



PARTNERSALBANIA
FOR CHANGE AND DEVELOPMENT

Assessment Report
on
Legal and Regulatory Framework
on
Counter Terrorist Financing and
Anti – Money Laundering
for
Non-Profit Organizations in
Albania

2021

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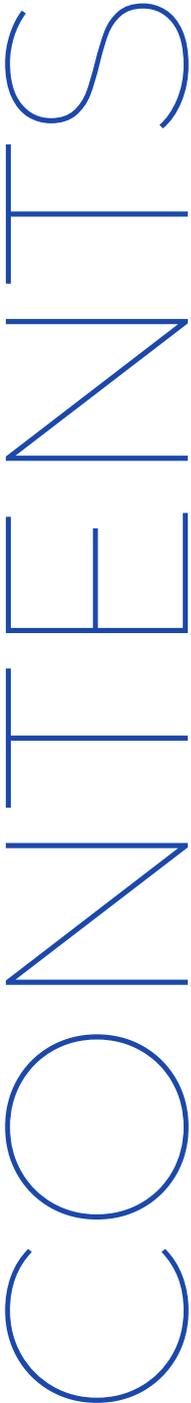
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NON PROFIT FINANCING

This Assessment Report of the Legal and Regulatory Framework on Counter Terrorist Financing and Anti-Money Laundering for Non-Profit Organizations in Albania (herein 'the Report') has been prepared by Partners Albania for Change and Development in the framework of the project "Prevention of restrictions on civil society organizations in the name of preventing money laundering and the fight against terrorism financing in Albania", which is funded by the GIZ Global Project "Combating Illicit Financial Flows".

The Report consists of an analysis of the legal and regulatory framework on counter terrorist financing and anti-money laundering affecting non-profit organizations (NPOs) in Albania compared with the FATF Recommendation 8 and its Interpretive Note that applies to the non-profit organizations (herein referred to as 'Recommendation 8').

Albania is a member of the Council of Europe (CoE) and it has ratified with the Law no.9646, dated 27.11.2006 the Convention of Council of Europe "On laundering, search, capture, and confiscation of the crime proceeds and financing of terrorism" which is effective in Albania since January 2007. Article 2 of this Convention provides that the states ought to take measures at the national and international level and to ensure FIUs' cooperation.

The Financial Action Task Force (FATF) is the global money laundering and terrorist financing watchdog. The FATF currently comprises 37 member jurisdictions and 2 regional organizations, representing most of the major financial centres in all parts of the globe. The intergovernmental body sets international standards aiming to prevent these illegal activities and the harm they cause to society. FATF has developed its FATF Recommendations which ensure a coordinated global response to prevent organized crime, corruption, and terrorism. They help authorities go after the money or criminals dealing with illegal drugs, human trafficking, and other crimes. The FATF also works to stop funding for weapons of mass destruction.

MONEYVAL is a permanent monitoring mechanism of the CoE, a pan-European organization with 47 member states, reporting directly to its principal organ, the Committee of Ministers.

The FATF Recommendations^[1] set out a consistent and all-inclusive framework of measures that countries should implement to combat money laundering and terrorist financing, as well as the financing of proliferation of weapons of mass destruction. Countries have different legal, administrative, and institutional frameworks and different financial systems, and, therefore, not all of them can take identical measures to combat these threats. The FATF standards comprise the Recommendations themselves and the relevant Interpretive Note, together with the applicable definitions in the Glossary^[2]. The measures set out in the FATF standards should be implemented by all FATF members (39 in total)^[3] and FATF-style regional bodies (FATF-STYLE REGIONAL BODIES) (FSRBS)^[4], and their application is rigorously assessed through peer evaluation processes and evaluation processes by the International Monetary Fund (IMF) and the World Bank (WB), based on a common FATF assessment methodology.

The previous Special Recommendation VII, and now 'FATF Recommendation 8', refers to the operations of the non-profit organizations. Recommendation 8 stipulates that those countries should apply targeted and proportionate measures, following a risk-based approach, to protect non-profit organizations from the danger/abuse of terrorist financing.

NON-PROFIT INTERNATIONAL

[1] FATF Recommendations, revised and amended in June 2019

[2] <https://www.fatf-gafi.org/glossary/>

[3] <https://www.fatf-gafi.org/about/membersandobservers/>

[4] Nine FATF-Style Regional Bodies have been established. The FATF-style regional bodies are:

Asia/Pacific Group on Money Laundering (APG) based in Sydney, Australia.

Caribbean Financial Action Task Force (CFATF) based in Port of Spain, Trinidad and Tobago.

Eurasian Group (EAG) based in Moscow, Russia.

Eastern & Southern Africa Anti-Money Laundering Group (ESAAMLG) based in Dar es Salaam, Tanzania.

Central Africa Anti-Money Laundering Group (GABAC) based in Libreville, Gabon.

Latin America Anti-Money Laundering Group (CAFILAT) based in Buenos Aires, Argentina.

West Africa Money Laundering Group (GIABA) based in Dakar, Senegal.

The Middle East and North Africa Financial Action Task Force (MENAFATF) based in Manama, Bahrain.

Council of Europe Anti-Money Laundering Group (MONEYVAL) based in Strasbourg, France (Council of Europe).

I. EXECUTIVE SUMMARY

This Report represents a comparative analysis of the legal and regulatory framework on counter terrorist financing and anti-money laundering affecting non-profit organizations (NPOs) in Albania with the standards of FATF Recommendation 8 and its Interpretive Note that apply to non-profit organizations. The legal and institutional assessment is based on the existing legislation related to AML and CFT and NPOs, such legislation effective on the date of this Report. The legislation assessed or referred herein includes not only the laws approved by the Albanian Parliament but also the main related secondary legislation, such as decisions of Council of Ministers, instructions of Ministers, regulations of Bank of Albania, acts of AML authority, etc.

The content of this Report comprising the analysis, the findings, and the relevant recommendations, follows the structure of the content of FATF Recommendation 8 “Non-profit Organizations”. The assessment is related to the organizations falling within the definition of NPOs as defined by Law no.8788 dated 7.05.2001 “On Non-Profit Organisations”, as amended (herein ‘NPO Law’).

Core Findings and Recommendations

Albanian legislation and its institutional framework comply with the main CFT and AML international standards, but it is not fully compliant with FATF Recommendation 8 related to the NPO sector and, therefore, the below recommendations ought to be followed:

(a) taking a risk-based approach: All NPOs, despite their purpose, size, areas, and scope of work, etc., are “entities” subject to mandatory monitoring and supervision for purposes of AML and CFT legal framework and regulations without limitation. Therefore, the provision of a functional definition of NPOs for purposes of AML & CFT legislation and the relevant requirements, in line with FATF functional definition of NPOs, will provide clarity for purposes of law implementation and enforcement and to secure legal certainty to NPOs. There is an immediate need to perform an NPOs risk assessment in Albania which will guide also the approval of an effective risk-based methodology applicable to NPOs. The criteria and the methodology of risk assessment applicable to the NPOs sector ought to be provided to reflect better the current developments of the NPOs sector in Albania, and in compliance with the FATF Recommendation 8 which aims the applicability of clear objective criteria to avoid abuse of power over the NPOs.

(b) sustained outreach concerning terrorist financing issues: Legislative efforts have been made to have clear policies to promote accountability, integrity and public confidence in the administration and management of NPOs in Albania, however, there are no indicators for a sustained outreach. Standards and rules that enhance NPOs' integrity, ethical conduct, prudent administration, and management of funds, should be carefully revised through meaningful participation of NPOs, to further increase transparency and contribute to increasing public confidence in the sector. There is an immediate need for more transparency from the state authorities that implement the NPOs legislation and the cross-sector AML&CFT legislation.

(c) targeted risk-based supervision or monitoring of NPOs: The existing activity of the NPOs sector is transparent to the public allowing the external actors to exercise a certain level of monitoring; however, supervision and monitoring of NPOs by state authorities should be based on objective criteria and well-defined risk-based methodology.

(d) effective information gathering and investigation: From the strict legal viewpoint, AML & CFT authorities, tax authorities, etc., and the criminal law enforcement authorities, have the necessary legal powers to investigate effectively NPOs suspected or used by terrorist activities or that support terrorist organization, but there is a need to improve the human capacities of the authorities vested with powers related to AML & CFT with personnel who know and understand the NPOs sector and are aware of the particularities of the activity of NPOs. There is a need to abolish the competence of tax authorities to perform operational control over the NPOs (specifically, the heading of article 8 of Instruction of Minister of Finance no.19/2019 ought to change and the adjective "operational" ought to be removed from the content of this Instruction); the role of the tax authorities ought to be limited to reporting tasks to AML & CFT Authority when reasonable suspects are identified.

(e) effective capacity to respond to international requests for information about an NPO of concern: From the strict legal viewpoint, Albania has the potentials to respond to international requests for information about an NPO of concern. Albania has in place the required contact points and now, it is identifying appropriate procedures to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support. There is a need for further capacity building to respond adequately to the international requirements for information on certain NPOs, suspected of terrorist financing or involvement in other forms of terrorist support.

II. METHODOLOGY

The “Assessment Report on the Legal and Regulatory Framework on Counter Terrorist Financing and Anti – Money Laundering for Non-Profit Organizations in Albania” was carried out during November 2020 – April 2021.

This Report is prepared based on the evaluation methodology of FATF (Methodology For Assessing Technical Compliance With The FATF Recommendations And The Effectiveness Of AML/CFT Systems[5]) that is used by MONEYVAL for the related evaluation of Albania. Partners Albania employed a set of methodological tools, including desk research, request for information, interviews with public officials and validation meetings to present the preliminary findings with NPOs.

Desk research consisted of an analysis of the existing legislation related to NPOs, AML, and CFT, such legislation effective on the date of this Report. Practice assessment of their implication to NPOs work and operation was carried out through secondary data obtained by studies and reports prepared by NPOs, think tanks, donor institutions, as well as articles and media reports on AML/CFT issues. These contributed to the comparative analysis of the legal and institutional framework on anti-money laundering and terrorist financing affecting non-profit organizations (NPOs) in Albania with the FATF Recommendation 8 and its Interpretive Note that applies to non-profit organizations.

Due to the lack of official public data, Partners Albania sent official request to the Tirana Judicial District Court, and Tax Authorities about the number of the organizations which are registered and supervised on AML/CFT regulations in place, as well as to obtain relevant information to these issues.

[5]Adopted in February 2013.

III. RECOMMENDATION 8 AND ITS INTERPRETATIVE NOTE

Recommendation 8 - Non-profit organizations

“Countries should review the adequacy of laws and regulations that relate to non-profit organizations 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 organizations to protect them from terrorist financing abuse, including: (a) by terrorist organizations posing as legitimate entities; (b) by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and (c) by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organizations”.

Interpretative Note to FATF Recommendation 8

The Interpretative Note is organized in 4 (four) main sections, as follows:

A)INTRODUCTION. This section provides a functional definition of NPOs adopted by FATF for the purposes of this recommendation. FATF recognizes the variety of legal forms of non-profit organizations and the fact that only some NPOs may be vulnerable to terrorist financing abuse, based on some activities and characteristics which put them at risk of terrorist financing abuse. FATF also recognizes the vital role of NPOs in the world economy and in national economic and social systems, the vital importance of NPOs in providing important services, as well as the difficulties they face in providing assistance to those in need. Therefore, protecting NPOs from terrorist financing abuse is a critical component of the global fight against terrorism and a necessary step to preserve the integrity of NPOs and the donor community.

FATF Functional Definition of NPO's

For the Purposes of Recommendation 8, NPO Refers to A Legal Person, Arrangement, Or Organization That Primarily Engages in Raising Or Disbursing Funds For Purposes, Such As Charitable, Religious, Cultural, Educational, Social Or Fraternal Purposes, Or For The Carrying Out Of Other Types Of “Good Works”.

B)OBJECTIVES AND GENERAL PRINCIPLES. The objective of Recommendation 8 is to ensure that NPOs are not misused by terrorist organizations, and the approach the governments should take to achieve it should be based on some principles, as: a risk based approach applying focused measures in dealing with identified threats of terrorist financing abuse to NPOs; flexibility in developing a national response; adoption of effective and proportionate

measures commensurate to the risks identified; focused measures should not disrupt or discourage legitimate activities of NPOs; effective and proportionate measures against NPOs that are exploited by, or knowingly supporting terrorist or terrorist organizations; and cooperative relationships among the public and private sectors and with NPOs.

C)MEASURES. This section provides information to be taken into consideration by governments when taking measures to ensure that NPOs are not misused by terrorist abuse. Since not all NPOs are inherently high risk, countries should identify which subset of organizations fall within FATF definition of CSOs, and the nature of threats posed by terrorist entities to NPOs which are at risk. Countries should also review the adequacy of measures, including laws and regulations, that relate to the subset of NPOs that may be abused for terrorism financing in order to be able to take proportionate and effective actions to address the risks identified. An effective approach in identifying, preventing and combating terrorist financing abuse of NPOs should involve four elements: (a) sustained outreach, (b) targeted risk-based supervision or monitoring, (c) effective investigation and information gathering, and (d) effective mechanisms for international cooperation. Based on these elements, this section provides some examples of specific actions that countries should take to protect NPOs from potential terrorist financing abuse.

D)RESOURCES FOR SUPERVISION, MONITORING, AND INVESTIGATION. Through this section of the Interpretative Note, FATF recommends countries to provide their appropriate authorities, which are responsible for the supervision, monitoring, and investigation of the NPOs sector, with adequate financial, human and technical resources.

Find full Interpretive Note of Recommendation 8, as Annex 4 attached hereto.

IV. ANALYSIS OF THE LEGAL AND REGULATORY FRAMEWORK ON CFT/AML FOR NPOS IN ALBANIA

As presented in the section above, the analysis is performed paying due consideration to the measures provided by FATF to the government to protect NPOs from potential terrorist financing abuse and follows the structure of FATF methodology for assessing technical compliance with the FATF recommendations and the effectiveness of CFT /AML systems.

1. Taking a risk-based approach



(a) Countries should without prejudice to the requirements of Recommendation 1, since not all NPOs are inherently high risk (and some may represent little or no risk at all), identify which subset of organizations fall within the FATF definition of NPO, and use all relevant sources of information, in order to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse.

By the end of 2020, there were 11, 962 organisations in total registered at the NPOs Registry at Tirana Judicial District Court, the sole public authority entitled to the registration and depositing of any resolution related to governing structure and scope of activity of NPOs. Until April 2021, there were 5,295 organisations registered at the General Tax Directorate (GTD), out of which 2,372 are in an active status meaning that in the last 12 months these NPOs had submitted at least one tax-related declaration. These organisations were divided by the GTD, into the following legal forms: religious, humanitarian, and charitable organisations (3.1%), political organisations (1.1%), and non-profit organisations (95.8%). Albanian NPOs are governed by the main relevant existing legislation which includes, but is not limited to, the Albanian Constitution, as amended^[6], Civil Code ('CC'), as amended, Law no.8788 dated 7.05.2001 "On Non-Profit Organisations", as amended ('NPOs Law') and Law no. 8789 dated 7.05.2001 "On the registration of non-profit organisations". Pursuant to Article 46 of the Albanian Constitution "(1) Everyone has the right to organize collectively for any lawful purpose. (2) The registration in the court of organizations or associations is done according to the procedure provided by law. (3) Organizations or associations that pursue unconstitutional purposes are prohibited by law". Further, the CC defines 'foundation' as a

^[6]Article 46 of Albanian Constitution "Freedom of Organization"

legal person without membership having the scope of achieving a lawful purpose by using its property for the good and public interest (Article 54 of CC). Further, according to CC, an 'association' is a legal person established with the free will of five or more physical persons or not less than two legal persons that follow a specific lawful purpose, to the good and interest of the public or its members (Article 39 of CC).

The NPOs Law^[7] sets out rules for the establishment, registration, functioning, organisation, and activity of NPOs, which follow purposes on the good and interest of the public. According to the NPOs Law *"non-profit organisations are associations, foundations and centres, whose activity is conducted in an independent manner and without being influenced by the state^[8]"*. NPO Law defines also the meaning of *"non-profit activity"* and *"activities in the good and interest of the public"*.

The *"non-profit activity"* means any non-economic and economic activity upon condition that the incomes or properties of NPOs, if there are any, are used only for the fulfilment of the purposes specified in the Articles of Association of the organisations (Article 2(4) of Law 8788/2001).

"Activities in the best interest of the public" means any activity that supports and develops spiritual and other humanitarian values for the individual and society, protects human life or health, secures and realizes public and social services, help and support in case of disaster, protects the environment and develop culture and education about it, supports and develop cultural and historical values and traditions, science, education, physical and spiritual education, helps in the development of good habits and democratic values, as well as other aspects in the good and interest of the public (Article 2(6) of Law 8788/2001).

"Civil Society Organizations (CSOs)" are the organizations of the civil society, which could be NPOs or other legal persons of the civil society, which are not registered as NPOs but exercise their activity in the best interest of the public^[9].

Trade unions, political parties, religious communities, and other organizations whose activity, organization, and functioning are regulated by other specific laws, are not subject to NPOs Law.

The Albanian Constitution stipulates that all religions are equal, and the state must respect and protect religious co-existence (Preamble, Articles 3 and 10(3) of the Albanian Constitution). According to Article 10(5) of our Constitution, relations between the Albanian state and the religious groups are regulated by agreements entered into between the representatives of these groups and the Council of Ministers; these agreements are ratified by the Albanian Parliament. The regulations in place do not require the registration or licensing of religious groups, but a religious group must register with the district court as a non-profit association to qualify for certain benefits, including opening a bank account, owning property, and exemption from certain taxes; if registered, the religious non-profit organisation is subject to the relevant legal provisions as any other non-profit organisation duly established and registered in the Republic of Albania.

^[7]Amended by Law no.9814, dated 4.10.2007 and Law no. 92/2013, dated 28.02.2013.

^[8]Article 2(3) of Law no.9788/2001.

^[9]Article 2(3) of the Law no.119/2015 "On the establishment and functioning of the National Council of Civil Society"

Law no.7892, dated 21.12.1994 “On sponsorship”[10], as amended, regulates the support with financial and material aid of social and public activities which include humanitarian, cultural, artistic activities, etc. The NPOs Law includes the humanitarian concept in the definition of “activity to the public interest” (Article 2, item 6). Further, Law no.9739, dated 21.5.2007 “On the blood transfusion in the Republic of Albania”, as amended[11] contains legal provisions related to humanitarian organisations (Article 13, and Article 13/1).

Regarding legal definitions, other than those related to NPOs, for the purposes of this Report, it is important to note below some other related legal definitions[12] provided by AML legislation:

- ‘Money laundering’ is the circulation and recycling of money, which originates from the criminal offense, as well as the change, transmission, transformation, and alienation of products and assets derived from the criminal offense, aimed at concealing the illegal source of origin, according to the meaning given in Article 287 of Criminal Code of the Republic of Albania.
- ‘Source of financing’ is considered the income of the non-profit organization according to the provisions of article 35 of Law no.8788, dated 7.5.2001 "On non-profit organizations", as amended.
- ‘Terrorist financing’ has the same meaning as in Article 230 / a to 230 / d of the Criminal Code.

AML and CTF legislation treats the NPOs as entities subject to monitoring and supervision by the state authorities; AML Law provides that certain AML & CFT obligations that have to be fulfilled by AML Authority over the NPOs sector are delegated/vested to the tax authorities. To date, there are no risk assessments conducted to provide accurate data on the features and types of the NPOs that by virtue of their characteristics and activities are likely to be at risk of money laundering and terrorist financing abuse. Apart from the five risk-based criteria applicable to NPOs provided in Chapter IV of the tax risk-based methodology, to date, no risk assessment methodology is adopted by the tax authorities or AML authorities. Based on the response received from the General Tax Directorate (GTD) received on 15 January 2021, tax inspectors have conducted 20 monitoring visits to NPOs, according to and in line with Instruction no.19, dated 9.07.2019 “On the supervision of the not-for-profit organizations in the function of money laundering and financing of terrorism”[13]. In addition, there were 21 (twenty-one) NPOs that are already stated for supervision in the list but, due to the pandemic situation, the supervision process has been postponed and it is expected to be finalized by mid of the year 2021.

[10]Amended by Law no.9807, dated 20.09.2007

[11]Amended by Law no.10141, dated 15.5.2009

[12]Other legal definitions: ‘Central unit’ has the same meaning as provided in Instruction of Minister of Finance no.16, dated 16.2.2009 “On the prevention of money laundering and to combat the financing of terrorism in the tax system”, and ‘Case Reporting’ is the completion and submission of the Suspicious Activity Report (RAD) (the form in Annex II attached to Instruction of Minister of Finance no.16, dated 16.2.2009).

[13]The information is received by the General Directory of Taxation in response to the Request to Information submitted by Partners Albania.

Findings

- The functional definition of NPOs adopted by FATF is broader than the definition of ‘non-profit organisations’ under the NPOs Law. CSOs definition is not provided or referred to for purposes of AML and CFT legislation. From the strict legal viewpoint, it is interpreted that all the applicable legal regulations regarding AML and CFT, such as AML and CFT law and the relevant secondary legislation, secondary legislation issued by the Ministry of Finance (MoF)[14], etc., refer to ‘non-profit organisations’ as defined by the NPOs Law. In addition to NPOs, the relevant Regulation of the Bank of Albania (BoA)[15] expressly includes also the charity organisations for AML and CFT purposes despite that the charity organisations fall within the definition of NPOs provided by the NPOs Law. This means that all NPOs, despite their purpose, size, areas, and scope of work, etc., are “entities” subject to mandatory monitoring and supervision for purposes of AMF and CFT legal framework and regulations without limitation. As a matter of practice, the e-system of the tax authorities divides the organisations that are subject to AML and CFT monitoring of the tax authorities into 3 (three) groups: political organisations, NPOs, and religious organisations. The provision of a functional definition of NPOs for purposes of AML & CFT legislation and requirements will provide clarity for purposes of law implementation and enforcement and to secure legal certainty to NPOs.
- Albania has not identified which organisations fall within the FATF definition of NPOs. Apart from the National Risk Assessment in 2015 (‘NRA’), there is only one assessment since 2019. Further, to date, there is no national sectorial risk assessment to have identified the nature of threats posed by terrorist entities to the NPOs operating in Albania and which are at risk, as well as how terrorist actors abuse or may abuse those NPOs.

[14]Instruction 16/2009 and Instruction 19/2019
[15]Decision of Bank of Albania no.44/2009

Recommendations

- Given the above-stated finding, there is a need to have a specific expressive definition of non-profit organisations for purposes of AML and CFT legislation aiming to identify the organizations that based on their activity and characteristics of an organization, can be categorised at risk of money laundering and terrorist financing abuse, rather than on the simple fact that they are operating on a non-profit basis in the non-profit sector. Albanian legislation has to be revised properly aiming to adopt a functional definition of NPOs for purposes of implementation and enforcement of AMF and CFT legislation. Following the relevant functional definition according to FATF Recommendation, the revision of the definition of NPOs in the AML and CFT related legislation is needed to enable that the relevant authorities can identify the subset of NPOs that meet the conditions to be subject to the proper AML and CFT screening.
- Specifically, Law no.9917, dated 19.5.2008 “On the prevention of money laundering and terrorist financing” (‘AML & CFT Law’) ought to provide expressly for the definition of NPOs for purposes of implementation and enforcement of AML & CFT legislation in Albania.
- There is a need to perform an NPOs risk assessment in Albania which will guide also to the approval of an effective risk-based methodology. Apart from the necessity to remedy the above stated findings, the law enforcement institutions and supervisory bodies should behave transparently in implementing risk assessments and in identifying NPOs with suspect activities. They have to duly implement the formal rules for the risk assessment, to the extent that the relevant methodologies or typologies of risk are formalised and approved by a lawful act or legislation.



(b) Countries should identify the nature of threats posed by terrorist entities to the NPOs which are at risk, as well as how terrorist actors abuse those NPOs

NPOs play a vital role in the world and in many national economies and social systems. Their efforts complement the activity of the governmental and business sectors in providing essential services, comfort and hope to those in need around the world. The FATF recognizes the vital importance of NPOs in providing these important charitable services, as well as the difficulty of providing assistance to those in need, often in high-risk areas and conflict zones and applauds the efforts of NPOs to meet such needs. The FATF also recognizes the intent and the to date efforts of NPOs to promote transparency within their operations and to prevent terrorist financing abuse, including through the development of programs aimed at discouraging radicalization and violent extremism. The ongoing international campaign against terrorist financing has identified cases in which terrorists and terrorist organizations

exploit some NPOs in the sector to raise and move funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organizations and operations. As well, there have been cases where terrorists create sham charities or engage in fraudulent fundraising for these purposes. This misuse not only facilitates terrorist activity, but also undermines donor confidence and jeopardizes the very integrity of NPOs. Therefore, protecting NPOs from terrorist financing abuse is both a critical component of the global fight against terrorism and a necessary step to preserve the integrity of NPOs and the donor community. Measures to protect NPOs from potential terrorist financing abuse should be targeted and in line with the risk-based approach. It is also important for such measures to be implemented in a manner which respects countries' obligations under the Charter of the United Nations and international human rights law.

As a UN members state, Albania has approved Law no.8920, dated 11.7.2002 "On the ratification of the United Nations Convention against Transnational Organized Crime and the protocols thereto, related to the criminal offenses of money laundering". In terms of legislative and institutional measures, Albania has made efforts to comply with countries' obligations under the Charter of the United Nations (UN) that are summarized in Article 6 'Criminalization of the laundering of proceeds of crime' and Article 7 'Measures to combat money-laundering'[16].

Data concerning historical records and changes of NPOs' status are not easily accessible, despite the availability of these data is required by Law no.8789, dated 7.05.2001 "For the registration of the non-profit organisations". There is no electronic public register available, which would enable comprehensive and accurate data on the size, areas of work, services, geographical distribution, etc.

In June 2020, the Ministry of Justice published in the electronic register for consultation the new draft law "For the registration of non-profit organizations", that introduces the creation of electronic register and the electronic registration of CSOs, to be administered by Tirana Judicial District Court. The electronic registry is intended to be publicly accessible. This draft law considers the CSOs Registry as the central domain where all statutory documents, financial and activity reports are deposited. The creation of an electronic registry has been a long-standing demand from the CSOs in Albania, recognising its importance in ensuring transparency of the sector and public trust.

This draft law in its initial stage was not consulted with CSOs. The government went through a speedy process in the need to respond to the recommendations of MONEYVAL. The draft law was welcomed by the NPOs sector, but the process was not inclusive and responsive to NPOs proposals. The Ministry of Justice (MoJ) entitled with the drafting of the draft law, limited the consultation process in publishing the draft law in the electronic register of consultation. A group of CSOs submitted a set of recommendations and issues of concern

[16] Law no.8920, dated 11.7.2002 "On the ratification of the "United Nations Convention against Transnational Organized Crime" and the protocols thereto, related to the criminal offenses of money laundering", Article 6 and Article 7

about this draft law and managed to get in the final meeting with the representative of the MoJ, before the draft law was sent to the Council of Ministers. The MoJ agreed with the issues raised but, when the draft law was sent to the Parliament, the representatives of the sector realised that very few recommendations were considered. The group followed up with a request for a hearing session with the Parliamentary Committee on Legal Issue, Public Administration, and Human Rights but no response was received from the Parliament until the date of this Report. The draft law is pending and expecting approval by the Albanian Parliament during 2021.

The draft law comes against one of the provisions of the law on civil society organisation and the principle of freedom of association based on which registration is not a pre-condition to exercise the right to association. The draft law contains a high number of penalties, which are assessed as unproportionate penalties compared to the consequences caused. Another concern raised by NPOs is the right to data protection and increased bureaucratic and unjustified reporting by NPOs to state agencies.

The non-profit sector in Albania provides diverse products and services for and to the relevant beneficiaries and the public in general. According to the Capacity and Need Assessment Report prepared by the National Resource Centre for Civil Society in Albania[17], the main three top fields of activities of CSOs are youth and children (66%), human rights (61%), and social services (49%). Most of the organisations (61%) operate at the national level. Their main areas of operation include assistance for marginalized groups; democracy, good governance and rule of law; sustainability and environment protection; women empowerment, gender equality, and gender politics; agriculture; and human rights[18].

The sources of incomes for the NPOs are incomes from membership fees (for associations), grants and donations provided by private or public entities, local, foreign or international donors, as well as incomes generated from the economic activity, including the incomes from the assets (if any) owned by the non-profit organizations[19]. Based on the Monitoring Matrix Report on Enabling Environment for Civil Society Sector – Country Report 2019[20], the main sources of income for NPOs in Albania are the donations and grants from the foreign and international donor institutions, which provided 62% of the total income of their financial resources for the fiscal year 2019, while funds from the European Commission constituted 51% of the total funding. Central government funds constituted 13%, while local government funds 9% of the total funding. Incomes by donations from individuals constituted 20%, while donations from private companies were at the level of 12% of their financial resources.

All the above motivates the formal donations to NPOs. Therefore, considering the to date identifiable sources of income for NPOs in Albania, the sector cannot be considered at high risk from terrorist abuse.

[17]Partners Albania, 2020, "Capacity and Needs Assessment for Civil Society Organizations in Albania" [Online]
<https://resourcecentre.al/publication/capacity-and-needs-assessment-for-civil-society-organisations-in-albania/>
[Assessed 24 December 2020]

[18]Partners Albania, 2020 "Monitoring Matrix on Enabling Environment for Civil Society Development" [Online]
<https://partnersalbania.org/publication/monitoring-matrix-on-enabling-environment-for-civil-society-development-country-report-for-albania-2/>
[Assessed 11 January 2021]

[19]As defined by Article 2 item 4/1 of the NPO Law, as amended.

[20]Ibid, page 19.

Further, it is relevant to state that AML Law provides for the limits of any incoming or outgoing cash or valuable objects through the customs border without the need to provide a written declaration: the cash amount is limited at 10.000 EUR cash (or its exchange in other currencies) or any other financial instrument, precious stones or metals, objects with special value or antiques. Any person ought to declare the purpose for the transportation of such values or objects over the above-stated threshold and ought to accompany them with the relevant justifying documents (Article 17/1 “Declaration at the customs border[21]).

According to the Tax Procedure Law (Article 59 paragraph 1)[22], cash transactions are not permitted, unless they are up to the amount of 150.000 ALL. However, these transactions ought to be documented with the relevant tax invoice, as applicable. For the NPOs performing an economic activity, it is applicable also the requirement stated in item 55.1 of Instruction of Minister of Finance no.24 dated 2.09.2008 “On Tax Procedures”, as amended, which provides that the taxpayers, ought to use the fiscal system through the fiscal machines and to issue tax coupons, for any transaction that is not performed through the banking system or the non-bank financial institutions. Vis-à-vis, Law no.87/2019 dated 18.12.2019 “On the invoicing and systems of monitoring of turnover” complements the legal framework regarding the documentation of any transaction and payment, regardless, whether it is performed through the banking system, non-bank financial systems, or cash payments.

Findings

- Considering the to date identifiable source of income for the NPOs in Albania, the sector cannot be considered at high risk from terrorist abuse. Apart from the two AML & CFT related paragraphs (with five risk-based criteria) included in the methodology of tax authorities[23] that assesses the taxpayers at risk for tax audit purposes, there is no other risk-based methodology specific and shaped for the NPOs sector that would enable effective and proportionate measures according to MONEYVAL recommendations. In addition to the five risk-based criteria applicable to NPOs, the existing legislation stipulates merely some AML and CFT related measures and the typology and risk indicators of terrorist financing applicable to NPOs.

Recommendations

- The revision of the existing legislation and the adoption of new secondary legislation that provides specific risk-based methodologies applicable to the NPOs sector is immediate aiming to guarantee the adoption of adequate and proportional measures, shaped specifically for the NPOs sector.

[21]Added by Law no.33/2019, dated 17.6.2019.

[22]Law no.9920 dated 19.05.2008 “On Tax Procedure Law”, as amended, (Article 59 paragraph 1): “Taxpayers, physical or legal persons, cannot perform sale purchase transactions in cash, when the transaction value is higher than 150 000 ALL”.

[23]Tax Audit Manual, Chapter IV.



(c) Review the adequacy of measures, including laws and regulations, that relate to the subset of the NPO sector that may be abused for terrorism financing support to be able to take proportionate and effective actions to address the risks identified.

With regards to measures related to the prevention of money laundering and terrorist financing, NPOs Law provides for the role of the decision-making board in preventing that the organization's resources are used to finance terrorism. The board of NPOs has the responsibility to oversee the activity of the organization and is expected to work closely and communicate intensively with the executive body of the relevant NPO to ensure that the organization complies with the respective legislation on the prevention of money laundering and financing of terrorism. The decision-making/supervisory boards of NPOs must approve the financial statements, which should have detailed information on the financial and sources of financing, their usage, and the assets of the NPOs (Law no.8788/2001, article 20(ç)). This responsibility of the decision-making/supervisory board is also stipulated in Law 25/2018 "On Accounting and Financial Statements" (Article 23).

According to Law no.9917/ 2008 "For the prevention of money laundering and terrorist financing", as amended (AML Law), NPOs have no obligation as a reporting subject to report to AML authority for transactions of other legal persons. However, the NPOs that are involved in construction, securing, and administering physical money or easily convertible securities on behalf of third parties, forwarding and transport activities, and travel agencies, as part of their economic activity, are qualified as reporting entities subject to AML Law and, therefore, the latter NPOs have to report to AML authorities and to have, within the own organization, an internal AML unit responsible for reporting to AML Authorities.

In 2019, the Ministry of Finance and Economy issued Instruction no.19, dated 09.07.2019 "For the supervision of the non-profit organisations for purposes of money laundering and financing of terrorism"[24] ('Instruction no.19/2019'). It provides the procedures that the tax authorities, as a supervisory body, should follow to control the activities of NPOs, aiming to avoid the possibility of involvement of NPOs in money laundering or terrorist financing. In addition, it aims to set and unify contemporary standards to guarantee the accurate sharing of information between the General Tax Directorate (GTD) and General Directory for the Prevention of Money Laundering (AML Authority) with the scope to identify the cases of money laundering or financing of terrorism by/through NPOs. Under this instruction, every non-profit organization is subject to periodic inspection by the Regional Tax Directorate, which controls the financial statements and has the right to exercise operational control.

[24]<https://qbz.gov.al/eli/udhezim/2019/07/09/19/5ce34793-e5d0-413c-9379-8e9a1d6e4b9a;q=P%C3%ABr%20mbik%C3%ABqyrjen%20e%20organizatave%20jofitimprur%C3%ABse%20n%C3%AB%20funkcion%20t%C3%AB%20parandalimit%20t%C3%AB%20pastrimit%20t%C3%AB%20parave%20dhe>

The tax authority controls the source of incomes and monetary transactions, aiming to prove whether they come from lawful sources or not. Moreover, Instruction no.19/2019 stipulates 38 risk indicators of terrorist financing related to NPOs sector (see Annex 2 attached to this Report).

Instruction no.19/2019 provides that the Regional Tax Directorates of the respective jurisdiction, when in the course of implementation of the procedures provided in this instruction, following the typology of suspicious activity provided in Annex 1 of Instruction of Minister of Finance no.16, dated 16.2.2009 "On preventing money laundering and combating the financing of terrorism in the tax system" ('Instruction no.16/2009') and the indicators of Annex 1 of Instruction no.19/2019, identify cases of financing that pose a risk, shall report to the central unit in the GTD, any suspected cases of money laundering or terrorist financing from the NGOs. After evaluating the case, the central unit in the GTD, forwards it to the AML Authority following the provisions of Article 18 of Law no.9917, dated 19.5.2008 "On the prevention of money laundering and terrorist financing", as amended (AML Law[25]).

Before the issue of Instruction no.19, in June 2019, a large number of NPOs received a request from the GTD to fill in a specific NPOs Questionnaire. This questionnaire aimed to gather information closely related to the efforts against money laundering and terrorism financing. However, the NPOs raised many concerns on the questionnaire in terms of its accuracy and authenticity, creating space for abuse or misuse by other parties. The required information was not directly related to the institutional responsibility of the tax administration. Some of the information requested by the questionnaire is already submitted annually by NPOs as part of their reporting obligations to tax authorities, so the NPOs asked GTD to consider all information submitted on a regular basis from the sector, and to avoid the collection and disclosure of further information as it represents an additional burden to the NPOs sector. As a result of the concerns expressed by NPOs, the GTD opted out of the questionnaire.

Regulation of Bank of Albania no.44/2009, while providing for the Categories of Clients, whose activities potentially show high level of risk, among others, includes also the non-profit organizations: *"Categories of Clients:... a) clients that perform their activity in unusual circumstances, such as, geographical and explanatory distance between the subject and the location of the own clients; frequent and un-explanatory transfers in different institutions and frequent and un-explanatory transfer of funds between institutions in different geographical locations, clients that have a complex business structure, nature or relations, that makes difficult the identification of the real owner and of controlling structures; non-for-profit organizations; persons who are politically exposed,"*

Section IV "Suspect Indicators" of this BoA Regulation includes the transactions of NPOs or charity organizations loans of the non-profit organizations: a) sources of funds are not in accordance with the size of the collected funds, for example, large sums are raised by communities whose members have a low standard of living; b) a sudden increase in the

frequency and size of transactions or vice versa, for example, funds stay in the organization's account for a long time; c) donations come exclusively from non-residents of the country where the organization is registered; d) transfers of funds to different countries, especially to high-risk countries, when this is not justified by the purpose of the organization as specified in its Articles of Association; e) organizations without staff, offices, telephone numbers, etc.

Further, this BoA Regulation contains the Table of Clients' Categories^[26] which divides the clients into 3 (three) groups:

- *“High-Risk Clients: Politically Exposed Persons (PEP), Non-for-profit Organizations (NPO), non-resident companies, non-resident individuals, offshore clients, others (if any);*
- *Middle-Risk Clients: As categorized by the bank or the non-bank financial institution;*
- *Low risk clients: As categorized by the bank or the non-bank financial institution”.*

Findings

- The existing legislation provides clarity about the sources of financing for the NPOs. The legislation reflects the country's measures in implementing measures against money laundering and financing of terrorism actions, but it comforts the state institutions to exercise unlimited control over the operations of NPOs, thus, impeding the independence of the entire NPOs sector.
- NPOs do not have the legal obligation to report to AML Authority for AML & CFT purposes unless they perform certain economic activities. If they do exercise these certain activities, NPOs are obliged to be registered with the relevant AML Authority and to report to the latter and to create and have in place the special AML Unit within the organization, as any other entity that is subject to AML Law.
- NPOs Law provides for the role of the decision-making board regarding AML and CFT matters.
- The role vested to tax authorities regarding the AML and CFT matters does not seem adequate; these authorities should not be vested with the right and obligation to perform operational control for AML & CFT purposes. The right to investigate the AML & CFT cases ought to be exercised solely by the AML authorities and other law enforcement authorities.

Recommendations

- To have an equilibrium between the imperative need for control and supervision for evidencing and fighting criminal behavior and the need for independence for the NPOs sector, it would be plausible if the legislative measures would be adopted in light of the relevant constitutional guarantees and rights available to the NPOs sector and complying with FATF Recommendation 8 requirement to not disrupt legitimate NPOs activities and respect the international human rights and humanitarian law.

[26]Decision of BoA no.44/2009: "Table 1. Clients' Categories".

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- Revision of the role of tax authorities regarding AML and CFT matters is recommended. Specifically, the right of the tax authorities to perform operational control^[27] over the NPOs when assessing the risk of a certain NPO for AML & CFT purposes ought to be revised. While performing their role for the taxes collection, the tax authorities ought to be vested only with rights and obligations limited to the reporting to AML Authority of any related suspicious case, as any other reporting subject/authority, without having the right to perform operational control over the NPOs.



(d) countries should periodically assess the sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures.

Some NPOs may be vulnerable to terrorist financing abuse by terrorists for a variety of reasons. NPOs enjoy the public trust, have access to considerable sources of funds, and are often cash-intensive. Furthermore, some NPOs have a global presence that provides a framework for national and international operations and financial transactions, often within or near those areas that are most exposed to terrorist activity. In some cases, terrorist organizations have taken advantage of these and other characteristics to infiltrate some NPOs and misuse funds and operations to cover for, or support, terrorist activity.

AML Law aims to prevent money laundering and the usage of proceeds derived from criminal offenses, as well as the financing of terrorism.

As above stated herein, NPOs are entities subject to AML Law when they perform certain activities. NPOs that do not perform any economic activities as part of their non-profit activity do not have the legal obligation to report to AML Authority unless they perform certain economic activities. This law treats the organisations of the NPOs sector as any other customer, and the following information are needed to identify the NPOs: name, number, and date of the court decision for the registration as a legal person, the statute, and the act of incorporation, the unique identification number of the entity, the address of the registered head office and, if different, the main place where the activity is performed, the nature of the activity, the legal representatives, as well as the persons holding decision-making positions (Article 5(1)(ç) and Article 8(3) of AML Law). In addition, AML Law provides that any authority dealing with the registration, licensing and monitoring, and the transactions of the NPOs' activities ought to report to the competent AML authorities on any doubts, information, or data related to AML and CFT (Article 20).

^[27]Article 8 of Instruction 19/2019 is named "Operational control of NPOs". Further, the content of this article provides expressly for the in-depth operational control.

Article 3 of AML Law determines the entities that, amongst other obligations[28], have the obligation to report to AML Authority. NPOs must act as reporting subjects in some specific cases. Article 3/k of AML Law provides for the obligation to report assigned to any other natural or legal person, in addition to those specified in points a-j of Article 3, that deal with: “... ii) constructions; vi) securing and administering physical money or easily convertible securities on behalf of third parties; vii) forwarding and transport activities; ix) travel agencies”. Given the above, the NPOs that include in their Scope of Activity any of the above-stated activities, as part of their economic activity, are qualified as entities subject to AML Law. In these cases, they have the obligation to register with and to report to AML Authority[29] and to establish within their own organization the AML Unit responsible for the reporting to AML Authority, as required by AML legislation.

Financial Institutions and other entities (including NPOs, if applicable), that qualify as reporting subjects according to AML Law, should:

- a)gather sufficient information about them, to completely understand the sources of funds, the nature of the activity, as well as their manner of administration and management.
- b)establish customers' "reputation" by using public information or other means.
- c)obtain the approval of the higher instances of administration/management before establishing business relations with them.
- d)perform enhanced monitoring of the business relations.

Regarding to the obligation of NPOs to financial reporting, the approval of the National Accounting Standard for Non-Profit Organisations[30] approved in 2016, introduces simplified reporting requirements for NPOs that have a value of total assets or the income lower than 5 million ALL. Law no.25/2018 on “Accounting and Financial Statements” (Law no.25/2018) obliges NPOs with a value of total assets or income over 30 million ALL to publish the annual financial statements on their official websites and prepare a performance report on their activity, which is published together with the annual financial statements. The board members (or one member of the board who acts on behalf of all board members) must approve and sign the performance report.[31] All these financial reports and performance reports are made available to the authorities, including but not limited to the tax authorities, as well as to authorities dealing with the prevention of money laundering and the financing of terrorism. Nevertheless, Law no.25/2018 provides that the responsibility for the preparation and publication of the financial reports remains the responsibility of the executive and supervisory bodies of the economic units (Article 23).

Findings

- Given that the Albanian legislation provides legal requirements that guarantee lawful sources of incomes for NPOs and that financial sources ought to be channeled through financial institutions and other formal channels, it is possible the effective risk tracing in

[28]Article 11 'Preventive measures to be undertaken by entities' (Added one sentence at the end of letter 'b' of para.1 by law no. 10 391, dated 3.3.2011, amended letter 'b', 'e' of point 1, and repealed para. 2 with law no.66/2012, dated 7.6.2012, letter 'a' was added and the letters 'a/1' and 'a/2' were amended, letters 'c' and 'dh/1' of para.1 were added, paras. 1/1 and 1/2 were added, para. 4 was added with Law no. 33/2019, dated 17.6.2019).

[29]Article 12 of Law no.9917/2008, as amended ('AML Law').

[30]<http://www.kkk.gov.al/foto/uploads/File/SKK%20per%20OJF/SKK%20per%20OJF.pdf>

[31]http://www.kkk.gov.al/foto/uploads/File/Udhezuesi%20per%20raportin%20e%20performances_publikuar.pdf

due time and the avoidance of NPOs vulnerability to be subject to abuse for money laundering and financing of terrorism purposes.

- There are no periodic reassessments of the NPOs sector aiming to review information on the sector's potential vulnerability to money laundering and terrorist activities to ensure effective implementation of measures.

Recommendations

- Clear objective risk assessment criteria and specific risk-based methodology applicable to the NPOs sector ought to be approved and in compliance with FATF Recommendation aiming to avoid abuse of power over the NPOs. A risk-based approach ought to be implemented over the informal NPOs which might be at risk for involvement in money laundering and financing of terrorism.
- Periodical risk assessment of the NPOs sector to identify potential vulnerability to money laundering and terrorist activities should be planned and implemented by state authority, in line with FATF recommendations.

2. Sustained outreach concerning terrorist financing issues



(a) Countries should have clear policies to promote accountability, integrity and public confidence in the administration and management of NPOs.

In July 2019, the Albanian Government approved the Roadmap for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023^[32]. The revised Roadmap presents a series of actions and concrete measures in a variety of interrelated and complementary policy areas: the legal framework with emphasis on improving the registration issue, a strengthened institutional framework for the work of NPOs, clearer and more transparent public funding mechanisms for NPOs programmes, inclusive involvement of NPOs in social service delivery on a national and local level according to standards, regulated consultations with NPOs in drafting new laws, a favourable tax policy for NPOs, a more conducive legal, fiscal, and institutional framework for the promotion of volunteering, and an enabling environment for the promotion of philanthropy. The political document recognizes the need to change the current law on NPOs registration to introduce a simpler and more efficient registration procedure for NPOs and the need to envisage in the law about the creation of a NPOs Electronic Register, and to have proper and clear fiscal treatment of NPOs; these are the two main expected developments to support NPOs operation.

Further, NPOs Law provides specific rules regarding the management and administration of NPOs and the tax legislation provides for several requirements on the accountability related to fiscal compliance.

The approval of AML Law^[33] aimed to fulfil MONEYVAL recommendations regarding transparency and ownership, due diligence towards the client, reliance on the third party, politically exposed person, risk assessment and approach using a risk transfer, internal control of foreign branches and subsidiaries, confidentiality, and non-disclosure, data retention, and high-risk countries.

Article 20 'Non-profit organizations' of AML Law provides that any authority that registers, licenses, or supervises the activity of the non-profit organizations ought to report immediately to the responsible authority on any suspicion, information or data, regarding the money-laundering or financing of terrorism.

^[32]Decision of Council of Ministers no.539 dated 25.07.2019 "On the approval of the roadmap for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023"

^[33]<http://fiu.gov.al/wp-content/uploads/2019/07/Law-9917-2008-amended-by-law-no.33-2019.pdf>

Findings

- Legislative efforts have been made to have clear policies to promote accountability, integrity, and public confidence in the administration and management of NPOs in Albania. Efforts have been made regarding targeted risk-based supervision or monitoring, effective investigation and information gathering, and effective mechanisms for international cooperation. However, there are no indicators for sustained outreach.

Recommendations

- Apart from the necessity for remedies to the above-stated findings, the guarantees for transparency should be strengthened. Standards and rules that enhance NPOs integrity, ethical conduct, prudent administration, and management of funds, should be carefully revised through meaningful participation of NPOs, to further increase transparency and contribute further to increase public confidence in the sector.



(b) Countries should encourage and undertake outreach and educational programmes to raise and deepen awareness among NPOs as well as the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse.

According to the annual report of the AML Authority^[34], during 2019, there were organized some trainings in partnership with GTD, as the authority that supervises the operations of NPOs. However, there is no information on the number of trainings organized in 2020 and, based on the information available at the website of AML Authority, during 2020, there were conducted trainings sessions with entities that are subjected to AML Law, but no NPOs have been trained in these training activities.

In 2019, the non-profit sector has been self-organised and has worked in the creation and promotion of a self-regulation mechanism aiming to increase NPOs' functioning standards and their transparency based on best international practices, such as the Code of Standards for Albanian CSOs. This Code is structured based on 4 (four) main principles and 7 (seven) commitments tailored upon the dynamics of NPOs sector development in Albania. It aims to strengthen transparency, accountability, and increase public trust over the NPOs in Albania. A dedicated online platform is being created as an informative and promotion tool for the

^[34]http://fiu.gov.al/wp-content/uploads/2019/RaporteVjetore/Raporti_vjetor_shqip_2019.pdf

Code of Standards and the related activities. The design of the platform is based on successful international examples, in particular, on the app used by Global Standard for CSOs Accountability, the RendirAPP.

Findings

- Training activities are organised and delivered by AML Authority to the personnel of GTD, and only one training activity is organised by AML Authority for the NPOs sector (the year 2020). In the frame of its self-regulation, the NPOs sector have agreed on the content of the Code of Standards applicable to NPOs and is creating a platform as an informative and promotion tool for the Code of Standards and the related activities aiming the increase standards of conduct for the civil society organisations.

Recommendations

- More transparency is needed from the governmental entities implementing the legislation on NPOs and the cross-cutting legislation regulating anti-money laundering and combating terrorism financing. Outreach and educational programmes to raise and deepen awareness among NPOs, as well as of the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, should be designed and delivered.



(c) Countries should work with NPOs to develop and refine best practices to address terrorist financing risks and vulnerabilities and, thus, protect them from terrorist financing abuse.

In 2020, AML Authority published the “Typology of terrorism and money laundering through non-profit organizations”[35]. This publication is based on international typologies that illustrate cases of involvement of NPOs in activities linked with money laundering and terrorist financing and aims to increase awareness of Albanian NPOs related to this issue.

However, to date, there is no publication available on best practices developed in cooperation with NPOs to address terrorist financing and risks and vulnerabilities and, thus, protect the NPOs from terrorist financing abuse.

[35]<https://fiu.gov.al/wp-content/uploads/2020/12/Tipologji-te-PPP-FT-per-OJF.pdf>

Findings

- It was difficult to identify any activity initiated by the state authorities aiming to work with NPOs to develop and refrain from best practices to address terrorist financing risks and vulnerabilities, and, thus, protect NPOs from terrorist financing abuse.

Recommendations

- Effective programs should be implemented to complete the inventory of the related best practices and their publication. NPOs should be effectively involved and play an effective proactive role in the preparation of best practices and stimulate the public to take such measures in protecting NPOs, particularly, the vulnerable ones, from money laundering and terrorist financing abuse.



(d) Countries should encourage NPOs to conduct transactions via regulated financial channels, wherever feasible, keeping in mind the varying capacities of financial sectors in different countries and different areas of urgent charitable and humanitarian concerns.

Law no.9920, dated 19.05.2008 "On tax procedures in the Republic of Albania", as amended (Tax Procedure Law)[36] obliges the non-profit organizations, similarly as any other legal entities, to open a bank account, and to declare it to the Tax Authorities[37]. For the newly established NPOs, the rule is that they should open a bank account within 20 days starting from the day of the legal registrations (Article 59(1/3) of Tax Procedure Law). Further, the recent legal provisions provided for a deadline for the opening of bank account by NPOs (until October 26, 2019)[38]. In the cases when an NPO does not comply with this legal obligation, the law stipulates sanctions in the form of fines (Article 120 Law no.9920/2008).

Further, AML Law provides for the limits of any incoming or outgoing cash or valuable objects through the customs border without the need for written declaration: any cash amount over 10.000 EUR cash (or its exchange in other currencies) or any other financial instrument, precious stones or metals, objects with special value or antiques, ought to be

[36]<https://qbz.gov.al/preview/18d5cd2e-41ac-4ab9-b176-94c3965ab469/cons/20200925>

[37]Law nr.31/2019 (published in Official Gazette no.99, dated 10.07.2019) amending the Law no. 9920: Article 59/1/2.

[38]Law nr.31/2019 (published in Official Gazette no.99, dated 10.07.2019) amending the Law no.9920: Transitory provisions.

declared when entering the customs territory of the Republic of Albania. Any person ought to declare the purpose for the transportation of such values or objects and ought to accompany them with the relevant justifying documents (Article 17/1 "Declaration at the customs border[39]).

It is relevant to state that according to the Tax Procedure Law (Article 59 paragraph 1)[40], cash transactions are not permitted unless they are up to the amount of 150,000 ALL. However, these transactions ought to be documented with the relevant tax invoice, as applicable. For the NPOs performing an economic activity, it is applicable also the requirement stated in item 55.1 of the Instruction of Minister of Finance no.24 dated 2.09.2008 "On Tax Procedures", as amended, which provides that the taxpayers, ought to use the fiscal system through the fiscal machines and to issue tax coupons, for any transaction that is not performed through the banking system or the non-bank financial institutions. Vis-à-vis, Law no.87/2019 dated 18.12.2019 "On the invoicing and systems of monitoring of turnover" completes the legal framework regarding the documentation of any transaction and payment, regardless of whether it is performed through the banking system, non-bank financial systems, or cash payments. Any of the above legal requirements is associated with the relevant applicable sanctions.

Recently, Albania has adopted Law no.154/2020 "On the Central Register of Bank Accounts". It focuses on the Albanian financial system and its institutions (banking and non-banking institutions); any bank account opened by physical or legal persons shall be notified to the Central Register, which shall be administered by the GTD. AML Authority shall have full access to this Register and other interested public institutions shall have limited controlled access. Amongst others, this law aims at establishing adequate conditions for preventing the use of the Albanian financial system for money laundering and the products deriving from criminal activity, for the prevention of financing of terrorism, and the facilitation of the procedures of collection of fiscal duties, at a local and central level. In October 2020, CSOs were introduced to this law which has a certain impact on the NPOs sector. A public opinion on the draft law and its impact on the sector was prepared and was sent to the Ministry of Finance and Economy aiming to improve the quality of this draft law. Specifically, it was recommended that the Register is kept by BoA and not by the tax authorities, the access to Register by the authorities (such as AML Authority and National Intelligence Byro) ought to guarantee the relevant constitutional rights, etc. After the approval, it was identified that only a small part of the recommendations was reflected in the law. Important recommendations regarding the authority that administers the Register, the rights of interested institutions to receive information from the register, etc., without respecting the relevant constitutional guarantees of NPOs were not considered. The keeping and administration of the register from an executive body (GTD) and the right of the body to provide information to other interested institutions without prior confirmation from the Court are the most problematic issues living with this law.

[39]Added by Law no.33/2019, dated 17.6.2019.

[40]Law no.9920 dated 19.05.2008 "On Tax Procedure Law", as amended, (Article 59 paragraph 1): "Taxpayers, physical or legal persons, cannot perform sale purchase transactions in cash, when the transaction value is higher than 150 000 ALL".

Regarding humanitarian organisations, Law no.7892, dated 21.12.1994 “On sponsorship”[41], as amended, regulates the support with financial and material aid of social and public activities which include humanitarian, cultural, artistic, etc., activities. NPOs Law includes the humanitarian concept in the definition of “activity to the public interest” (Article 2, item 6). Further, Law no.9739, dated 21.5.2007 “On the blood transfusion in the Republic of Albania”, as amended[42], contains legal provisions related to humanitarian organisations (Article 13 and Article 13/1). Customs Code has some related provisions when it comes to the exemption of importation of goods, etc., by the organisations in the humanitarian activity. However, existing Albanian legislation does not contain any specific detailed legal definition regarding ‘humanitarian organisations’, apart from the definitions related to humanitarian activities, etc., stated in the text of conventions ratified by the Republic of Albania.

Findings

- The relevant existing legislation encourages NPOs to conduct transactions via regulated financial channels, considering the development of the banking sector in Albania, the level of formalisation of Albanian economy, and different areas of NPOs needs and demand for funding.

Recommendations

- Notwithstanding the existing rules providing for a formalized financial conduct, including in the NPOs sector, it remains indispensable to evidence and make aware the sector about the consequences for infringement of such regulations. The sanctions should be clear and the NPOs sector should be duly informed to discourage any effort for illegal conduct. This is particularly relevant for that part of the NPOs sector that is poorly advised on legal matters.

3. Targeted risk-based supervision or monitoring of NPOs

Countries should take steps to promote effective supervision or monitoring, such that they can demonstrate that risk-based measures apply to NPOs at risk of terrorist financing abuse. The following are some examples of measures that could be applied to NPOs, in whole or in part, depending on the risks identified:

[41]Amended by Law no.9807, dated 20.09.2007

[42]Amended by Law no.10141, dated 15.5.2009.



(a) NPOs could be required to license or register. This information should be available to competent authorities and encouraged to be available to the public.

As stated herein above, NPOs in Albania are required to be registered at the Tirana Judicial District Court. After gaining the legal personality, the NPOs should register at the relevant Regional Tax Office (GTD) and should be registered also for purposes of municipality local taxes. Depending on the scope of activity of NPOs, according to the relevant applicable laws, for specific activities (such as social services and vocational educational trainings, etc.) NPOs are required to obtain the relevant licence.

The registration of NPOs is evidenced in the NPOs Registry which is kept at the Tirana Judicial District Court but, is not publicly available. Further, the information about the licencing of NPOs is not accessible by the public either. Such information could be received under the FOIA Law^[43].

Findings

- NPOs are required to register, and for delivery of some specific activities, they are required to get the relevant licence. The information on the registered and licenced NPOs is not publicly available.

Recommendations

- The right of individuals to establish an NPO should not be restricted by the obligations to register or to have a license to operate. The legislation should be very clear and precise on the cases that require the registration or the licensing of NPOs. Information about registered and licensed NPOs should be public and compliant with the requirements for data protection, privacy, freedom of association, and other relevant issues. The information should be provided to the extent that it does not unfairly put the NPOs in the target of criticism that may originate from the public authorities and the other political and destructive factors and that might create negative effects in the activity of NPOs.

[43]Law no.119 dated 18.09.2014 "On freedom of information law"



(b) NPOs could be required to maintain information on (1) the purpose and objectives of their stated activities; and (2) the identity of the person(s) who own, control, or direct their activities, including senior officers, board members, and trustees. This information could be publicly available either directly from the NPOs or through appropriate authorities.

According to NPOs Law and Law on Registration of NPOs, the information kept in the NPOs Registry includes: name of NPO; address of legal seat; address of branches or representative office (as applicable); purpose and scope of activities and the respective amendments; value of and type of founding assets; details, such as name, place and date of birth, of members of management bodies as well as of the liquidator; the date when the NPO statutes was approved and signed by the founders; provisions of the NPO bylaws specifying the duration of the NPOs' activity; competencies of the NPOs' management bodies and of liquidator to represent the NPO, as well as changes in these competencies; changes in the membership of the management bodies, as well as of the liquidator; name, place and date of birth of the founder(s); value of the assets that each founder contributed (if available); any change or amendment of the NPOs' statutes; the starting date of the NPO activity; the date when liquidation proceedings were opened; the date of dissolution, merger or separation of the NPO (Article 31 of Law on Registration of NPOs).

Further, Law no.112/2020 "On the Register of Beneficial Owners" ('RBO Law') and the relevant by-laws that explicitly define the beneficial ownership, outline the requirements for the legal entities to report to the register and the rules and procedures for the register, and it establishes the legislative basis necessary for an effective register of beneficial ownership. The implementation of this register will consist of an electronic database held by the National Business Centre (NBC). RBO Law (milestone 1), fulfils one of the recommendations of MONEYVAL. This law regulates the definition of the beneficial ownership; the obligated entities which must register the beneficial owners; the creation, functioning, and administration of the Register of Beneficial Owners; the procedure and the manner of registration and storage of the registered data of the beneficial ownership, as well as the punitive measures in case of non-registration of the beneficial ownership (Article 1). The register will be set up and managed by the National Business Centre (NBC) (Article 4) and it will be accessed only by the persons authorized to represent the reporting entity and by the competent state authorities. Any person willing to obtain information from this register, that is not freely accessible and the public can only do so if they can prove that they have a legitimate legal interest in obtaining this information (Article 7(4)). In terms of NPOs, a beneficial owner shall be considered any individual holding the shares or ultimately

controlling the entity, and/or the individual under whose name a transaction or activity is being performed, including the founding person(s) or legal representative(s) or the individual(s) exercising the ultimate effective control in the administration and supervising of the NPOs (foundations, associations, centres, branches of NPOs) (Article 3(1) (1.1.2) of RBO Law). The ultimate effective control is defined as a relationship in which (a) a person determines the decisions taken from the NPOs; (b) supervising in a whatsoever manner the election, nomination, dismissal of the majority of the decision-making and executive bodies of the NPOs (Article 3(1) (1.1.2) of RBO Law). The general data on the reporting subject, which are inscribed with the NPOs Registry, shall be automatically transferred to the Register of Beneficial Owners (Article 4(6) RBO Law).

All CSOs should register their relevant Beneficial Owners. It is noticed that the terminology and the concepts used in this law do not consider and reflect the nature and characteristics of NPOs. As a result, during the registration process, CSOs have faced many difficulties and problems with the implementation of the law. Some of the NPOs have been forced to change/reform their Board of Directors with new members, as some of the existing members were not willing to be registered as “final beneficial owner(s)” (according to the RBO law, the beneficial owners are the final decision-making body), or they have registered the Executive Director (which is not proper as according to the Law on NPOs, it is not the final decision-making body of the organisation).

Findings

- From the strict legal viewpoint, the NPOs are required to maintain information about the scope and objectives of their activity; this information is kept by the NPOs Registry which is not public. Also, the identity of the person(s) who own, control, or direct their activities, board members, and trustees, as applicable, are required to be declared; the core data will be registered and the public until the end of June 2021 as the secondary legislation implementing Law no.112/2020 “On the Register of Beneficial Owners” is already approved.

Recommendations

- The process of publicity shall increase the transparency, but it should be guided by principles and state obligations on data protection, privacy, freedom of association, and other relevant issues.



(c) NPOs could be required to issue annual financial statements that provide detailed breakdowns of incomes and expenditures.

The obligation for NPOs to prepare and submit annual financial statements that provide detailed breakdowns of incomes and expenditures is duly regulated by the applicable legislation. Income Tax Law (Article 19, last paragraph) provides expressly that all the subjects that are exempt from corporate income tax, regardless of this exemption, are obliged to submit to the tax authorities the tax declaration and the annual balance sheet, by the same deadlines as any other taxpayers that is subject to corporate income tax.

Further, the obligation for the preparation and submission of the financial statements is stipulated in Law 25/2018 “On Accounting and Financial Statements”, as amended. NPOs as any other entity ought to prepare and submit to the relevant authorities the financial statements prepared according to National Accounting Standard (NAS) or International Accounting Standards (IAS), as applicable.

Accordingly, the steering board (i.e. decision-making body) of the NPOs have to approve the financial statements, which should provide detailed information on the financial and material sources, their usage, and the assets of the NPOs (Law no.92/2013 amending Law no. 8788/2001 (NPOs Law), as amended^[44] (Article 20, point (ç)). Further, the obligation for the approval of the financial statements is stipulated in the Law 25/2018 “On Accounting and Financial Statements”, as amended (Article 23).

Relevant sanctions are provided in the relevant laws for failure to comply with the above-stated legal requirements.

Findings

- According to the applicable legislation, NPOs are required to prepare and submit annual balance sheets and financial statements that provide detailed breakdowns of incomes and expenditures.

Recommendations

- The existing reporting and supervising requirements should be scrutinized to allow for the due observation of taxpayers’ rights.

^[44]Amended for the first time with the Law nr.9814/2007.



(d) NPOs could be required to have appropriate controls in place to ensure that all funds are fully accounted for and are spent in a manner that is consistent with the purpose and objectives of the NPO's stated activities.

Law no.8788, dated 07.05.2001 "For Non-profit Organisations", as amended, provides that the NPOs have to exercise their activity in compliance to the Scope of Activity as stated in the bylaws of the relevant NPOs.

Further, the NPOs Law strengthens the role of the board in preventing that the organisation's resources are used to finance terrorism. The board has the responsibility to oversee the activity of the organisation and is expected to work closely and communicate intensively with the relevant executive body of the NPO to ensure that the organisation complies with the respective legislation on the prevention of money laundering and financing of terrorism.

The obligation of the NPOs to account for all the funds and the responsibility of the decision-making body of NPOs is also stipulated in Law 25/2018 "On Accounting and Financial Statements", as amended.

Under Law no.8788/2001 (Article 20(ç)), the supervisory board of the NPOs has to approve the financial statements, which should provide detailed information on the financial and material sources, their usage, and the assets of the NPOs.

Furthermore, the tax legislation applicable to NPOs, requires and guides the NPOs to perform and evidence that the activity is performed as stated in the bylaws of the relevant NPOs, otherwise, the NPOs, in specific circumstances could be subject to specific taxes (for example, subject to Corporate Income Tax, etc.).

Findings

- According to the existing law, NPOs are required to have appropriate controls in place to ensure that all funds are fully accounted for and are spent in a manner that is consistent with the purpose and objectives of the NPOs' stated activities.

Recommendations

- Proper implementation of the existing legislation by NPOs and state authorities in charge of the appropriate control of NPOs ensures increased accountability of NPOs in the allocation of funds per their mission and purpose.



(e) NPOs could be required to take reasonable measures to confirm the identity, credentials, and good standing of beneficiaries[27] and associate NPOs and that they are not involved with and/or using the charitable funds to support terrorists or terrorist organisations. However, NPOs should not be required to conduct customer due diligence. NPOs could be required to take reasonable measures to document the identity of their significant donors and to respect donor confidentiality. The ultimate objective of this requirement is to prevent charitable funds from being used to finance and support terrorists and terrorist organisations.

As herein above stated, under Instruction of Minister of Finance and Economy no.19/2019, NPOs are subject to periodic inspection by the relevant Regional Tax Directorate, which controls the financial statements and exercises operational control. This authority controls the source of incomes and monetary transactions, to assess whether they come from lawful sources or not. Most importantly, Instruction no.19/2019 stipulates 38 risk indicators of terrorist financing (see Annex 2 attached to this Report).

The existing AML legislation guides and requires that NGOs are not involved with and/or using the charitable funds to support terrorists or terrorist organisations. As herein above stated, AML legislation does not qualify the NPOs as subject to this legislation, unless the NGOs would perform specific activities. Therefore, NPOs are not required to conduct customer due diligence.

Further, AML legislation provides for specific administrative sanctions to enforce the relevant legal requirements. The Criminal Code provides expressly for several commitments regarding AML and CFT that are qualified as criminal offenses. These pieces of legislation are used as the basis to support respectively the law implementation and enforcement.

In addition, the applicable BoA regulations contain specific provisions aiming to minimise the risk that charitable funds are used to support terrorists or terrorist organisations.

Law no.60/2016 "On the reporting and protection of reporting individuals" (known as 'Law on Whistleblowers'), which applies also to the NPOs and for purposes of anti-corrupt practices and avoidance of conflict of interest, is an additional guarantee that secures the exercise of activity by the NPOs according to the law, hence, that NPOs are not involved in unlawful activity, including but not limited, that the NPOs are not using the charitable funds to support terrorists or terrorist organisations.

The existing Criminal Code^[45] provides for several criminal offenses related to terrorist financing (Article 230–231^[46]) and Articles related to anti-money laundering (Article 287 'Laundering the Proceeds of Criminal Offence or Criminal Activity').

Findings

- NPOs are required to take reasonable measures to confirm the identity, credentials and good standing of beneficiaries and that they are not involved with and/or using the charitable funds to support terrorists or terrorist organisations. They are also required to take reasonable measures to document the identity of their significant donors and to respect donor confidentiality.

Recommendations

- While the tools for control are very crucial for the viability of NPOs sector, its credibility, and the public support and confidence, it is indispensable for the system not to allow misuse of information. The sector is vulnerable to various risks coming from the sector or outside. Further, the system should not make available to other parties sensitive information that is made available by NPOs to the fiscal authorities.

[45]Law no.7895 "Criminal Law of Republic of Albania", as amended.

[46]Article 230 - Acts with terrorist intention Article 230 / a - Financing of terrorism Article 230/b - Concealing of funds and other property that finance terrorism; Article 230/c - Disclosure of information by persons who perform public functions or persons exercising a duty or profession; Article 230/ç - Performance of services and actions with declared persons; Article 231 - Recruitment of persons for committing acts with terrorist intentions or financing of terrorism Article 232/a - Incitement, public calls, and propaganda for committing acts with terrorist intentions Article 234/a - Terrorist organizations.



(f) NPOs could be required to maintain, for at least five years, records of domestic and international transactions that are sufficiently detailed to verify that funds have been received and spent in a manner consistent with the purpose and objectives of the organisation and could be required to make these available to competent authorities upon appropriate authority. This also applies to the information mentioned in paragraphs (ii) and (iii) above. Where appropriate, records of charitable activities and financial operations by NPOs could also be made available to the public.

Law no.9920 dated 19.052008 “On Tax Procedures in the Republic of Albania”, as amended, provides that the fiscal documentation ought to be maintained for at least five years from the end of the fiscal year the documents belong to (Article 48, paragraph 2) and that for tax control purposes the statutory limitation is five years. Therefore, the taxpayers, including NPOs, should maintain the financial and fiscal documentation and information for at least five years.

Further, Tax Procedure Law provides for the specific sanctions applicable for the failure of the taxpayers, including NPOs, to honor the above legal obligations.

NPOs are obliged to maintain tax records and accounting reports drawn up on the use of donor funds, as well as the financial statements, that are subject to audit by the tax authorities, as well as the AML Authority, if deemed necessary (Articles 25 and 41 of NPOs Law).

Findings

- NPOs are required to maintain, for at least five years, records of domestic and international transactions. The information is required to be kept sufficiently detailed to verify that funds have been received and spent in a manner consistent with the purpose and objectives of the organisation. It is required to make the information available to competent authorities.

4. Effective information gathering and investigation



(a) Countries should ensure effective cooperation, coordination and information-sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs.

Law on the Register of Bank Accounts ensures the exchange of information between the banks and GTD. Law on Register of Beneficial Owners requires cooperation, coordination, and information sharing between NBC and AML Authority, etc. Instruction 16/2009 and Instruction 19/2019 provides for the exchange of information between GTD and AML Authority. Tax Procedure Law provides for information sharing between the NPOs register and the tax authorities. AML Regulation of BoA requires information sharing between the banks and the AML Authority. Other pieces of legislation provide that AML Authority, GTD, and the investigative authorities ought to have coordination and information sharing for purposes of criminal investigation and further criminal proceedings.

Findings

- Law on the Register of Bank Accounts ensures the exchange of information between the banks and GTD, and it requires cooperation, coordination, and information sharing between NBC and AML Authority, etc.



(b) Countries should have investigative expertise and capability to examine those NPOs suspected of either being exploited by or actively supporting, terrorist activity or terrorist organisations.

AML Authority, tax authorities, and criminal authorities are vested with the necessary legal powers to investigate those NPOs suspected of either being exploited by or actively supporting, terrorist activity or terrorist organisations. Regarding the relevant human capacities, expertise, and competence of the above stated institutions, efforts have been made during recent years to increase and strengthen the relevant capacities, however, none of these institutions have specialised corps who understand the NPOs activity and their daily activity.

Findings

- AML Authority, tax authorities, and criminal authorities are vested with the necessary legal powers to investigate those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations.

Recommendations

- Further efforts have to be made to strengthen the human capacities, expertise and competence of the state institutions with specialised corps who understand the NPOs activity and their daily activity.



(c) Countries should ensure that full access to information on the administration and management of a particular NPO (including financial and programmatic information) may be obtained during the course of an investigation.

From the strict legal viewpoint, the existing Code of Criminal Procedures, Tax Procedure Law, Instruction of Minister of Finance no.16/2009 and Instruction no.19/2019, AML Decision of BoA no.44, Law on Register of Beneficial Owners, Law on Register of Bank Accounts, and other relevant existing provisions of Albanian legislation ensure that full access to information on the administration and management of a particular NPO may be obtained during the course of investigation, etc. However, it is important to be noted that there are no proportionate guarantees for the protection of the NPOs from any potential abuse, apart from the generic legal guarantees provided in the Albanian Constitution, European Convention of Human Rights and the relevant case-law, and relevant provisions stated in NPOs Law.

Findings

- From the strict legal viewpoint, the existing relevant legislation ensures that full access to information on the administration and management of a particular NPO may be obtained during the course of investigation, etc.

Recommendations

- Proportionate guarantees for the protection of the NPOs from any potential abuse ought to be adopted.



(d) Countries should establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO: (1) is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; (2) is being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or (3) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations, that this information is promptly shared with relevant competent authorities, in order to take preventive or investigative action.

Based on existing legislation, it may be stated that Albania has in place the appropriate legal and institutional mechanisms that ensure that, when there are suspicion or reasonable grounds to suspect that a particular NPO: (1) is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; (2) is being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or (3) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations, the information is promptly shared with the relevant competent authorities (AML Authority and other investigative authorities) aiming to take preventive or investigative action respectively.

Findings

- Albania has already established appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect about a particular NPO, the relevant information is promptly shared with relevant competent authorities, to take preventive or investigative action.

Recommendations

- Further efforts have to be made to strengthen the human capacities and expertise of the relevant authorities.

5. Effective capacity to respond to international requests for information about an NPOs of concern.



Consistent with Recommendations on international cooperation, countries should identify appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

As herein above stated, from the legal perspective, AML legislation and other related legal provisions secure a reliable legal basis for the avoidance that NPOs are involved in illicit money laundering and terrorist financing practices. Simultaneously, this legislation provides for administrative sanctions for the relevant administrative violations. Further, the existing Criminal Code^[47] provides for several criminal offenses related to terrorist financing (Article 230–231^[48]) and Articles related to money laundering (Article 287 - Laundering the Proceeds of Criminal Offence or Criminal Activity).

From the institutional viewpoint, AML Authority, tax authorities, and criminal authorities are vested with the necessary legal powers to investigate those NPOs suspected of either being exploited by or actively supporting, terrorist activity or terrorist organisations.

Further, Albania has ratified several multinational and bilateral treaties addressing the issues of security in general, which could impact laterally also the money laundering and financing of terrorism matters. Pursuant to Albanian constitutional provisions, the rights and obligations provided in these treaties are part of the Albanian legal order, and as such, they are directly applicable.

At a multinational level, most notably, it would be relevant to mention that Albania is a member of the Council of Europe (since 1995) and of the Council of Europe Conventions on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CoE Convention no.198)^[1], the Council of Europe Convention on the Prevention of Terrorism (CoE Convention no.196)^[1], and the International Convention for the Suppression of the Financing of Terrorism. In these acts, NPOs are indirectly subjects to the measures on the fight against money laundering and terrorism^[49].

In addition, Albania is a member country of Interpol^[1] and has entered into a cooperation agreement with Europol. In terms of these memberships, Albania may exchange operational police information which affects legal entities, including NPOs.

^[47]Law no.7895 “Criminal Law of Republic of Albania”, as amended

^[48]Article 230 - Acts with terrorist intention Article 230 / a - Financing of terrorism Article 230/b - Concealing of funds and other property that finance terrorism; Article 230/c - Disclosure of information by persons who perform public functions or persons exercising a duty or profession; Article 230/ç - Performance of services and actions with declared persons; Article 231 - Recruitment of persons for committing acts with terrorist intentions or financing of terrorism Article 232/a - Incitement, public calls, and propaganda for committing acts with terrorist intentions Article 234/a - Terrorist organizations

^[49]See for further info Article 10 in both Conventions.

At a bilateral level, Albania has in place numerous agreements providing for the security issues and cooperation in criminal proceedings, which could laterally affect the matters of money laundering and terrorism financing.

Albania is assessed by Moneyval Committee on money laundering prevention issues. This committee is a permanent monitoring body of the CoE for assessing compliance with key international standards to combating money laundering and terrorist financing and the effectiveness of their implementation. This Committee also draws up recommendations for national authorities regarding necessary improvements. The adoption of further legislation during recent years shows that Albania is making efforts to comply with these recommendations and the relevant international obligations.

Findings

- From the legal and institutional viewpoint, Albania has the potentials for effective capacity to respond to international requests for information about NPOs of concern. Simultaneously, Albania has in place the required contact point and is identifying appropriate procedures, and is working on capacity building to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

Recommendations

- There is a need to working further on capacity building to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

V. RESOURCES FOR SUPERVISION, MONITORING, AND INVESTIGATION



Countries should provide their appropriate authorities, which are responsible for supervision, monitoring and investigation of their NPO sector, with adequate financial, human and technical resources.

Following the three areas of intervention against money laundering and terrorist financing, find below the core institutional framework, including the appropriate authorities, which are responsible for the supervision, monitoring, and investigation of the NPOs sector:

General Directorate for the Prevention of Money Laundering[50] (herein ‘AML Authority’), is provided by AML Law. The scope of work, role, competencies, obligations, and rights of this institution are related to monitoring, screening, and reporting of AML & CFT cases to investigation authorities[51].

Another structure that is relevant for the preventive measures and that is provided in the AML Law, Article 18[52], is the **General Tax Directorate** (‘GTD’), which ought to identify the reporting entities and to report to AML Authority every suspicion indication, notification or data related to money laundering or terrorism financing. Further, Article 4 ‘Preventive measures taken by tax authorities’ of Instruction no.16/2009 provides the following tasks for GTD: Tax authorities apply the relevant requirements of AML Law. Tax authorities establish the **Central Unit** which is a centralized system responsible for collection and data analysis and that is responsible for identifying and collecting suspicious transactions. The head of the Central Unit reports only to the Director of GTD.

In addition, Instruction no.19/2019 provides for the powers of GTD and vis-à-vis of the **Regional Tax Directorates** (RTD) regarding the supervision of NPOs for preventing money laundering and terrorist financing. Specifically, the powers of GTD can be summarized as below stated: Article 4 ‘Periodic reporting about NGOs’ *“The Regional Tax Directorates of the jurisdiction identifies and reports every six months to the Central Unit regarding NGOs that operate without being registered, NGOs with passive status and NGOs that do not submit tax returns as required by applicable law. Central Unit sends the identified cases to AML Authority which performs an in-depth case analysis. If AML Authority is in possession of additional information related to the cases identified by GTD, it must send it for further follow-up to the Central Unit that after handling and analyzing further the case, makes the referral to administrative or criminal channels”*. Article 7 ‘Control of financial statements of

[50]In Albanian ‘Drejtoria e Përgjithshme e Parandalimit të Pastrimit të Parave’

[51]Article 22 of AML Law

[52]Article 18 ‘Reporting of Tax authorities’: “1. Tax authorities identify their reporting entities, according to procedures defined in article 4 of this law, and report in all cases to the responsible authority immediately and no later than 72 hours, every suspicion, indication, notification or data related to money laundering or terrorism financing. 2. Tax authorities apply the requirements of the article 11 of this law”.

NGOs' provides "Regional Tax Directorates (RTD) assign specialized and trained staff to review the financial statements of NGOs, depending on the number of NGOs administer, who analyze in particular, but not limited to: a) sources of funding of the NGO; b) the economic activity of the NGO, if it conducts economic activity; c) the use of funds and the way of their circulation; d) the assets of the NGO and the source of their creation. Regional Tax Directorates inform the Central Unit about NGOs that have not submitted financial statements. For cases of financing that pose a risk based on the typologies of the Annex attached to Instruction no.16/2009 and the indicators of Annex 1 of Instruction 19/2019, it is required the control of RTD to exercise in-depth operational control". Article 9 'Reporting suspicious cases' provides that if the relevant RTD, during their work in accordance with the procedures defined in this guideline, according to the approved typology and the indicators, identifies cases of financing that pose a risk shall report suspicious cases of the use of NPOs for money laundering or terrorist financing to the Central Unit of GTD. The Central Unit after evaluating the case forwards it AML Authority for further proceedings.

Customs authorities are also among the institutions that should take preventive measures over NPOs regarding AML & CFT. AML Law provides the following: Article 17 'Reporting of customs authorities'[53] "1. The customs authorities shall report immediately...to the responsible authority every suspicion, information or data related to money laundering or financing of terrorism for the activities under their jurisdiction...". Article 17/1 'Border declarations'[54] provides: "1. Any person entering and/or leaving the territory of the Republic of Albania is obliged to declare cash amounts, any kind of bearer's negotiable instrument, precious metals or stones, valuables, and antiquities, starting from the amount of 10 000 Euro or its equivalent value in other currencies, the purpose for carrying them and presenting relevant supporting documents...[55]".

In addition, the **State Cadaster Agency** has also a duty to report on certain transactions, as provided by AML Law. Article 19 'Reporting of the State Cadastre Agency' provides: "1. The State Cadastre Agency shall report ... the registration of contracts for the transfer of property rights for amounts equal to or more than 6,000,000 (six million) ALL (~ 50.000 Euro) or it's equivalent in foreign currencies. 2. The State Cadastre Agency shall report immediatelyto the responsible authority every suspicion, information or data related to money laundering or terrorism financing for the activities under its jurisdiction".

[53]Amended with Law no.33/2019, dated 17.6.2019.

[54]Added with Law no.33/2019, dated 17.6.2019.

[55]"2. Representatives of persons entering and/or leaving the territory of the Republic of Albania by any means of transportation by land, air or sea or by postal service shall also have the obligation to declare, in accordance with paragraph 1 of this article. 3. The customs authorities shall deposit/report to the responsible authority copies of the declaration forms, supporting documents presented and other data as appropriate, as well as complete data on non-declaration cases. 4. In cases when the customs authorities mainly or in cooperation with the competent structures of the State Police ascertain the non-declaration under paragraph 1 of this article, in parallel with the handling of the case, in accordance with the provisions of the Criminal Code and the Criminal Procedure Code, impose a fine which for the first time depending on the undeclared amount is in a fixed amount, and for recurring cases shall be calculated as a percentage of the undeclared value".

The **NPO Registry at Tirana Judicial District Court** is the centralized register of NPOs that contains the main information about the NPOs duly registered in the Republic of Albania. Pursuant to Article 20 of AML Law, this institution is obliged to share information with the AML Authority. Article 20 'Non-profit Organizations' provides: "Every authority that registers or licenses non-profit organizations shall report immediately to the responsible authority every suspicion, information or data related to money laundering or terrorism financing."

Apart from the relevant provision of AML Law, the preventive sequestration is then instituted from the **Competent Court** upon the request of the prosecutor pursuant to Article 274 et seq of the Criminal Code of Procedure[56].

Inter-Institutional Committee for Measures against Organized Crime realizes the sale of sequestered movable assets, which over time breakdown, come out obsolete or their value drops significantly.

The administration of sequestered assets is subject to Law no.34/2019 "On the administration of sequestered and confiscated properties", as amended. Article 8 provides for the powers and responsibilities of the **Agency of Administration of Sequestered and Confiscated Properties**[57].

In addition, the Law no.10192, dated 03.12.2009 "On preventing and striking at organized crime, trafficking, corruption, and other crimes through preventive measures against assets", as amended, provides for additional procedures, competencies, and criteria for the implementation of preventive measures against the assets of persons who are subject to this law as suspected of participation in organized crime, trafficking, corruption and in committing other related crimes. Regarding the institutional structure, it provides in Article 7 'Competence and composition of the court': "*1. The request for the preventive measures to be taken shall be reviewed by Judicial Districts First Instance Courts or by the Anti-Corruption and Organized Crime First Instance Court, respectively, according to the subject competence for the criminal offence committed according to article 75/a of CCP*[58]. *2. The request for the preventive measures to be taken shall be reviewed in the second instance by the courts of appeal or the Anti-Corruption and Organized Crime Appeal Court, according to the rule established in paragraph 1 of this article...*"

[56]Article 274 'Scope of preventive seizure': "1. When there is a danger that free possession of an item related to the criminal offence may aggravate or prolong its consequences or facilitate the commission of other criminal offences, the competent court, upon request of the prosecutor, shall order its seizure by reasoned decision. 2. Seizure may also be ordered for items, proceeds of the criminal offence and for any other kind of property that can be confiscated under Article 36 of the Criminal Code. 3. When the conditions for its implementation change, the court, upon request of the prosecutor or interested persons, shall remove the sequestration".

[57]Article 34 'Agency of Administration of Sequestered and Confiscated Assets' "1. The Agency of Administration of Sequestered and Confiscated Assets is the institution responsible for the administration of sequestered and confiscated assets. 2. Repealed. 3. Detailed rules for the evaluation criteria, ways and procedures for the commissioning and disposal of confiscated assets are set by the Council of Ministers".

[58]Code of Criminal Procedure.

Other relevant law enforcement institutions are **General Prosecution Office / Regional Prosecution Offices**, the Special Prosecutor's Office which follows any case as reported by AML Authority, and other relevant institutions. Apart from its ex officio powers, the institution of prosecution is invested based on reports received by the **General State Police Directorate**, the **National Bureau of Investigation ('NBI')**, the **State Intelligence Service ('SIS')**. The two latter authorities collect information before the relevant crimes are reported to the relevant Prosecution Offices:

- According to Law no. 95/2016 "On the organization and functioning of institutions to fight corruption and organized crime", NBI is a specialized structure of the Judicial Police^[59], which investigates criminal offenses in the criminal jurisdiction of the Special Prosecution. Every employee of the State Police, when becomes aware of the commission of a criminal offense provided in Article 75/a of CPC, immediately notifies NBI. The latter can request the cooperation of the State Police when it deems it reasonable and necessary.
- According to Law no.8391, dated 28.10.1998 "On the state intelligence service", as amended^[60], SIS does not carry out military or police activities. When it identifies the conviction related to a violation of law, it informs the relevant institution, protecting the sources and methods of information. SIS has no obligation to inform the police but can cooperate with them when it is deemed necessary.

Findings

- AML&CFT Authority, tax authorities, customs authorities, etc., criminal law implementation and enforcement authorities are equipped with the necessary legal powers to monitor, supervise, identify, report, investigate and punish those NPOs suspected or exploited by the terrorists or terrorist organizations.
- Regarding the relevant human capacities, the expertise and competence of the authorities, during recent years, efforts have been made to improve and strengthen the relevant capacities and to support these authorities with adequate financial, human and technical resources.
- None of these authorities have specialized corps to understand the particularities of the NPOs sector and their activity, and who are aware of the role of NPOs in Albania, their rights, and the relevant guarantees.

[59]As provided by the Code of Criminal Procedure, NBI investigators provide a range of support services to Special Prosecutors. These services include the full range of Judicial Police skills, information gathering and analysis, as well as covert oversight.

[60]Law no.8391, dated 28.10.1998 "On the State Intelligence Service", as amended, Article 9, provides: "The State Intelligence Service does not perform military or police activities. When SIS creates the conviction for a violation of the law, it informs the relevant institution, protecting the sources and methods of information".

Recommendations

- Albania ought to work for the improvement and strengthening, in particular, of the human capacities, of the relevant authorities involved in AML & CFT.

VI. ANNEXES

Annex 1: Compliance of legislative and institutional system in Albania with the requirements of Interpretive Note of FATF Recommendation 8

Interpretive Note	How to comply with the recommendation	Difference	Finding
<p>The functional definition of NPOs</p> <p>This definition is based on those activities and characteristics of the organization that expose it to the risk of misuse of terrorist financing, and not due to the simple fact that it operates on a non-profit basis.</p>	<p>Countries should identify which subset of organizations falls within the FATF definition of NPOs.</p> <p>Without prejudice to Recommendation 1, this Recommendation only applies to those NPOs which fall within the FATF definition of an NPO. It does not apply to the entire universe of NPOs.</p>	<p>Non-profit organizations, within the meaning of the NPOs Law, are associations, foundations, and centers.</p>	<p>Finding: The definition of 'non-profit organizations' under the NPOs Law and AML legislation does not comply with the functional definition of NPOs adopted by FATF.</p> <p>Supervision authorities do not use a functional definition of NPOs, which is in line with the recommendation which stipulates that countries should identify which subset of organizations falls within the FATF definition of NPOs.</p> <p>Recommendation: Albanian legislation ought to be revised aiming to adopt a functional definition of NPOs for purposes of the applicability of AMF and CFT legislation.</p>
<p>Risk for NPOs</p> <p>Terrorists and terrorist organizations:</p> <ul style="list-style-type: none"> exploit some NPOs in the sector to raise and move funds, provide logistical support, encourage terrorist recruitment, or otherwise, support terrorist organizations and operations. also, there have been cases where terrorists create sham charities or engage in fraudulent fundraising for these purposes. 	<p>This misuse not only facilitates terrorist activity but also undermines donor confidence and jeopardizes the very integrity of NPOs.</p> <p>Therefore, protecting NPOs from terrorist financing abuse is both a critical component of the global fight against terrorism and a necessary step to preserve the integrity of NPOs and the donor community. Measures to protect NPOs from potential terrorist financing abuse should be targeted and in line with the risk-based approach.</p> <p>It is also important for such measures to be implemented in a manner that respects countries'</p>	<p>Also, it is crucial to identify the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs.</p> <p>Countries should review the adequacy of measures, including laws and regulations, that relate to the subset of the NPO sector that may be abused for terrorism financing support to be able to take proportionate and effective actions to address the risks identified. These exercises could take a variety of forms and may or may not be a written product.</p> <p>Also, Countries should</p>	<p>The existing legislation provides clearly the sources of financing for the NPOs.</p> <p>The existing legislation does not specifically address a subset of NPOs that may be abused.</p> <p>There is no risk-based methodology and there are no clear criteria for the NPOs sector that would enable effective and proportionate measures pursuant to MONEYVAL recommendations</p> <p>Finding: The legislation reflects the country's measures in implementing regulations of anti-money laundering and countering the financing of terrorism, but it increases state institutions' control over the operations of NPOs thus, impeding the independence of the entire sector.</p> <p>Recommendation: The revision of legislation or the adoption of new legislation regarding the risk-based methodologies, criteria, etc., applicable to the NPOs sector is immediate aiming to guarantee the adoption of adequate and proportional measures, shaped specifically for the NPOs sector. Revision and limitation of the role of tax authorities regarding AML & CFT matters are recommended.</p>

<p>NPO Vulnerability</p> <p>Some NPOs may be vulnerable to terrorist financing abuse by terrorists for a variety of reasons.</p> <ol style="list-style-type: none"> 1. NPOs enjoy the public trust, have access to considerable sources of funds, and are often cash-intensive. 2. Furthermore, some NPOs have a global presence that provides a framework for national and international operations and financial transactions, often within or near those areas that are most exposed to terrorist activity. 3. In some cases, terrorist organizations have taken advantage of these and other characteristics to infiltrate some NPOs and misuse funds and operations to cover for, or support, terrorist activity. 	<p>There is a diverse range of approaches in identifying, preventing and combating terrorist financing abuse of NPOs.</p>	<p>An effective approach should involve all four of the following elements: (a) sustained outreach, (b) targeted risk-based supervision or monitoring, (c) effective investigation and information gathering, and (d) effective mechanisms for international cooperation.</p>	<p>Existing legislation, including AML Law, treats the NPOs as customers, and the following information is needed to identify them: name, number, and date of the court decision for the registration as a legal person, the statute and the act of incorporation, the unique identification number of the entity, the address of the registered head office and, if different, the main place of where the activity is performed, the nature of the activity, the legal representatives, as well as the persons holding the leading decision-making position.</p>	<p>Finding:</p> <p>Given that the law provides for the lawful sources of income for the NPOs and that these financial sources ought to be channeled through financial institutions, the effective risk may trace in due time.</p> <p>Recommendation:</p> <p>Measures with general applicability over the informal operators which represent a risk for involvement in money laundering and financing of terrorism could apply to the informal organizations on the same basis. Risk assessment criteria and methodology could be rooted in compliance with FATF recommendations aiming to have clear criteria to avoid abuse of power over the NPOs.</p>
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<p>Measures</p>	<p>The following measures represent examples of specific actions that countries should take concerning each of these elements, to protect NPOs from potential terrorist financing abuse.</p> <p>(a) Sustained outreach concerning terrorist financing issues</p>	<p>(i) Countries should have clear policies to promote accountability, integrity and public confidence in the administration and management of NPOs.</p>	<p>(i) Existing legislation provides for clear obligations in terms of reporting, which puts pressure on accountability, while specific policies on promoting integrity and public confidence are missing. Further, NPOs Law provides specific rules regarding the management and administration of NPOs, and tax legislation provides for some requirements related to accountability related to fiscal compliance. Inspection is performed by the relevant inspection bodies.</p>	<p>Finding:</p> <p>Finding related to item a): Albania has already in place legislation with potentials for sustained outreach concerning terrorist financing.</p> <p>Legislative efforts have been made to have clear policies to promote accountability, integrity, and public confidence in the administration and management of NPOs in Albania. Efforts have been made regarding targeted risk-based supervision or monitoring, effective investigation and information gathering, and effective mechanisms for international cooperation.</p>
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		<p>(ii) Countries should encourage and undertake outreach and educational programs to raise and deepen awareness among NPOs as well as the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse.</p>	<p>(ii) Article 22(i) of AML Law provides for the duty of AML Authority to provide training and awareness programs to various subjects, without expressly mentioning NPOs.</p>	<p>Finding: Training activities are organised and delivered by AML Authority to the personnel of GTD, and only one training activity is organised by AML Authority for the NPOs sector (the year 2020). In the frame of its self-regulation, the NPOs sector have agreed on the content of the Code of Standards applicable to NPOs and is creating a platform as an informative and promotion tool for the Code of Standards and the related activities aiming the increase standards of conduct for the civil society organisations.</p> <p>Recommendation: More transparency is needed from the governmental entities implementing the legislation on NPOs and the cross-cutting legislation regulating anti-money laundering and combating terrorism financing. Outreach and educational programmes to raise and deepen awareness among NPOs, as well as of the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, should be designed and delivered.</p>

		<p>(iii) Countries should work with NPOs to develop and refine best practices to address terrorist financing risks and vulnerabilities and thus protect them from terrorist financing abuse.</p>	<p>(iii) To date there is no publication available on best practices to address terrorist financing and risks and vulnerabilities and, thus, protect them from terrorist financing abuse.</p>	<p>Findings It was difficult to identify any activity initiated by the state authorities aiming to work with NPOs to develop and refrain from best practices to address terrorist financing risks and vulnerabilities, and, thus, protect NPOs from terrorist financing abuse.</p> <p>Recommendations Effective programs should be implemented in this regard to complete the inventory of the related best practices and their publication. NPOs should also play an active role to stimulate public bodies to play an effective proactive role in protecting NPOs, particularly, the vulnerable ones, from money laundering and terrorist financing abuse.</p>
		<p>(iv) Countries should encourage NPOs to conduct transactions via regulated financial channels, wherever feasible, keeping in mind the varying capacities of financial sectors in different countries and different areas of urgent charitable and humanitarian concerns.</p>	<p>(iv) The existing legislation provides for mandatory rules for all transactions in Albania above ca EUR 1500. For the NPOs performing an economic activity, it is applicable also the requirement stated in item 55.1 of the Instruction of Minister of Finance no.24 dated 2.09.2008 "On Tax Procedures", as amended, which provides that the taxpayers, ought to be compliant with the fiscal system through the usage of fiscal machines and to issue tax coupons, for any transaction that is not performed through the banking system or through the non-bank financial institutions.</p>	<p>Findings The relevant existing legislation encourages NPOs to conduct transactions via regulated financial channels, considering the development of the banking sector in Albania, the extent of the formalisation of our economy, and different areas of NPOs needs and demand for funding.</p> <p>Recommendations Notwithstanding the existing rules providing for a formalized financial conduct, including in the NPOs sector, it remains indispensable to evidence the consequences for infringement of such regulations. The sanctions should be clear and the NPOs sector should be duly informed in order to be discouraged from undertaking illegal conduct. This is particularly relevant for that part of the NPOs sector that is poorly advised on legal matters.</p>
	<p>(b) Targeted risk-based supervision of NPOs</p>	<p>In practice, countries should be able to demonstrate that risk-based measures apply to NPOs at risk of terrorist financing abuse.</p>	<p>(i) NPOs in Albania are required to be registered at the NPOs Registry at Tirana Judicial District Court. After gaining the legal personality, NPOs should register at the relevant Regional Tax Office (General Directory of</p>	<p>Finding: NPOs are required to register, and for delivery of some specific activities, they are required to get the relevant licence. The information on the registered and licenced NPOs is not publicly</p>

		<p>(i) NPOs could be required to license or register. This information should be available to competent authorities and encouraged to be available to the public.[61]</p>	<p>Taxation) and also for purposes of municipality local taxes. Depending on the scope of activity of NPOs, for specific activities (such as, for social services and vocational educational trainings, etc.), according to the relevant applicable laws, NPOs are required to obtain the relevant license.</p>	<p>available.</p> <p>Recommendations</p> <p>The right of individuals to establish an NPO should not be restricted by the obligations to register or to have a license to operate. The legislation should be very clear and precise on the cases that require the registration or the licensing of NPOs. Information about registered and licensed NPOs should be public and compliant with the requirements for data protection, privacy, freedom of association, and other relevant issues. The information should be provided to the extent that it does not unfairly put the NPOs in the target of criticism that may originate from the public authorities and the other political and destructive factors and that might create negative effects in the activity of NPOs.</p> <p>Recommendation related to all items of b): Albania should take further steps to promote effective supervision or monitoring and have a risk-based methodology and criteria to apply to NPOs at risk of terrorist financing abuse.</p>
		<p>(ii) NPOs could be required to maintain information on: (1) the purpose and objectives of their stated activities; and (2) the identity of the person(s) who own, control or direct their activities, including senior officers, board members and trustees. This information could be publicly available either directly from the NPO or through appropriate authorities.</p>	<p>(ii) From the strict legal viewpoint, the NPOs are required to maintain information about the scope and objectives of their activity; this information is kept by the NPOs Registry which is not public. Also, the identity of the person(s) who own, control or direct their activities, board members and trustees, as applicable, are required to be declared; these latter data will be public on the basis of the Law no.112/2020 “On the Register of Beneficial Owners” and the relevant secondary legislation.</p>	<p>Finding:</p> <p>From the strict legal viewpoint, the NPOs are required to maintain information about the scope and objectives of their activity; these information are kept by the NPOs Registry which is not public. Also, the identity of the person(s) who own, control or direct their activities, board members and trustees, as applicable, are required to be declared; these latter data will be public on the basis of the Law no.112/2020 “On the Register of Beneficial Owners” and the relevant secondary legislation.</p> <p>Recommendations</p> <p>The process of publicity shall increase the transparency, but it should be guided by principles and state obligations on data protection, privacy, freedom of association, and other relevant issues.</p>

[61]No special conditions for licensing or registration for terrorist financing purposes are required. For example, in some countries, non-profit organizations are already registered with the tax authorities and supervised to be able to qualify for favorable tax treatment (such as tax credits or tax exemptions).

		<p>(iii) NPOs could be required to issue annual financial statements that provide detailed breakdowns of incomes and expenditures.</p>	<p>(iii) The obligation for the NPOs to prepare and submit annual financial statements that provide detailed breakdowns of incomes and expenditures is duly regulated by the applicable legislation.</p>	<p>Findings According to the applicable legislation, NPOs are required to issue annual financial statements that provide detailed breakdowns of incomes and expenditures.</p> <p>Recommendations The existing reporting and supervising requirements should allow for the due observation of taxpayers' rights.</p>
		<p>(iv) NPOs could be required to have appropriate controls in place to ensure that all funds are fully accounted for and are spent in a manner that is consistent with the purpose and objectives of the NPOs' stated activities.</p>	<p>(iv) The obligation of the NPOs to account all the funds and the responsibility of the decision-making body of NPOs is also stipulated in the Law 25/2018 "On Accounting and Financial Statements", as amended.</p>	<p>Findings According to the existing legislation, NPOs are required to have appropriate controls in place to ensure that all funds are fully accounted for and are spent in a manner that is consistent with the purpose and objectives of the NPOs' stated activities.</p> <p>Recommendations Proper implementation of the existing legislation by NPOs and state authorities in charge of the appropriate control of NPOs ensures increased accountability of NPOs in the allocation of funds per their mission and purpose.</p>
		<p>(v) NPOs could be required to take reasonable measures to confirm the identity, credentials, and good standing of beneficiaries²⁹ and associate NPOs and that they are not involved with and/or using the charitable funds to support terrorists or terrorist organisations. However, NPOs should not be required to conduct customer due diligence. NPOs could be required to take reasonable measures to document the identity of their significant donors and to respect donor confidentiality.</p>	<p>The existing AML legislation guides and requires that NGOs are not involved with and/or using the charitable funds to support terrorists or terrorist organisations. As herein above stated, AML legislation does not qualify the NPOs as subject to this legislation, unless the NGOs would perform specific activities. Therefore, NPOs are not required to conduct customer due diligence.</p>	<p>Findings NPOs are required to take reasonable measures to confirm the identity, credentials and good standing of beneficiaries and that they are not involved with and/or using the charitable funds to support terrorists or terrorist organisations. They are also required to take reasonable measures to document the identity of their significant donors and to respect donor confidentiality.</p> <p>Recommendations While the tools for control are very crucial for the viability of NPOs sector, its credibility, and the public support and confidence, it is indispensable for the system not to allow misuse of information. The sector is vulnerable to various risks coming from the sector or outside. Further, the system should not</p>

		<p>The ultimate objective of this requirement is to prevent charitable funds from being used to finance and support terrorists and terrorist organisations.</p>		<p>make available to other parties' sensitive information that is made available by NPOs to the fiscal authorities.</p>
		<p>(vi) NPOs could be required to maintain, for at least five years, records of domestic and international transactions that are sufficiently detailed to verify that funds have been received and spent in a manner consistent with the purpose and objectives of the organisation and could be required to make these available to competent authorities upon appropriate authority. This also applies to the information mentioned in paragraphs (ii) and (iii) above. Where appropriate, records of charitable activities and financial operations by NPOs could also be made available to the public.</p>	<p>(The same as for other legal entities.</p>	<p>Findings NPOs are required to maintain, for at least five years, records of domestic and international transactions. The information is required to be kept sufficiently detailed to verify that funds have been received and spent in a manner consistent with the purpose and objectives of the organisation. It is required to make the information available to competent authorities.</p>
	<p>c) Effective information gathering and investigation</p>	<p>(i) Countries should ensure effective cooperation, coordination and information sharing to the extent possible among all levels of appropriate authorities or organizations that hold relevant information on NPOs.</p>	<p>(i) Law on Register of Bank Accounts ensures the exchange of information between the banks and General Tax Directorate (GDT). Law on Register of Beneficial Owners requires the cooperation, coordination and information sharing between NBC and AML Authority, etc. Instruction 16/2009 and Instruction 19/2019 provides for the exchange of information between GTD and AML Authority. Tax Procedure Law provides for the information sharing between the NPOs Register and the tax authorities. AML Decision of BoA requires the information sharing between the banks and AML Authority. Other pieces of</p>	<p>Findings Law on the Register of Bank Accounts ensures the exchange of information between the banks and GTD, and it requires cooperation, coordination, and information sharing between NBC and AML Authority, etc.</p>

			legislation provide that AML Authority, GTD and the investigative authorities ought to have coordination and information sharing for purposes of criminal investigation and further criminal proceedings.	
		(ii) Countries should have investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organizations.	(ii) AML Authority, tax authorities, and criminal authorities are vested with the necessary legal powers to investigate those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations. Regarding the relevant human capacities, expertise and competence of the above stated institutions, efforts have been made during the recent years to increase and strengthen the relevant capacities, however, none of these institutions have specialised corps who understand the NPOs activity and their daily activity.	<p>Finding: AML Authority, tax authorities, and criminal authorities are vested with the necessary legal powers to investigate those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations.</p> <p>Recommendations Further efforts have to be made to strengthen the human capacities, expertise and competence of the state institutions with specialised corps who understand the NPOs activity and their daily activity.</p>
		(iii) Countries should ensure that full access to information on the administration and management of a particular NPO (including financial and programmatic information) may be obtained during the course of an investigation.	(iii) Albanian legislation ensure that full access to information on the administration and management of a particular NPOs may be obtained during the course of investigation, etc. However, it is important to be noted that there are no proportionate guarantees for the protection of the NGOs from any potential for abuse, apart from the generic legal guarantees provided in the Albanian Constitution, European Convention of Human Rights and the relevant case-law, and relevant provisions stated in NPO Law.	<p>Finding: From the strict legal viewpoint, the existing relevant legislation ensures that full access to information on the administration and management of a particular NPO may be obtained during the course of investigation, etc.</p> <p>Recommendations Proportionate guarantees for the protection of the NPOs from any potential abuse ought to be adopted.</p>
		(iv) Countries should establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO: (1) is involved in terrorist	(iv) AML legislation and other related legal provisions secure a reliable legal basis for the avoidance that NPOs are involved in illicit money laundering and terrorist financing practices. Simultaneously, the existing	<p>Finding: Albania has in place appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO is at risk, this information is promptly shared with the relevant competent authorities, to take</p>

		<p>financing abuse and/or is a front for fundraising by a terrorist organization; (2) is being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or (3) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organizations, that this information is promptly shared with relevant competent authorities, to take preventive or investigative action.</p>	<p>legislation provides for administrative sanctions for the relevant administrative violations.</p> <p>From the institutional viewpoint, AML Authority, tax authorities, and criminal authorities are vested with the necessary legal powers to investigate those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organizations.</p> <p>Albania has ratified a number of multinational and bilateral treaties addressing the issues of security in general, which could impact laterally also the money laundering and financing of terrorism matters.</p>	<p>preventive or investigative action.</p> <p>Recommendations Further efforts have to be made to strengthen the human capacities and expertise of the relevant authorities.</p>
	<p>(d) Effective capacity to respond to international requests for information about an NPO of concern consistent with Recommendations on international cooperation, countries should identify appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs suspected of terrorist financing or other forms of terrorist support.</p>		<p>(d) Albania has potentials for effective capacity to respond to international requests for information about an NPO of concern. Simultaneously, Albania is identifying appropriate points of contact and procedures and is working on capacity building to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.</p>	<p>Finding: Albania has potentials for effective capacity to respond to international requests for information about an NPO of concern.</p> <p>Recommendation There is a need to working further on capacity building to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.</p>

Annex 2: LEGISLATION COMPLIANCE TABLE

Law	Regulation	Specifics of the legal provision	Compliance	Inadequacy
<p>Law no.9919, dated 19.05.2008 “On prevention of money laundering and terrorism financing”, as amended, (Official Gazette of Albania no. 83 dated 10.06.2008), herein referred to as ‘AML Law’.</p> <p>The consolidated text of the AML Law includes also the following provisions:</p> <p>1. Law no.10391, dated 03.03.2011, on Amendments to the Law “On Prevention of Money Laundering and Terrorist Financing” as amended (Official Gazette of Albania no. 31, dated 31.03.2011).</p> <p>2. Law no.66, dated 07.06.2012, on Amendments to the Law “On Prevention of Money Laundering and Terrorist Financing” as amended (Official Gazette of Albania, no. 80, dated 13.07.2012).</p> <p>3. Law no.44-2017, dated 06.04.2017, on Amendments to the Law “On Prevention of Money Laundering and Terrorist Financing” as amended (Official Gazette of Albania, no. 85, dated 21.04.2017).</p> <p>4. Law no. 33, dated 17.06.2019, on Amendments to the Law “On Prevention of Money Laundering and Terrorist Financing” as amended (Official Gazette of Albania, no. 99, dated 10.07.2019).</p>	<p>Article 20 “Non-profit organization” of AML Law</p> <p>Article 22/e of AML Law</p> <p>These provisions, while providing for the role and tasks of AML Authority summarize the main law enforcement institutions related to AML & CFT.</p> <p>Specifically, apart from AML Authority, the other institutions are: General Prosecution Office, the Special Prosecutor’s Office (Task Force against Economic Crime and Corruption), the General State Police, the National Bureau of Investigation, the State Intelligence Service, General Tax Directorate, General Customs Directorate, and other competent law enforcement or intelligence authorities related to AML & CFT matters, such as laundering of criminal proceeds, offenses or criminal activities generating proceeds of crime, financing of terrorism.</p> <p>Instruction no.19, dated 9.7.2019 “On the supervision of non-profit organizations for preventing money laundering and terrorist financing” and Instruction no.16, dated 16.02.2009 “On the prevention of money laundering and combating of the financing of terrorism in the tax system” provide the typology and risk indicators applicable to NPOs</p>	<p>Article 20 and Article 22 of AML Law stipulate: “Any authorities dealing with the registration, licensing and monitoring, and the transactions of the NPOs’ activities ought to report to the competent AML authorities on any doubts, information or data related to AML & CFT”.</p> <p>Instruction no.19/2019 and Instruction no.16/2009 provide for the initiation of the process of collecting and analyzing information and data by the Tax Authorities.</p> <p>Further, the Tax Authorities based on “suspect transactions” and “high-risk transactions”, are vested with the task to identify any of these transactions and to report to AML Authority which performs in-depth investigation of the suspected transactions.</p>	<p>Proportional: collection and analysis</p> <p>Targeted: the data should relate to the transaction or individuals / legal person.</p> <p>Risk assessment: risk assessed on the “suspect transactions” and “high-risk transactions”.</p> <p>The scope: administrative sanctions and criminal charges.</p>	<p>AML Law and the other legal provisions related do AML & CFT do not contain any specific provision which defines the NPOs for purposes of AML & CFT legislation.</p> <p>There is no specific dedicated state administrative authority dedicated to the supervision of NPOs in Albania for AML & CFT purposes.</p> <ul style="list-style-type: none"> • AML legislation and Code of Crimimal Procedure do not have specific definicons for “suspect transactions” or “high-risk transactions”.

Annex 3: Typologies of Risk of Terrorist Abuse in Non-Profit Organisations

The information is retrieved from the publication of Albanian Financial Intelligence Unit (AFIU) “Tipologji të Financimit të Terrorizmit dhe Pastrimit të Parave Nëpërmjet Organizatave Jofitim Prurese”

TERRORISM FINANCING

Raising and Distributing Financial Resources towards areas of conflict

A charity was suspected of raising and disbursing financial resources for a terrorist organisation based in another country.

Over a period of five years, the charity organised a ‘substantial’ number of electronic funds transfers to overseas-based persons and entities, including a charity that was thought to be operating as a front for a terrorist group.

During the same five-year period, large sums of cash were deposited into, and multiple credits made to, the charity’s accounts. The source of the funds was unknown as was the identity of the remitter for the credits. Cash deposits into the charity’s accounts were immediately followed by the purchase of bank drafts or the transfer of funds overseas.

Cash deposits below the reporting threshold

A ‘small’ company was receiving a ‘significant’ number of cash deposits from numerous charities (purportedly for consultancy services rendered) and two individuals, both of whom were resident in regions where militant activity was prevalent. The account of one of these two persons showed regular deposits of funds of amounts below the reporting threshold; the source of these funds was unknown.

The funds collected in the company accounts were being transferred to a charity operating in a region of unrest, before being disbursed to other, apparently legitimate charities and a so-called ‘welfare unit’ that was known to be part of a recognised militant group. The welfare unit was subsequently shut down.

Funds originating from terrorist activities.

A number of individuals from Middle East, who lived in X country in Europe opened bank accounts on different financial banks in the name of company A and B, established in Eastern Europe and to an NPO established in X country.

The companies and the NPO were related to film production and the telecommunications sector. The two companies and the domestic NPO received large deposits from foreign nationals amounting to several million US EUR. Information provided by law enforcement authorities indicated that some of the individuals were known to be linked to an organisation involved in terrorist activity.

It was determined through the investigation that funds used to finance the NPO and private companies likely originated with organisations involved in terrorist activity.

Use of funds of donations for terrorism purposes

A local NPO organized fundraising activities, which was supposed to be used for humanitarian aid in a conflict zone. For this purpose, donation boxes were used, located in some religious institutions and the collected funds were administered in the bank account of the organization.

The founder of the NPO, was suspected of using the funds raised to enable terrorist activities and not for the humanitarian purposes declared by it.

An investigation by law enforcement agencies resulted in the arrest of the NPO founder, for terrorist activities, and a significant portion of the funds raised were seized.

Support to terrorism activities

A domestic NPO was the subject of negative open source information suggesting it was condoning suicide bombers on its website.

A review of the NPO's website by the national NPO regulator found that the NPO had published a list of 'martyrs' online, including a number of suicide bombers. Engagement by the NPO regulator resulted in the removal of inappropriate content from the website.

The investigation by the NPO regulator concluded that the NPO had inadequate governance procedures and an ineffective risk management system in place. The NPO was directed to review its governance structure to effectively manage the risks to the NPO.

Funds originating from terrorist groups

An NPO was carrying out religious and educational activities domestically, with no foreign activities. Information provided by the national FIU indicated that the NPO had received over USD 13 000 from a foreign organisation known to provide support to a foreign terrorist group.

Subsequent open source research indicated that the NPO's education programs espoused an ideology that was shared by several foreign terrorist groups. Concerns arose that this shared ideology was being exploited for recruitment purposes for a terrorist organisation. It was subsequently revealed that a former student of the NPO's school had been charged in another country with terrorism offences. The student had also met with several other individuals who were later convicted of terrorism offences.

The NPO was audited by the national regulator, and the audit found that the NPO could not account for the origin of much of its income and expenditures. Based on this, the NPO was deregistered.

Fundraising in violation of domestic legislation

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.

Using a company to transfer funds to NPOs

A domestic company was established with very broad commercial purposes. Numerous small deposits were made to the company's account by the individual who had signing authority on the account. The funds were immediately transferred to foreign-based companies.

An investigation by the national FIU revealed that the individual with signing authority on the company's account was also a directing official of an NPO. It was suspected that the small deposits made on the company's account originated from fundraising by the NPO.

Law enforcement information indicated that the NPO was known to have ties to a terrorist group. A second directing official of the NPO, who was also a manager of the company, also had ties to the terrorist group.

The investigation concluded that the domestic company was a front company being used as a conduit to transfer funds on behalf of the NPO linked to a foreign terrorist group.

Involvement of the advertised person in the activity of the NPO

A boarding school, registered as a religious NPO, hired an individual on a terrorist watch-list. Unbeknownst to the NPO, this individual was responsible for harbouring fugitive perpetrators involved in a terrorist bombing.

Using fraudulent identification, the individual obtained residence and employment as an English language teacher at the boarding school. The director of the school was unaware of the individual's true identity or that he was on the terrorist watch-list.

The individual was subsequently charged and convicted of terrorism-related offences.

Fund deviation from NPO personnel

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.

Diversion of funds in the collection and transfer phases

The national FIU received STRs on the domestic branch of a foreign-based NPO, which was listed locally. The domestic NPO transferred funds to the banned foreign-based NPO through a bank account in a third country. It also transferred funds to NPOs in high-risk areas and made cash withdrawals of large banknotes. An investigation by the FIU revealed that directing officials of the domestic NPO carried large amounts of cash out of the country. In the

financial intelligence reports relating to the cross-border movement of physical currency, the directing officials indicated that the funds were donations destined for charities located in both high-risk and low-risk areas. The domestic NPO also transferred funds to a second local NPO. STRs submitted on the second NPO indicated that its directing officials transferred funds to individuals in developed countries in a region not related to the NPO's area of operation. As a result of the investigation, the domestic NPO was listed as a supporter of terrorism and its assets were frozen.

MONEY – LAUNDERING

Income secured from tax evasion

A family, who operated several successful businesses being used for criminal purposes, founded a charity with the alleged objective of providing for members of a specified religious community. The charity was registered with the national regulator and provided annual statement accounts showing that relatively small amounts of money were being generated. The scheme was managed by the family operating multiple cash tills but only declaring the income from one. Intelligence revealed that the family were laundering the proceeds of their tax evasion to fund their lifestyle; more than £2.5m was found in the bank accounts of the charity and family members acting as charity trustees.

Funds from the fraud scheme

A church fund was used to launder assets as part of a scheme to defraud a private company. The funds originated from a company in which one of the alleged offenders was responsible for the management of the company's financial arrangements. The funds were transferred into a bookmakers account before being distributed into a series of private and third-party accounts, one of which was established overseas. Cash sent to the overseas account was wired back into a local trust account held by the second alleged offender. Around \$350,000 was drawn from the trust account and deposited into the church fund. At the time of detection, arrangements were being made to send the cash to overseas-based accounts.

Annex 4: Interpretative Note to Recommendation 8

(Non-Profit Organisations)

A. Introduction

1. Given the variety of legal forms that non-profit organisations (NPOs) can have, depending on the country, the FATF has adopted a functional definition of NPO. This definition is based on those activities and characteristics of an organisation which put it at risk of terrorist financing abuse, rather than on the simple fact that it is operating on a non-profit basis. For the purposes of this Recommendation, NPO refers to a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works”. Without prejudice to Recommendation 1, this Recommendation only applies to those NPOs which fall within the FATF definition of an NPO. It does not apply to the entire universe of NPOs.

2. NPOs play a vital role in the world economy and in many national economies and social systems. Their efforts complement the activity of the governmental and business sectors in providing essential services, comfort and hope to those in need around the world. The FATF recognises the vital importance of NPOs in providing these important charitable services, as well as the difficulty of providing assistance to those in need, often in high risk areas and conflict zones, and applauds the efforts of NPOs to meet such needs. The FATF also recognises the intent and efforts to date of NPOs to promote transparency within their operations and to prevent terrorist financing abuse, including through the development of programmes aimed at discouraging radicalisation and violent extremism. The ongoing international campaign against terrorist financing has identified cases in which terrorists and terrorist organisations exploit some NPOs in the sector to raise and move funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organisations and operations. As well, there have been cases where terrorists create sham charities or engage in fraudulent fundraising for these purposes. This misuse not only facilitates terrorist activity, but also undermines donor confidence and jeopardises the very integrity of NPOs. Therefore, protecting NPOs from terrorist financing abuse is both a critical component of the global fight against terrorism and a necessary step to preserve the integrity of NPOs and the donor community. Measures to protect NPOs from potential terrorist financing abuse should be targeted and in line with the risk-based approach. It is also important for such measures to be implemented in a manner which respects countries' obligations under the Charter of the United Nations and international human rights law.

3. Some NPOs may be vulnerable to terrorist financing abuse by terrorists for a variety of reasons. NPOs enjoy the public trust, have access to considerable sources of funds, and are often cash intensive. Furthermore, some NPOs have a global presence that provides a framework for national and international operations and financial transactions, often within or near those areas that are most exposed to terrorist activity. In some cases, terrorist organisations have taken advantage of these and other characteristics to infiltrate some NPOs and misuse funds and operations to cover for, or support, terrorist activity.

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B. Objectives and General Principles

4. The objective of Recommendation 8 is to ensure that NPOs are not misused by terrorist organisations: (i) to pose as legitimate entities; (ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; or (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes, but diverted for terrorist purposes. In this Interpretive Note, the approach taken to achieve this objective is based on the following general principles:

(a) A risk-based approach applying focused measures in dealing with identified threats of terrorist financing abuse to NPOs is essential given the diversity within individual national sectors, the differing degrees to which parts of each sector may be vulnerable to terrorist financing abuse, the need to ensure that legitimate charitable activity continues to flourish, and the limited resources and authorities available to combat terrorist financing in each country.

(b) Flexibility in developing a national response to terrorist financing abuse of NPOs is essential, in order to allow it to evolve over time as it faces the changing nature of the terrorist financing threat.

(c) Past and ongoing terrorist financing abuse of NPOs requires countries to adopt effective and proportionate measures, which should be commensurate to the risks identified through a risk-based approach.

(d) Focused measures adopted by countries to protect NPOs from terrorist financing abuse should not disrupt or discourage legitimate charitable activities. Rather, such measures should promote accountability and engender greater confidence among NPOs, across the donor community and with the general public, that charitable funds and services reach intended legitimate beneficiaries. Systems that promote achieving a high degree of accountability, integrity and public confidence in the management and functioning of NPOs are integral to ensuring they cannot be abused for terrorist financing.

(e) Countries are required to identify and take effective and proportionate action against NPOs that either are exploited by, or knowingly supporting, terrorists or terrorist organisations taking into account the specifics of the case. Countries should aim to prevent and prosecute, as appropriate, terrorist financing and other forms of terrorist support. Where NPOs suspected of, or implicated in, terrorist financing or other forms of terrorist support are identified, the first priority of countries must be to investigate and halt such terrorist financing or support. Actions taken for this purpose should, to the extent reasonably possible, minimise negative impact on innocent and legitimate beneficiaries of charitable activity. However, this interest cannot excuse the need to undertake immediate and effective actions to advance the immediate interest of halting terrorist financing or other forms of terrorist support provided by NPOs.

(f) Developing cooperative relationships among the public and private sectors and with NPOs is critical to understanding NPOs' risks and risk mitigation strategies, raising awareness, increasing effectiveness and fostering capabilities to combat terrorist financing abuse within NPOs. Countries should encourage the development of academic research on, and information-sharing in, NPOs to address terrorist financing related issues.

C. Measures

5. Without prejudice to the requirements of Recommendation 1, since not all NPOs are inherently high risk (and some may represent little or no risk at all), countries should identify which subset of organisations fall within the FATF definition of NPO. In undertaking this exercise, countries should use all relevant sources of information in order to identify features and types of NPOs, which, by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse. It is also crucial to identify the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs. Countries should review the adequacy of measures, including laws and regulations, that relate to the subset of the NPO sector that may be abused for terrorism financing support in order to be able to take proportionate and effective actions to address the risks identified. These exercises could take a variety of forms and may or may not be a written product. Countries should also periodically reassess the sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures.

6. There is a diverse range of approaches in identifying, preventing and combating terrorist financing abuse of NPOs. An effective approach should involve all four of the following elements: (a) sustained outreach, (b) targeted risk-based supervision or monitoring, (c) effective investigation and information gathering and (d) effective mechanisms for international cooperation. The following measures represent examples of specific actions that countries should take with respect to each of these elements, in order to protect NPOs from potential terrorist financing abuse.

(a) Sustained outreach concerning terrorist financing issues

(i) Countries should have clear policies to promote accountability, integrity and public confidence in the administration and management of NPOs.

(ii) Countries should encourage and undertake outreach and educational programmes to raise and deepen awareness among NPOs as well as the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse.

(iii) Countries should work with NPOs to develop and refine best practices to address terrorist financing risks and vulnerabilities and thus protect them from terrorist financing abuse.

(iv) Countries should encourage NPOs to conduct transactions via regulated financial channels, wherever feasible, keeping in mind the varying capacities of financial sectors in different countries and in different areas of urgent charitable and humanitarian concerns

(b) Targeted risk-based supervision or monitoring of NPOs

Countries should take steps to promote effective supervision or monitoring. A “one size-fits-all” approach would be inconsistent with the proper implementation of a risk based approach as stipulated under Recommendation 1 of the FATF Standards. In practice, countries should be able to demonstrate that risk-based measures apply to NPOs at risk of terrorist financing abuse. It is also possible that existing regulatory or other measures may already sufficiently address the current terrorist financing risk to the NPOs in a jurisdiction, although terrorist financing risks to the sector should be periodically reviewed. Appropriate authorities should monitor the compliance of NPOs with the requirements of this Recommendation, including the risk-based measures being applied to them. Appropriate authorities should be able to apply effective, proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs. The following are some examples of measures that could be applied to NPOs, in whole or in part, depending on the risks identified:

(i) NPOs could be required to license or register. This information should be available to competent authorities and encouraged to be available to the public.

(ii) NPOs could be required to maintain information on: (1) the purpose and objectives of their stated activities; and (2) the identity of the person(s) who own, control or direct their activities, including senior officers, board members and trustees. This information could be publicly available either directly from the NPO or through appropriate authorities.

(iii) NPOs could be required to issue annual financial statements that provide detailed breakdowns of incomes and expenditures.

(iv) NPOs could be required to have appropriate controls in place to ensure that all funds are fully accounted for, and are spent in a manner that is consistent with the purpose and objectives of the NPO's stated activities.

(v) NPOs could be required to take reasonable measures to confirm the identity, credentials and good standing of beneficiaries and associate NPOs and that they are not involved with and/or using the charitable funds to support terrorists or terrorist organisations. However, NPOs should not be required to conduct customer due diligence. NPOs could be required to take reasonable measures to document the identity of their significant donors and to respect donor confidentiality. The ultimate objective of this requirement is to prevent charitable funds from being used to finance and support terrorists and terrorist organisations.

(vi) NPOs could be required to maintain, for a period of at least five years, records of domestic and international transactions that are sufficiently detailed to verify that

(v) NPOs could be required to take reasonable measures to confirm the identity, credentials and good standing of beneficiaries and associate NPOs and that they are not involved with and/or using the charitable funds to support terrorists or terrorist organisations. However, NPOs should not be required to conduct customer due diligence. NPOs could be required to take reasonable measures to document the identity of their significant donors and to respect donor confidentiality. The ultimate objective of this requirement is to prevent charitable funds from being used to finance and support terrorists and terrorist organisations.

(vi) NPOs could be required to maintain, for a period of at least five years, records of domestic and international transactions that are sufficiently detailed to verify that funds have been received and spent in a manner consistent with the purpose and objectives of the organisation, and could be required to make these available to competent authorities upon appropriate authority. This also applies to information mentioned in paragraphs (ii) and (iii) above. Where appropriate, records of charitable activities and financial operations by NPOs could also be made available to the public.

(c) Effective information gathering and investigation

(i) Countries should ensure effective cooperation, coordination and information sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs.

(ii) Countries should have investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations.

(iii) Countries should ensure that full access to information on the administration and management of a particular NPO (including financial and programmatic information) may be obtained during the course of an investigation.

(iv) Countries should establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO: (1) is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; (2) is being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or (3) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations, that this information is promptly shared with relevant competent authorities, in order to take preventive or investigative action.

(d) Effective capacity to respond to international requests for information about an NPO of concern. Consistent with Recommendations on international cooperation, countries should identify appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

D. Resources for Supervision, Monitoring, and Investigation

7. Countries should provide their appropriate authorities, which are responsible for supervision, monitoring and investigation of their NPO sector, with adequate financial, human and technical resources.

Glossary of specific terms used in Recommendation 8

Appropriate authorities	refers to competent authorities, including regulators, tax authorities, FIUs, law enforcement, intelligence authorities, accrediting institutions, and potentially self-regulatory organizations in some jurisdictions.
Associate NPOs	includes foreign branches of international NPOs, and NPOs with which partnerships have been arranged.
Non-profit organization or NPO	refers to a legal person or arrangement or organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works”.
Terrorist financing abuse	refers to the exploitation by terrorists and terrorist organizations of NPOs to raise or move funds, provide logistical support, encourage or facilitate terrorist recruitment, or otherwise support terrorists or terrorist organizations and operations.

TERRORISM FINANCING RISK INDICATORS RELATED TO THE NGO SECTOR

- Use of cash couriers for the transfer of NGO funds to areas with known terrorist activity.
- Fragmented transactions of NGOs, to avoid reporting by financial entities.
- Cases when requests for transfer of funds to NGOs are accompanied by unclear justifications.
- NPOs provide funding from fictitious organizations or companies.
- Representatives of NPOs do not declare monetary values, negotiable instruments, or precious stones/metals at border crossing points.
- Bank accounts of NPOs are used by entities against which sanctions are applied.
- NPO funds are transferred to entities believed to be engaged in terrorist activities.
- NPO receives funding from entities believed to support terrorist activities.
- NPO funds are merged with personal funds or from business sources.
- Hiding bank accounts related to certain programs or activities.
- NPO funds are transferred to entities that are not related to the declared programs or activities.
- NPO facilities are frequented by individuals believed to support terrorist activities.
- NPOs procure dual-use goods.
- The resources of an NPO provide or transfer funds from/to an entity known for engaging in or supporting terrorist activities.
- NPOs share their property with an organization believed to support terrorist activity.
- Through their activity NPOs provide support to individuals or organizations, whose identity corresponds to those of entities listed by the United Nations Security Council.
- Existence of reliable information indicating that an NPO or its representatives are affiliated with 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 executives or employees.
- NPOs transfer resources or carry out activities in an area where terrorist entities are known to have a significant presence.
- NPO records are kept in an area with a known presence of terrorist organizations.
- Representatives of NPOs often travel to areas where terrorist entities have a significant presence.
- NPOs have unreported activities, programs or partners.
- NPOs use an unusual financial network to carry out their operations.
- NPOs avoid mandatory reporting requirements.
- The explanations for the programs and activities of the NPOs to the supervisory or regulatory bodies are unclear.

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- Third parties are used to open bank accounts of NPOs or to conduct transactions on their behalf.
 - NPO expenditures are not in line with its programs and activities.
 - The NPO is not able to provide data on its income and use of resources.
 - Public data on the involvement of NPOs in activities related to terrorism.
 - NPOs join another organization believed to support terrorist activities.
 - NPO humanitarian assistance aims to support individuals directly linked to terrorist entities.
 - The leaders of an NPO are or have been leaders or employees of other organizations believed to support terrorist activity.
 - NPOs suffer from an internal conflict, where a faction is known to be benevolent or to actively support terrorist entities.
 - The NPO has inconsistencies in its reporting of financial statements and other mandatory reports.
 - NPOs have frequent changes in the management/decision-making structure.
 - NPOs have frequent changes in the management/decision-making structure.
 - NPOs support terrorism or terrorist entities through publications or sermons of their representatives.
 - Managers or employees of an NPO, engage in activities that support the recruitment of persons for international conflict zones.

Annex 6: Appendix 1 of Instruction of Minister of Finance no.16/2009

SUSPICIOUS MODELS USED AS INTERNATIONAL / NATIONAL ORIENTATION STANDARDS FOR DETECTION OF MONEY LAUNDERING AND TERRORISM FINANCING

- Buying and selling securities without distinct purpose, in circumstances that seem unusual and unrelated to investment or risk diversification.
- The taxpayer runs a charitable, humanitarian, educational, etc. organization that seems suspicious. This is in line with the expanded vigilance towards these entities.
- The taxpayer runs his / her business (e.g., foreign exchange office) without a taxpayer identification number (NUIS).
- The taxpayer is reluctant or reluctant to provide information about his / her business activity or provides unusual or dubious documents to identify his / her business.
- The purpose of the taxpayer transaction is meaningless from a business point of view or does not match its stated business / strategy.
- The taxpayer's net worth does not match the funds.
- The information provided by the taxpayer regarding the source of funds is false, misleading or completely wrong.
- When asked, the taxpayer refuses to identify or fails to indicate the legal sources of his / her funds and other assets.
- The taxpayer (or person publicly known as his accomplice) has a controversial history or has been the subject of the media for possible criminal, civil or regulatory offenses.
- Use of multiple "legal entities", with the sole purpose of obtaining and disbursing funds.
- Conducting activity without any clear business purpose in countries or territories identified by the responsible authority as non-cooperating countries.
- The taxpayer is from or has subsidiaries in a country or territory identified as non-cooperating by the FATF.
- The taxpayer appears as the agent of an undeclared person and refuses or evades without legitimate business reasons to provide information about the person or entity he represents.
- The taxpayer has difficulty describing the nature of his business or lacks general knowledge of his industry.
- The taxpayer opens and maintains several accounting records.
- The taxpayer submits false invoices to the Tax Directorate.
- The taxpayer, through appointed persons, uses facade transactions (transactions which have no economic content).
- The taxpayer performs frequent cash transactions, regardless of penalties.
- The taxpayer account shows numerous transactions in foreign currency or monetary instruments, which when collected amount to significant amounts.

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- Transactions that do not adhere to normal market practice (e.g., market size, frequency, pricing, premature closure of loss-making products), especially when cash or refundable checks to third parties are included.
 - Incoming payments made by third party checks or signed by several parties.
 - Taxpayer involved in transactions that have no business meaning or obvious investment strategy or are inconsistent with the taxpayer's stated business strategy.
 - Taxpayer activities or transactions are extremely complex.
 - The taxpayer mixes "business assets" with personal ones.
 - The taxpayer account has telegraphic transfers that have no apparent business purpose from or to a place identified as money laundering risk, banking secrecy, offshore sites and banks, or a site associated with terrorist activity (i.e., places under sanctions, non-cooperative countries, sympathetic nations).
 - The taxpayer makes a deposit of funds in order to purchase a long-term investment followed, immediately after, by the request for liquidation of the position and transfer of income out of the account.
 - The taxpayer requested that the transaction be processed in such a way as to avoid the normal documentation requirements of the firm.
 - Without compelling reasons or with unusual signs, the taxpayer is involved in transactions involving certain types of securities, such as securities to the bearer that, although legal, have been used in fraudulent schemes and money laundering activities. (Such transactions may require verification procedures to establish the legality of the taxpayer's activity).
 - The taxpayer account shows an inexplicably high level of account activity with many levels of securities transactions.
 - The taxpayer account has inflows of funds or other assets that exceed the known limits of taxpayer income or resources.
 - Transactions conducted in favor of unknown parties.
 - Circulated transfers through numerous domestic or foreign banks.
 - Maintaining and using many unnecessary bank accounts.
 - Revaluation of company assets in values outside those of the market.
 - Declaration of very high profits which are not common for the type and area in which this commercial activity takes place.
 - Financing of high value companies of partners which are not clearly justified by legitimate sources or derived from the profits of commercial activity.

Annex 7: Core Legislation

The following laws, secondary legislation, regulations, etc., represent the core legal basis related to AML and CFT matters and applicable to NPOs:

1. Constitution of the Republic of Albania, as amended.

<https://euralius.eu/index.php/en/library/albanian-legislation/send/9-constitution/178-constitution-of-the-republic-of-albania-en>

2. Law no.8920, dated 11.7.2002 "On the ratification of the "United Nations Convention against Transnational Organized Crime" and the protocols thereto, related to the criminal offenses of money laundering".

https://www.mb.gov.al/wpcontent/uploads/2019/12/Ligji_Nr._8920_dat%C3%AB_11.07.2002_%E2%80%9CP%C3%ABr_Ratifikimin_e_Konvent%C3%ABs_s%C3%AB_Kombeve_t%C3%AB_Bashkua_ra%E2%80%9D_kund%C3%ABr_.pdf

3. Law no.7959, dated 11.7.1995 "On the accession of the Republic of Albania in the Statute of the Council of Europe", declared by the Decree of the President of the Republic of Albania no.1149, dated 12.7.1995. <https://qbz.gov.al/eli/ligj/1995/07/11/7959/c3ccd7e2-b26b-40b1-9061-0d928e9eb4da;q=ligji%207959%20date%2011.07.1995>

4. Law no.8137, dated 31.7.1996 "On ratification of the European Convention on Human Rights", added by Law no.8641, dated 13.7.2000 (Additional protocol) added by law no.9264, dated 29.7.2004 (Additional protocol), amended by law no.9453, dated 15.12.2005 (Additional protocol). <https://qbz.gov.al/eli/ligj/1996/07/31/8137/bffaa86c-7ecc-48c8-a7f9-8e812cd0a799;q=ligji%20nr.%208137date%2031.07.1996>

5. Law no.9646, dated 27.11.2006 "On ratification of the Council of Europe Convention on laundering research, seizure and confiscation of the proceeds from crime and the financing of terrorism".

http://www.pp.gov.al/web/konventa_per_pastrimin_kerkimin_kapjen_dhe_konfiskimin_e_produkteve_te_krimit_dhe_financimin_e_terrorizmit_1377.pdf

6. Law no.8865, dated 14.03.2002 "International convention for the fight against terrorist financing". <https://qbz.gov.al/eli/ligj/2002/03/14/8865/c17d3276-2423-4add-92bb-386ad31004e7;q=ligji%20nr%208865,%20date%2014.03.2002%20per%20ratifikimin%20e%20konventes%20>

7. Law no.7850, dated 29.07.1994 "Civil Code of the Republic of Albania", as amended. <https://qbz.gov.al/preview/f010097e-d6c8-402f-8f10-d9b60af94744>

8. Law no. 7895 dated 27.01.1995 "Criminal Code of the Republic of Albania", as amended. <https://qbz.gov.al/preview/a2b117e6-69b2-4355-aa49-78967c31bf4d>

9. Law no.8788, dated 07.05.2001 "On non-profit organizations", as amended. http://www.albautor.net/pdf/legjislacioni/kombetar/ligj_per_ojf.pdf

10. Law no.8789, dated 07.05.2001 "For the registration of non-profit organizations" <https://qbz.gov.al/eli/ligj/2001/05/07/8789/74bc1db5-7694-4e7d-aa1c-cc5f53fb918c;q=%20%E2%80%9CP%C3%8BR%20REGJISTRIMIN%20E%20ORGANIZATAVE%20JOFITIMPRUR%C3%8BSE%E2%80%9D>

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11. Law no.119/2015 "For the establishment and functioning of the National Council for Civil Society". [http://www.amshc.gov.al/web/KKSHC/Ligj_Nr.119-2015_KKSHC-\(AL\).pdf](http://www.amshc.gov.al/web/KKSHC/Ligj_Nr.119-2015_KKSHC-(AL).pdf)
12. Law no.112/2020 "For the register of beneficiary owners".
<https://www.parlament.al/Files/Akte/20200804105337ligj%20nr.%20112,%20dt.%2029.7.2020.pdf>
13. Law no.9917, dated 19.5.2008 "For the prevention of money laundering and financing of terrorism", as amended.[64] <http://fiu.gov.al/wp-content/uploads/2019/07/Ligji-9917-2008-ndryshuar-me-ligjin-Nr.33-2019.pdf>
14. Law no.154, dated 17.12.2020 "For central register of bank accounts".
<http://www.parlament.al/Files/Akte/20201227203234ligj%20nr.%20154,%20dt.%2017.12.2020.pdf>
15. Law no.34/2019 "On the Administration of Sequestrated or Confiscated Assets", as amended.
<http://parlament.al/Files/Akte/20190624141111ligj%20nr.%2034,%20dt.%2017.6.2019.pdf>
16. Law no.10192 dated 03.12.2009 "For the prevention and suppression of organized crime", as amended. <http://differentandequal.org/wp-content/uploads/2019/09/Ligj-nr.10192-dt-03.12.2009.pdf>
17. Law no.7892, dated 21.12.1994 "For sponsorships", as amended. https://www.vendime.al/wp-content/uploads/2015/08/Ligji_7892_1994_Per_Sponsorizimet.pdf
18. Law no.8438, dated 28.12.1998 "For income tax", as amended.
<https://www.tatime.gov.al/c/6/70/tatimi-mbi-te-ardhurat>
19. Law no.25/2018 "For Accounting and Financial Statements".
<http://www.kkk.gov.al/foto/uploads/File/ligj-nr.-25-dt.-10.5.2018.pdf>
20. Law no.9020, dated 19.05.2008 "On tax procedures", as amended.
<https://www.tatime.gov.al/c/6/69/procedurat-tatimore>
21. Law no.157/2013 "On measures against terrorist financing", as amended.
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ASSESSMENT REPORT

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