1% of the annual income declared by the non-profit organisation.

Failure to fulfil the obligation for the initial registration and other mandatory registrations, within the terms provided by this law, constitutes an administrative offence and is punishable by a fine from 0.1% to 1% of the annual income declared by the non-profit organisation.

In any case, the amount of the fine, according to the paragraphs above, cannot be less than ALL 30,000 (thirty thousand).

In the event that the chancellor, mainly, finds that the non-profit organisation has declared false data or has not fulfilled the obligations for initial registration, or other mandatory registrations, according to the paragraphs above, before making the decision, duly notifies the parties to submit the request for registration or correction of data. In the event that within 30 days of receiving the notification, the non-profit organisation, as well as the authorized persons, do not submit the request, the chancellor imposes the corresponding fine provided for in the law.

The fine is imposed by the chancellor according to the criteria defined in the legislation in force for administrative contraventions. The chancellor's decision on the fine is appealed directly to the Administrative First Instance Court of Tirana

Failure to fulfil the obligation to register or deregister the non-profit organisation and deposit other acts in the registry within the terms provided by this law, is punished by the

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[46] Article 27 - Administrative contraventions

[47] Article 49 - Administrative contraventions

court with a fine from 0.1% to 1% of the annual income declared by the non-profit organisation. In any case, the amount of the fine cannot be less than ALL 30,000 (thirty thousand). An appeal can be made against the decision on the fine penalty in the court of appeal.[48]

### **Law No. 112/2020 'On the Register of Beneficial Owners'[49]**

NPOs and persons authorized to perform the registration are responsible according to the laws in force for the authenticity of the facts, of the notified data and of the accompanying documents, filed in the electronic register.

The following contraventions constitute administrative contraventions and are punishable by a fine as below:

- a) initial non-registration of data for its beneficial owner within the specified period in letter 'b' of point 3 of Article 5[50] of the law is punished with a fine in the amount of ALL 50,000 (fifty thousand);
- b) initial non-registration of data for its beneficial owner within the specified period in letter 'c' of point 3 of Article 5[51] of the law is punished with a fine in the amount of ALL 50,000 (fifty thousand); ...
- c) initial non-registration of data for the beneficial owner within 40 (forty) days after end of the term defined in letter 'b' of point 3 of Article 5 of the law shall be punished with fine in the amount of ALL 600,000 (six hundred thousand);
- ç) initial non-registration of data for the beneficial owner within 40 (forty) days after end of the term defined in letter 'c' of point 3 of Article 5 of the law is punished with fine in the amount of ALL 600,000 (six hundred thousand);
- d) not recording any changes in the recorded data, which are deposited in the register, within the term defined in the letter 'ç' of point 3 of Article 5[52] of the law is punished with a fine in the amount of ALL 400,000 (four hundred thousand).

The fine is imposed by the head of the NBC, the decision of which is appealed directly to the competent administrative court in accordance with the provisions of the Code of Administrative Procedures.

NBC and the authority responsible for keeping the Register of Non-Profit Organisations. For the reporting entities, that commit the violations provided for in paragraph 2 above, will not provide the services to them, except for the registration of changes to the data of the representative legal, as well as will change the status for the reporting entities from

[48] Chapter VII/1, Article 39/1 - Administrative offenses.

[49] Article 13 - Administrative contraventions

[50] 3. The registration by the reporting entities of the data of the beneficial owners in the Register of Beneficial Owners is done in the following terms: ... b) in cases of rejection of the application for the initial registration of the beneficial owners by the reporting entities, which are registered in the commercial register with indirect ownership, the registration is done within 40 (forty) calendar days from the date of rejection of the application ;

[51]...c) in cases of initial registration of beneficial owners by reporting entities, which are registered in the register of non-profit organizations, the registration takes place within 40 (forty) calendar days from the date of registration of the reporting entities as a legal entity.

[52] ç) in the case of registration of changes in the data of the beneficial owners of the reporting entities, the registration is done within 90 (ninety) calendar days from the date of occurrence of the factual change.

the “active” status to the “suspended” status in the commercial register and in the Register of Non-Profit Organisations until the payment of fine and registration of relevant data for beneficial owners.

Non-fulfilment of the legal obligations defined in point 1 of Article 5[53] to the law constitutes an administrative offence and is punishable by a fine of ALL 50,000 (fifty thousand).

This fine, according to the preceding paragraph, is imposed by the state inspection/verification authorities in the tax field, defined in point 4 of Article 9[54] of the law, whose decision is appealed directly to the competent administrative court in accordance with the provisions of the Code of Administrative Procedures.

## IX CRIMINAL OFFENCES

specifically related to Money Laundering and Terrorism Financing

NPOs and persons in the governing bodies of NPOs, but also individuals working in NPOs, must be aware of criminal offences related to money laundering and terrorist financing and their criminal responsibility. We find it appropriate to remember that our legislation also recognizes the criminal responsibility of legal entities. Our criminal code also provides for criminal offences committed by foreign citizens.

### **Fraudulent and pyramid schemes[55]**

Organizing and putting in function fraudulent and pyramid schemes by borrowing money, to have material benefits is punished by imprisonment from three to ten years. This very act, when it brings about serious consequences, is sentenced to imprisonment from ten to twenty years.

### **Acts with terrorist purposes[56]**

Committing acts, with the aim of spreading panic in the population or compelling state bodies, Albanian or foreign, to perform or not perform a certain act, or to destroy or destabilize, in a serious way, substantial political, constitutional, economic, or social structures of the Albanian state, another state, institution or international organisation, shall be punishable by imprisonment of not less than fifteen years or life imprisonment.

[53]1. Reporting entities have the obligation to store and maintain appropriate, accurate and up-to-date data and accompanying documents, based on which the beneficial owners of the entity and the type of control of their beneficial owners are determined.

[54]4. State inspection/verification authorities in the tax field, as part of the control according to the legislation in force in the relevant field, carry out the verification for the accuracy and compatibility of the data reported in the register by the reporting entities with the data kept by the entity according to point 1 of Article 5 of this law.

[55] Article 143/a of the Criminal Code of the Republic of Albania.

[56] Article 230 of the Criminal Code of the Republic of Albania.

Acts with terrorist intent include: ... h) the theft, embezzlement or fraudulent use of nuclear materials.

### **Terrorism Financing[57]**

Provision or collection of funds, directly or indirectly, by any means, with the intent to use them or knowing that they will be used, in whole or in part:

- a) *to commit offences for terrorist purposes;*
- b) *by a terrorist organisation;*
- c) *by a single terrorist;*

shall be punished by not less than fifteen years of imprisonment or life imprisonment.

These provisions[58] apply:

- a) to all funds, including assets of any kind, tangible or intangible, movable or immovable, irrespective of the manner of their acquisition, and legal documents or instruments of any kind, even in electronic or digital form, that demonstrate rights to or interests over such assets, including bank loans, traveller's cheques, bank cheques, money orders, shares, securities, bonds, bank guaranteed cheques, credit cards, and any other similar financial instruments, similar to them;
- b) regardless of whether the person who commits one of the offences enlisted above is located in the same country, or another country where the terrorist organisation or the single terrorist is located, or the country where the offence with terrorist purposes has been committed or will be committed;
- c) in the case provided for the first paragraph of this Article, regardless of whether the funds have actually been used to commit the offence or offences for which those funds were provided or collected, or whether a connection can be established between the funds and one or more of the specific offences with terrorist purposes.

Knowledge and intent, under the first paragraph of this Article, shall be derived from the objective factual circumstances.

### **Concealing of funds and other property that finance terrorism[59]**

The transfer the conversion, the concealing, the movement, or the change of property of the funds and of other goods, which are put under measures against terrorism financing, to avoid the discovery and their location, is sentenced with imprisonment from four to twelve years.

When this crime is committed during the exercise of a professional activity in cooperation or more than one time, it is sentenced to imprisonment from seven to fifteen

[57] Article 230/a of the Criminal Code of the Republic of Albania.

[58] Article 230/a of the Criminal Code of the Republic of Albania.

[59] Article 230/b of the Criminal Code of the Republic of Albania.

years and with a fine from one to eight million ALL, whereas when it causes serious consequences, it is sentenced with imprisonment for no less than fifteen years.

### **Disclosure of information by persons who perform public functions or persons exercising a duty or profession[60]**

Getting acquainted identified persons or of other persons with data regarding the verification or the investigation of funds and other goods towards which are applied measures against terrorism financing, from persons exercising public functions or in exercise of their duty or profession, is sentenced with imprisonment from five to ten years.

### **Performance of services and actions with declared persons [61]**

Issuing of funds and of other assets, the performance of financial services as well as of other transactions with identified persons towards whom are applied measures against terrorism financing is sentenced with imprisonment from four to ten years.

### **Recruitment of persons for committing acts with terrorist intentions or financing of terrorism[62]**

Recruitment of one or more persons for committing acts with terrorist purposes or financing of terrorism, even when these acts are aimed at another country, international organisation or institution, if it does not constitute another criminal act, is punishable by no less than ten years of imprisonment.

### **Training to commit acts of terrorist intentions[63]**

Preparation, training and giving any form of instruction even in an anonymous manner or in electronic form, for producing or using explosive substances, military weapons and ammunition, other weapons and chemical, bacteriologic, nuclear or any other substance, dangerous and hazardous to people and property, as well as techniques and methodologies for committing acts with terrorist purposes and participation in such activities, even when these acts aim at another country, international organisations or institutions if they don't constitute another criminal act, are punishable with no less than seven years of imprisonment.

### **Incitement, public calls, and propaganda for committing acts with terrorist intentions[64]**

Incitement, public call, distribution of pieces of writing or propaganda in other forms, with the aim of supporting or committing one or more acts for terrorist purposes and financing of terrorism, if they do not constitute other criminal act are punishable by imprisonment from four up to ten years.

[60] Article 230/c of the Criminal Code of the Republic of Albania.

[61] Article 230/c of the Criminal Code of the Republic of Albania.

[62] Article 231 of the Criminal Code of the Republic of Albania.

[63] Article 232 of the Criminal Code of the Republic of Albania.

[64] Article 232/a of the Criminal Code of the Republic of Albania.



### **Terrorist organisations[65]**

The establishment, organisation, leasing, and financing of terrorist organisations is sentenced to imprisonment of no less than fifteen years.

The participation in terrorist organisations is sentenced to imprisonment from seven to fifteen years.

### **Laundering the Proceeds of Criminal Offence or Criminal Activity[66]**

Laundering of the proceeds of a criminal offence or criminal activity, through:

- a) Exchange or transfer of property, for purposes of concealing or disguising its illicit origin, knowing that such property is a proceed of a criminal offence or activity;*
  - b) Concealing or disguising the real nature, source, location, disposition, relocation, ownership or rights in relation to the property, knowing that such property is a proceed of a criminal offence or activity;*
  - c) Obtaining ownership, possession or use of property, knowing at the time of its acquisition, that such property is a proceed of a criminal offence or activity;*
  - d) Conducting financial operations or fragmented transactions to avoid reporting, according to the legislation on the prevention of money laundering;*
  - e) Investing money or items in economic or financial activities, knowing that they are proceeds of a criminal offence or activity;*
  - f) Advising, assisting, inciting or making a public call for the commission of any of the offences defined above;*
- Shall be punished by imprisonment of five to ten years.*

Where that offence has been committed in the exercise of a professional activity, in collaboration or more than once, it shall be punished by imprisonment from seven to fifteen years. Where that offence has caused grave consequences, it shall be punished by imprisonment of no less than fifteen years.

The provisions of this Article shall apply where:

- a) The criminal offence, the proceeds of which are laundered, has been committed by a person who cannot be prosecuted as a defendant, or who cannot be punished;*
- b) Criminal prosecution for the offence the proceeds of which are laundered, has reached the statute of limitations, or has been amnestied;*
- c) The person who performs laundering of the proceeds is the same person who committed the offence, from which the proceeds have derived;*
- d) For the criminal offence, from which the products came, the criminal case has never been initiated or a sentence has not been given with a final criminal decision;*
- e) The offence, the proceeds of which are laundered, has been committed by a person, regardless of his citizenship, outside of the territory of the Republic of Albania, and is also punishable both in the foreign country and Republic of Albania.*

[65] Article 234/a of the Criminal Code of the Republic of Albania.

[66] Article 287 of the Criminal Code of the Republic of Albania.



Knowledge and intent, under the first paragraph of this Article, shall be derived from objective factual circumstances”.

### **Opening of the anonymous accounts[67]**

Opening of deposits or bank accounts, anonymously or in fictitious names, is punished by imprisonment of up to three years.

### **Appropriation of Money or Goods Resulting from Criminal Offence or Criminal Activity[68]**

Whoever buys, receives, conceals or, in any way, appropriates for himself or a third party, or assists in purchasing, receiving, concealing, or using money or other goods, knowing that another person has benefitted the money or goods as a result of committing a criminal offence or activity, shall be punished by imprisonment of six months to three years.

The first paragraph of this Article shall be applicable despite the legal prohibition to hold the person who has committed the criminal offence criminally liable, from which appropriation of money or other goods has resulted.

### **Failure to report a crime[69]**

Failure to report, to the criminal prosecution bodies, to the court, to the public order bodies, [or to the appropriate] authorities or administration, a crime that is being committed or which has been committed, is punishable by a fine or up to three years of imprisonment.

Lineal ascendants and descendants, brothers and sisters, spouses, stepparents, and stepchildren, as well as persons obliged to keep secrecy because of their capacity or profession, are excluded from the obligation to report.

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[67] Article 287/a of the Criminal Code of the Republic of Albania.

[68] Article 287/b of the Criminal Code of the Republic of Albania.

[69] Article 300 of the Criminal Code of the Republic of Albania.



# THE SECOND PART

*Case Studies on Risks of Terrorist Abuse of  
Non-Profit Organisation Sector*

# 1 Case Study

In 2011, West Midlands Police, in collaboration with the British Security Service and the London Metropolitan Police Service, began an investigation into several individuals based in Birmingham. Two of the principal subjects of the investigation, Irfan Naseer and Irfan Khalid, had made trips to Pakistan in 2009 and 2010, where they had recorded suicide videos and attended training in preparation for terrorist activity. Physical and technical surveillance of Naseer, Khalid, and co-plotter Ashik Ali uncovered a significant plot to detonate up to eight explosive devices in crowded places around Birmingham.

Physical surveillance revealed that Naseer, Khalid, and Ali were engaged in street fundraising for the large UK charity Muslim Aid. Investigators found that the plotters had volunteered with Muslim Aid as fundraisers, obtaining donation buckets and high-visibility vests with the charity's name on them. The three men gathered donations over the course of a single day and had returned USD 2 500 in donations to Muslim Aid.

However, before returning the donation buckets and vests, and unbeknownst to Muslim Aid, the three men continued to fundraise for several more days posing as Muslim Aid volunteers. The donations collected over these subsequent days were deposited into the plotters' personal bank accounts. In total, they diverted USD 23 000 in donations to finance the bomb plot. A similar scheme was also used to defraud a second charity, Madrasah-e-Ashraf ul Uloom.

In September 2011, police disrupted the bomb plot, arresting Naseer, Khalid, Ali, and several other suspects. The three were convicted on terrorism charges in February 2013, and sentenced to prison terms ranging from 15 years to life.

After the 2011 arrests, police made Muslim Aid aware that the organisation had been abused by the bomb plotters. Muslim Aid filed a serious incident report with the Charity Commission of England and Wales, which is the national regulator of charities in the UK.<sup>8</sup> The Commission worked with the charities involved to review and strengthen their safeguards to mitigate the risk of future abuses.

## Case Study 2

A homemade bomb exploded in a house displaying a banner for an NPO supporting orphan relief. An investigation found that the advertised NPO did not exist and that a terrorist group was disguising its bomb-making facility as an NPO office.

Law enforcement authorities seized a large cache of bomb-making supplies and weapons. One member of the terrorist group was charged and convicted of terrorism related offences.

## Case Study 3

### *Diversion of Funds by Actors Internal to NPOs Transfer Phase*

A domestic NPO was established to provide a place of religious worship for a diaspora community that had come from an area of conflict and to raise and disburse funds for humanitarian causes.

The national NPO regulator became suspicious when the NPO's mandatory reporting indicated that it had sent funds to organisations that were not legally prescribed beneficiaries. These funds were sent ostensibly in response to a natural disaster that had affected the diaspora community's homeland. One of the beneficiary organisations, however, was believed to be the domestic branch of an international front organisation for a foreign terrorist group operating in the diaspora community's homeland.

The regulator audited the NPO and discovered that it had sent funds to five organisations or individuals that were not legally prescribed beneficiaries. This included USD 50 000 sent to the international front organisation through the domestic branch, and USD 80 000 sent directly to the front organisation's headquarters branch located in the area of conflict.

While the audit was ongoing, the regulator received two leads from the public regarding the NPO. Both leads cited concerns regarding the opacity of the NPO's leadership, and that decisions to send funds overseas had circumvented normal accountability procedures set out in the NPO's governing documents. One of the leads indicated that a shift in the demographic of the diaspora community had meant a new faction had gained control of the NPO's board of directors. This faction was more sympathetic to the cause of the foreign terrorist organisation. While these issues had already been noted through the regulator's audit, the leads supported the regulator's concerns regarding the NPO's management.

The NPO leadership replied to the regulator's concerns by stating that the urgent need to respond to a natural disaster had led the NPO to bypass some internal procedures and to work with whichever organisations could operate in the affected areas. Taking this into consideration, the NPO retained its registration but was forced to pay penalties. The NPO also entered into a compliance agreement with the regulator that would enforce strict due diligence and accountability standards.

## Case Study 4

### *Diversion of Funds by Actors External to NPOs Transfer Phase*

In response to a humanitarian disaster, a large international NPO was providing aid by way of cash payments to beneficiaries in areas controlled by a terrorist organisation. The NPO delivered the cash payments through a local Money Service Business (MSB).

An examination of the humanitarian relief programme, carried out by one of the NPO's partner organisations on its behalf, raised concerns. The examination revealed that in certain instances, the MSB was deducting a 'tax' to be passed on to a listed terrorist organisation. In other instances, the beneficiaries of the charitable funds were being 'taxed' by representatives of the terrorist organisation themselves following the receipt of the financial aid.

The examination also found that there was a general understanding and acceptance that a portion of charitable funds would be diverted for terrorist purposes and that this was common practice amongst NPOs and related organisations working in the area.

Following a joint investigation by the national NPO regulator, the national FIU and law enforcement, the NPO was advised of its responsibilities with regard to reporting such incidents and was required to provide training for its staff in order to better safeguard against similar future incidents.

## Case Study 5

### *Diversion of funds*

A directing official of a domestic NPO, with signing authority on the NPO's account, attempted to make a large cash deposit into the NPO's account. The individual indicated that the funds were to be transferred to a lawyer for a real estate purchase. He was vague as to the origin of the funds but made an indirect reference to donations. The bank refused to accept the deposit on the grounds that the branch where the deposit was attempted did not hold the account, and proceeded to file an STR which alerted the national FIU.

The FIU's investigation found that the same individual had made a number of large cash deposits directly into the NPO's account. But the FIU also found multiple cash deposits into the individual's personal account corresponding to NPO donations from private donors. The individual had made a number of international transfers from his personal account to a foreign individual with known links to a foreign terrorist group.

The FIU investigation determined that the NPO was used to raise funds that were then partially diverted to support terrorist activities overseas. The file was passed on to the appropriate law enforcement and judicial authorities for further investigation.

## Case Study

### *Diversion of funds*

A bank filed a Suspicious Transaction Report (STR) following a transfer of funds made by a domestic NPO to a foreign-based NPO which was listed as a terrorist entity because of its fundraising efforts for a listed terrorist organisation.

A law enforcement investigation, conducted in cooperation with several domestic government agencies, concluded that the domestic NPO had transferred USD 800 000 to the listed foreign NPO. Directing officials of the domestic NPO admitted to providing funds for humanitarian relief. It was determined, however, that the directing officials were unaware of the foreign NPO's status as a listed entity.

Authorities did not seek to prosecute the NPO's directing officials. However, to mitigate future risk of abuse, the directing officials increased their due diligence by becoming familiar with the list of designated terrorist entities and by seeking guidance from authorities on the transfer of funds.

## Case Study

### *Diversion of funds*

An NPO carrying out domestic and international humanitarian and cultural work applied for and received registration from the national NPO regulator. One of the NPO's core activities was to run a domestic religious school. The regulator subsequently became concerned when the NPO's mandatory reporting indicated that the NPO had transferred funds to international organisations that were not legally approved beneficiaries.

The NPO was audited by the national regulator and it was determined that there were a number of compliance and risk-related issues. Examination of the NPO's programme information revealed that it was part of a network of domestic NPOs that often shared directing officials and acted collaboratively on projects. Some of the domestic organisations that the NPO was collaborating with were known to be associated with foreign terrorist entities. One individual employed as a directing official of the religious school was known to the regulator for engaging in activities that could encourage recruitment to terrorist activities. Some community groups also registered concern over elements of the school's curriculum, but a local law enforcement investigation determined that there was no intent on the part of the NPO to engage in activities supporting recruitment.

It was also determined that the NPO was not operating as an independent entity (as legally required) but as a branch of two larger foreign organisations. A substantial amount of the NPO's funds were transferred to the foreign organisations, and the books and records accounting for the subsequent use of the funds were kept by the foreign organisations rather than the NPO.

The national regulator determined that the compliance and due diligence shortcomings, lack of control of international operations, and collaboration with other organisations and individuals of interest left the NPO very vulnerable to exploitation. The regulator educated the NPO as to its legal and compliance obligations and drafted a compliance agreement with the NPO to strengthen accountability and monitoring. The case is ongoing.

## Case Study

### *Diversion of funds*

A registered domestic NPO provided a group of its volunteers with fundraising materials including collection buckets, identity badges and letters of credential. These individuals purported to raise funds and other goods in support of individuals affected by a humanitarian crisis on behalf of the NPO. In addition to fundraising, the volunteers were tasked with distributing the donations to those in need.

The NPO's directing officials had minimal oversight of the activities of its volunteers including the distribution of donations, evidenced by a lack of records. The directing officials were unable to show that the funds and goods raised were distributed for the intended purposes and could only rely on the accounts provided by its volunteers.

A national NPO regulator examination found that one of the volunteers retained control over the NPO's fundraising material in contravention of a domestic designation, which included financial sanctions, based on suspected links to terrorism. The NPO regulator alerted the NPO's directing officials to the designation and advised them to take action to ensure that any property belonging to the NPO was recovered and to prevent further financial activity in breach of domestically-imposed sanctions.

The possibility of the designated individual having used the NPO's fundraising materials to collect and solicit donations in support of terrorism cannot be discounted.

## Case Study

### *Diversion of funds*

A domestic NPO, established to support the humanitarian needs of orphans, was subject to an inspection visit by the national NPO regulator.

The national regulator uncovered multiple legislative violations that led to the suspicion of support for terrorism financing. The NPO began operations before being licensed and failed to file the required financial statements with the competent authorities. It raised funds and sent and received funds transfers without appropriate approval. In addition, the NPO failed to use banks approved by the national regulator and used personal bank accounts belonging to directing officials and staff when conducting transactions relating to the NPO's activities. The regulator's investigation also revealed that the NPO had undertaken projects and activities, including political activities, which were inconsistent with its reported purposes. It also had unreported foreign partners.

In light of these findings, the national regulator froze the bank accounts of the NPO, temporarily shut down its operations, and changed its board of directors.

## 10 Case Study

### *False representation - Collection Phase*

Two individuals were raising funds domestically for a family member who was fighting alongside a listed terrorist organisation abroad. The individuals, claiming to be representatives of a well-known domestic humanitarian aid NPO, were raising the funds by way of public street collections. The collection efforts were in breach of the domestic law.

The individuals in question did not have the consent of the domestic NPO to solicit donations on its behalf nor did they deliver to funds raised to the NPO. Once a sizeable amount of money had been collected, it was sent to the family member abroad using wire transfers.

As a result of a joint investigation between the FIU, NPO regulator, and law enforcement authorities, the two individuals were arrested and convicted of terrorist fundraising and sentenced to jail.

## 11 Case Study

### *Support for recruitment*

A domestic NPO was found to have arranged and hosted events and retreats attended by speakers known to promote violent extremism. Audiences for the events numbered in the hundreds and the events were the subject of media reporting.

Following a deconfliction process involving multiple domestic government agencies, a national NPO regulator investigation was launched. The investigation concluded that the NPO had inadequate processes to assess the suitability of speakers or run events. Following regulator engagement with the NPO, the NPO ceased its activities while the directing officials undertook a complete review of its governance arrangements.

The NPO's activities remain suspended and the NPO is being monitored by the regulator.



## Case Study 12

### *Support for recruitment*

An NPO engaged in cultural, religious, and educational activities came to the attention of the national NPO regulator when it submitted revised purposes for review, as required by the regulator. The regulator noted that the NPO's new purposes were very vaguely stated.

Additionally, open-source research revealed that one of the principal directors of the NPO had made statements and speeches supporting violent action, promoting recruitment to violence, and dehumanizing other ethnic and religious groups. Also, the NPO had hosted a speaker that had been banned from other speaking venues because of similar speeches and statements. When confronted with these concerns, the NPO provided redrafted purposes and indicated that the director and speaker were no longer associated with the NPO.

In response, the regulator audited the NPO and entered into a compliance agreement ensuring strict operational accountability and reporting.

## Case Study 10

### *Support for recruitment*

A newly established domestic NPO appeared to be organising and/or hosting lectures that were led or attended by speakers known to promote violent extremism.

Following a deconfliction process involving multiple domestic government agencies, a national NPO regulator investigation was launched. The investigation concluded that the NPO had not, in fact, hosted the events itself, but was closely associated with a non-charitable educational institute which had hosted the events.

The regulator established that the directing officials of the NPO were also directors of the noncharitable educational institute. To the regulatory body, this was an unresolvable conflict of interest.

# PRACTICAL GUIDE

FOR NON-PROFIT  
ORGANISATIONS (NPOS)

# 2023

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