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THE RISKS TO NON-PROFIT ORGANISATIONS OF ABUSE FOR MONEY LAUNDERING AND TERRORIST FINANCING IN SERBIA

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Project against Money Laundering and Terrorist Financing in Serbia
MOLI Serbia

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**THE RISKS TO NON-PROFIT
ORGANISATIONS OF ABUSE FOR
MONEY LAUNDERING AND
TERRORIST FINANCING IN SERBIA**

**Prepared by Council of Europe expert
Mr Anthony Grahame Barker**

April 2013

Foreword

Terrorism and organised crime violate Human Rights and undermine the rule of law, and they can be a threat for the stability of national economies. Criminals use sophisticated means to conceal illegal funds, move them across borders and inject them into the legitimate economy. Non-profit organisations can be particularly vulnerable to such abuses due to their organisational characteristics, status and cross-border ties.

The present research study was developed within the framework of the “Project against money laundering and terrorist financing in Serbia (MOLI Serbia)”, a 2,2 million Euro joint project of the Council of Europe and the European Union implemented throughout 2010-2014.

The MOLI Serbia project aimed to strengthen the legislative and institutional frameworks for combating money laundering and financing of terrorism in Serbia using a risk-based approach to identifying threats and developing countermeasures at the sectorial and national levels.

This study is one of the results of this effort. It provides an overview of the regulatory framework for non-profit organisations in Serbia, points to the features that can put such organisations at the risk of being misused for money laundering and terrorist financing, and suggests a roadmap of institutional, legislative and outreach measures based on international best practices. Amongst them are measures of transparency and the suggestion that non-profit organisations should report suspicious activities according to clear protocols established by the lead regulatory agency.

I am grateful to the Council of Europe expert Mr Anthony Grahame Barker who carried out this research study. I thank our Serbian partners from the Ministry of Finance, the Ministry of the Interior, the Information Security Agency, the Serbian Business Registry, the Tax Administration, the Centre for Development of the Non-Profit Sector and the Office for Cooperation with Churches and Religious Communities.

I am confident that the study will be useful for all those active in civil society organisations and for a broad spectrum of professionals and regulators in Serbia and in the region.



Ivan Koedjikov

Head of the Action against Crime Department
Council of Europe

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Executive summary

- 1.** This study was commissioned by the Council of Europe within the framework of the Project against Money Laundering and Terrorist Financing in Serbia (MOLI-Serbia) to advise on the risks of abuse for money laundering and terrorist financing (ML/TF) within the NPO sector in Serbia. It includes an assessment and recommendations to reduce or close vulnerability gaps to minimise the risks of ML/TF, taking into account any legislative issues which need to be addressed in order to achieve this.
- 2.** Following the recommendations of the Financial Action Task Force (FATF), much is now known about recognising the vulnerabilities of the NPO sector and there is a wide range of literature on the subject. Best practice has been identified with a view to instituting a range of measures which will better enable NPOs to safeguard themselves against criminal exploitation.
- 3.** The optimum strategy for safeguarding NPOs has been found to be the relationship between an empowered regulator with a deep understanding of the scope, scale and workings of the sector and an aware and vigilant sector that conducts its own risk assessments, acting upon considered advice and dealing with issues proportionately.
- 4.** The study includes a data-gathering exercise within the NPO sector in Serbia in order to determine its structure and characteristics in relation to ML/TF risks.
- 5.** The Serbian Business Registers Agency (SBRA) is the lead agency for the registration of associations under Serbian law. The SBRA has registered a total of 19 763 domestic associations and federations and a total of 58 branches of foreign operations.
- 6.** The SBRA registers details as mandated by law and has no executive authority to seek further information or question its validity beyond face value. As a consequence, there are significant gaps in the recording of, and information about, NPOs. The information recorded is exceedingly brief and lacks a layer of significant detail. There are consequently examples of inaccurate and fraudulent information recorded within the register.
- 7.** Religious organisations are excluded from the need to register with the SBRA and therefore appear to fall outside any central record of associations.
- 8.** Therefore, very little is known about the existence, objectives and activities of religious associations, which contributes to a heightened level of risk. As the result of a lack of information concerning the nature of the NPO sector as a whole, it is not possible to conduct an accurate or meaningful analysis of the scale and scope of the sector, and predictions of risk must therefore be qualified.
- 9.** That said, there is consensus within the literature that, because of the nature of their objectives and activities and the manner in which these are achieved, religious organisations tend to fall into the higher risk group in terms of potential for ML/TF. There are established links between the two activities.
- 10.** There is no reporting framework in Serbia within which NPOs operate. NPOs are not required to account for their activities according to financial spend (unless the donor is an international partner, in which case the likelihood of having to report back is greater) or submit audited accounts of their financial expenditure. There is no Suspicious Activity Reporting process, contrary to international standards, and no system for whistleblowing.

- 11.** An enhanced process of transparency would benefit the sector with more information made publically available, and legislation needs to be reviewed to enable the creation of a lead agency with responsibility for regulating the entire sector, including religious organisations. Information concerning the sector should be more widely accessible and available to all.
- 12.** There is no effective outreach to the sector. Some NPOs exist to assist other NPOs to carry out their objectives but there is nothing cogent emanating from the State agencies. The government agencies are not configured or resourced to organise and deliver effective outreach. There was limited knowledge among the NPO representatives to indicate that they were aware of, or equipped to devise, control strategies to prevent criminal abuse.
- 13.** International best practice strongly supports outreach as an effective tool for enabling NPOs to create risk assessment protocols and strategies to prevent ML/TF, and consequently to enhance donor confidence. The increase in international donor partnerships creates a greater imperative for strong outreach programmes and for raising and sustaining sector confidence.
- 14.** The designated lead agency should create a sustainable outreach plan that builds upon a comprehensive knowledge of the sector, analyses the current position, provides trained staff and markets the plan, ensuring the necessary participation within the sector. This should be prioritised on a risk-assessed basis and subsequently evaluated.
- 15.** The NPO sector is not an organised cohesive network and requires a significant degree of cultural change. Consideration should be given to creating more opportunities for consultation and participation within the sector, possibly through hosting conferences and similar large-scale assemblies.
- 16.** It is therefore recommended that one lead agency be established to oversee and regulate the work of the entire NPO sector, and that substantial improvements be made in the recording of NPO information and data at the point of registration. This should be complemented by a requirement for NPOs to provide freely available annual reports to the lead agency about the work they do and to be accountable for their budget spend.¹
- 17.** Furthermore, NPOs should identify and report any suspicious criminal activity that occurs or comes to their attention in accordance with clear protocols established and issued by the lead agency. Such information should feed into future strategy and planning within the sector.²
- 18.** The study found a general lack of communication relating to the sector, both within government agencies and NPOs. Consideration should be given to reviewing protocols for inter-agency information sharing and to including the sector within a consultative framework.
- 19.** The study identified a complete lack of outreach to the sector and recommends that an outreach strategy and plan be created by the lead agency in order to better inform the sector of present and emerging developments, and better equip NPOs to create control strategies to protect themselves from harm.

¹ The Serbian Government's Office for Co-operation with Civil Society submitted the following written comment on 15 July 2013: "It is our view that this recommendation, if left as such, can be misunderstood as the need of the Government to regulate the work of the non-governmental sector, which would be ambiguous or contrary to the essence of the non-governmental associations and the right to freely associate without any limitations, apart from those limitations necessary for preservation of national security, public order, morale and the rights of others."

² The Serbian Government's Office for Co-operation with Civil Society submitted the following written comment on 15 July 2013: "It is our view that this would present an unnecessary overregulation since non-profit organisations in Serbia are already under financial control of State financial authorities and there is a legal obligation to report any criminal activity that any individual is aware of. The definition of suspicious activities would also present an issue that would need to be dealt with very carefully."

Introduction

This study has been undertaken by Council of Europe short-term expert Grahame Barker within the framework of the MOLI Serbia Project.

The research process included a scoping mission in Serbia between 17 and 21 October 2012, which involved meeting with several government agencies and representatives of a small number of NPOs in order to ascertain the scope and scale of the sector and to refine some terms of reference for the production of a research document.

Emerging findings were identified from the scoping mission and terms of reference were proposed which would enable the development of these preliminary findings following data-gathering and further interviews with representatives from identified government departments.

The aims of the research project have been to:

- 1.** Conduct a literature review to identify what research has previously been conducted to identify risk typologies and vulnerabilities, with subsequent action planning for the NPO sector in Serbia.
- 2.** Carry out data-gathering on the NPO sector in Serbia to determine its structure and characteristics as relevant to ML/TF risks, undertaking at least one data-gathering mission to Serbia for that purpose.
- 3.** Conduct a risk assessment of the NPO sector based on data gathered as above and make recommendations to reduce or close vulnerability gaps and minimise the risks of ML/TF. This shall include a non-legal but informed assessment of legislative and policy issues with due regard for the relevant international anti-money laundering and counter-terrorism financing standards for NPOs.
- 4.** Design a policy and outreach plan for protecting the NPO sector from abuse for ML/TF.

The short-term expert subsequently visited Serbia between 14 and 18 January 2013, meeting with representatives of the SBRA and the Tax Administration in Belgrade. The short-term expert also visited Novi Pazar and met with representatives from three different NPOs:

- Sandzak Committee for the Protection of Human Rights and Freedoms;
- Urban-in (non-governmental organisation); and
- Mesihat of the Islamic Community of Sanjak, Riyasah of the Islamic Community of Serbia.

These meetings provided the basis for further formulation of the findings and proposals set out in the study.

Much has already been researched and written about ML/TF and there is international experience to draw upon. It is not the intention in this technical paper to necessarily add new thinking to the subject but to draw upon the experience of countries with a more developed regulatory infrastructure and transpose that research and experience to the findings within the NPO sector in Serbia.

The research undertook to identify the scale, scope and identifiable characteristics of the NPO sector in Serbia. It was important to identify precisely what is known about the NPO landscape and the regulatory framework that surrounds it. Based on this high-level picture and using international best practice, it sought to identify emerging strategic gaps and risks, culminating in recommendations which would mitigate risk and improve regulatory processes in order to increase trust and confidence within the sector. Additional work for other regulators in Serbia could be identified through a process of action planning, which would enable the vulnerabilities identified to be addressed by the respective agencies and improve inter-agency co-operation.

The study methodology was intended to be based on a combination of qualitative and quantitative analysis of both formal and informal NPO data, and included the following stages:

- a scoping exercise including research of available sources of information and the identification of key partners to probe the range of existing data;
- structured interviews with selected and representative NPOs and government agencies;
- following the results of the scoping exercise, further focused interviews with representatives of NPOs and government agencies;
- analysis of data on the scale and scope of NPOs in Serbia and identification of strategic regulatory gaps and risks to the sector;
- making recommendations to reduce or close the strategic gaps and mitigate risk;
- drafting of a core research paper and consultation with key stakeholders; and
- presentation of the study and key findings.

The study also incorporated other available data, including that gathered through the national risk assessment exercise under the MOLI Project.

Literature review on money laundering and terrorist financing (ML/TF) risks posed by the non-profit organisation (NPO) sector

- 1.** Following the recommendations of the Financial Action Task Force (FATF), much has been achieved in recognising the vulnerabilities of the NPO sector and this is generally well documented. It is known that opportunities have previously been taken by terrorist organisations to exploit the weakness of NPOs to finance and support their operations.
- 2.** Long established organisations, such as the Charity Commission for England and Wales, regularly publish documents which support a regulatory framework for charities and NPOs and can be found on the organisation's extensive website.
- 3.** There is also no shortage of best practice and principles, which if followed within the context of effective support and regulation will provide an effective shield against terrorist infiltration and manipulation.
- 4.** The importance of NPOs cannot be understated. The sector is growing and contributes evermore financially, employing large numbers of people. It is clear that NPOs also provide a service that is neglected or underfunded by governments and offer a platform to minority or marginalised communities. This was very clear in Serbia.
- 5.** There is consensus among international regulators on what constitutes best practice. Such practice is mostly aspirational and, for a variety of reasons, individual regulators can rarely, if ever, provide or enforce a framework that is beyond improvement.

Basic principles for good NPO practice

- 6.** High-level principles for good practice are espoused by nearly all international jurisdictions and will always include a statement of the intent to operate with honesty and integrity, coupled with an openness to provide information to interested parties. Of prime importance is the question of relevant financial dealings and the primacy of fundraising, donations and associated costs.
- 7.** Stemming from these should be clear and unambiguous statements of the objectives and aims of the organisation and detail of how it seeks to achieve these. All of the activities must be lawful and incorporate relevant national protocols for the disbursement of assets for exclusively charitable – or other authorised and legitimate – purposes.
- 8.** Proper risk assessments should be undertaken by NPOs seeking to understand and identify the risks impacting on their work, particularly within known high-risk areas where, for example, terrorist activity is known to occur in environments where money laundering or other types of financial irregularity are prevalent. The general rule is that the depth of risk assessment and the actions which need to be taken to mitigate the risks identified increase according to need. Thus, there should be a greater degree of risk assessment for NPOs working abroad than there might be for an NPO working in the field of domestic deliverables.

9. Care and consideration should be given to the proportionate use of publicly available information in determining the appropriateness of forming partnerships to deliver the NPO's objectives, extending as far as the employees tasked to deliver them.

Good governance

10. NPOs should have strong and solid governance. This links to the governing instruments and should ideally define the NPO's objectives and purpose. There should be published standards of accountability and practices, particularly in relation to funds. Emphasis is also placed on the independence of the sector. Governance is present to enable good practice, not to disable it. The emergence of NPOs is generally linked to expertise and the ability to deliver and it is not in the sector's interest to over regulate, but to better enable.

Accountability and transparency

11. NPOs must follow the accounting practices of the host country. Proper financial accounting and the keeping of records subject to independent audit are essential. The requirements for accounting practice and audit are best achieved when set according to NPO size. Annual reporting in a transparent format is key to public and peer review.
12. Accurate audit trails and all associated records will be kept for a designated period, which will enable the appropriate regulator to maintain sufficient oversight of activity. The focus and sources of funding require a high degree of transparency along with a statement concerning the financial controls used by the NPO in order to minimise the risk of misuse.
13. The NPO spend should be properly reported, including a declaration of instances where any spend has been for activity or activities which are not linked to the objectives of the organisation.
14. Formal channels for cash flows for all transactions should be used and recorded. This principle needs to take into account the different and varying capacity of financial sectors and recognise the demands of delivering urgent charitable and humanitarian assistance in challenging contexts. Financial transactions should therefore be conducted within mainstream financial channels such as bank accounts as far as is reasonably possible. Recognition should be made of the increasing use of alternative money systems such as hawala in more remote areas.

Relations to the donor

15. Great care should be taken over the relationship between the NPO and the donor. Donors have the right of reassurance that finances are applied directly and according to the declarations made by the NPO. The policies and procedures of the NPO should adequately reflect this position.

Relations to the beneficiary

16. There is international consensus on the requirement of NPOs to follow the "Know Your" principles, which ensure that NPOs make their best efforts to verify that beneficiaries, donors and associates are bona fide. This would extend to the principle that potential beneficiaries have the ability to accomplish and deliver the objectives of the grant and make every effort to protect the resources from any kind of criminal exploitation.

17. It must also be incumbent upon NPOs to properly but proportionately audit their beneficiaries to ensure financial compliance and the existence of preventative measures against criminal exploitation.

Suspicious Activity Reporting

18. NPOs should comply with Suspicious Activity Reporting protocols and make reports to the relevant law or civil enforcement authorities according to the facts. There is a general recognition that NPOs may find that their objective deliverables sit within an ML/TF environment: such a discovery must be reported to the appropriate authority.

19. These recommendations reflect the general consensus of research across international borders and organisations and very adequately reflect what needs to be done to enable optimum protection. It is clear, however, that there are many barriers and challenges. These are summarised in the Asia Pacific Group's APG Yearly Typologies Report 2011 as follows:

- NPO regulation is often considered a low priority;
- an efficient comprehensive regulatory mechanism also requires substantial financial and human resources;
- regulation itself can be very difficult, particularly with respect to monitoring the activities of humanitarian NPOs operating in foreign conflict zones;
- many NPOs have resisted government oversight and regulation;
- many jurisdictions have complicated, overlapping and/or contradictory laws and regulations for historical or cultural reasons;
- effective regulation requires an in-depth knowledge of one's NPO sector, its vulnerabilities and the current laws and regulations affecting it.

Gap analysis methodology for the NPO sector

20. Gap analysis is an effective tool to ascertain the strategic gaps in NPO regulation and the ramifications of these gaps will be discussed with a focus on the study findings. The following strategic gaps are considered relevant.

Information gap

A lack of knowledge concerning the characteristics and vulnerabilities of a country's NPO sector.

Effectiveness gap

A lack of knowledge regarding the effectiveness of current laws and regulations (i.e. their capacity to address actual risks to the NPO sector).

Framework gap

A lack of consensus as to what strategic framework of regulation would be best suited to the sector (i.e. tax regulation, internal security, law enforcement, self regulation, etc.). Without a clear consensus, legislation and regulations cannot clearly identify the appropriate lead regulatory authority.

Legal gap

The absence of appropriate legislation relating to the regulation of NPOs and the ineffectiveness of present statutory measures in relation to actual risks. As per FATF Special Recommendation (SR) VIII, legislation must allow for supervision or monitoring of the NPO sector, as well as the ability to gather information effectively and carry out investigations.

Structural gap

The failure to designate a lead organisation with sufficient legal authority and resources to regulate the NPO sector, which is necessary in order to centralise the information. Also, the failure to define the mandates or the extent of authority of other stakeholders.

Resource gap

Although a lead organisation is designated, it does not have the necessary funding, personnel, data and records systems or analytical systems in place to perform essential tasks. These tasks include sector analysis, risk identification and secure data management.

Co-operation gap

The co-operation gap is divided into two subsections.

Internal: where there are insufficient measures in place for co-operation. The body responsible for NPO regulation is unable to maintain liaison and co-operation with other stakeholders including (but not limited to) financial intelligence units, law enforcement, security services and immigration authorities.

External: where there are insufficient measures in place for co-operation with other governments, multilateral bodies or self-regulatory bodies.

Outreach gap

Efforts to educate NPOs with regard to the risks posed to the sector by terrorists and the need to conduct due diligence are insufficient.

Participation gap

The failure to include the NPO sector at all stages of regulation enhancement.

21. The strategic gaps can therefore be translated into action planning in order to address the following.

Information gap

Knowing the risks

- Conduct an NPO sector review and subsequent risk analysis to determine where the vulnerabilities are. In order to obtain the most accurate information, consultation and co-ordination with all stakeholders may be required.

Effectiveness gap

Assessing current tools

- Once a risk assessment of the NPO sector is completed, conduct a review of existing laws and regulations to determine inconsistencies with actual risks. This phase is required by SR VIII and should ensure that classes of NPOs previously overlooked are incorporated under the new regulatory system.

Framework gap

Defining concepts and strategies

- Determine the strategic framework best suited for regulating the particular sector (tax regulation, internal security, law enforcement, etc.).

Legal gap

Drafting and implementing legislation

- Design legislation around the primary method of regulation, ensuring it addresses actual risks and gives adequate authority to the body involved;
- Bearing in mind the directives provided by SR VIII with regard to supervision, monitoring and investigation, will the method of regulation be passive (a registration and reporting regime), active (intelligence and auditing), or a mixture of both?

Structural gap

Putting the necessary structures in place

- Designate a lead organisation that fits the initial chosen method of regulation. For example, if regulation is to be tackled through tax enforcement, the lead agency should be the tax authority;
- Begin to define mandates or the extent of authority of other stakeholders;
- plan for the operational aspects of regulation.

Co-operation gap

Ensuring internal and external co-operation

- Put in place mechanisms to ensure co-operation between the lead organisation and other government stakeholders (e.g. laws on information sharing, memoranda of understanding, invitations to working groups and inter-agency committees, etc.);
- Ensure bilateral and multicultural engagement with lead organisations in other jurisdictions on information sharing, strategic planning, risk management, etc.

Outreach gap

Planning and implementing research programmes in consultation with the NPO sector

- Inform the NPO sector about the risks of abuse from terrorists;
- Maintain donor confidence in the NPO sector through outreach programmes;
- Ensure due diligence procedures form part of outreach programmes.

Participation gap

Integrating and consulting the NPO sector

- Ensure the NPO sector is included in discussions and decision-making during each phase of this framework. Experience has shown that best results are achieved when the NPO sector is continually involved and consulted.

22. Turning to the question of risk assessing the vulnerability of the NPO sector in Serbia, there is unanimity concerning the assessment process and the scope of the NPO fields which require due consideration.

Determining the risks within the sector is seen as requiring two steps. Firstly, the completion of a detailed analysis of the sector itself. Relevant information includes how many NPOs there are, what activities they pursue and their areas of operation, as well as financial information such as detailed income and expenditure and size of the organisation.

23. The Asia Pacific Group suggests the following relevant factors:

- types of NPOs;
- revenue;
- sources of revenue;
- means of distributing funds and materials;
- whether they are primarily donors or recipients;
- partners;
- geographical areas of operations;
- types of activities;
- personnel and other associated individuals (such as directors and volunteers);
- beneficiaries.

24. The second step is seen as beginning a risk assessment of the sector. For example, effective regulation requires an understanding of specific threats, knowledge of historic abuse and any intelligence emanating from these. This information should be gathered and analysed by competent authorities to determine the most common and most significant ML/TF threat scenarios with regard to the NPO sector.

25. Further to the consideration of risk, the Charity Commission for England and Wales offers cogent advice concerning due diligence and what factors are likely to affect the level of risk.

- What activities are being carried out?
- How are activities going to be delivered and what timescales are involved?
- Who will carry them out? Will it be staff controlled and supervised by the NPO? If an NPO is using other organisations as partners or agents, this may or may not increase the risks. By using third parties, directors may manage the risks to their staff and to the NPO, but only as long as the directors put in place good monitoring and reporting arrangements and formalise the relationship to protect the NPO. If proper safeguards are not put in place, this may increase the risks to the NPO.
- Where will the project be based? The risks may increase where it is in a conflict zone or within a local community under the influence of individuals linked to terrorism, or where criminals are known to operate. The risk will vary if it is in a region or country which is currently unstable or where the infrastructure is poor.
- There may be additional factors to consider with regard to risks because

of local issues. Are there local disputes that will affect the delivery of the project? For example, will the local dispute mean that certain people may be excluded from participating in the charitable activity or that certain people will be given preference or only allowed to participate, irrespective of whether or not they have charitable needs? Or, for example, do the partners or beneficiaries who may operate in a different regulatory system understand what they need to do for the NPO?

- What methods are used to safeguard NPO funds? In order to operate effectively and transparently when delivering aid or undertaking other charitable work, every NPO should have access to formal banking facilities. It is a decision for the NPO as to which bank or organisation they choose to hold their account. However, there must be serious concerns if an NPO is unable to operate because of a lack of formal banking services. If financial services are declined or withdrawn, harm could result to its charitable work and its ability to operate transparently and to ensure it can safeguard its funds. If an NPO or a local partner has to use cash or alternative money systems and payment mechanisms, such as Money Service Businesses or cash couriers, they will need to take extra precautions and do more to protect their funds and ensure close monitoring of their use.
- The public profile of the proposed work and the likely media and/or public interest in it.
- Where third parties may be involved as well as delivery partners, what degree of influence or control does the NPO exert? For example, is the NPO able to carry out adequate monitoring?
- It is important to realise that some risks may only become evident once a relationship with a donor, beneficiary or partner or the work has begun. As these materialise, the risks are likely to need to be reassessed.

Access and availability of information on NPOs and the NPO sector

- 26.** The scoping mission to Serbia in October 2012 had previously identified a lack of information held on NPOs and further potential shortcomings in the range of data available across government departments. These findings were reported to the Council of Europe by the author of this study on 4 November 2012.
- 27.** This study investigated further and in more detail, the range of available information relating to the sector and the potential to acquire information from other government departments outside the scoping mission.
- 28.** The SBRA had already been identified as the primary source of information. The SBRA maintains a list of associations in order to comply with the relevant Serbian Law on associations. It is a self-funding organisation and the imposition of fees enables it to operate on a governmental cost-free basis. It was apparent that there was little or no scope to access information outside these governmental registration requirements. Moreover, very little information is required to be stored within the SBRA's systems. The definition of an NPO is very wide and only the most basic information relating to each NPO was stored.
- 29.** Enquiries were made as to what information could be made available to the short-term expert and the SBRA agreed to release a list of registered associations to the expert through the offices of the Administration for the Prevention of Money Laundering (APML). It was made clear that this list was the only data which could be provided and there was no further opportunity to search for data, owing primarily to the sparseness of information and the configuration of the SBRA's IT systems.
- 30.** This list of associations was released to the author on 22 January 2013. There are two lists:
- domestic associations and federations;
 - branches of foreign associations.
- 31.** The Registrar explained to the author that the Law on associations requires brevity from an association in the description of its goals. This is highly significant and is a bar to the effective understanding of precisely what the association's aims and objectives are. Put simply, the quality of the narrative is the only thing that enables an understanding of the association's nature and scope. The narrative is not subject to any quality check, nor is it tested as to its veracity. The objects of the NPO are therefore distilled into little more than a sentence.
- 32.** The fields to be completed by associations wishing to register are:
- Name of the association;
 - Address;
 - Name of legal representative;
 - Contact details;
 - Whether contact is member of another association;
 - Whether operation is domestic or abroad;
 - Goals of the association.

- 33.** The Serbian Law on associations was amended in 2009 enabling the expansion of the business register. Many new associations took the opportunity to register and avail themselves of the advantages of becoming a legal entity. Benefits following registration, for example, are the option of banking and financial services. The register was also expanded to incorporate State organisations, for example, associations for the blind and war veterans.
- 34.** It was further explained that the list of associations is diverse and not restrictive. Trade unions and professional associations can also be found on the list.
- 35.** By definition, and following the parameters of registration, there are many unregistered groups in existence, some operating in a virtual environment on the Internet. This was reinforced to the author by representatives of active registered NPOs in both Belgrade and Novi Pazar.
- 36.** The SBRA has no right in law or mandate to make any further enquiries of those seeking registration, save for the detail required by statute. It is rare (but not unknown) for staff within the SBRA to raise enough suspicion, following the provision of data for registration, to challenge or escalate issues to management either during or after registration. Staff are not expected to make any enquiries and certainly have no training in spotting fraud or querying identification. The registration of associations is exactly that: a business process and not an enquiry.
- 37.** The list of associations provided to the author contains 19 763 entries in date order within the list of domestic associations and federations and 58 entries in date order within the list of branches of foreign operations. These entries include the following fields:
- Business registration number;
 - Full business name;
 - Founding date;
 - Status;
 - Description of business;
 - Region;
 - Municipality;
 - Town;
 - Street;
 - House number;
 - Tax number;
 - Notes.
- 38.** The author was struck by the extreme brevity of the entries. The description of the business is a single short sentence and in neither list are any observations at all entered in the “Notes” field.
- 39.** The author had hoped to conduct meaningful statistical analysis of the lists, prior to supply, which would have indicated in far greater detail the scope, scale, objectives, budget and operations of the associations. This was clearly impossible.
- 40.** It is also apparent that the lists do not necessarily represent a list of active NPOs, given their broad definition. Other associations such as trade unions and professional bodies are also incorporated.

- 41.** There is no legal requirement for religious associations to register with the SBRA or any other government department. The author has been unable to identify any government agency in Serbia that either maintains an accurate list of religious associations and their objectives or, if such a list were maintained, has access to it.
- 42.** It was suggested at the meeting with the SBRA's Registrar that one NPO operating in Belgrade maintained a list of active NPOs and referred the author to it for further information. Enquiries revealed this not to be the case.
- 43.** Based on information gleaned during the scoping mission to Serbia, it became apparent that the Serbian Tax Administration may have relevant information relating to analysis of the scale and scope of NPOs. In Serbia, NPOs have an obligation to register for tax purposes and declare finances for tax evaluation and collection. Registered NPOs are treated as legal entities and therefore need to file tax returns.
- 44.** The Tax Administration confirmed the author's findings that the budgets for NPOs were generally small: around €40-50 000. Larger NPOs generally attracted budgets of around €90-100 000. Numbers of staff employed were also relatively small with around three paid employees in NPOs with a budget of around €50 000. Further generalisations are uncertain.
- 45.** Additional data concerning NPOs was not available from the Tax Administration.
- 46.** It has not been possible to access any further information concerning the scale and scope of NPOs from any other source. The study concludes that if any further information does exist, it is inaccessible or unavailable. That said, the most likely scenario is that there is no other useful information on the sector.

Oversight, checks and inquiries

- 47.** It is not the role of the SBRA to perform any oversight functions of the NPO sector. Oversight is not part of its mandate and the Head of the SBRA is very clear on this.
- 48.** Enquiries revealed that there is no single government department or agency that has a specific oversight role across the sector. Although there are some regulations concerning the process of registration, albeit brief, the remaining regulatory framework ends with the Serbian Tax Administration, with solely a tax remit, and the obvious enforcement agencies of the police and the APML.
- 49.** It necessarily follows that there are few checks and a general single regulatory absence within the sector.
- 50.** Some frustration was expressed concerning the lack of information required for registration by the SBRA, which required additional work by the Tax Administration. Due to the lack of questioning and verification of data at the point of registration, instances were later discovered of false identification details and other irregularities.
- 51.** Close working arrangements with the APML enabled many of these issues to be corrected and the proper supervisions instituted following agreed "red flag" indicators. Additional data concerning NPOs was not available from the Tax Administration.

52. Following meetings with representatives of NPOs, including the Islamic Community in Novi Pazar, it was confirmed that there is no substantive registration process for religious communities; they are exempt by law from registering with the SBRA and no other agency is charged with oversight.
53. The author considers this an omission and a serious risk to the sector for opportunities for ML/TF.
54. Analysis of the list of branches of foreign associations does not reveal these associations' international operation areas explicitly. In some of the entries, this may be deduced from the names of the association, but the information relating to objectives and area of operation is far from clear.

Awareness in the NPO Sector

55. Meetings with representatives from the selected sample of NPOs resulted in a collective agreement that increased regulation of the sector would be beneficial. There was unanimity that there were opportunities for abuse within the sector and the lax regulatory processes and lack of transparency were pointed out. It was also pointed out that bona fide NPOs working at the heart of their communities would welcome increased regulation and enhanced transparency.
56. Representatives from the NGOs found it very difficult to access information about the work and activity of other NGOs, even if they were operating within the same fields of delivery or areas of operation. Reports of working in isolation and without means of help and support were common.
57. Comment was made concerning NPOs that are registered but apparently dormant, with no evidence of outcomes, contact details or operating premises. These were referred to as "ghost" NGOs and appeared to be common. Suspicions were aroused amongst representatives of functioning NGOs that the lack of regulation allowed potentially fraudulent or other criminal activity. This appeared to be exacerbated within an environment where information concerning the activities and objectives of other NGOs was difficult to obtain, with the lack of reporting structures encouraging isolationism. There was confusion around the agency to which any reporting of child abuse or human trafficking could be made. There are no established whistleblowing procedures.
58. The work of NPOs in Serbia covers a wide range of objectives and communities. The author heard much about poor and disadvantaged communities, particularly in the south of the country. One of the representatives of a community-based NPO raised the question of safeguarding in the context of NPO work with children. There was believed to be scope as a result of the lack of regulation, which offers opportunities for abuse within the sector.
59. There is no requirement for NPOs to submit any type of annual return. Generally, NPOs which operate with donations from international partners are obliged, through the contractual donation process, to provide the donor with some evidence of delivery and accounts. No obligations exist for any independent review of audited spend and there is no requirement for annual or periodic reporting on project delivery.
60. There are no requirements for the provision of self-reported Suspicious Activity Reporting and no governmental assistance available for NPOs with

regard to internal or external problem solving or general project management. Some NPOs exist to provide such assistance to other NPOs, but a lack of access to information appears to be a strategic issue in preventing availability of assistance.

- 61.** It is clear that the lack of detailed registration and oversight of the whole sector, including NPOs with religious objectives which are currently exempt from registration, coupled with a lack of transparency in transactions and project delivery, provide much opportunity for abuse within the sector.
- 62.** Of particular concern must be the complete lack of scrutiny of religious groups, which presently operate outside any regulated or supervised boundaries.
- 63.** This study concludes that an outreach programme would be invaluable in raising awareness of the sector and reducing the risks of ML/TF or any other kind of criminal enterprise.

Risk assessment and threat analysis

- 64.** The strategic gap framework offers a way to assess the state of the sector and identify the gaps and vulnerabilities. The most significant obstacle emanates from the position that there is a lack of collectable data to provide an understanding of the scope and scale of the sector. Each is taken in turn below.

Information gap

- 65.** There are 19 763 domestic associations and federations registered with the SBRA. There are an additional 58 registered branches of foreign operations. What is not known from these lists is an additional layer of detail which identifies a number of factors:
 - status of the association (type of organisation);
 - NPO objectives and mission;
 - areas of operation;
 - number of staff and volunteers;
 - directors and their contact details;
 - source of funding;
 - budget, accounts and annual report of the directors;
 - Suspicious Activity Reporting.
- 66.** There is no identifiable register or recording process for religious organisations. No details are available outlining the work of religious organisations in Serbia or abroad. Exempt from formal registration, the religious sector is unknown in scale and scope beyond regional demographics.
- 67.** It necessarily follows that little is known about the operations and constitution of such organisations, their vulnerabilities and corresponding risks.
- 68.** International experience has determined the vulnerability of religious groups to extremism and criminal manipulation, both domestic and foreign. The risks associated with a lack of knowledge about the nature and extent of the operations of religious associations must be considered to be high.
- 69.** There have been examples internationally, where terrorists and those with extremist views who encourage terrorism or terrorist ideology have used

religious organisations and their events to make their views known and to disseminate their literature. NPOs need to be aware of the risks and manage them effectively.

- 70.** Experience has determined that the risks are higher for organisations which run speaking events or use literature to promote their objectives.
- 71.** Without a more complete understanding of the scale of religious associations, it is not possible to conduct any analysis of this risk.
- 72.** Overall, little is known about the structure, framework and effectiveness of the operations of NPOs in Serbia and there is an incomplete picture of the overall scale and scope. There is no national framework that is mandated to oversee, unite and regulate the sector and no separate government agency exists in order to do this.
- 73.** There is no reporting or regulatory framework in which NPOs can operate. No requirement exists for NPOs to report on the effective spend of their budgets and no quality assurance is evident. NPOs are not required to provide audited accounts or report on the extent and content of the work that they do. There is little transparency in the internal controls of NPOs and access to information is very limited.
- 74.** The SBRA, as mandated by legislation, does register basic information, but this falls significantly short of what is needed to research and provide a full understanding of the characteristics and vulnerabilities of the sector as a whole. The lack of inclusion of religious groups is a significant omission and this must be seen as a primary vulnerability.
- 75.** Other government agencies hold data that relates to their particular function, e.g. Tax Administration, but this data is clearly not publically available and contributes little to an overall understanding and assessment of the sector.
- 76.** A lack of information and data concerning the whole sector is a significant vulnerability as a full risk assessment cannot be effectively completed without understanding the complete picture.
- 77.** It is therefore recommended that one agency undertake responsibility for the recording of data concerning the structure, function and operation of NPOs and that this be extended to include religious associations. Clearly, the recording and reporting provisions would involve a significant lead-in time and the volume of work required should not be underestimated, but the process has already begun with the SBRA's registration provisions. Expansion of the scope of registration may seem an attractive opportunity, especially as the agency is self-funding.

78. Recommendation

- Enhanced NPO information recording should be undertaken by one agency and include religious associations.
- NPOs should be required to report annually on the work that they do and be accountable for budget spend. This reporting should be transparent and subject to audit.
- All NPO information, annual returns and budget data should be freely available.

Effectiveness Gap

- 79.** The primary legislation relating to the registration of the sector is the Law on associations. As amended, it provides the registration framework for the SBRA. The legislation starts at a low base and has not been extended to provide for a regulatory framework around the work of the NPO sector.
- 80.** There is presently little or no effective regulation of the NPO sector. Evidence suggests that the sector is expanding and NPOs are doing more within their stated mission. International tensions and events will inevitably have an effect on the sector in Serbia and without an effective regulatory framework the sector may be unprotected.
- 81.** Legislation surrounding the operations of law enforcement and specialist organisations such as the Tax Police and the APML are reported as being adequate. The difficulties in regulatory enforcement and intelligence led operations originate from the lack of basic information on the sector as a whole (including religious associations). The importance of a legislative framework that unites the sector and affords single registration and regulation cannot be overemphasised.
- 82.** Given the low base of legislation, much thought needs to be given to the appropriate type and style of regulatory framework. Presently, only a basic recording scheme operates, which is incomplete in important areas. Once developed, the next step should be a simple reporting scheme that enables NPOs to report adequately on their work and methods of operation. Only when this basic framework is in place can an intelligence led and proportionate interventionist approach be considered, notwithstanding a requirement by existing law enforcement agencies to respond quickly to allegations of criminality.
- 83.** The ultimate goal should be the aspiration of self-regulation within the sector. Although an advanced concept strategically, international experience has demonstrated that this can be achieved once effective regulatory measures are put in place.

84. Recommendation

- A process of Suspicious Activity Reporting should be created, placing the onus on NPOs to identify and report, according to clearly defined protocols, any suspicious activities that occur or come to their attention. These will be held centrally by the lead agency and will inform future policy and outreach plans.

Legal gap

- 85.** Legislation needs to be drafted that affords one agency the authority to record all NPOs adequately, and that must include all religious associations. There is presently no legislation that empowers a lead agency to administer all recording and reporting procedures.
- 86.** Additionally, there is no legislation that provides for any regulatory framework or practice with appropriate sanctions for non-compliance. There are no supervisory or investigatory powers.
- 87.** There is an overall lack of transparency within the sector. Freedom of information legislation should be reviewed to ascertain whether this is an obstacle to information being made freely available to the public.

88. Recommendation

- Legislation should be drafted that enables the complete registration by one single government agency of all NPOs, including religious organisations.
- Legislation should be drafted which encapsulates all regulatory authority, including powers to access and inspect financial dealings and transactions. The legislation should also require the annual reporting to the lead agency of accounts, and annual or periodic reporting of the NPO's work.
- Information sharing legislation requires review in the light of the need for enhanced transparency and information sharing between government departments.

Structural gap

89. There is no lead agency defined for the purposes of regulation; only for registration. It is the author's belief that the agency mandated for registration is unlikely to be that defined for regulation.

90. The Tax Administration is defined as lead agency for tax matters and, in Serbia, NPOs are liable for tax purposes. Consideration needs to be given as to which agency in Serbia would be the most appropriate to operate as a regulator for the sector in a developmental environment.

91. Although there are many possible stakeholders within the sector, only individual mandates apply to activity. There needs to be wider and enhanced stakeholder participation and consultation, with the introduction of inter-agency memoranda of understanding clearly setting out joint and individual responsibilities for the developing sector.

92. Planning for the operational aspects of the new regulatory framework will require wide and active consultation. Agencies must work and plan together to meet the needs of a new regulatory framework. This must also include representation from the wider sector.

93. There should be agreement in principle of regulation by consent, which will involve active consultation with and participation by the sector.

94. Recommendation

- One lead government agency should be appointed to oversee and regulate the work of the entire NPO sector.

Co-operation gap

95. Following on from the previous discussion, plans should be generated setting out the planning cycle for the regulatory framework alongside an agreed timeline. A package of measures must be put into place enabling the new lead agency to maintain an adequate and evolving dialogue with the wider sector. Without these effective measures in place there is a risk that the sector will become disaffected and dysfunctional.

96. Communities involved in the work of NPOs will need to be included in the consultation process and seen as significant stakeholders.

97. Ineffective communication between government agencies appears to be the norm. This theme emerged strongly within the author's research and apparently few formal information-sharing protocols exist.

98. There is little effective inter-agency co-operation internationally, which may leave the Serbian authorities that have oversight of the sector isolated and operating within the margins of identified best practice.

Outreach gap

99. There is no evidence of any effective outreach to the sector, or at all. Some NPOs offer assistance and self-help awareness, but this feels unco-ordinated and unsupervised at the centre.

100. Government agencies are not configured, trained or resourced to organise and oversee effective outreach adequately. As discussed, there is so little information available centrally to inform the process that the lack of outreach should not be surprising.

101. The short-term expert identified little knowledge amongst representatives of the NPOs visited to indicate that the NPOs could protect themselves adequately against ML/TF issues. In some ways, these concepts appeared incomprehensible and the author had no doubt that an effective outreach programme would be an effective method of reaching into the sector and raising and developing awareness.

102. There was little or no evidence of sector abuse emanating from the centre. Given the lack of sector oversight, this was unsurprising.

103. Experience in other places has shown that outreach is a significant and powerful tool in maintaining donor confidence. This is especially so within the arena of charitable donations from abroad and community-based donating. Although the latter is still uncommon within Serbia, there is evidence that international partners are becoming increasingly relevant with a corresponding degree of higher donor confidence. This was reinforced to the author by representatives of NPOs who, when working in partnership with international donors, were required to justify spend on project-based work. This was a new experience for most NPOs.

104. Lack of effective outreach is a major risk to donor confidence and inhibits sector growth.

105. Partners need to be reassured that the NPOs with whom partnerships are arranged will not become party to ML/TF vulnerabilities. These issues are at the heart of confidence. Effective outreach is a natural by-product of a working regulatory regime and can achieve much in raising awareness of criminal activities and manipulation.

106. Little awareness was shown of basic due diligence principles. These principles are central to any outreach programme and to protecting NPOs from harm.

107. The lack of any outreach programmes is a significant risk.

108. Recommendation

- Outreach should be an integral part of the regulation of NPOs. The designated lead government agency should create an outreach strategy and subsequent plan, which should be the product of consultation with NPOs and delivered according to identified risk and priority.

Participation gap

- 109.** This area relates to the extent to which NPOs are included in the consultation process and their representatives' views sought. It also relates to the extent to which NPO representatives are motivated to understand more and take part in any enhancements to the regulatory process.
- 110.** Ensuring participation is a well-rehearsed and expected part of the consultative framework in western Europe and other countries with a developed regulatory regime.
- 111.** It was interesting to note that there was a very low uptake of places by NPO representatives at a seminar in Belgrade on 14 June 2012, hosted by the MOLI project team in Belgrade and presented by the author and another short-term expert. The seminar was aimed at NPO delegates, but attendance by sector representatives was disappointing.
- 112.** To ensure effective and representative participation at all stages of the development of a regulatory regime, it is necessary to effect some degree of cultural change. This requires a high degree of energy and commitment.
- 113.** Recommendation
- All NPO strategy should enshrine the principles of consultation with and participation by the NPOs. Consideration should be given to hosting regular conference style assemblies for NPOs.

Likely typology of threats to the NPO sector

- 114.** Whilst such a list can never be exhaustive, the following represents the most likely typology of high-level threats to the sector:

Crime and regulatory risks

- NPOs set up for illegal purposes
Whilst the definition of illegal purposes is necessarily very wide, there has been international experience (although rare) of NPOs being established to create or enable opportunities to contravene the law, such as encouraging or glorifying terrorism, inciting racial or religious hatred, or inciting other criminal acts or public order offences. Similarly, in countries where the applicable law exists, undertaking political activities that are not within the organisation's objectives may be unlawful.
- Legitimate NPOs used as a cover for criminal activity
NPOs established for legitimate purposes may be infiltrated by individuals with criminal intent who, assuming some degree of authority and influence within the organisation, use the NPO's assets to conduct criminal activity for their own or another's benefit. Theft, fraud, money laundering or fostering extremism are the most common abuses of this nature.
- NPOs as victims of crime
Legitimate NPOs may become victims of crime in their own right. Loss of financial or property assets may occur through criminal activity resulting in the subsequent interruption, or partial or total loss, of their ability to deliver the NPO objectives. Beneficiaries of the NPO become the ultimate losers in this scenario.

- Financial crime at all levels

As a result of the position of trust in which NPOs are held, and given the lack of effective regulation, there are opportunities for criminal manipulation of NPO finances. These range from fundraising abuses in which, for example, legitimate funds are diverted away from their intended recipients, to short and long firm fraud which are potentially more serious.

Long firm fraud occurs with criminals establishing trust and a good credit history before subsequently moving to place much larger orders with suppliers and, once the goods are received, disappearing and selling the goods on for large profits.

Short firm fraud is similar, but without the precursor of the establishment of a good credit history. The criminal profits therefore tend to be lower than long firm fraud.

- Fundraising abuse

This occurs where funds are sought ostensibly for a legitimate purpose and either stolen at source or used for an illegitimate purpose outside the NPO's objectives.

- Misuse of NPOs for criminal extremism

Extremism is normally seen within a religious context and is unlawful when linked within a framework that fosters terrorist activity. Given the positions of trust in which NPOs operate and given the lack of effective regulation, NPOs may be used knowingly or unknowingly to provide a platform for recruitment, training, procurement and criminal operations which may include terrorism.

- Criminal abuse of vulnerable beneficiaries

This is normally seen in scenarios where NPOs are infiltrated by criminals who exploit beneficiaries who are particularly vulnerable for various reasons such as old age, mental capacity or the fact that they are children. Such beneficiaries may be the victims of financial crime or sexual abuse.

- Terrorist abuse, financing and threats to national security

Although at the extreme end of the criminal scale, these scenarios include the commitment of extremist individuals to using opportunities afforded by the NPO to plan or commit acts of terrorism, which may include the use of weapons of mass destruction.

- Fostering of extremism

This is normally seen through activities that support or appear to support, condone or encourage terrorist activity or ideology. The availability of extremist books and literature promoting terrorist ideology, and the financing or creation of training camps or schools which foster terrorist aims, are examples that have been noted internationally.

Financial-crime typologies

- NPOs can be used to raise, move, store and use funds

These activities can be performed by NPOs without attracting suspicion owing to their structure and modus operandi. Without effective regulation, these funds can be stolen, subject to fraudulent activity or otherwise diverted.

- Illicit fundraising or "skimming" legitimate fundraising

Fundraising may take place where it is unauthorised or sanctioned by the directors of the NPO and thus kept separate from legitimate funds. Skimming takes place where legitimate funds are removed or diverted for unauthorised or potentially criminal use.

- Abuse of NPO resources or facilities

NPO assets such as cash, property, goods, equipment or human resources may be used for purposes outside the NPO objectives, which may be criminal. For example, NPO property may be used to store arms or other weapons under a cloak of legitimacy. Similarly, schools or training establishments may be used for the fostering of extremism or terrorist training.

- International transfer of funds followed by cash withdrawals (end use of funding)

NPOs with international interests or partnerships, receiving or granting funding or deliverables abroad through international cash transfer procedures may be subjected to loss by transference and withdrawal of cash at its intended destination. This has been noted where NPOs operating with specific deliverables overseas have been subjected to loss through the theft of cash by criminals operating abroad and operating in environments with little or no regulatory oversight.

- Crime operating under the cloak of humanitarian relief

This has been noted where the urgent application of funds and deliverables have been instituted following a crisis or disaster and the speed and scale of events have reduced the usual levels of regulation and oversight. This has enabled criminal elements to intervene and remove cash or goods intended for good causes.

- False recipients or beneficiaries

This happens when recipients or beneficiaries that appear to be included in the NPO's objectives are invented for fraudulent or other criminal purposes.

Why are NPOs vulnerable to abuse?

115. NPOs are uniquely positioned to harbour vulnerabilities that make criminal exploitation more likely. These opportunities are considerably greater where there is a lack of knowledge by the State about the size, scale and scope of the sector and where there is a lack of, or gaps in, sector regulation.

116. The reasons such vulnerabilities exist are generally accepted among the international community to be that NPOs:

- attract high levels of trust;
- are diverse in nature;
- are easy to set up;
- can depend upon one or two individuals playing a key and unsupervised role;
- are a powerful vehicle for bringing people and groups together;
- lack commercial experience;
- lack segregation of duties;
- have large volumes of cash transactions;
- see internal controls as being onerous for volunteers;
- may have a global presence, often in areas of conflict;
- work overseas, with difficulty in verifying end use of funds;
- can pass funds to other organisations rather than deliver services directly;
- have very different and often much lower levels of regulation in other parts of the world; and
- are subject to varying levels of evaluation and monitoring.

Threats to the sector in Serbia

- 117.** This study draws some preliminary and significant conclusions regarding threat, vulnerability, risk and consequences to the NPO sector in Serbia. The primary strategic issues which preface the assessment are that very little is actually known about the NPO sector at all and there is an almost complete lack of regulation of the sector. These overarching issues can be broken down into discrete areas of concern, but this study's primary recommendation is that these two themes combine to create the greatest risks, should they not be addressed in the first instance.
- 118.** Without a better knowledge and understanding of the sector and the creation and designation of a lead agency empowered to regulate it, the following threats cannot be mitigated:
- criminality at all levels, including financial crime such as money laundering, tax evasion, theft and fraud;
 - terrorism, including terrorist financing, training, purchase and distribution of arms, recruitment and extremism.

Vulnerabilities in Serbia

- 119.** The principle vulnerability within Serbia is that very little is known about the sector, and the regulations concerning the registration of NPOs and recording of relevant data are weak. As the study has found, very limited data is available and there is a complete absence of registration for the group internationally acknowledged to pose the highest risk: religious organisations.
- 120.** There is no lead agency mandated to regulate the sector. Besides the established State organisations such as the police, tax administration, financial enforcement organisations, etc. there is an almost complete absence of sector regulation.
- 121.** As a result, data, statistics and intelligence are neither kept nor shared. There is a substantial gap in the communication and interoperability of State departments and agencies, and valuable information concerning activities within the sector is rarely shared, if at all.
- 122.** Whilst the SBRA takes the lead in the registration of associations, which by definition include NPOs, the threshold for registration is very low and very little information is recorded. Vital data, such as the recording of authenticated personal details of those responsible for running the NPO, the objectives and scope of delivery, and the reporting of deliverables are missing.
- 123.** It is very easy to register an NPO and no additional checks and safeguards are made. Once registered, there is no effective support from the State or any other organisation to enable the effective and efficient running of the NPO and there is no outreach strategy or programme.
- 124.** The sector is consequently highly vulnerable to wide criminal exploitation, both in terms of terrorist financing and activity, and money laundering. The study has identified that there are 58 entries in the SBRA list of branches of foreign operations, yet almost nothing is known about the extent to which NPOs in Serbia have objectives and deliverables abroad, or the extent to which they may be particularly susceptible to terrorist exploitation.

- 125.** The national risk assessment document for Serbia has already identified that tax evasion is a significant issue in Serbia, which may be particularly vulnerable because it is a cash reliant country with around 30% of overall transactions in cash. Cash reliance and the vulnerability of unregulated NPOs in cash environments would predict a particularly high risk.
- 126.** The extent and reach of religious organisations within Serbia is not largely known because of the exemption of these groups from registering with any government agency. The vulnerabilities of these types of NPO are therefore unclear, but they must be considered highly vulnerable to internationally accepted classes of vulnerability to terrorist manipulation. It is not known, for example, in which countries outside of Serbia NPOs operate or maintain relationships.
- 127.** There are no universally recognised criteria for assessing and determining risk in particular counties or regions, however those which may pose a higher risk may include:
- countries subject to sanctions or embargoes;
 - countries identified by credible sources as lacking appropriate anti-money laundering or counter terrorism regulation;
 - regions where it is known that terrorist organisations operate; and
 - regions identified as having significant levels of criminal activity or poor infrastructure.

Overall risk assessment

- 128.** The overall conclusion of this study is that there is a very high risk in Serbia in terms of NPO activity. This must be predicated on the basis that so little is known about the sector, and on the almost complete lack of regulation. Although this is high-level risk analysis, detailed and specific analysis of single issues relating to ML/TF can only be accurately carried out once basic remedies are introduced.
- 129.** The study suggests that this overall threat analysis should be widened by remitting to the relevant authorities, such as the APML and law enforcement, to supplement it with their own data and threat analysis.

Consequences

- 130.** The consequences of criminal exploitation of NPOs in all forms are always serious. They may range from localised harm, such as the inability of an NPO to carry out its objectives and deliver adequately, to harm that affects confidence in the State. The absence of an effective regulatory regime would always be attractive to criminality wishing to exploit weakness and seek profit, and to terrorists seeking to expand their membership and make use of any criminal opportunities available.
- 131.** Again, at a high level, the absence of effective regulation coupled with a lack of sector knowledge will likely enable criminal exploitation of NPOs to pass unnoticed.
- 132.** There is international unanimity on the need for NPOs to operate in an environment of confidence. Erosion of confidence in the sector is intensely damaging and has many effects ranging from the inability to generate effective partnerships and deliver stated goals to a complete breakdown in the NPO environment and an international lack of confidence of the ability of the State to self-regulate.

Creating an outreach plan for protecting the sector from abuse for money laundering and terrorist financing

First principles

- 133.** Outreach must involve an end-to-end programme which includes the following elements:
- identification of the NPO base the plan is intended to serve, including NPO typology, geographical location and NPO objectives;
 - an analysis of the present position of current practice and the level of NPO awareness of terrorism financing and money laundering issues;
 - developing the strategic objectives of the outreach programme and identifying the resources which will be used to implement the programme, which will need to be appropriately prioritised;
 - development of the service programme in detail and identification of the training needs of the staff required to provide the programme;
 - training of the staff providing the service;
 - creation of a rolling programme of outreach support aligned to timelines;
 - marketing and implementation of the outreach programme;
 - programme review and evaluation; and
 - identification of best practice and incorporation of that into the plan.
- 134.** The first stage in the plan is gaining an understanding of the range of NPOs, their typologies and corresponding objectives. The plan will need to be stratified in order to maximise impact and ensure that the resource implications are not affected by attempting too broad a delivery. Without a comprehensive understanding of the NPO base, outreach plans are unlikely to have gravitas or lasting impact.
- 135.** The next stage is undertaking a present position analysis of the depth of understanding among NPOs of ML/TF issues. There is likely to be a range of awareness, depending on the type of NPO and its objectives. The plan will need to be flexible enough to accommodate the varying depth of understanding and analysis will therefore need to have been undertaken in advance in order to plan this effectively.
- 136.** A clear statement of the intended achievements is required. Will the programme be intended to raise awareness of the issues or will it drill down into a deeper understanding of what needs to be done in order for NPOs to best protect themselves? This is likely to be resource dependent and priorities therefore need to be identified and practical timeframes considered.
- 137.** Given the imperative of resources and sector penetration, the outreach programme requires careful consideration and planning. The deliverables of the plan need to be identified and set out in an appropriate format. The style of delivery also requires consideration. Will the programme be delivered on site by a team or individuals, or through a distance-learning package with appropriate follow up support?
- 138.** Staff must be selected and trained to deliver the programme. Selected staff will require a training-needs analysis before effective training on outreach can be delivered. Decisions will need to be taken regarding timelines and

an analysis carried out of what needs be delivered and to whom. The programme should be published and reviewed as necessary.

- 139.** Once agreed, the plan should be appropriately publicised throughout the sector. At an agreed point, it will be necessary for the plan to be reviewed and properly evaluated. Consideration needs to be given to who will be responsible for that review process.
- 140.** Feedback should be sought from NPOs to identify the benefits of delivery and best practice, which should be published and incorporated into the rolling programme.

What needs to be delivered?

Money laundering

- 141.** The outreach plan must include a working definition and understanding of what money laundering is and how it could affect the NPO in practical terms. The NPO's directors need to be informed of how they can take reasonable steps to prevent the NPO being used for money laundering purposes and what they should do if they have any suspicions. The signs of money laundering usually involve the receipt of funds which may then be paid out to different people in different forms and possible currencies.
- 142.** NPOs should be invited to assess their own levels of risk and adopt appropriate anti-money laundering procedures, such as:
- due diligence checks on the donor taking into account factors such as the size of the donation, source of funds and the location of the donor;
 - further verification checks when the donor is considered to be higher risk;
 - ensuring staff know how to recognise the warning signs of possible money laundering;
 - robust methods for recording and documenting donations and grants;
 - protocols for monitoring the effectiveness of the money laundering procedures.
- 143.** NPO staff need to understand how to spot signs of money laundering and may be drawn to examples such as:
- large unexpected donations from unknown individuals, organisations or other sources new to the directors;
 - donations subject to the condition that particular individuals or organisations with whom the NPO is unfamiliar are engaged to carry out work;
 - money being offered as a loan for a period of time after which it is to be returned or sent elsewhere. Typically, the NPO is allowed to retain the interest earned or some other sum in return for agreement to take part in the arrangement;
 - similar "loan" arrangements in which the money is received by the NPO in a foreign currency but is to be returned in a different currency;
 - unexpected or unexplained requests for the repayment of all or part of a donation;
 - requests for assistance in recovering large sums of money where the NPO is offered a percentage of the amount recovered. The NPO may be asked to provide its bank account details or permit the donor to use its name on correspondence on the pretext that this is part of the recovery process;
 - unsolicited offers of short-term loans of large cash amounts, repayable by cheque or bank transfer and possibly in a different currency;
 - being asked to allow transactions to pass through the NPO's bank account;

- the offer of goods or services which seem very expensive, unusual or carry high administration and other charges.

Due diligence and the “Know Your” principles

- 144.** The principles of due diligence should be part of the outreach plan. Put simply, this necessitates the directors of NPOs to understand where the funds come from, how the funds will be applied to the NPO objects and who will be involved in delivering the services of the NPO.
- 145.** The “Know Your” principles are widely used within the financial sector and apply equally to the management of NPOs. There are three principles:
- know your donor;
 - know your beneficiaries;
 - know your partner.
- 146.** Reasonable steps will need to be taken to ensure that NPO directors:
- identify – know who they are dealing with;
 - verify – where reasonable and where the risk is high, verify identities;
 - know what the organisation’s or individual’s business is and can be assured that involvement with the NPO is appropriate;
 - know what their specific business is with the NPO and have confidence that they will deliver what is required; and
 - look out for unusual or suspicious activities, conduct or requests.

Terrorist financing

- 147.** Similarly, as with money laundering, NPOs must be provided with a workable definition of terrorist financing and the principles surrounding it. Put simply, this is the raising, moving, storing and using of financial resources for the purposes of terrorism. Links have been demonstrated between money laundering and terrorist financing.
- 148.** The outreach plan should include details and examples of how abuse of NPOs for terrorism purposes can take different forms.
- Raising funds in the name of the organisation which are then diverted away and used for criminal and terrorism purposes. This may happen without the NPO’s knowledge.
 - Establishing and registering an NPO for the purpose of providing cover for channelling funds for the purposes of terrorism, directly or indirectly.
 - Funds being moved from one place to another or in different forms, for example through international currencies or cash transfers and particularly internationally, which may be diverted before reaching the intended recipients.
 - An NPO may be used to launder money.
 - Cash may be transported in a way that looks legitimate under the name of the NPO and its work so that its transportation may be less likely to be questioned or challenged.
 - Recipients of NPO funds, whether partners or individuals, may misuse the money they have been given for terrorism purposes.
- 149.** All of these risks will increase if financial, due diligence and monitoring controls are weak.
- 150.** The outreach programme should be augmented by interactive discussion by participants through case studies and exercises. Emerging findings should be collated and disseminated widely amongst the sector.

Conclusion

- 151.** Data relating to the complete picture of the NPO sector within Serbia is very difficult to find. The scale and scope of the sector is resistant to analysis owing to the lack of information available. Religious groups, which are acknowledged internationally to be amongst the highest risk, are exempt from registration with the SBRA and only fragmented information concerning such groups is available elsewhere.
- 152.** The data held on domestic and foreign NPOs is very brief and potentially unreliable given the lack of effective verification and non-intervention by the SBRA. This is not to render the SBRA culpable in any way. The Law on associations is followed meticulously, but much more data and information concerning the extent and detail of the work of NPOs must be known before any accurate and meaningful analysis of the sector can be made.
- 153.** Legislation that designates a lead agency and expands the registration and reporting requirements of all NPOs (including religious organisations) considerably will need to be enacted to close this gap.
- 154.** The picture emerging from what is known about the sector is that there are many (up to 19 000) domestic NPOs and few (58) branches of foreign associations, which appear to be small in scale and scope (larger NPOs having a budget of around €100 000), with little regulatory infrastructure and networking. Much needs to be done to create a more cohesive NPO environment with a lead government agency operating as a regulator and advisor, taking accountability for a creative and productive outreach programme.
- 155.** Given the difficulties in assessing the true scale and scope of the sector, the risks associated with ML/TF must be assessed as high, particularly with regard to religious associations, which operate unregistered and unregulated. There is no direct evidence that implicates any part of the sector, but greater certainty of this can only be achieved by greater transparency.
- 156.** The lack of a lead agency with any responsibility for the sector is the main obstacle to achieving regulatory change. There is a fragmentation of responsibilities across a range of government departments and a reluctance to share and communicate information.
- 157.** What seems to be required is a cultural change that results in greater cohesiveness of the sector and a general tightening up on the policy and rules that govern the creation of an NPO and subsequent operating protocols. The existence of apparently registered NPOs that operate in the margins and have no obvious place of business or contractibility is evidence for this. Unless there is prima facie evidence of a criminal offence or tax avoidance where agencies are empowered to intervene, no structure exists to ensure sector consistency and reliability.
- 158.** In an environment with ever increasing international partnership dimensions, work must be done to ensure that potential partners' confidence in the Serbian NPO sector remains high.
- 159.** Much of this can be achieved through the introduction of a single regulatory framework with a cogent outreach programme that combines NPO experience and offers a safety net when things do go wrong.
- 160.** Within the NPO sector, confidence is hard won and easily lost.

List of recommendations

1. Enhanced NPO recording should be undertaken by one agency and include religious associations.
 2. NPOs should be required to report annually on the work that they do and be accountable for their budget spend. This reporting should be transparent and subject to audit.
 3. All NPO information, annual returns and budget data should be publically available on the Internet.
 4. A process of Suspicious Activity Reporting should be created, placing the onus on NPOs to identify and report any suspicious activities that occur or come to their attention according to clearly defined protocols. These will be held centrally by the lead agency and will inform future policy and outreach plans.
 5. Legislation should be drafted that enables the complete registration by one single government agency of all NPOs, including religious organisations.
 6. Legislation should be drafted which encapsulates all regulatory authority, including powers to access and inspect financial dealings and transactions. The legislation should also require the annual reporting to the lead agency of accounts and an annual report of the NPO's work.
 7. Information sharing legislation should be reviewed in light of the need for enhanced transparency and information sharing between government departments.
 8. There should be one lead government agency appointed to oversee and regulate the work of the entire NPO sector.
 9. Outreach should be an integral part of NPO regulation. The designated lead government agency should create an outreach strategy and subsequent plan, which should be the product of consultation with NPOs and delivered according to identified risk and priority.
 10. All NPO strategies should enshrine the principles of consultation with and participation by the NPOs. Consideration should also be given to hosting regular conference-style assemblies for NPOs.
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