



**Project against Money Laundering and Terrorist Financing in Serbia
MOLI Serbia**

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TECHNICAL PAPER:

**Guidance on the National Risk Assessment
of Terrorist Financing in the Republic of Serbia**

Proposed outline, methodology and key elements

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1. Introduction

Following the Workshop organised on 27 February 2014 as part of the Council of Europe's MOLI-Serbia project and co-chaired by the Director of the APML, this document sets out in a more accessible format much of the material presented by the Council of Europe's consultant in the course of the workshop. Some additional detail has been added to further assist the Serbian authorities in the completion of their TF NRA.

2. Foundation points

- i. The TF NRA should prove a much more contained exercise than the extensive analysis required for the 2012-14 Serbian ML NRA. As a working estimate, it is anticipated that the final document will probably be 20-30 pages in length.
- ii. The analysis work can be organised into a small number of distinct strands, most of which will tie directly to the proposed outline of the document (see suggestion in Table 1 below).
- iii. Of its nature, information on TF is likely to be even more difficult to source and verify than was the case for the ML assessment. The report should acknowledge this challenge and acknowledge also that there may be terrorism and/or terrorist financing activities with the potential to impact on Serbia that are not known to the authorities at the time of the assessment ('known unknowns' and 'unknown unknowns').
- iv. As noted by workshop participants, the available historical TF-related statistics for Serbia do not – for political reasons related to supporting peace in the region - present a complete picture of either the level of terrorism activity and its financing or of the knowledge and response of the Serbian authorities. A means is to be sought of conveying this message in the report in a balanced and constructive manner. The main emphasis of the report, however, should be on assessing the current TF environment and making recommendations for future CTF system enhancements.
- v. In practice, combating terrorism and TF is primarily intelligence driven, although there is also a significant supporting role for the CTF preventive measures implemented by financial institutions and DNFBPs (particularly in record keeping, including in relation to wire transfers and other money transmission mechanisms).
- vi. Certain categories of financial institutions and other entities are more susceptible than others to abuse for TF purposes. Examples include banks (money transmission / wire transfers), money transfer agencies and NPOs/NGOs/charities. In addition, particularly in the Serbian context, cross-border movements of cash are open to abuse. The possibility that hawala-type schemes exist in Serbia should also be taken into consideration.
- vii. Much of the intelligence information on terrorism and TF is likely to be 'classified' and, as such, cannot be included in the report. It might be possible, without compromising information sources and national security, to include some general information or broad indications regarding TF to reflect the work of the intelligence agencies. In any event, the report could note the constraints on revealing any classified information and suggest that the reader should take that into account.
- viii. In addition to information sourced domestically, information from international intelligence agencies or those of other relevant jurisdictions could also provide useful insights into the

level and types of terrorism and TF activity suspected of having links to Serbia. It would be useful for the relevant Serbian authorities to consider such intelligence sources as part of their research for the TF NRA.

- ix. The research for the NRA should take into account that those involved with TF can sometimes be closely linked with organised crime activities.
- x. To reduce the workload and to strengthen the international acceptance of the NRA findings, reference should be made in the assessment to the relevant conclusions of the latest MONEYVAL Mutual Evaluation Report and Progress Reports (particularly the Secretariat's assessments). All structural and TF-related deficiencies noted by the MONEYVAL evaluators should be addressed in the NRA.
- xi. Where feasible, brief TF case studies or typologies relevant to Serbia could be included in the assessment or annexed to it.

3. Methodology

It is proposed that the methodology to be used for the TF NRA does not need to be overly complex. The approach proposed below, therefore, is designed to guide the conduct of the assessment rather than to be used as a rigid structure.

Suggestions are made in Table 1 below for the inclusion of topics in the TF NRA, some of which differ from those contained in the already-completed ML NRA (e.g. statement of political support for AML/CFT in Serbia). However, if the Serbian authorities decide that the presentation of the TF NRA should remain broadly consistent with the ML NRA, they may select topic headings accordingly.

In substance, the approach proposed below is believed to be broadly compatible with the methodology used for the ML NRA, suitably adapted to the subject of TF and tailored for application in Serbia, being a jurisdiction not strongly associated with international terrorism or TF activities.

4. Suggested Outline of the NRA Report

It is for the Serbian authorities to decide on the content and order of their assessment. [Allocation of tasks will be done by the APML]. The following are merely suggestions for consideration:

Table 1: Suggested outline for report – first draft

(for consideration and amendment at discretion of Serbian authorities, who may wish to add additional areas to the assessment)

Section	To be drafted by:		Comment:
	WORKING GROUP	LED BY:	
Introduction	[APML]	[]	
Statement of political support	[APML]	[]	Optional – often included in such reports to show national commitment to AML/CFT, which is a point that falls to be addressed in the Fifth Round Mutual Evaluation Process (see Annex 1)
Purpose and Objectives of TF NRA	[APML]	[]	Optional to include this as a distinct section – some suggested points for inclusion are listed later in Annex 2 of this paper
Roles of relevant CTF authorities	[to be allocated]	[]	Brief mention of the respective roles of relevance to CTF, to assist an outside reader. More detail could be included in an annex to the NRA, if desired.
ASSESSMENT OF THREATS AND VULNERABILITIES			
Terrorism Threat (insofar as relevant to TF impacting on Serbia) – known, – suspected, – potential for unknown	[to be allocated]	[]	See suggested methodology in Table 2 below for geographical analysis. Include narrative and any available statistics. Use domestic and international intelligence information, except if classified. Useful to refer to UNCTC 2013 CTED assessment report. Note any significant information gaps.
Terrorist Financing Threats and Vulnerabilities – known, – suspected, – potential for unknown	[to be allocated]	[]	See suggested methodology in Table 3 below for geographical analysis. Covering: <ul style="list-style-type: none"> • Raising or collecting funds in Serbia – for use wholly or partially for terrorism purposes within Serbia or abroad; • Moving terrorist funds within or via Serbia; • Using funds directly for terrorist purposes. Include narrative and any available statistics. Use domestic and international intelligence information, except if classified. Useful to refer to UNCTC 2013 CTED assessment report. Note any significant information gaps.
Potential TF links to NPOs/NGOs/Charities and	[to be allocated]	[]	

religious bodies			
Movement of terrorist funds	[to be allocated]	[]	Analyse vulnerabilities arising from the potential use of: Cash Wire-transfers Money remittance services
ASSESSMENT OF CURRENT MITIGATING FACTORS			
Assessment of Legislative foundations (<i>scope of offences of terrorism and TF; UNSCRs; Dissemination of lists; domestic reporting requirements - reporting of name-matches; STRs to APML; freezing, seizing and confiscation</i>)	[to be allocated]	[]	Adequacy of scope of TF legislation (including for UNSCRs); deficiencies noted in MER; plans for enacting legislation currently in draft. Legislative foundations for domestic and international cooperation could also be addressed at this point. In the outline, it is included in the broader assessment of cooperation and information exchange below. Note all legislative gaps.
Assessment of Domestic and International Cooperation (<i>basis for information exchange, MLA, Extradition</i>)	[to be allocated]	[]	Refer to MER and Progress Reports. Include statistics (see Annex 6 for list of relevant statistics) Note all legislative gaps and implementation weaknesses regarding: <ul style="list-style-type: none"> • Domestic cooperation • International cooperation
Assessment of CTF Operational Effectiveness – repressive measures	[to be allocated]	[]	Subject to protection of classified material. Refer to MER and Progress Reports. Include statistics (see Annex 6 for list of relevant statistics). Consider including typologies and/or brief sanitised case studies. Scope to include Intelligence agencies, LEAs. Also include Customs re cross-border cash?
Assessment of CTF Operational	[to be allocated]	[]	Dissemination of terrorist lists. Reporting of name-matches and STRs. Ongoing supervision for CTF of banks, other

Effectiveness – preventive measures			financial institutions and relevant DNFBPs. Results of on-site inspections. Administrative or other sanctions. Include statistics (see Annex 6) and possibly brief sanitised case studies.
OVERALL TF RISK ASSESSMENT			
Summary of findings from analysis above	[to be allocated]	[]	For consistency, could include heat maps and tables, similar to ML NRA
GAP ANALYSIS			
In narrative and tabular form	[to be allocated]	[]	Could use templates from ML NRA (Abbreviated version)
ACTION PLAN			
In narrative and tabular form	[to be allocated]	[]	Could use templates from ML NRA (Abbreviated version)

5. Methodology step-by-step

The following diagram show the steps involved in gathering the necessary information and two alternative approaches to ordering the NRA material for inclusion in the report. The only difference between the two is that the adapted version allows for discussion of ‘consequences’ and ‘probability of impact’ as close as possible to the identification of the problem (threat or vulnerability). This is done for presentation purposes, to deliver a balanced view to the reader, placing negative (threat/vulnerability) and positive (low impact/probability) messages in the same context, thus reducing the risk of conveying an overly negative view to the reader.

This is a guide only; the Serbian authorities should select whatever approach they consider most meaningful and effective.

A. Diagram of Proposed Methodology – adapted version

Step 1a (*information*): **THREATS** – Discuss, research, document/tabulate

Step 1b (*analysis*) – **IMPACT/CONSEQUENCES**

Step 2a (*information*): **VULNERABILITIES**: Discuss/research/document/tabulate

Step 2b (*analysis*) - **LIKELIHOOD / PROBABILITY**

Step 3 (*information*): **MITIGANTS** – Main factors that limit impact of threats

Step 4: (*analysis*) **RISK ASSESSMENT - SITUATION REPORT**

(1a x [2a-3] = 4)

Step 5: (*analysis*) **GAP ANALYSIS**

Step 6: **ACTION PLAN**

B. Diagram of Proposed Methodology – basic version

Step 1 (*information*): **THREATS** – Discuss, research, document/tabulate

Step 2 (*information*): **VULNERABILITIES**: Discuss/research/document/tabulate

Step 3 (*information*): **MITIGANTS** – Main factors that limit impact of threats

Step 4 (*analysis*) – **IMPACT/CONSEQUENCES**

Step 5 (*analysis*) - **LIKELIHOOD / PROBABILITY**

Step 6: (*analysis*) **RISK ASSESSMENT - SITUATION REPORT**

(1a x [2a-3] = 4)

Step 7: (*analysis*) **GAP ANALYSIS**

Step 8: **ACTION PLAN**

Table 2: Structured Approach to Identifying Terrorism Threats that may be linked to Terrorist Financing linked to Serbia

IDENTIFICATION OF TERRORISM THREATS – Worksheet

			Domestic Origin		Regional Origin (impacting Serbia)		Global (potentially impacting Serbia)		Info. Gap
			<i>PUBLIC</i> <i>DOMAIN</i>	<i>CLASS</i> <i>-IFIED</i>	<i>PUBLIC</i> <i>DOMAIN</i>	<i>CLASS</i> <i>-IFIED</i>	<i>PUBLIC</i> <i>DOMAIN</i>	<i>CLASS</i> <i>--IFIED</i>	
KNOWN OR	<i>FACTUAL</i>	Collect and tabulate statistics Draft narrative on cases							
	<i>SUSPECTED</i>	<i>UNPROVEN</i>	Draft narrative on probable cases						
	<i>UNKNOWN</i>	Acknowledge probability							
<i>UNKNOWN</i>	<i>UNKNOWN</i>	Acknowledge possibility							

IMPACTS / CONSEQUENCES

Note that relevance for of Terrorism Threats for TF NRA = THREATS / VULNERABILITIES of TERRORIST FINANCING

Table 3: Structured Approach to Identifying Terrorism Financing Threats and Vulnerabilities linked to Serbia

IDENTIFICATION OF TERRORISM FINANCING THREATS & VULNERABILITIES - Worksheet

		Domestic Origin		Regional Origin (impacting Serbia)		Global (potentially impacting Serbia)		Info. Gap
		<i>PUBLIC</i> <i>DOMAIN</i>	<i>CLASS</i> <i>-IFIED</i>	<i>PUBLIC</i> <i>DOMAIN</i>	<i>CLASS</i> <i>-IFIED</i>	<i>PUBLIC</i> <i>DOMAIN</i>	<i>CLASS</i> <i>--IFIED</i>	
KNOWN	<i>FACTUAL</i>	Collect and tabulate statistics						
OR		Draft narrative on cases						
SUSPECTED	<i>UNPROVEN</i>	Draft narrative on probable cases						
	<i>UNKNOWN</i>	Acknowledge probability						

UNKNOWN	<i>UNKNOWN</i>	Acknowledge possibility						
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IMPACTS / CONSEQUENCES

MITIGANTS

TF RISK = (Vulnerabilities x Impact – Mitigants)

Simple weightings can be applied at each stage to facilitate measurement and allocation of (Net) TF Risk. The use of a 5-point scale is suggested, where 5=high risk; 3=medium risk and 1=low risk. Further detail and a worked example are shown in Annex 7.

ANNEX 1: FATF Recommendation 1 (including extracts from the evaluation methodology)

R.1 - Assessing risks and applying a risk-based approach *

- *Countries should identify, assess, and understand the money laundering and terrorist financing risks for the country*, and should take action, including designating an authority or mechanism to coordinate actions to assess risks, and apply resources, aimed at ensuring the risks are mitigated effectively. Based on that assessment, countries should apply a risk-based approach (RBA) to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified. This approach should be an essential foundation to efficient allocation of resources across the anti-money laundering and countering the financing of terrorism (AML/CFT) regime and the implementation of risk-based measures throughout the FATF Recommendations. Where countries identify higher risks, they should ensure that their AML/CFT regime adequately addresses such risks. Where countries identify lower risks, they may decide to allow simplified measures for some of the FATF Recommendations under certain conditions.
- Countries should require financial institutions and designated non-financial businesses and professions (DNFBPs) to identify, assess and take effective action to mitigate their money laundering and terrorist financing risks.
- *Interpretative note to R.1 relates to second bullet point above.*

EVALUATION METHODOLOGY - Immediate Outcome 1:

[Money laundering and] terrorist financing risks are understood and, where appropriate, actions coordinated domestically to combat [money laundering and] the financing of terrorism [and proliferation].

Assessors are not expected to conduct an in-depth review of, or assess the country's assessment(s) of risks. Assessors, based on their views of the reasonableness of the assessment(s) of risks, should focus on how well the competent authorities use their understanding of the risks in practice to inform policy development and actions to mitigate the risks.

Core Issues to be considered in determining if the Outcome is being achieved

1.1. How well does the country understand its ML/TF risks?

1.2. How well are the identified ML/TF risks addressed by national AML/CFT policies and activities?

1.3 To what extent are the results of the assessment(s) of risks properly used to justify exemptions and support the application of enhanced measures for higher risk scenarios, or simplified measures for lower risk scenarios?

- 1.4. To what extent are the objectives and activities of the competent authorities and SRBs consistent with the evolving national AML/CFT policies and with the ML/TF risks identified?
- 1.5. To what extent do the competent authorities and SRBs co-operate and co-ordinate the development and implementation of policies and activities to combat ML/TF and, where appropriate, the financing of proliferation of weapons of mass destruction?
- 1.6. To what extent does the country ensure that respective financial institutions, DNFBPs and other sectors affected by the application of the FATF Standards are aware of the relevant results of the national ML/TF risk assessment(s)?

ANNEX 2: Suggested Purpose and Objectives of TF NRA

- To comply with FATF (new) Recommendation 1 and provide a foundation for national-level application of a risk-based approach;
- Possible classification of identified areas as higher risk (requiring enhanced measures) or lower risk (permitting reduced measures);
- To improve, through the process of analysis, the understanding of TF risk impacting on Serbia;
- To help identify and address any gaps and weaknesses in the current Serbian response to threats of terrorism and terrorist financing;
- To help risk-prioritise the allocation of scarce resources and possibility highlight the need for some additional resources;
- To provide a structured basis for future action to address any gaps identified;
- To provide a benchmark against which future progress can be measured;
- To enhance Serbia's reputation and demonstrate to external readers that Serbia is taking seriously its CFT commitments;
- To provide a useful tool for ongoing staff training.

ANNEX 3: Some indicators of political/high-level commitment to effective CFT measures

- Public statements; written commitments;
- Appointment of necessary competent authorities and allocation of resources;
- Attitude of Government and Parliament to enactment of needed TF legislation and regulations (*see also separate analysis of legislation*);
- Any other evidence of commitment?

ANNEX 4: Examples of predicate crimes linked to TF

(Analysis sourced from FATF/IMF)

Raising funds from criminal activities

Any known examples in Serbia?

Raising funds from "legal" or apparently lawful activities

- o Willing Donors using "Legal" Fundraising (e.g., NPOs)
- o Deceptive Use of "Legal" Fundraising (e.g., NPOs, donors unaware of TF use)
- o Donated from legal income (e.g., salaries & profits)

any known examples in Serbia?

- **Other**

Perhaps linked to cash movements, any form of hawala, use of money remittance agencies, use of exchange offices, etc.??

ANNEX 5: Legislative Provisions of relevance to TF

Document legislation in force and effect (and relevant regulations where applicable);
Covering adequacy of:

- Scope of terrorism offence;
- Scope of TF offence;
- UNSC Resolutions;
- Domestic reporting obligations;
- Freezing, seizing and confiscation;
- Legal basis for international cooperation, mutual legal assistance and extradition;
- Any other relevant legislative matters.

ANNEX 6: Possible outline of Table(s) of Statistics relevant to TF

Set out below is a comprehensive list that includes a wide range of potential statistical information that could be considered relevant to a TF assessment. In many cases, data might not be available in this form but a narrative response could possibly be included in the report instead. The categories shown are considered relevant in particular to the assessment of vulnerabilities and the preparation of the TF gap analysis – unreasonably low numbers (especially zeros) require some explanation, as does non-availability or non-collection of data.

Available data to be tabulated annually for (say) 2008 – 2013/14

TF REPORTING

Numbers of...

- TF-related STRs in Serbia (showing separately those from banks, money transmission agencies, other financial institutions, DNFBPs, NPOs)
- TF name-matches under UNSCRs

RESPONSE TO INFORMATION REQUESTS (DOMESTIC)

sent by FIU, regulator or LEAs (by category of authority)

Numbers of...

- TF-related requests for information or records sent to:
Banks, other financial institutions, DNFBPs, money transfer agents, NPOs (by category)
- Average response rate and response times for each category
- Reasons for non-provision of requested information or poor quality records

REPRESSIVE MEASURES

Numbers of...

- TF Investigations in Serbia (number of cases and number of individuals involved)
- Investigation cases for TF initiated by STRs
- Investigation cases for TF where STR data was used
- TF Prosecutions in Serbia (number of cases and number of individuals involved)
- Prosecution cases for TF initiated by STRs
- Prosecution cases for TF where STR data was used
- TF investigation cases that resulted in prosecution only for other offences
- Reasons for not pursuing TF charges (showing separately: No evidence found of TF; Not enough evidence to meet the burden of proof for TF; TF prosecution too costly or time consuming; Marginal sentences for TF convictions compared to other offences in the case; other (please specify))
- TF Convictions in Serbia ((number of cases and number of individuals involved)
- Convictions for TF initiated by STRs
- Convictions for TF where STR data was used
- Penalties applied on conviction
 - fines (number of cases and amounts of fines)
 - prison sentences (number of cases, number of individuals and length of sentences)

INTERNATIONAL COOPERATION

Numbers of...

- Requests for information re TF received from other jurisdictions of which - TF information sent by Serbia to other jurisdictions
- Requests for information re TF sent by Serbia to other jurisdictions of which - TF information received by Serbia from other jurisdictions
- TF reports made spontaneously by Serbia to other jurisdictions
- TF reports received spontaneously by Serbia from other jurisdictions
- Other examples of MLA
- TF Investigations abroad supported by information supplied by Serbia
- TF Prosecutions abroad supported by information supplied by Serbia
- TF Convictions abroad supported by information supplied by Serbia
- TF-related extraditions (in / out)

SUPERVISION OF FINANCIAL AND OTHER ENTITIES

Numbers of...

- Regulatory inspections that targeted TF (showing separately in each case below those for banks, money transmission agencies, other financial institutions, DNFBPs, NPOs);
- Note main deficiencies identified;
- Regulatory actions taken (seeking remedial action re TF deficiencies);
- Administrative sanctions applied for TF deficiencies
 - fines (number of cases, number of institutions, and amounts of fines)
 - other (please specify)

MOVEMENTS OF CASH AND VALUE AND ROLE OF CUSTOMS

where a link to terrorist financing was known or suspected, numbers of...

- Declarations to customs of cross-border cash
- Seizures of cash by border agencies
- Confiscations of cash by border agencies
- Convictions for offences related to carrying undeclared cash across the border

Number of instances or cases of suspicion of hawala-type activities.

Number of instances where NPOs were linked to possible terrorist financing.

ANNEX 7: Simple risk-weighting system

For each stage of the process, apply a rating using a 5-point scale, 1-5, where 5 is the highest risk. This approach is easy to reconcile with the approach used for Serbia's ML NRA which used rankings of Low, Low/Medium, Medium, Medium/High and High Risk.

For example:

A global or regional Threat of TF may be considered as Medium/High	= 4
However, the impact on Serbia's reputation should the threat materialize might be assessed as High	= 5 (100% or 1)
Due to its geographical location, Serbia might be assessed as particularly Vulnerable	= 5 (100% or 1)
The probability of the event occurring might be assessed as Medium	= 3 (60% or 0.6)
Mitigating action taken by the Serbian authorities could be assessed as providing a partial defence (good chance of prevention or detection)	= 4 (80% or 0.8)
TF Risk Assessment calculation for this component =	4 x (1 x 1 x 0.6 x 0.8) = 1.92
TF Risk factor for this component (1.92 out of 5) implies	Low/Medium Risk

This approach is merely intended as a tool to provide a more analytical basis for the thought process underpinning the assessment. It is not an end in itself and undue emphasis should not be placed on the numbers involved in the workings. There is no single 'correct' way of conducting the risk assessment. A reasonableness or common sense test should also be applied in each case to ensure that the risk measurement calculation is not delivering unjustifiable results.