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**Input for the European Commission (EC) Supranational Risk Assessment (SNRA) –
advising on a different risk rating for NPOs with regard to
Money Laundering (ML) and Terrorism Financing (TF) threat and vulnerability**

We are pleased to share as a coalition of NPOs, including philanthropic organisations, the following initial input around the envisaged 2021 SNRA, taking into account the following two documents from the 2019 SNRA:

- The actual **Commission’s report**, as adopted by the Commission in July 2019 and presented to the Council and Parliament (this is the “political communication” part of the exercise), and
- The **Staff Working Document** accompanying it, which is the “annexes” part, presenting the individual assessment of the 45 specific sector/products analysed. The Chapter on NON-PROFIT ORGANISATIONS is covered in **pages 225-231**.

Context and need for a developing precise and evidence-based SNRA

Earlier this year, the coalition of NPOs, including philanthropic organisations, contributed to the EU public consultations on a [Roadmap and Action Plan: Towards a new comprehensive approach to preventing and combating money laundering and terrorism financing](#) published by the Commission. In our contribution we strongly supported the important fight against money laundering and terrorism financing. We also stressed that policy must be risk based and proportionate towards the NPO sector and must not unduly restrict our sectors’ legitimate public benefit activities. Therefore, the EU level risk assessment must be evidence-based, precise and form the basis of EU policy development.

We call on the EC to ensure that the SNRA and risk rating is based on a sound methodology and evidence, since its findings and consequent actions will determine the regulatory environment for the entire NPO sector.

Being rated in past EU level risk assessment as a sector to be “significant at risk” has contributed to overregulation of NPOs in some Member States. We have understood that some Member States have referred to it as a source of evidence to consider the NPO sector at “significant” risk that needs addressing through overly tight and broad application of ML or CFT rules.



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The risk rating may have also contributed to the issue of increased bank de-risking and difficulty in accessing regular financial services for the NPO sector.

['Banking blackout' has left small charities locked out of their accounts – ThirdSector](#)

This is affecting more and more NPOs and in an increasing number of instances. It has a critical impact on the delivery of humanitarian assistance and services worldwide, as well as on other philanthropic and public benefit work. It also poses additional TF and ML risk, if the NPO sector is not able to access regular financial services but resorts instead to cash-based operations.

In a number of Member States, NPOs are raising the issue with their government. Dialogues are being established for example in the Netherlands, France, Germany (German NPOs are discussing this with their government), bringing together representatives from banks, MFA / humanitarian aid departments and NPOs to find acceptable solutions to this critical issue to avoid that new risks are created through the issue of bank de-risking.

Recommendation to review the methodology and consultation process:

We recommend that the methodology used to assess ML/TF risks must be precise, evidence based, clear and up to date to deliver appropriate findings. However, we do not consider that the 2019 methodology corresponds to the specific characteristics of the NPO sector and hence recommend an overall review of it, as also discussed in previous meetings. The launch of a new SNRA process is the opportunity to develop a new methodology that would best fit the extremely diverse NPO sector, which includes grantmaking, fundraising, operating, humanitarian, advocacy, watchdog, think tank, local, international, small and large organizations of all different types and forms.

The process of consultation within the SNRA, which has so far been very restrictive, since only a very limited number of stakeholders is engaged in the process and it is far from what could be called a structured dialogue, as required by the latest 2019 FATF guidance on conducting risk assessment. Potentially wider sector consultation could also happen via online tools. We think that it is very important to involve national and European level representative and umbrella bodies in the process.

We are at your disposal for a thorough review of the methodology and the consultation process.



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Some useful guidance has been developed by the FATF concerning national and NPO risk assessments, which we are happy to share

Therefore, we call on the EC to:

- **revisit its own methodology for the SNRA, concerning the NPO sector; and**
- **ensure more transparency and inclusiveness for the SNRA process by outreach to a wider NPOs constituency.**

Recommendation to lower the risk level for TF of NPOs

The level of threat for TF in the 2019 SNRA remains at level 3, even though the 2019 SNRA explicitly stated that the assessment of the collection and transfer of funds by NPOs shows that this is not a method frequently used by terrorist groups. The Commission stated that in rare cases NPOs may be infiltrated by terrorist groups, which may then represent a significant threat, in particular as concerns the funding of foreign terrorist fighters. According to the Commission, NPOs have been infiltrated only in very few cases and generally more specific knowledge is needed to access funds collected or transferred by NPOs to finance terrorist activities. Nevertheless, the level of threat for TF is considered as significant. Therefore, the level of threat is not commensurate with the findings of the SNRA.

There are no sufficient arguments within the assessment conducted so far to justify such current threat rating. We believe that good governance arrangements, regular financial checks and risk management policies and procedures that fit the specific needs and size, activities and areas of operation of NPOs, are the best and most used tools to safeguard against terrorist financing and money laundering. NPOs have also become increasingly aware of potential risks and have put careful mitigation measures and practices in place. However, a zero-risk scenario does not exist. We also raise the concern that a rating with “significant” level of threat in the SNRA has contributed to **overregulation on our sector** in some cases/countries.

Therefore, in view of increasing (academic) evidence and the outcomes of the National Risk Assessments, we as NPO sector representatives call on the EC to:

- **lower the threat for NPOs including philanthropic organisations to medium- low**
- **or otherwise to provide the sufficient evidence of such cases in order to justify the current level of threat for the whole very diverse sector.**

This is elaborated more in the following sections:



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1. Impact of existing measures to mitigate potential risks

The 2019 SNRA and more recent national level assessments revealed that those NPOs which are considered more exposed to risks (service delivering NPOs, larger organisations with international outreach, humanitarian, etc.) **are already under tighter and more strict obligations** and are more frequently checked by supervising authorities, tax authorities, banks (obliged entities), public and private donors and auditors. The implementation of the EU AML/CFT policy has also introduced more transparency and reporting requirements for the NPO sector. The NPOs considered exposed to the risks above most often have self-regulation or internal systems of checks in place which is more elaborate than the regulatory obligations.

- **Hard law**

We consider that existing AML/CFT systems appear to adequately address potential risks. Controls and registration processes for NPOs are not the same across all Member States but this should not be considered a weakness of the system or of inadequate controls and checks. The NPO sector is well regulated in the EU countries by a system of civil law/tax law/charity law as well as ML and CFT laws, which have evolved out of and can be explained according to the different cultural and legal traditions and history of the different Member States. Specific AML/CFT rules have been introduced with the 4th AMLD and further tightened with AMLD 5 and in this context also Registers of beneficial owner (BO) of NPOs are being introduced in EU-Member States.

- **Banking and financial sector checks**

Philanthropic and other non-profit actors have reported that **banks** and other financial and consultancy service providers undertake Know Your Customer (KYC), AML and FATF Recommendation 8 related checks.

- **Auditor checks**

For those NPOs being audited, audit controls imply additional checks and controls. Auditors of several philanthropic actors look at internal controls and due diligence processes to ensure that the money given to grantees is not subject to fraud or otherwise being inefficiently used. Terrorism financing is part of the broader check on fraud, given it would be a misuse of funding provided or funding being provided to a fraudulent organisation. INGOs (International NGOs) are subject to internal controls and due diligence processes and have to undergo audit controls to prevent fraud. INGOs have reported that they are audited approximately every six months or even more often by a variety of donors and by different companies.



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- **Guidance by governments and regulators**

Some governments and charity regulators have issued concrete guidance for charities to prevent TF abuse, see, for example, the Charity Commission for England and Wales toolkits: <https://www.gov.uk/government/publications/charities-and-terrorism>

- **Increased collaboration of governments with NPO sector**

We are seeing more willingness of governments to work together with representatives and umbrella organisations of the NPO and foundation sector to assess and address potential risks. Such collaboration both at a national level and at a European level is an important measure to identify and reduce potential risks and raise more awareness within the sector, and should be promoted as good practice.

- **Self-regulation – codes of conduct**

There is a strong self-interest to act professionally, to be transparent and accountable and to ensure that no abuse takes place. There are sector-initiated **codes of conduct** developed by the fundraising as well as the wider philanthropic sectors, which often include guidance on governance, reporting, monitoring of the use of funds, knowing your donors and knowing your beneficiaries (see also examples in FATF BPP). Codes, e.g., include internal procedures (sometimes based on donor regulation) and the 6-eye-principle on signatures for financial transfers.

- **Increased own risk assessment and mitigation measures**

NPOs have in many cases adopted **mitigating measures**, including internal systems of checks in place, which often include reporting, monitoring of the use of funds, as well as knowing your donors and knowing your beneficiaries' efforts. Public donors also put detailed reporting requirements in place.

Overall, there is a strong **self-interest** of non-profit organisations to act professionally, to be transparent and accountable and to ensure that no abuse takes place. We would also like to recall that NPOs including philanthropic organisations, are in general not those legal entities engaging in activities, which are particularly likely to be used for money laundering or terrorist financing.

In response to new and intensified risks of acting in certain areas/regions, most larger NPOs/philanthropic organisations have adopted sophisticated and professionalised risk management approaches, which cover not only areas of security and safety but also fiduciary, legal, reputational, operational and information risks. Examples include:

- Security briefings and awareness raising around risks for staff



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- NPOs operating in the humanitarian sphere are often funded by donor governments who have very strict compliance and due diligence requirements, which we must adhere to. Risk assessments/monitoring: if an NPO is planning a programme in a country with a high risk of designated terrorist activity, or involving a cash transfer, appropriate risk assessments and mitigation measures are carried out, documented and kept/updated where appropriate throughout the programme
- Policies on anti-fraud, bribery and corruption, and CFT
- Due diligence practice and checks: most NPOs have clear policies in place to ensure that funds and resources are fully accounted for and not diverted to terrorists or money laundering. NPOs undertake due diligence on donors and beneficiaries (the use of software to screen partners against certain lists was reported, cross-referenced with data published by specialised bodies).

In order to mitigate risks, the vast majority of philanthropic organisations do not transact in cash and in many cases insist upon partners having audited accounts. They perform strict due diligence on partners, and meet with beneficiaries, check finances, carry out unannounced visits and inspections, etc. Several have already developed or are developing a whistle-blower mechanism.

The NPO sector continues to raise awareness and develop methodologies to limit risk of fraud, corruption and other misuse use of funds. The sector has over the last 2 years been even more active on developing training modules, exchange of good practices and workshops to make sure NPOs are best equipped. Please find more information of these global, regional and national activities at www.fatfplatform.org.

In 2020 the Norwegian Refugee Council (NRC) updated its Practical Guide for Project Cycle Management and Counterterrorism Risks. This toolkit is being widely disseminated across the sector. In its survey to members VOICE found that a vast majority of its NGO members are equipped with a dedicated CT specific policy. The use of screening software has become standard practice among the sector and now part of standard risk management procedure.

In 2019 VOICE also organised a 2-day workshop to raise awareness among members and contribute to share good practices. The report can be found here <https://voicceu.org/publications/voice-workshop-report-the-impact-of-eu-sanctions-and-restrictive-measures-on-humanitarian-action.pdf>

To sum up, NPOs believe that good governance arrangements, financial checks and risk management policies and procedures that fit the specific needs and size, activities and areas of operation of NPOs, are the best tools to safeguard against a range of potential abuse, including terrorist financing and money laundering. NPOs are aware of potential risks but in



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most cases do not consider themselves at risk because of the careful mitigation measures and practices in place. However, that said, a zero-risk scenario does not exist.

2. Actual abuse cases for TF of NPOs are very low – pending cases related to financing of foreign fighters would deserve a specific response

Having reviewed and cross-checked the evidence again within our constituency in different EU Member States, we are not aware of actual abuse cases of the NPO sector. We understand that information on existing cases are known to EUROPOL/FIUs/regulators but it is not possible for us to access such information. We call in this context on the Commission to help facilitate better exchange of those authorities with the NPO sector about (anonymized) findings or evidence, to enable learning from existing abuse cases and the creation of better detection and protection systems from within the sector. Such exchange could work on anonymized case study sharing to be able to develop a typology of cases and better understand contexts in which abuse cases occur.

The FATF listed sources and analysis, based on publicly available information, state that actual proven abuse cases of NPOs for terrorism financing are very low in number. It appears that there may be alleged cases currently in front of courts involving Foreign Fighters, and returnees that have been supported by friends, families and other supporters sometimes also through a charity that was then used for collecting and transferring funds. Based on informal information we received, these limited cases involved individuals that set up a “fake” charity or were a board member of a charity but are still under prosecution and hence not in the public domain.

If those abuse cases get confirmed, we believe that risk mitigation measures with regard to foreign fighters deserve a specific risk review and should also include concerned communities. In this context, it needs to be noted that this issue does not pertain to the vast majority of the NPO sector.

3. Data deriving from national risk assessments and academic research consider NPO sector not at significant risk:

The SNRA does not take sufficient note of FATF country specific evaluations and national risk assessments undertaken in this context or other. At national level, some EU countries have undertaken a sector specific Risk Assessment for NPOs. The SNRA should take findings from existing FATF risk assessments and country evaluations into account. From the data in the FATF evaluations of past years, the national risk assessments do not provide conclusive evidence of any enhanced risk for the non-profit sector. **Below we highlight some of the**



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findings from national risk assessments with regard to our sector (the data is extracted from the published risk assessments or published FATF mutual evaluation reports).

The UK National Risk Assessment, published in 2017, assesses the terrorist financing risk of the NPO sector **in its entirety to be low**, whilst recognising that certain parts of the sector – particularly charities working internationally in certain countries - face significantly higher risks. The Charity Commission welcomes this distinction and emphasises that the risks that charities face will vary depending on what they do and where they operate. In 2015, the UK’s first NRA assessed the terrorist financing risk to the NPO sector as medium-high. <https://www.gov.uk/government/news/charity-commission-welcomes-publication-of-the-uks-national-risk-assessment>. **In Ireland**, the overall ML/TF risk for the NPO sector **is considered as medium-low and in Lithuania**, the sector is considered as low-medium.

FATF MERs in Belgium, Norway, Spain and Sweden include some information on National Risk Assessments and NPOs but there is no information on an overall level of risk, only subsectors at higher risk are mentioned (presuming that other parts of the sector **are not at risk**). Example of Norway: *Norway has made some progress on identification of threats and at risk NPOs. Unlike the last National Risk Assessment (NRA) of 2014, the 2016 NRA contains a short sub-chapter on NPOs. “...Ethnic affiliated organisations that transfer money to high-risk destinations” are identified as posing “a particularly high risk.”, and the NRA considers for example how donors can be misled, and how funds are raised and moved out of Norway. TF risks are not addressed in any detail in the PST annual threat assessments and the vulnerabilities of NPOs are not mentioned. Norway explains that the information they used in their risk assessment regarding NPOs is based largely on classified information, c.f. the official secrets act, which could not be included in a public document or shared with assessors.*

In **Slovenia**, in the course of the 2015-2016 National Risk Assessment, the NPO sector was assessed as showing **low vulnerabilities for ML/TF abuse** due to the fact that NPOs perform their activities mostly in fields related to humanitarian purposes or sports.

In **Slovakia** overall level of the risk of legalization of proceeds of criminal activity is at the medium level according the last National Risk Assessment.

In **Latvia**, the 2018, National Risk Assessment concluded **TF risk is low for non-profit sector**; an analysis of STRs and UTRs from 2007-2015 found no linkages to NPOs.

In Spain the FATF Follow-up report (2018) states that “Spain has identified those organizations that meet FATF’s definition of NPO and has followed an approach that takes into consideration the risks these entail. **However, Recommendation 8 requires further understanding and identification of those NPOs that are most vulnerable to TF risk,**



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together with the adjustment of laws, regulations and others in consequence, **and this has not occurred to a full extent**".

4. Perception of risks by undersigning NPOs

Representing NPOs, including philanthropic organisations, working for the public benefit either as grant givers, organisations running own programs, think tanks, delivering of services or advocacy organisations, we are aware and concerned about money laundering and terrorism threats both in Europe and in third countries. Several NPOs work in so-considered high risk areas in order to provide assistance to the population as well as to promote positive measures aimed at social inclusion, and human rights education, which contributes to fighting extremism. There is also a significant number of NPOs engaging in poverty reduction and humanitarian support. The undersigning NPOs/networks believe that a smaller number of organisations within our sector can be at risk for money laundering or terrorism financing for different reasons, but we are not aware of a significant number of cases of abuse or an NPO legal environment of imminently high risk. We are aware that abuse can happen on a limited scale and have engaged in various awareness raising actions within our constituency to alert them to potential risks and around potential mitigation measures to address them. Taking into account the size and wide variety and diversity of the sector, and since possibilities for abuse are extremely small, we assess the terrorist financing risk and money laundering risks of the NPO sector **in its entirety to be low**, while we recognise that smaller parts of the sector face higher risks. We consider that the overall level of risk looking at the entirety of millions of existing NPOs is **"less significant"**.

The German government is completing its national risk assessment in preparation for the upcoming FATF evaluation, and the Ministry of the Interior is also conducting an NPO sector risk assessment. A recently published report by VENRO (an umbrella organisation of development and humanitarian nongovernmental organisations (NGOs)) will feed into this assessment: [Preventing terrorist financing in the NPO sector: Measures to mitigate the risk of terrorist financing in the NPO sector in Germany](#). This report is based on a survey among NPO sector, desk assessment of Germany's current compliance with the requirements of Recommendation 8 and Immediate Outcome 10, and a series of interviews with selected stakeholders. It found that most NPOs do not consider terrorist financing to be a major issue for their organisations or for the sector as whole. In fact, survey results pointed to a strong perception that the risk of terrorist financing is lower than the risk of fraud, corruption, or money laundering. The report concluded that the basic legal and regulatory regime for NPOs is sufficient to meet the requirements of FATF in almost all respects. Furthermore, many examples of best practice measures were identified in terms of self-regulatory regimes, which can significantly reduce the risk of terrorist financing for NPOs which operate in high-risk environments. Many of these measures have been also supported by government.