

RISK ASSESSMENT

THE MISUSE OF NON-PROFIT ORGANIZATIONS TO FINANCE TERRORISM



UIFAND

UNITAT D'INTEL·LIGÈNCIA FINANCERA
D'ANDORRA

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II. INTRODUCTION

This assessment is the result of a collaboration between the Ministry of Justice and Interior (mainly involving the Register of Associations and the Register of Foundations), the non-profit entities, and the UIFAND.

It is internationally recognized that NPOs are vulnerable to be used for terrorist financing (TF), a conduct codified in the Andorran Penal Code under Articles 366 bis et seq., which consists in any form of economic action, aid or mediation that provides financial support to individual terrorists and/or terrorist organizations for the purpose of facilitating the commission of acts of terrorism to favour their ideology.

It may be noted that this assessment is the first of its kind carried out in the Principality of Andorra and that its main goals include the following:

1. To obtain an in-depth knowledge of the non-profit entity sector.
2. To collect the necessary data to establish which entities are covered by FATF's definition of non-profit organizations (hereafter NPOs) and, most importantly of all, to determine the inherent characteristics of the NPOs at risk of TF abuse.
3. To detect the threats and vulnerabilities with which NPOs must cope in the sphere of terrorist financing.
4. To propose measures for the mitigation of the detected risks or for the reduction of vulnerabilities, and a national action plan.
5. Lastly, to evaluate and, if necessary, to modify the regulatory framework of the NPOs in order to adapt it to international standards.

From the foregoing it may be inferred that this study is addressed to both the authorities which are to implement the risk mitigating measures (consequently at the national level) and the NPOs, which must be aware of the risk to which they are exposed and propose mechanisms which they can use to protect themselves on individual or sectoral manner.

III. METHODOLOGY

The methodology used to carry out the assessment was based on the analysis of both formal and informal quantitative and qualitative data. In this respect, use has been made of the internal information available to UIFAND as a result of the various supervisory tasks which have been carried out (primarily AML/CFT audits and on-site inspections) and available intelligence information, data provided by the Registers of Foundations and of Associations, surveys and meetings with the sector, general and specific legislation (for example, the Law on the Andorran Red Cross), documents issued by international bodies, evaluations of the NPO sector in other countries, and information obtained from open sources.

The numerical data contained in this assessment are based, for the most part, on the information provided by the Register of Associations and the Register of Foundations, and the replies provided by the non-profit entities to the questionnaire submitted to them in July 2020.

The main structure of this assessment follows the model established by FATF in its Guidance document on National Money Laundering and Terrorist Financing Risk Assessment, with the aim of assessing the risk according to three factors:

- Threats
- Vulnerabilities
- Consequences/impact

It has been considered important to include other sections in order to supplement the assessment, such as the legal framework, references to international standards, and an action plan, among others.

IV. LEGAL FRAMEWORK

1. International legal framework

The Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, ratified by Andorra, recognizes freedom of association in its Article 11. It contains the elements which the regulatory legislation on associations should include.

Article 11 Convention for the Protection of Human Rights and Fundamental Freedoms, of 21-12-95

“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

As regards the crime of terrorist financing, Andorra implements the various resolutions of the United Nations Security Council and it is important to note, under the Monetary Agreement signed between the Principality of Andorra and the European Union, the adoption in our country's legal system, among other European regulations on this matter, of the Directive (EU) 2017/541 of the European Parliament and of the Council, of 15 March 2017, on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA.

2. National legal framework

With respect to local regulations, Article 17 of the Andorran Constitution, which is in Chapter III on the fundamental rights of the person and on public freedoms, acknowledges the right of association with the sole limitation of the legality of the purposes pursued and the creation of a register of associations, which is established solely for the purpose of keeping a public record of the associations which are constituted.

Article 17 of the Andorran Constitution:

“The right to associate for a lawful purpose shall be recognised. A law shall establish a public Registry of the associations which may be constituted.”

In addition to the constitutional basis, the following are the regulations of lower rank which govern associations:

- Qualified Law on Associations of 29 December 2000 (amended by Qualified Law 32/2007, of 20 December, and Law 14/2017)
- Regulation of the Register of Associations of 29 December 2000 (amended by the Amending Regulation of 5 October 2016)

Foundations are governed by the following regulations:

- Law 11/2008, of 12 June, on foundations (amended by Law 14/2017, of 22 June, on prevention and the fight against the laundering of money or assets and terrorist financing)
- Regulation of the Register of Foundations and of the *Protectorate* for Foundations, of 1 April 2009 (amended by the Amending Regulation of 1 July 2009 and by the Regulatory Regulation of the procedure for the liquidation of foundations, of 11 July 2012)

Additionally, mention may be made of the following regulations, among others, relating to non-profit entities:

- Law 89/2010, of 16 December, on the Andorran Red Cross
- Law 90/2010, of 16 December, on volunteering in Andorra (with its subsequent amendments)
- Regulation of the traditional *Quinto* (Lotto) game and other games of chance for non-profit and charitable purposes of 15 July 2015
- Regulatory Regulation of the Participation Commission of Civic Entities in the sphere of social and healthcare services of 20 July 2016.

The crime of terrorist financing is defined in Article 366 bis et seq. of the Andorran Penal Code.

Article 366 bis of the Andorran Penal Code

“Terrorist financing

1. The person who carries out acts of terrorist financing should be punished with a punishment of imprisonment of two to eight years.

Attempt and conspiracy are punishable.

2. For the purposes of this article, financing shall be understood as any action that, by any means, directly or indirectly, unlawfully and intentionally, consists of the provision or collection of funds with the intention of using them or with the knowledge that they will be used, in whole or in part, in the Principality or abroad:

- By a terrorist group or a terrorist;

- To commit one or more terrorist acts;

- To carry out the conducts defined in article 364 of this Code.

3. For the purposes of this Article, “funds” is understood to mean: financial assets and assets of any nature, tangible or intangible, movable or immovable, acquired by any means, legal or illegal; and documents, titles or legal instruments of any type, including electronic or digital, which certify an ownership right or an interest in said assets, especially but not exclusively bank assets and credits, traveller's cheques, cashier's cheques, payment orders, shares, securities, bonds, bills of exchange and letters of credit, as well as interests, dividends or any other benefit that were to be derived from same.

4. A punishment of imprisonment of three to ten years should be decreed in the case of any of the following circumstances:

a) When the financing is committed by means of an organized group.

b) When the subject acts regularly.

Attempt and conspiracy are punishable.”

V. FATF AND RECOMMENDATION 8

The Financial Action Task Force (FATF), is an intergovernmental body whose main goal is to develop standards and to promote policies, both nationally and internationally, to combat money laundering and terrorist financing. Some of the documents that allow FATF and its equivalent regional bodies such as, for example, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism of the Council of Europe (Moneyval), of which the Principality of Andorra takes part, to assess compliance of States with international standards, are the 40 Recommendations and the methodology of their application and assessment which accompanies them.

In September of 2017, Moneyval adopted, in its Plenary Meeting, the report of Andorra, in which a Partially Compliant rating was assigned to Recommendation 8 (hereafter called "R.8"), which deals with non-profit organizations and, more specifically, with the analysis of the techniques carried out by States and the effectiveness of such techniques in preventing the misuse of NPOs for the financing of terrorism. Since then, Andorra has carried out a series of tasks of diverse nature with the aim of mitigating the possible deficiencies and of aligning the implemented measures with the international standards. This assessment is set within the framework of these tasks and seeks to be an additional tool for the evaluation of the risks of terrorist financing to which NPOs can be exposed.

FATF defines a NPO as a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works”.

In order to comply with one of the requirements of R.8, Andorra has introduced into its legislation by means of Law 21/2019, of 28 November, amending Law 14/2017, of 22 June, on prevention and the fight against the laundering of money or assets and against terrorist financing, a definition that is quite similar to that proposed by FATF and slightly adapted to the reality of our country:

Article 3.19 of Law 14/2017:

“Non-profit organization (NPO): a legal person or arrangement or organisation, including associations and foundations, that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works.”

According to FATF R.8, in order to combat the terrorism financing abuse of NPOs, countries should apply to such organizations specific proportional measures with a risk-based approach¹, in order to protect them from situations relating to terrorist financing, such as the following, for example:

- terrorist organisations posing as legitimate entities;
- exploitation of legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures;
- concealing of the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

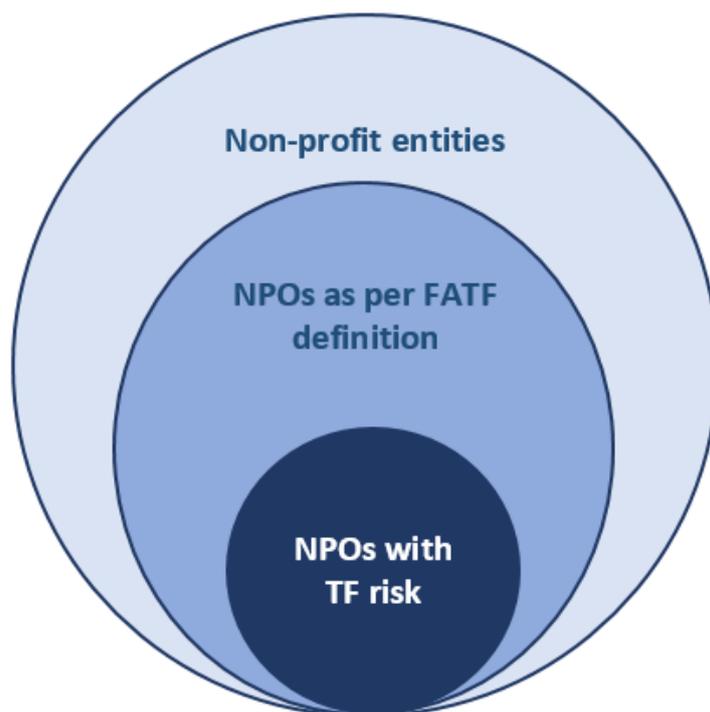
The interpretive note on FATF R.8 sets out the arguments for the various measures which jurisdictions may apply in order to identify, prevent and combat the abuse of NPOs with respect to terrorist financing. These measures pivot around four main points:

- i) sustained outreach concerning terrorist financing issues;
- ii) risk-based supervision of NPOs at risk of terrorist financing abuse;
- iii) effective information gathering and investigation;
- iv) effective mechanisms for international cooperation.

The directives provided by FATF evidence the fact that not all non-profit entities are NPOs, and that not all NPOs face the risk of being abused for terrorist financing. Consequently, in order for countries and the NPOs themselves to devote the necessary resources to avoid or detect this type of situations, applying a risk-based approach, each country should carry out an assessment to determine the characteristics and the subset of NPOs which present the greatest risk of terrorist financing abuse.

In short, three categories of entities may be established: non-profit entities, NPOs, and NPOs at risk of terrorist financing abuse.

¹ As proposed in FATF Recommendation 1.



VI. NON-PROFIT ENTITIES

In order to make the most possibly accurate assessment, it has been necessary to achieve an understanding of Andorra's non-profit entity sector as a whole; then to go on to distinguish the entities which fit the definition given by FATF; and finally, to delimit the field of study even more to gain a thorough knowledge about the entities which can be at risk of terrorist financing abuse.

1. Scope of assessment and types of non-profit entities

There are different types of non-profit entities, which mainly include associations, foundations, and other kinds of entities with similar purposes.

In December of 2019, the total number of entities recorded in the Register of Associations and the Register of Foundations was 737. A humanitarian institution which, although not recorded in the Register, is nevertheless a non-profit entity which has been created by a specific law, should be added to the aforementioned number. The Andorran non-profit entities belong to various modalities, among which the largest part is represented by the so-called general associations (462) followed by sports entities (238), which involve sports actions, sports groups, sports clubs and sports federations.

In the course of the year 2020, the UIFAND submitted to the Andorran associations, foundations and other entities with similar purposes a questionnaire relating to the National Risk Assessment 2020 with the aim of obtaining a greater input from the sector.

The following table presents details on the various modalities of non-profit entities which exist in our country, giving their number, and the percentage which they represent among the total number of entities.

Modality of entities	Number	Percentage of total
General associations	462	62.2%
Foreign associations	5	0.68%
Sports actions	15	2.03%
Sports groups	9	1.22%
Sports clubs	177	23.98%
Sports federations	37	5.01%
Private foundations	25	3.39%
Public foundations	7	0.95%
Humanitarian institution	1	0.14%
Total	738	100%

2. NPOs

On the basis of the analysis of the purposes of the associations and foundations as provided by the Registers of Associations and of Foundations, as well as the data provided by the sector, it is found that of the total number of non-profit entities, only 14% fit FATF's definition of NPO since they are mainly engaged in raising and/or disbursing funds for the performance of "good works".

The other category to be highlighted here are the entities which, despite not having as their main purpose the raising of funds from the public and/or not engaging in this activity in practice, have nevertheless contemplated it as an option in their articles of association. In most cases this provision is recorded in the articles of association in order to allow the entity to carry out, for example, raffles or charity sales of calendars or other objects. For the sake of prudence, this type of entities has equally been considered as NPOs for this study/assessment.

Lastly, the foremost category with respect to volume is the one relating to non-profit entities which do not have as their purpose the raising and/or distribution of funds from or to the public and, consequently, they will not be considered NPOs. The greater part of this category is formed by sports entities (federations, clubs, etc.) which, generally speaking, receive funds from the State, the municipalities or other entities, and from the payment of fees by their members for the performance of a specific service, for participation in some sports event, or for the purchase of material, for example.

Entity receiving/making donations	Number of entities	Percentage of total
Yes	102	14%
No, but it could do so under its articles of association	73	10%
No	563	76%
Total	738	100%

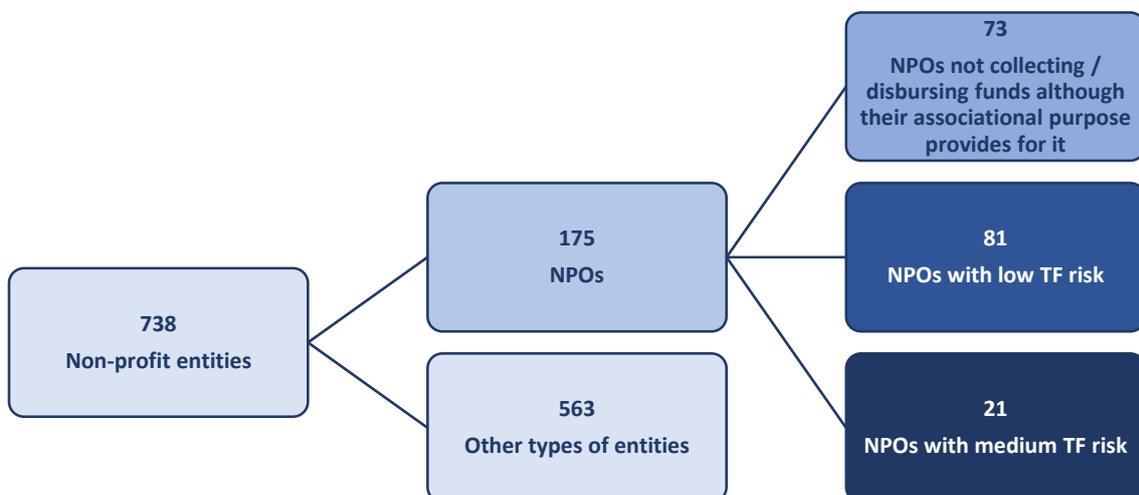
3. NPOs with TF risk

By applying a risk-based approach, the aim has been to differentiate the NPOs which pose no risk or only a very small one, from those which pose a higher risk and which should be subject to a more thorough and closely focused control. In this way, the international standards (primarily FATF R.8) incentivize countries to delimit the subgroup of NPOs which are susceptible to be used for terrorist financing, determining their principal features. Within this context, the following have been considered salient features of the Andorran NPOs to this effect:

- Special significance has been attributed to the circumstance of providing funds, aid and/or services in risk areas such as may be the case of armed conflict areas or jurisdictions with high levels of political instability.
- The use of cash is a risk inherent to NPOs in general, but even so the risk is higher, the greater the use of cash at both the time of raising funds and when providing aid.
- The larger the amount of funds available to an NPO, the greater the possibility that they may be used to finance terrorism, basically if the entity does not have in place suitable procedures to mitigate this risk.
- From the studies carried out at the international level, it may be seen that service NPOs are more likely to be used for such criminal activities.
- It should be noted that cooperation with other entities outside the national territory poses an added risk since in most cases, once an NPO has transferred funds, it loses control of them, with the risks that this entails.
- NPOs with an excessively broad or general name or associational purpose.

The more characteristics of this type that an NPO presents, and the greater their importance within the entity's overall activity, the greater its exposure to being abused for TF.

The following graph provides detailed information on the total number of entities that make up the overall Andorran non-profit entity sector, grouped according to their risk of being abused for TF purposes.



The 563 entities which belong to the "Others" category do not fit the definition of NPO and are consequently excluded from the sphere of control and supervision by the authorities in matters of preventing and combatting TF.

Among the 175 entities which fall within the scope of the NPOs' definition, those which do not raise and/or distribute funds from or to the general public even though their associational purpose provides for it (73), and which therefore show a very low TF risk, and the entities which have a low risk of TF (81) will be subject to the periodic monitoring and control of the authorities in order to detect whether any change arises in their status. In application of a risk-based approach, the last category, that of NPOs with a medium TF risk (21), will be under the control and supervision of the authorities.

VII. THREATS

Even though no case has been detected to date of an Andorran NPO linked to terrorist financing, the intrinsic features of this sector could make it very attractive for criminals who wish to take advantage of it in order to finance terrorism, inasmuch as these entities enjoy the trust of the general public and have the capacity to raise funds and to transfer them abroad without arousing suspicion.

1. Terrorism risk and terrorist financing risk

As our starting point for an analysis of the threats which an NPO may face, mention should be made of two closely linked concepts: terrorism risk and terrorist financing risk. Moreover, in this respect it should be noted that the specific sphere of action of the NPOs. In effect, it should be taken into consideration that most of the Andorran NPOs are oriented to the national sphere and, since the risk of terrorism in Andorra is medium-low, the risk that these entities may be used for terrorist financing is also medium-low.

2. Radicalization or affiliation to a terrorist entity

Considering the foregoing, the threat to which these NPOs are consequently subject is that of establishing or maintaining links with a terrorist entity. This could involve an intentionally pursued situation in which an NPO itself were to establish relations with a terrorist entity, or it could simply be the result of the NPO's ignorance of the terrorist entity's nature. Aside from this, the affiliation could involve the participation of the NPO in its entirety or only of some specific individuals.

3. Diversion of funds

The threat of the diversion of funds of the NPO increases with its size and with the volume of funds that it manages, and such diversion may occur in any one of three different stages. Namely, it may take place at the time of collecting donations, while such funds are under safekeeping, or subsequently during the transfer to the legitimate beneficiary. What's more, diversion operations may be carried out by various individuals, including persons belonging to the NPO itself or people who do not belong to it. Each of these situations is explained below in greater detail.

3.1. Fundraising

The raising of funds by NPOs may represent a crucial moment since it involves two frequently recurring factors, namely, the use of cash and the anonymity of donors. In the case of small donations, this could involve that the NPOs do not exercise the same controls with respect to donor identification and/or the source of funds as they would for donations of larger amounts.

3.2. Safekeeping of funds

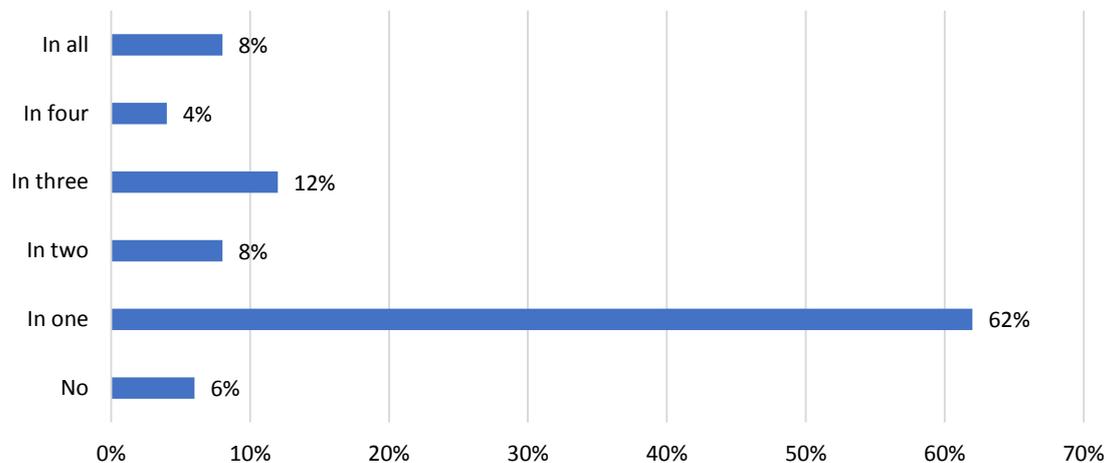
The safekeeping of funds is the stage that immediately follows their collection. One of the greatest threats in this stage is the safekeeping of funds that takes place outside the conventional channels.

It has been concluded from the information provided by the sector that funds are generally deposited in each entity's bank account.

Two NPOs stated that they deposit the money raised in cash in a safe. One keeps the funds there until they are deposited in the entity's bank account, while the other made it clear that the safe provides the only way of safekeeping the funds since it has not been able to open a bank account (between the two of them, these entities had received 2,860 euros in cash in the course of 2019). With regard to this assessment, it is important to note that this exceptional situation denotes a certain tendency of the banking entities to avoid the risks that may be associated with the activity of an NPO, which could entail an increase in the threats linked to the sector since this obliges NPOs to use other channels outside the financial system to receive or provide aid. In this respect, the informative note relating to the thematic inspection of terrorist financing of 28 June 2019 emphasized the fact that the banking entities should not classify non-profit entities as high-risk customers by default, and it encourages them to justify such consideration on the basis of an analysis in which factors such as their typology, sphere of action, volume of managed funds, or activity should be taken into account.

Approximately 6% of the NPOs do not have any bank account. From the analysis of the data, it has been concluded that one of these NPOs is the one referred to above, while the rest are NPOs which, despite the possibility which their articles of association provide for raising money from the public, do not do so in practice.

Availability of bank accounts in the country's banking entities



3.3. Transfer of funds

The last stage in the cycle entails the change of ownership of the money, either because it is transferred to the beneficiaries as financial aid or as the performance of a service, or because it is used to pay the NPO's operating expenses.

Special importance is held in this respect by the channels used to transfer the funds, with the problems which were mentioned in the previous section. Aside from this situation reported by the NPO itself, no other case has been detected in which channels outside the financial system (such as alternative remittances of money or the *hawala* system) is used.

3.4. Diversion of funds by personnel

The action of the people who take part in the operation of the NPO is of the greatest importance in avoiding the diversion of the entity's funds. The diversion may take place at the time of collecting the funds, which do not come to be deposited in the NPO's accounts, or after the funds have been deposited, when they are channelled for purposes other than those of the NPO – especially to finance terrorism.

This is where situations such as fraudulent accounting and/or false receipts acquire importance. Even though no cases have been detected in Andorra in which funds have been diverted to finance terrorism, there have been cases of misappropriation, albeit very few. Two of the entities which have confirmed that they have been victims of misappropriation have stated that they detected it by means of the control of the entity's bank accounts and an internal audit. When asked about the measures which they have implemented to mitigate this risk, they said that they have carried out a reorganization of the entity and started up internal control measures on cash and payment management.

Neither have any cases been detected of the affiliation of an NPO with a terrorist group, mainly as a consequence of the medium-low terrorism risk in Andorra and of the fact that there is no record of the existence of any radicalized group within the country.

3.5. Diversion of funds by third parties

This situation arises when NPOs cooperate with other entities to achieve common goals. Owing to the geographical and historical particularities of the Principality of Andorra, many of the most prominent NPOs in the sector send money to their "parent organizations" or "umbrella NPOs"², situated primarily in Spain and the rest of Europe, which are in charge of delivering the funds to their recipients. This situation poses certain difficulties when it comes to controlling the funds once they have left the coffers of the NPO to enter those of another entity of greater dimensions, although it is also important to note that the "parent" or "umbrella" NPOs are usually international entities with a long track record and quite robust internal procedures. In fact, from the information provided by the NPOs, it is seen that 22% cooperate with some "parent" or "umbrella" NPO.

44% of the country's entities cooperate with foreign entities that pursue the same purposes, and due to the diversity of the Andorran associations' goals, no tendencies or preferences to cooperate with any specific foreign NPOs have been detected.

Likewise, mention should be made of the cooperation with other entities at national level. This situation poses fewer problems from the standpoint of the control of funds, but it should nevertheless be taken into consideration since 50% of the NPOs have stated that they maintain national cooperation. The entities with which they cooperate the most include "Plataforma d'ONG d'Andorra" (NGO Platform of Andorra). In fact, this is an association of the country's foremost NPOs devoted to the goal of working on development cooperation and humanitarian action through the joint coordinated action of its member entities.

To finish up this section, it is also important to make mention of false representation when a group of persons use the name of an NPO to raise funds and to use them to the financing of terrorism, but neither have any cases of this type been registered and the NPOs state that they are not aware of ever having been victims of such conduct.

4. Conclusion

On the basis of the foregoing analysis, it is considered that the risk of TF in the NPO sector is low.

² An NPO of international scope that groups several entities of more or less local character and issues common directives or agglomerates the funds of the various entities to devote them to good works.

VIII. VULNERABILITIES

1. Legal framework and details of the Registers

With respect to the legal framework in matters of AML/CFT, Law 14/2017 has amended, by means of its Final Provisions 3 and 4, the Law on Foundations and the Qualified Law on Associations, which establish the obligation of the NPOs to keep, among others, a record book of the beneficiaries who receive funds or resources from the organization, and a record book of beneficial owners, which, in the case of associations and foundations, shall be provided to the respective Register. Additional Provision 1 of Law 14/2017 does not provide that NPOs are reporting entities under the entire law and, consequently, it does not require that the entities apply all the preventive measures which are provided, although they are required to adopt all the necessary measures to watch out that they will not be used for TF purposes, including the keeping and storage of the aforementioned record books.

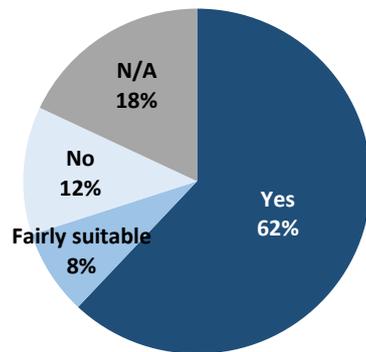
Despite this, as a result of the publication of Technical Communiqué CT-04/2018, some NPOs have communicated their internal control and communication bodies and their representatives before UIFAND.

That said, the conclusion may be reached that the absence of an effective regulatory system of the NPO sector could attract criminals wishing to take advantage of the deficiencies.

The content of the regulations relating to associations is very general and even though associations are required to be registered in the Register of Associations, the details which are available in this Register are very limited and, in many cases, incomplete or not updated. This circumstance could entail an obstacle to possessing a good knowledge of the sector. At the present time, for example, the Register of Associations also contains the registrations of some professional associations and unions, although these organizations are already covered by their own laws and registers (such as the Register of Qualified Professionals, Professional Colleges and Professional Associations), but they cannot be cancelled unilaterally by the register.

Likewise, it appears that the registrar regulation and the rules relating to Foundations also have a very limited content, although it should be pointed out that the information available in the Register of Foundations is more up to date and trustworthy, mainly thanks to the intervention of the *Patronage* of each of these organizations.

Are the Andorran regulatory framework's fitness and scope for the NPO sector suitable?



2. Controls of the Public Registers

2.1. Verifications of registrations

With respect to registration controls, it should be emphasized that the Registers check that all the information and documentation comply with the requirements established by law. The legal age and residence in the Principality of Andorra or the nationality of the founders and of the chairman of the *Patronage* are verified with the Department of Immigration or the Department of Passports, as appropriate. Moreover, consideration is given to the details of the persons who take part in the organization and are recorded in the public notarial deed of incorporation. Aside from the aforementioned verifications, the Registers do not carry out searches in open sources and do not identify the beneficial owner, etc. In the course of the registration of an entity, neither does the Register verify the possible criminal record or possible disqualifications, among other aspects, of the persons who take part in it. Likewise, neither does it carry out any screening of the names of the intervening persons against the Consolidated List of the United Nations Security Council, searches in open sources or the identification of beneficial owners. Nevertheless, in this respect it should be pointed out that the persons who are of Andorran nationality or who have Andorran residence are already entered in the database of the Police, which has the tools to detect persons who have been listed by the United Nations, who are wanted by Interpol, etc.

Associations

From the practical standpoint, the process of creation of an association begins with the will of three people, who are to address the Proceedings Service of the Government in order to convey to the Register all the documents required by the Qualified Law on Associations (the public deed of the foundation charter, the articles of association, etc.). The Register reviews the articles of association and, if appropriate, the report of the Secretary of State for Sport in order to verify the non-profit character and the penal legality of the associational purpose. Lastly, the head of the Register verifies that the foundation charter has been registered as a public document and protocoled by a Notary, and that it states the persons who incorporated

it. Depending on the specificity of the association's purpose, the Register may require that a supplementary report should be provided by the Ministry which is competent in the respective area, and if it considers that the application for registration does not comply with any of the requirements established by law, it notifies this circumstance to the persons in charge of the association so that they may amend the defects observed. Subsequently, once the aforementioned documentation has been studied and the notified defects have been amended, the registration of the association is carried out by means of a resolution which mentions that the association is registered in the respective section of the Register of Associations (General Associations, Foreign Associations, or Sports Associations), under the respective registration number, stating its registered office, and the composition of the Board of Directors, according to the documentation submitted and the deed issued by the respective notary together with his protocol number.

As previously mentioned, the Register of Associations has been created merely for the purposes of public record and, consequently, it is not qualified to impose any type of sanction on associations even if they are not correctly registered or were to have provided erroneous data for their registration. Notwithstanding, Point 6 of Article 10 of the Qualified Law on Associations stipulates that *“if the head of the Register considers that the documentation submitted by an association reveals rational indicative evidence of penal illegality, he shall so notify the Minister of the Interior who, as appropriate, shall convey same to the Public Prosecutor”*. In the last three years, however, the Register has not detected any indicative evidence of such characteristics.

Year	2017	2018	2019
Number of associations registered	15	25	24

Foundations:

In order to acquire legal personality, the foundations of Andorran nationality with registered office in Andorra need to be registered in the Register of Foundations provided that they comply with certain conditions (public deed, prior authorization of the Government, resources, etc.). In this regard, it should be mentioned that, in the registration process of a Foundation, the deed contains, among other aspects, the resolution of the Government authorizing its incorporation after having studied the draft of articles of association, the explanatory report of its envisaged activities or programme of action, which justifies its contribution to the achievement of an end of general interest, and its economic viability plan based on the sufficiency of its planned initial resources (Art. 3 of the Law on Foundations). In all cases of a first registration, the Government should request the *Protectorate* to issue a report on the fitness and propriety of the purposes and on the suitability and sufficiency of resources in order to issue, in turn, the respective authorization (Art. 26 of the Regulations for application of the Law on Foundations).

In the functioning of foundations, the *Protectorate* plays a crucial role because it is exercised by the Ministry which holds the competence of Justice and one of its various functions is to report to the Government on the fitness and propriety of the purposes and the sufficiency of the resources of the foundations in the process of being incorporated.

Article 35.3 of the Law on Foundations and Article 29 of the Regulations on Foundations specify that the registration of a foundation in the Register of Foundations may only be denied when the deed of incorporation does not meet the requirements stated by the legislation. Likewise, Article 26 of the Regulations on Foundations stipulates in its Point 2 that *“the head of the Register is to qualify the legality of the extrinsic form of the documents to register, and their material validity with respect to what these documents state and, as appropriate, with respect to what the entries of the Register state”*, and it adds, in Point 6, that the registration of the foundation will be denied when the report of the Protectorate is unfavourable or when defects are observed in the validity of the documents presented.

Year	2017	2018	2019
Public foundations incorporated	0	0	1
Private foundations incorporated	1	1	2

The foregoing explanation makes it clear that the applicable legislation does not require that the Registers of Associations and of Foundations should carry out any type of specific verification with respect to the prevention and combatting of terrorist financing. The fact that the personnel of these administrative bodies do not have specific training in CFT matters also derives from this situation since these matters are not included within the framework their competence.

2.2. Unregistered entities

The foundations incorporated under the Law of Foundations acquire legal personality with the registration of their deed of incorporation in the Register of Foundations and they are the only entities which may use the term "foundation" in their name (Articles 6.1 and 35.4 of the Law on Foundations).

A similar situation is established by Articles 8 and 11 of the Law on Associations, which provide that the associations incorporated under this Law and the foreign associations which have a registered office in the Principality of Andorra and/or carry out associational activities in Andorran territory are to be registered in the Register of Associations for the purpose of public record.

Notwithstanding, this same law provides that the associations which are not registered (see Articles 8.3 and 11.4) will be governed by what is established in Article 16 of this law, which provides that *“All the members of an association not registered in the Register are jointly liable, together with the association itself, for the actions carried out in the name of the latter, and for the obligations undertaken before third parties by the association, without prejudice to the right of repetition against whomever were to have acted in the name of the association or the person immediately and directly responsible for the act or fact which were to have generated such responsibility”*.

Having studied various sources, no indicative evidence has been detected of the existence of associations or foundations in Andorra carrying out association/foundation specific activities

without being registered in the respective register. It should also be pointed out, however, that no specific supervision is carried out that could allow the detection of this type of associations or foundations.

Likewise, mention should be made in this respect of Article 6 of the Regulations for application of Law 14/2017 entitled “*Identification of the customer and of the beneficial owner*”, which provides that, in order to allow identification of the beneficial owner of Andorran and foreign associations which have their registered office in Andorra or which carry out activities in the Andorran territory, such associations are to be duly registered in the Register of Associations. Accordingly, in compliance with this provision, the reporting entities under Law 14/2017 may not establish any business relation with unregistered entities.

2.3. Inactive entities

Aside from unregistered entities, another situation which could pose a threat is that of the registered entities that do not carry out any type of activity during a long period of time, that is to say, inactive entities.

Associations

Article 30 of the Qualified Law on Associations provides the various hypotheses of dissolution of associations: (i) by resolution of the general assembly, (ii) when the number of associates is less than three, (iii) due to expiration of the term set in their articles of association, (iv) due to exhaustion of the corporate purpose or the impossibility of achieving the end for which they were incorporated, (v) due to other causes established in the articles of association or by firm court decision. Notwithstanding, the same law in its Article 14 provides for the ex officio cancellation of the registration of an association if it has not requested the registration of any instruments during a period of ten years. Such cancellation becomes effective only if, upon the lapse of 30 days from the notification of the situation to the association, no allegations have been made and its registrar situation has not been regularized.

The risk generated by the circumstance of having inactive entities registered has a parallel with inactive accounts. In this respect, an association that has not had any type of activity during a very long period of time may suddenly resume activity but with a purpose different from that which was initially established, carrying out in this way illegal activities such as terrorist financing while going unnoticed.

The term of ten years established by Andorran Law for the head of the Register of Associations to cancel the registrations of an association in the Register is very long. Moreover, the Register does not have IT resources that would allow it to detect easily entities which have been inactive for some time. The last review that was carried out to detect inactive associations dates from October 2016, coinciding with the transfer of the Register of Associations to the Legal Entities Area of the Ministry of Justice and Interior³.

Eight associations have made voluntary cancellations in the last three years and this is a quite small number (equivalent to approximately 1%) in comparison to the total of 706 entities

³ Edict of 7 January 2016 by which notice is given of the resolution of ex officio cancellation of various entities from the Register of Associations. *Butlletí Oficial del Principat d'Andorra N°4*, of 13 January 2016. [online]. https://www.bopa.ad/bopa/028004/Documents/GF20160107_08_35_12.pdf.

registered in the Register of Associations. A considerable number of entities of this total do not have any activity at the present time.

Foundations

Article 30 of the Law on Foundations lists the possible causes of the extinction of foundations, namely: (i) the expiration of the term for which they were incorporated, (ii) the achievement of the foundational purposes or the impossibility of achieving them, (iii) the causes established in the foundation deed or in the articles of association, (iv) the absorption or integration resulting from a merger process, and (v) a court decision.

The only reference that the Law on Foundations makes to possible inactivity is found in Article 24.2, where it stipulates that *“the Protectorate is to request the Administration of Justice to order the temporary intervention of the foundations which do not submit accounts for two consecutive years”*. Accordingly, the *Protectorate* will be in charge of watching out that foundations are active and comply with the requirement to submit accounts and with the compulsory allocation of at least two-thirds of their income and other annual net revenues which they obtain to the fulfilment of their foundational purposes (Art. 25.1 of the Law on Foundations).

Over the course of the last three years, only one foundation has voluntarily requested cancellation from the Register. As regards the rest, there is no indicative evidence that they are not active since, as will be seen further on, they have all recently submitted their books for processing.

3. Transparency

By making the request to the registers and addressing the questionnaire to the non-profit entities, we sought to acquire a first-hand knowledge of whether the NPOs had submitted the various books to their respective registers. In effect, this is an obligation established by various laws:

Article 28.1 of the Qualified Law on Associations, of 29 December 2000:

“1. Associations shall keep a register of associates, a register of beneficial owners, a minutes book, a stock book and the relevant accounting books in accordance with their activities. These books shall be processed by the Register of Associations and signed by the president and the secretary, or equivalent bodies within the association.”

Article 22.2 of Law 11/2008, of 12 June, on Foundations:

“Foundations shall keep, at least, a log book, a stock and annual accounts book, a minutes book and a register of beneficial owners.”

Article 37.2 of Law 11/2008, of 12 June, on Foundations:

“The Register of Foundations also holds information on the foundation’s beneficial owners contained in the register of beneficial owners referred to in article 22 of this Law.”

For the effects of this assessment, the most significant details are those referring to the book of members and to the book of beneficial owners (BO). The reference to the book of beneficial owners is not found in the original legal texts but is rather a novelty introduced by Law

14/2017, of 22 June, on prevention and the fight against money laundering and terrorist financing.

With regard to the replies received from the associations considered to be NPOs, more than one-fourth of the respondents (29%) answered that they do not keep the book of members. This is a quite high percentage since it involves an obligation inherent to this type of institutions which was already established by the law approved in the year 2000. Moreover, it is important in order to be able to determine the persons who contribute to the operation of the entity and who should have an impeccable background with respect to possible links to terrorist financing. The replies of the foundations considered to be NPOs have not been taken into account since they do not have the legal obligation to keep this book.

In the case of the book of beneficial owners, the figures registered are even higher, confirming those provided by the Registers inasmuch as 54% of the NPOs which responded to the questionnaire have not provided this information to the Public Administration. In this respect, the Regulation regulating *the recording of and access to the information relating to beneficial owners in the registers of legal entities*, approved by the Decree of 5 September 2018, established specifically the procedure and the terms for submitting these data to the respective register and the pertinent updates.

In order to mitigate the non-compliance of the associations and foundations with respect to the submission of the record book of beneficial owners, a circumstance which compromises the transparency of these entities, as it is a very important subject for the prevention and combatting of terrorist financing, in 2019 the Registers of Associations and of Foundations sent a letter to all the associations and foundations, informing them of the obligation to keep this book according to law.

Associations

Article 28 of the Qualified Law on Associations mentions a set of books (record book of members, record book of beneficial owners, minutes book, property inventory ledger and accounting ledger) which should be kept by associations. The information should be recorded in a specific medium, namely, the books which are provided and processed by the Register of Associations.

The table below gives the number of associations which have applied to have their books processed by the Register of Associations, according to their typology:

Type of book	Number of associations which requested the respective book in 2019	Number of associations which requested the book earlier
Record book of members	11	157
Minutes book	23	229
Property inventory ledger	7	147
Accounting ledger	12	165

In this respect, the only function of the Register is to legalize the books before they are used, that is to say, it carries out an opening or closing procedure on the respective book, solely for the purposes of opening a new book, specifying the number of pages and affixing the seal of the Register of Associations. The books are then returned to the interested party. All the information and documents which have been submitted to the Register have been stored since the date of its establishment in 2001.

As of 31 December 2019, only 22 associations had notified the register of their beneficial owners.

Foundations

Similar to the case of the associations, Article 22 of the Law on Foundations mentions a set of books (journal, inventory and annual accounts ledger, minutes book and book of beneficial owners) which are to be kept by foundations. The table below gives the number of foundations which have applied to have their books processed by the Register of Foundations, according to their typology:

Type of book	Number of foundations which had the respective book processed in 2019	Number of foundations which had the book processed earlier
Journal	2	All the foundations
Inventory and annual accounts ledger	3	All the foundations
Minutes book	3	All the foundations

The process for the legalization of the books is the same as in the case of Associations.

The accounts which are submitted by the Foundations are sent to the *Protectorate*, since it is the body which is to receive and keep them under deposit according to the legislation in force (Article 33.1, b) of the Law on Foundations).

As of 31 December 2019, only 13 foundations had notified the register of their beneficial owners. Among this number, 3 were formalized by means of a notary since they were cases of newly incorporated foundations. Likewise, two amendments of beneficial owners were registered subsequent to the initial declaration as a result of the designation of high-level public authorities as members of the governing bodies of the respective foundations, in accordance with the laws in force.

The reception of public subsidies or aid is subject to the condition of submitting the pertinent accounts (Art. 24.2 of the Law on Foundations).

All the information and documents which have been submitted to the Register have been stored since the date of its establishment in 2009.

4. Follow-up and supervision

In the case in which subsidies are received from the Government, NPOs are subject to control by the General Audit of the Government with respect to the achievement of the general goals, and it may carry out financial controls on the beneficiary entities of the NPOs in accordance with the Regulations of the procedure for the grant and control of public subsidies and transfers, of 12 July 2000. Additionally, Article 14 of the present regulations provides that in the event of non-compliance with any of the requirements which they establish, or of those established in the regulatory conditions of the aid, the Government is to initiate the legal, administrative, civil and criminal actions which it deems appropriate, including the claim of the parts already paid.

Another body, which is for the auditing of the economic, financial and accounting governance of the Public Administration, is the Court of Auditors. The law that regulates it (the Law on the Court of Auditors, of 13 April 2000), establishes that one of its functions is to audit the subsidies, loans and aid financed under the budgets, of the entities which receive subsidies from the Public Administration (see Articles 2 and 8 of the Law on the Court of Auditors).

In this way, the NPOs which receive public aid are subjected to financial controls and controls of the destination of funds. Even though this process is limited to financial control, it goes a long way towards mitigating the risk of terrorist financing. In the last 3 years, 50% of the NPOs under risk of being abused for terrorist financing have received government subsidies and are consequently subject to such controls.

In 2018, UIFAND carried out two inspections of NPOs considered susceptible to being used for terrorist financing. No significant deficiencies were detected except the fact that they did not check all the persons linked to the entity against the Consolidated List of the United Nations.

As regards the suspicious transaction reports received by UIFAND from the reporting entities under Law 14/2017, none were linked to an NPO.

Associations

With respect to the books which are to be kept by the associations, the Register only carries out opening and closing proceedings and does not hold control or sanctioning authority as regards the reliability of their content. Neither do the associations have any obligation to report to the Register on their activities or their budget.

In accordance with Article 29.4 of the Qualified Law on Associations, the associations receiving public subsidies are accountable for their use to the granting body. In the case of the incorrect application of the subsidy, depending on the terms of the grant, the granting body is to call on the recipient association to return the funds, without prejudice to the responsibilities which may be claimed by other channels.

In conclusion, there are many facilities for the establishment of an association but the subsequent follow-up is hardly effective.

Foundations

In accordance with Article 23 of the Law on Foundations, the *Patronage* is to formulate annually the inventory and the annual accounts of the foundation. These accounts are submitted to the *Protectorate* and, in specific cases (when the total assets of the foundation are in excess of one million euros and/or when the total annual volume of ordinary income is

over one half million euros, Art. 27 of the Law on Foundations), they are subjected to an external audit.

The *Protectorate* is the body which has the competence, among others, of watching out for the correct operation of foundations from both the standpoint of their articles of association and the legal standpoint (Art. 32.3 of the Law on Foundations). If the foundation does not submit its accounts during two consecutive years, the *Protectorate* is to request the Administration of Justice to order the entity's temporary intervention (Art. 24.2 of the Law on Foundations).

5. Characteristics of the sector

5.1. Types of NPOs

The Andorran non-profit entities may be divided into various groups according to their purpose and the differentiation made by FATF between expressive and service entities.

General category	Type of NPO	Total number of NPOs	% of total NPOs
Expressive	Representation of interests	40	23%
	Cultural	31	18%
	Religious	10	6%
	Artistic	8	5%
	Leisure	8	5%
	Fauna and flora	7	4%
	Political	6	3%
	Academic	4	2%
	Sports	3	2%
Service	Humanitarian aid	22	13%
	Social services	19	11%
	Educational	12	7%
	Health	5	3%
Total	13	175	100%

From an analysis of the data, it may be seen that 66% of the NPOs are expressive and, consequently, less susceptible to be used for terrorist financing according to FATF.

At this point it is important to recall that among the overall number of possible NPOs, there are some associations which could be inactive.

5.2. Human resources

Data on the human resources employed have been obtained by consulting various sources.

As may be seen in the following table, a significant number of NPOs do not have any salaried workers for the daily operation of their organization. For their part, only 8% of the entities have more than ten workers on their staff of personnel. Even so, some of the latter entities do not raise money from the public or distribute it, even though their corporate purpose allows them to do so, while others are NPOs which are widely known in the country and the number of their workers is in line with the social activities which they carry out.

Number of workers paid by the NPO	% NPOs
0	58%
1 to 5	26%
6 to 10	8%
Over 10	8%

A similar situation is observed in relation to the number of volunteers⁴ of the NPOs: the greater the charitable activity, the more human resources are employed. It should be pointed out that 72% of the NPOs do not employ volunteers or have less than 10.

Number of volunteers (average for 2019)	% NPOs
0	36%
1 to 10	36%
11 to 100	24%
Over 100	4%
Total	100%

With regard to the number of collaborators⁵, 84% of the NPOs do not have any at all or the number of their collaborators does not exceed 10. Some of the NPOs which have the largest number of volunteers are also those which have the largest number of collaborators.

Number of collaborators (average for 2019)	% NPOs
0	42%
1 to 10	42%
11 to 100	12%
Over 100	4%
Total	100%

⁴ People who undertake to participate regularly in the projects or operation of the entity in accordance with Article 6.2 of Law 90/2010, of 16 December, on Volunteering

⁵ Persons who carry out some task on an occasional basis at the NPO in accordance with Article 6.2 of Law 90/2010, of 16 December, on Volunteering.

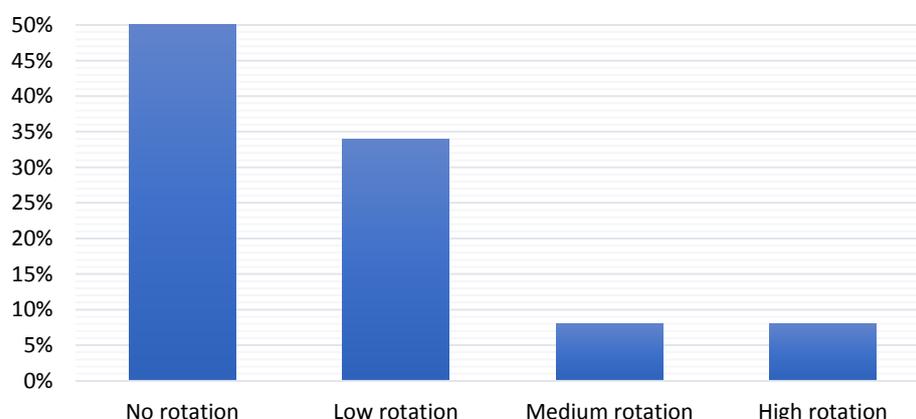
With respect to the internal control of the NPOs, 58% of the entities have a code of ethics or a code of conduct or similar, which applies generally to the founders, associates, employees and collaborators. On some occasions, although to a smaller extent, it also applies to volunteers and to the suppliers of goods or services. Notwithstanding, only 41% of these policies provide measures for the prevention and combatting of terrorist financing.

In order to see that the persons taking part in the NPO (members, founders, volunteers, etc.) comply with its articles of association, code of ethics or code of conduct or similar, the entities apply various measures. The most popular among these are the thorough follow-up of the performance of projects and of the destination and source of funds, either directly by the Assembly or by a department of regulatory compliance provided for such purpose. There are also cases of NPOs which hire the services of external auditors or which even have anonymous mailboxes for reporting breaches of the code of ethics, etc. Additionally, 26% of the NPOs have formally adopted rules for the management of conflicts of interest.

Likewise, one-third of the NPOs have policies for the selection of employees, collaborators, volunteers and/or suppliers of goods or services.

The rotation of employees, collaborators and volunteers, which has an impact on the continuity of training and risk awareness in matters of the prevention and combatting of TF, is relatively low in most of the Andorran NPOs.

Rotation of employees, collaborators and volunteers of NPOs



It should be pointed out that the verification of the possible criminal record of employees, collaborators, volunteers and/or beneficiaries is not a widespread practice among the country's NPOs. Although searches in open sources are more common, they are only carried out by about 14% of the entities.

It may be concluded that, in general terms, the controls which are carried out by the sector on personnel, volunteers and collaborators are quite limited, although the volume of these human resources is limited as well.

5.3. Annual income and total assets

The purpose of analysing the annual income and the total assets of the NPOs is to understand their size and, consequently, the economic capacity of these entities when providing aid which may be diverted to finance terrorism. Accordingly, the greater the annual income and total assets of the NPO, the more susceptible and attractive it becomes for someone who wishes to use it to finance terrorism.

With regard to annual income in 2019, 6% of the NPOs did not have any at all, it was less than 100,000 € in 62% of the entities, and just 2% had annual income in excess of one million euros.

Annual income	Percentage of NPOs
0 €	6%
1€ to 5,000€	12%
5,001€ to 10,000€	12%
10,001€ to 15,000€	10%
15,001€ to 50,000€	12%
50,001€ to 100,000€	16%
100,001€ to 250,000€	16%
250,001€ to 1,000,000€	14%
Over 1,000,000€ ⁶	2%

With respect to total assets, 8% of the entities had no assets on 31/12/2019 and in another 8% the assets were under 1,000 €.

Of the NPOs which had over 250,000 euros in assets on 31/12/2019, 67% are foundations, which are entities which must comply with minimum economic requirements in order to be registered and to start up their activity. In the case of foundations, the law (Art. 5.1 of the Law on Foundations) already provides that the minimum initial resources shall be 100,000 euros. In the case of associations, no type of minimum amount is established for these entities to carry out their associational purpose, but those which have a significant volume of assets are, for the most part, those which are linked to other organizations of international character with a large media presence.

Total assets of the NPO on 31/12/2019	Percentage of NPOs
0€	8%
1€-1,000€	8%
1,001€-10,000€	20%
10,001€-90,000€	22%
90,001€-250,000€	18%
250,001€-1,000,000€	12%
1,000,001€-3,000,000€	10%
Over 3,000,001€ ⁷	2%

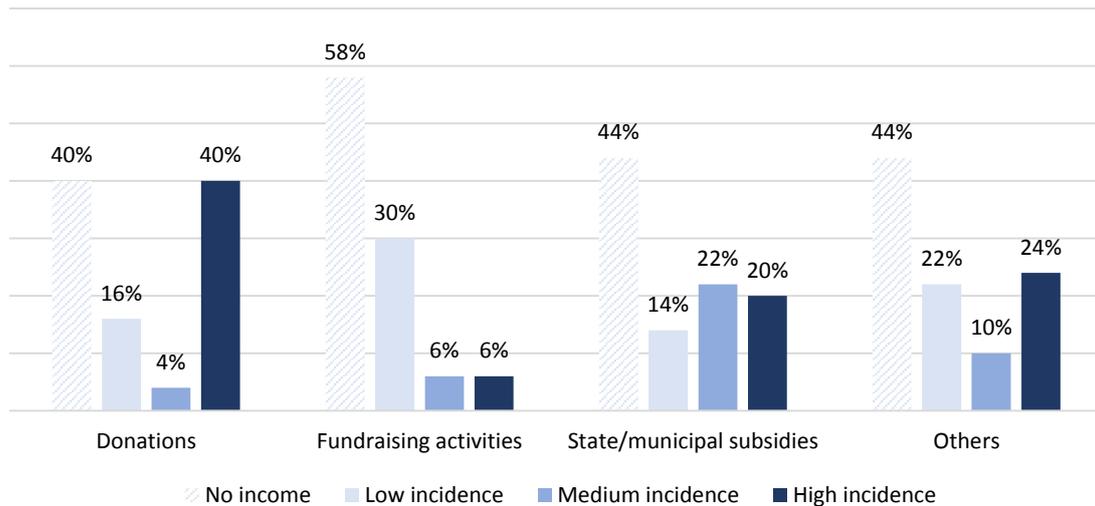
⁶ The average value of the annual income of this tier is 1.1 million euros.

⁷ This tier is formed exclusively by foundations, which are entities that require initial resources of 100,000 euros in order to be incorporated.

5.4. Donations

40% of the NPOs state that they do not receive any type of donations. A higher percentage of NPOs (58%) has stated that they do not carry out any fundraising activity. Likewise, 44% of the entities stated that they did not receive any State or municipal subsidies in 2019.

Percentages of income amounts for 2019 by typology



The donations to the Andorran NPOs are mainly made by natural persons.

60% of the NPOs have rules or a policy for the acceptance of donations. Most of these rules provide that: (i) donations cannot be received in cash but rather they must be made by bank transfer (above all if significant amounts are involved), (ii) the identification of the donors is required (by 67% of the NPOs which have an acceptance policy), so anonymous donations are forbidden, although on some occasions identification depends on the amount that is to be donated (in 27% of the cases), and (iii) for donations of very large amounts, usually of 10,000 euros or more, the source of the funds is checked. Accordingly, this confirms the trend shown by some NPOs to implement measures of their own which are like those specific to the reporting entities under Law 14/2017, as with respect to the procedure of due diligence.

In view of the foregoing, the fact that some NPOs do not carry out a control of donors and donations could entail a hardly strict control, basically in the fundraising phase.

5.5. Aid and beneficiaries

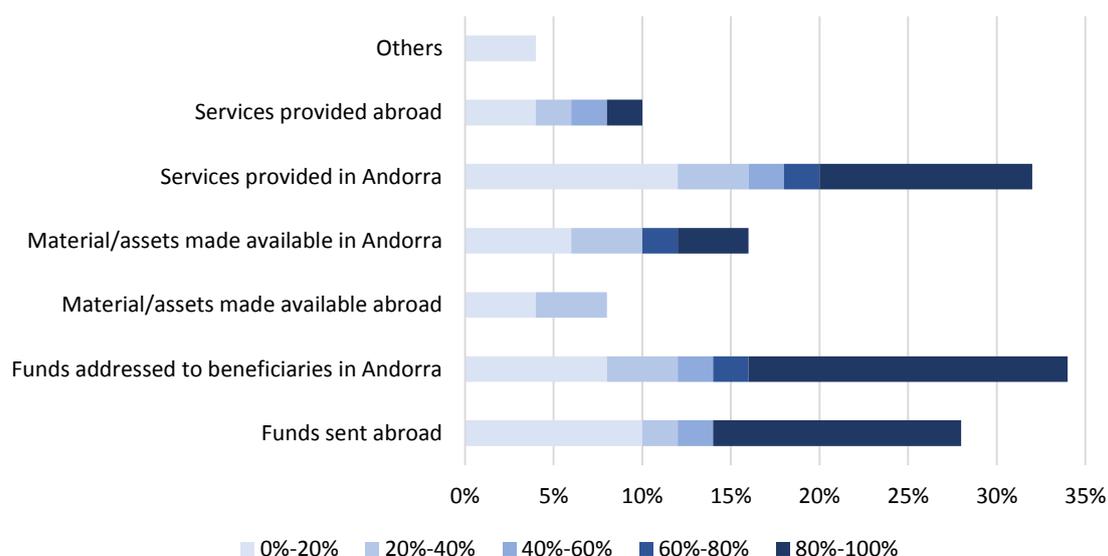
With regard to the number of beneficiaries of aid granted by the NPOs in 2019, 44% of the entities did not grant any aid during 2019. Only 20% of the NPOs have more than 100 beneficiaries and many of these NPOs are entities belonging to an international structure.

71% of the NPOs which have provided aid for a total of over 300,000 euros are foundations and the rest are NPOs with close ties to internationally prominent entities.

Grants of aid in 2019	Percentage of total NPOs
0€	44%
0€ to 5,000€	10%
5,001€ to 25,000€	10%
25,001€ to 65,000€	14%
65,001€ to 350,000€	8%
350,001€ to 800,000€	12%
Over 800,000€	2%

Most of the aid and services provided and the funds and property which are made available are limited to Andorran territory.

Percentage of the amounts corresponding to the aid provided in 2019, broken down by typology



The majority of the Andorran NPOs do not verify that the beneficiaries are not found on any United Nations list, and do not check possible criminal records or make searches in open sources. Consequently, the control which is carried out on beneficiaries is usually very limited, although this vulnerability is attenuated by the relatively limited number of beneficiaries and the direct relation between them and the NPOs. It is all but impossible for the Andorran NPOs that cooperate with "parent" or "umbrella" entities to carry out such control since the funds are left at the disposal of such entities, which take charge of conveying them to the beneficiaries.

With respect to the maximum amount of the economic aid that is provided, the NPOs which have provided 100,000 euros or more are mainly foundations that have allocated this money

to entities that provide social services and not to specific individuals or groups. What is listed as services provided for a value of over 100,000 euros actually represents the overall sum of the services provided to the beneficiaries of the NPO. The maximum amount of any aid provided in cash in 2019 was 6,000 euros and it actually entailed a donation made to another NPO with the money from an event organized to raise awareness of a specific humanitarian cause. Generally speaking, as may be seen in the table below, the grants of aid in cash are few in number and most of the amounts are small.

	No aid granted ⁸	1€-1,000€	1,001€-10,000€	10,001€-100,000€	Over 100,000€
Maximum amount in euros of a grant of <u>economic aid</u>	46%	10%	30%	10%	4%
Maximum amount in euros of a <u>service provided</u>	60%	10%	18%	10%	2%
Maximum amount in euros of a grant of aid <u>in cash</u>	92%	4%	4%	0%	0%
Average amount in euros of the grants of <u>economic aid</u>	50%	20%	20%	10%	0%

42% of the NPOs have reported that they do not provide funds as aid. With respect to the rest, 50% provide aid in euros, 2% in dollars, and 6% use both currencies. No entity has reported that it provides aid in any other currency.

Within the framework of the verifications carried out by the NPOs, the Consolidated List of the United Nations Security Council should be taken into consideration. Notwithstanding, such control of the beneficiaries of aid is not implemented on a general basis in the NPOs.

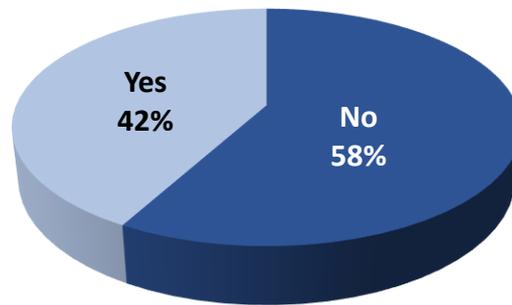
6. Agents/Suppliers and providers of services

Another relevant fact is the number of suppliers and/or providers of services with which the NPOs work. 66% of the NPOs work with less than 10 suppliers and/or providers of services. Those which work with a larger number of suppliers and/or providers of services are the foundations and some of the entities to which reference has previously been made. These figures are explained, in part, by the fact that the latter-mentioned entities provide a larger number of services of very diverse nature (first aid, training, social intervention, etc.).

Only 42% of the NPOs have stated that they have procedures in relation to policies or controls for the acquisition of goods or the selection of service providers. These are good practices that allow the prevention or detection of possible diversions of money and they are particularly important when contracting services or acquiring goods in conflict territories or areas.

⁸ Entities not providing economically appraisable aid.

Does the NPO have a policy and/or controls for acquisition of goods or selection of service providers?



Most of the entities which have reported that they have policies or controls of this type have stated that these consist of an annual approval of budgets and audit by the Board of Directors, while others said that they have internal rules for contracting in this respect or that they confine themselves to contracting national suppliers and to acquiring goods in Andorran territory because they place greater trust in them as a result of their proximity and the possibility of inspecting the goods or services which are contracted.

7. Own supervision systems

In relation to the supervision carried out by the NPOs, 34% have departments or persons devoted to implementing measures aimed to watch out that the entity is not used for purposes of terrorist financing. Given the wide variety of NPOs with respect to size, the number of persons who are devoted to such tasks may range from one in the smallest entities to ten in those which manage a larger number of donations and different services.

81% of the NPOs which provide aid or make funds available to beneficiaries have a person or department in charge of supervising the use of the aid that is granted. Generally speaking, this task is left in the hands of the manager, president, treasurer, secretary, *Patronage* or "parent"/"umbrella" entities. On some occasions, there are also instances of reviews by external auditors. In this respect, 34% of the NPOs periodically contract an external audit, either by legal imperative (Art. 27 of the Law on Foundations) or by their own decision, although since it is an audit of accounts, in only 43% of the cases are matters relating to terrorist financing expressly considered. The smallest NPOs delegate the supervision of the use of funds to third persons, who are usually collaborators, since they do not have the necessary resources to make on-site visits.

Internally, 40% of the NPOs have procedures that are known to their employees for communicating possible suspicious transactions involving ML/TF which they may detect. 12% even state that they have other mechanisms, such as IT systems, to detect unusual or suspicious transactions in the ML/TF sphere within the NPO. Notwithstanding, these are communication channels which have not been used in practice since, as of the date of this assessment, the NPOs have not reported any suspicious transaction to UIFAND.

With respect to the storage period of the documents relating to the donations received and the aid granted, in 68% of the cases the NPOs state that they store it for 10 years or more. The document storage time is important to allow a follow-up of transactions.

Generally speaking, it is observed that the larger NPOs have a better understanding of the risks which they face and can establish more robust mitigating and supervisory measures.

In conclusion, it may be said that the Andorran NPO sector needs to strengthen and adapt its internal controls for the prevention and combatting of TF in accordance with its risk.

8. Payment methods

Although it is true that the majority of the NPOs use the formal channels, such as bank transfers, to provide aid and/or to receive donations, there are some specificities with respect to the use of other payment methods which may entail vulnerabilities.

8.1. Payment methods used for fundraising

Cash

As stated above, the use of cash when funds are raised by the NPOs operating in Andorra is not excessively widespread. Even though 42% of the NPOs state that they accept cash donations, in 2019 only 34% actually received any. Of this number, 28% did not receive any cash donation in 2019 and only 10% received donations for an individual amount of over 1,000 euros. Consequently, if we compare the total amount of the donations received and the maximum amount of the donations, it may be concluded that cash donations usually involve small amounts, aside from a small number of exceptional cases.

Maximum amount of individual cash donations	Percentage of total NPOs
0€	28%
0€ to 1,000€	62%
1,001€ to 10,000€	10%
Over 10,000€	0%

Most of the entities that have received more cash donations are those which have a larger presence; they are entities of international scope which have a branch of their "parent"/"umbrella" organization in Andorra. Moreover, they are widely known by the general public and organize numerous activities and events to raise funds.

The question as to the amount from which the NPOs consider that the obligation to use the financial system (bank transfer, for example) would not affect the number of donations or have only an insignificant effect, obtained widely varying replies according to the type of NPO involved and its fundraising method. 67% of the NPOs consider that the impact would not be significant for donations under 1,000 euros. This is explained by the fact that the great majority of the NPOs receive donations for very small amounts, substantially under 1,000 euros, and additionally, they usually receive them through pre-established financial channels.

Another figure to be considered is that 26% of the NPOs are well disposed to all donations being made through the financial system, either because they are entities which do not receive donations or which only receive donations by this means.

Despite the importance which may be held by the use of the financial system for the detection and prevention of terrorist financing, one should not lose sight of the fact that the right of association is guaranteed by Article 17 of the Andorran Constitution, which establishes that this right cannot be limited as long as it pursues a legal end. The establishment of such a requirement as the obligation to receive donations solely by means of the Andorran financial system could entail, owing to its unconstitutional character, a hindrance to this right, consequently debasing the income of the NPOs and, therefore, their social endeavour.

While bearing the foregoing in mind, it should nevertheless be taken into consideration that the intensive use of cash entails risks, which are primarily linked to a lack of traceability.

Virtual assets

Only 4% of the NPOs have stated that they would accept possible donations and/or subsidies in virtual assets, but none of them received any of this type in 2019.

For the purposes of this report, virtual assets are not considered payment methods of the Andorran NPOs, although the activity of these entities should continue to be monitored in order to detect the potential acceptance of such assets. Moreover, the various legislative initiatives on this matter will help to define the use of virtual assets and the instruments for managing their potential risks.

Payment services providers and crowdfunding

Only one entity used the payment services provider system to receive donations and the total amount of the funds raised was under 2,000€. The use of crowdfunding platforms by the NPOs is not widespread either in the Principality of Andorra as only three entities have used it at some point in the past, although not in 2019.

Crowdfunding as a fundraising modality is marked by a certain opacity, which may entail a vulnerability, and also by a lack of regulation in many jurisdictions.

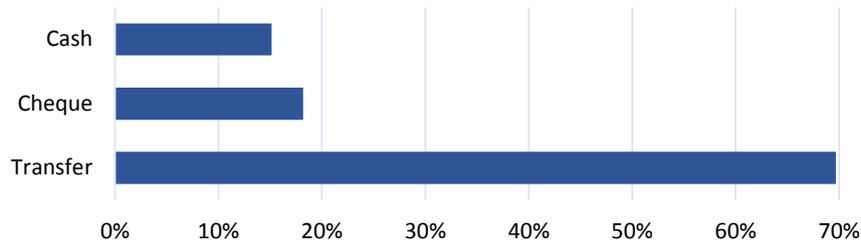
8.2. Payment methods used to provide aid

With respect to the payment methods used by the NPOs to provide aid to beneficiaries, 70% use bank transfers, which allows the traceability of the funds.

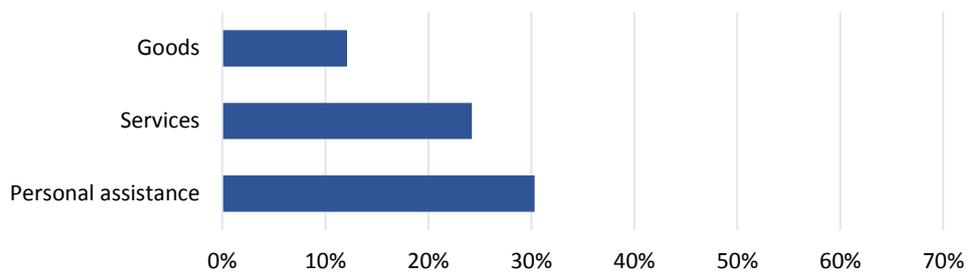
No Andorran NPO has used online payment platforms, cross-border cash transport systems, payment with virtual assets or the *hawala* method to provide aid.

Principal methods for providing aid

Economic aid



Aid in kind



The rest of the methods for providing aid, such as personal assistance, services rendered and the making goods available, are also susceptible to TF, although to a smaller extent, so they should also be associated with the respective controls. Consequently, many of the channels used to provide aid could be considered to pose a risk since they are hard to supervise, making irregular or illegal transactions difficult to detect.

9. Transactions and cooperation with risk jurisdictions or conflict zones

Another type of situation which should be pointed out in this section are the interactions with jurisdictions marked by a high TF risk or with conflict zones or areas near them. These situations are quite important since, considering the characteristics of the Andorran NPOs, they are the main vulnerability of the sector with respect to the possibility of terrorist financing. The table below lists the countries in which the Andorran NPOs operate, ordered according to the *Global Terrorism Index* (GTI):

Jurisdictions in which Andorran NPOs operate	Number of NPOs operating there	GTI ⁹ (2019)
Philippines	2	7.099
Burkina Faso	3	6.755
Mozambique	1	6.4
Nepal	1	5.34
United States	1	5.26
Ukraine	1	4.692
Greece	1	4.182
Chile	2	4.031
Uganda	1	3.278
Bolivia	1	2.795
Nicaragua	1	2.355
Peru	1	2.141
Madagascar	2	1.19
Bosnia and Herzegovina	1	0.677
Guatemala	1	0.663
Morocco	1	0.565
Vietnam	1	0.42
Senegal	2	0.391
Switzerland	1	0.286
Cambodia	2	0
Cuba	1	0
Western Sahara	2	N/A
Bahamas	1	N/A

With respect to the risk which may be entailed by operating outside Andorran territory, 5 jurisdictions stand out, which are found on the list of the 30 jurisdictions with the world's biggest terrorism impact according to the GTI. These jurisdictions are the Philippines, Burkina Faso, Mozambique, Nepal and the United States. It should be specified that "operating" includes both the sending of funds, aid or material and the provision of services. Likewise, mention should be made of the Western Sahara region since, although it does not appear explicitly in the GTI, it is considered a region in conflict for the purposes of this assessment and, given its characteristics, a region of political instability. Among all the NPOs which replied to the questionnaire, less than one million two hundred thousand euros in aid have been sent to foreign jurisdictions, including both monetary aid and the appraisal of the material sent or of the service provided. When carrying out operations in far-off jurisdictions or areas that have suffered a natural disaster or a conflict situation, the possibility should be taken into consideration that effective controls are not being carried out by the local authorities, which is something that increases the risk of terrorist financing.

In this respect, it is important to point out that only 4 NPOs stated on the questionnaire that they had a bank account outside the national territory (specifically in Spain, Cambodia and Nicaragua) for the performance of their good works in a more practical and controlled way.

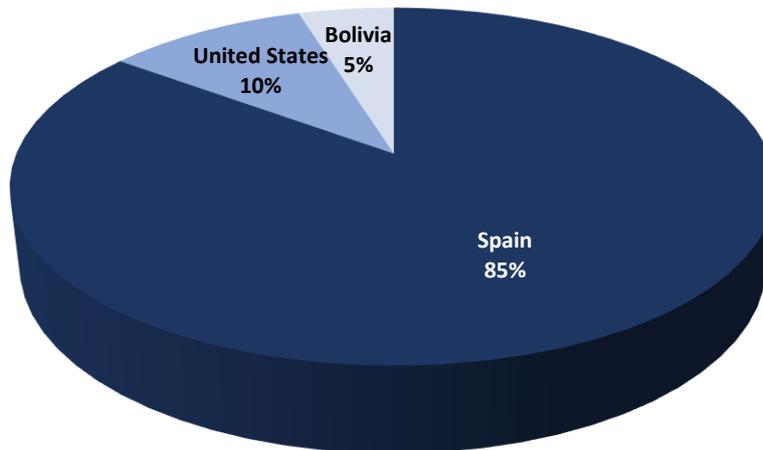
⁹ According to the Global Terrorism Index (GTI) published in 2020.

As previously mentioned, some Andorran NPOs cooperate with foreign entities that pursue their same goals. With respect to the jurisdictions in which these foreign NPOs with which they cooperate are located, it should be pointed out that the Andorran NPOs cooperate mainly, among others, with NPOs located in Spain (in 77% of the cases) and in France (23%). This is explained by the proximity and affinity between these three countries. It is also important to point out the cooperation with the NPOs of international character (23% of the cases), which are usually global organizations that have their central or foundational office in one country but with subsidiaries around the world. It should also be noted that the majority of the jurisdictions where the NPOs with which the Andorran sector cooperates are located, are European or South American. As to the risk which may be entailed by cooperation with foreign NPOs, 4 countries stand out which are on the list of the 30 jurisdictions with the world's biggest terrorism impact according to the GTI. These countries are Burkina Faso, Nepal, the United States and the United Kingdom.

Cooperation in foreign jurisdictions	Number of Andorran NPOs	GTI
Burkina Faso	1	6.755
Nepal	1	5.34
United States	1	5.26
United Kingdom	1	5.161
France	5	4.614
Italy	1	3.043
Belgium	1	3.043
Spain	17	2.81
Bolivia	2	2.795
Nicaragua	1	2.355
Peru	2	2.141
Madagascar	2	1.19
Argentina	1	1.024
Senegal	1	0.391
Switzerland	1	0.286
Uruguay	1	0.086
Cambodia	1	0
International (unspecified)	5	N/A
Europe	1	N/A
Ibero-America	1	N/A

Only 9 NPOs have stated that they have received donations and/or subsidies from abroad in 2019. The total aggregate of all these subsidies does not reach one half million euros (453,551.89 €) and most of them are from Spain, although there has been one from the United States and another from Bolivia.

Aggregate amount of donations per country



20% of the NPOs have stated that they have a list of countries which they consider to pose a risk, usually involving the adoption of the technical communiqués published on the UIFAND website, relating to the list of countries classified as high risk by FATF, although some entities have stated that they consult the EU list of ML/TF risk jurisdictions and the GTI.

Since the terrorism risk in the Principality of Andorra is quite low, special significance is acquired by any type of link with the exterior (cooperation, sending of funds, etc.) and particularly with countries and areas considered to be conflict zones, since once the funds have left our country, they are out of the control and visibility of the Andorran NPOs.

10. Financial transparency

With respect to financial transparency, 82% of the NPOs have stated that they make public their activity report and/or annual budget which are available, in many cases, on the website of the entity (32%) or else are for consultation limited to members (39%) or the authorities (34%) either at their request or by legal imperative. In this respect, Article 18.2, d) of the Qualified Law on Associations establishes that one of the competences of the general assembly of an association is precisely the approval of the annual budget and the liquidation of the previous budget.

The lack of transparency and controls from the financial and accounting standpoint may seriously compromise the use of the NPO's funds.

11. Knowledge about CFT/Awareness/Training

28% of the NPOs have admitted that they have no knowledge with respect to the regulations on combatting money laundering and terrorist financing, the changes in such regulations or the rules applicable in the Principality of Andorra.

Only 2% of the NPOs have replied that they are not acquainted with the AML/CFT regulations in the countries in which they operate, while on the other hand 26% have stated that they do have this information. The rest do not operate outside Andorran territory.

The NPOs which have knowledge about AML/CFT have acquired it for the most part by attending external training session which are quite extensive although not always sufficiently specific for the sector. There is also a significant number of NPOs that have acquired such knowledge through their links with the country's banking entities. For their part, the small NPOs do not have sufficient resources or knowledge to mitigate the risks of terrorist financing associated with their activity.

In this respect, it has been found that 6% of the NPOs are not acquainted with UIFAND and that 28% have not consulted specific documents addressed to the sector which are published on the UIFAND website.

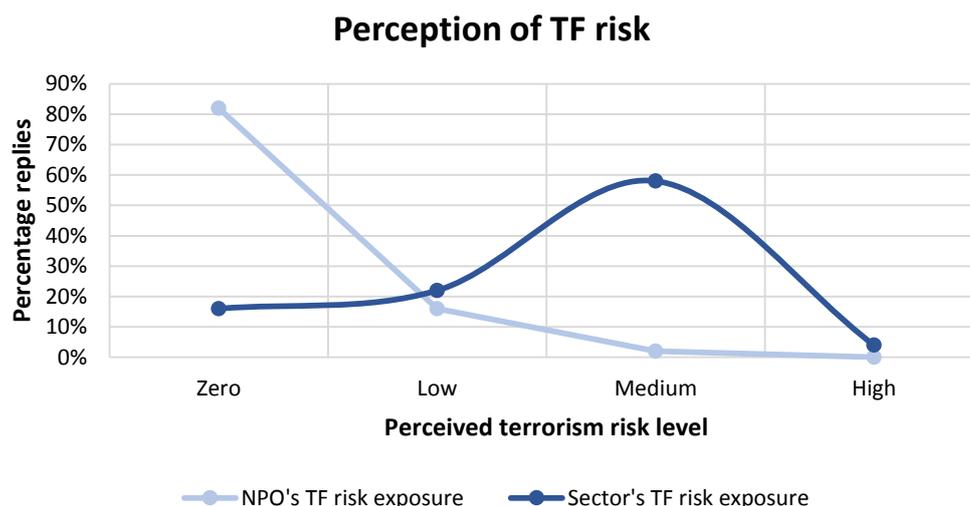
Utility of informative notes, sectoral guides and other documents published by UIFAND for raising awareness about and mitigating the sector's TF risk	Percentage of total replies
Extremely useful	28%
Considerably useful	18%
Useful	18%
Hardly useful	2%
Never consulted	28%
Unacquainted with UIFAND	6%

To cope with the possible risks of being abused for TF, the NPOs need to identify them, to detect the areas which are most vulnerable, and to develop an action plan. 50% of the NPOs have stated that they have analysed the terrorist financing risks to which they are exposed. The main risks which have been detected by the NPOs which have carried out such an analysis are the risks associated with fundraising (use of cash, large anonymous donations without possibility of determining the source of funds, etc.), and the disbursement of funds (jurisdiction risk, above all, if the resources are sent to conflict zones, documentary falsehood, etc.). Most of the NPOs agree about the need to carry out a risk assessment which should be approved by the management bodies of the NPO; to implement mitigating measures such as the remote or on-site supervision of projects, searches and knowledge of beneficiaries, and the use of the financial system to carry out all types of transactions; and to define clear procedures to prevent any situation connected with TF. Some NPOs choose to limit the amounts of the donations which they receive or of the aid which they provide; to accept donations only from their members; to operate with previously accepted counterparts; or to carry out audits of various types either by legal imperative or as their own prevention method. Other entities limit their action to Andorran territory or are supervised by "parent" NPOs. Nevertheless, the NPOs which have in effect implemented mitigating measures represent 30% of the total since, as will be seen further on, the rest consider that the risk of being used to finance terrorism is null or very low.

With respect to the perception of the TF risk, most of the NPOs consider that, given their characteristics, their risk is lower than the risk of the sector, which increases mainly with the actions carried out by entities outside our national territory. What's more, from an overall standpoint, the risk that the NPOs may be used for TF is not perceived as one of the main threats to them, primarily considering the main threats to be misappropriation, frauds, scams, documentary falsehood, lack of professionalism, arbitrary political interventions in the

destination countries, and scant subsidies leading the entities to search for other types of income and compromising their existence.

96% of the interviewed NPOs consider that the risk of being used for terrorist financing purposes is null or very low. The NPOs which consider that the risk is low or high represent 4% and they are entities which have a certain international exposure and operate in zones which may be considered risk or conflict areas. Below we present a graph which shows the perception of exposure to TF risk faced by each NPO itself as opposed to the TF risk level which each NPO attributes to the sector as a whole.



In short, the NPOs' insufficient knowledge of AML/CFT regulations and their lack of knowledge about risks of being used for terrorist financing may entail an important vulnerability.

12. Cooperation among authorities and cooperation between authorities and NPOs

Despite it being the last aspect to be considered, good cooperation among authorities and cooperation between authorities and NPOs is a matter of great importance. Indeed, it is precisely this type of cooperation which can allow the detection of cases of terrorist financing as a result of the detection of suspicious transactions and through the investigations which may stem from such detection.

Although the NPOs are not reporting entities under Law 14/2017 as a whole, the authorities should aim to influence the sector and to raise its awareness of the importance of implementing suitable systems for the detection of suspicions of TF, which should be communicated to UIFAND as quickly as possible.

Moreover, the good cooperation among authorities by means of memoranda of understanding could allow the detection of incongruences with respect to the information on record in the register, in the accounts which are submitted, and in the actions which NPOs actually carry out in practice, for example.

13. Conclusion

On the basis of the foregoing analysis, it is found that the NPO sector presents a medium vulnerability.

IX. CONSEQUENCES/IMPACT

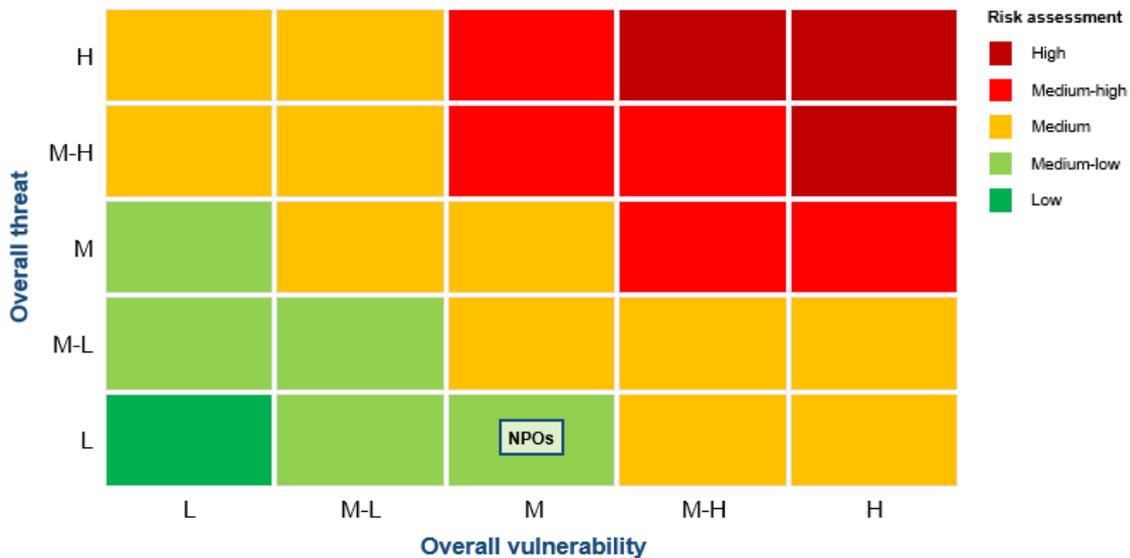
The main consequences derived from the circumstance of an Andorran NPO being used to finance terrorism would be:

- A significant impact on both local and global security. The weaknesses which may be found in the control or monitoring of NPOs may attract people who wish to take advantage of them to commit crimes, including terrorist financing, and go unnoticed.
- The legitimate beneficiaries of the aid provided by the NPOs may be deprived of such help.
- The loss of trust in the NPOs may cause a serious decrease in the entities' income from member contributions, donations and subsidies of different types, and it could consequently compromise the viability of their projects and of the entities themselves.
- A link between an NPO and terrorist financing could also have a negative effect on the entities' employees, collaborators and volunteers, as well as on the suppliers of goods or services and on the entities of the Andorran financial system with respect to their reputation.
- The respective NPO, the people in charge of it and the people who are linked to it may be responsible for criminal and/or administrative infractions.

Conclusion on the overall TF risk of Andorran NPOs

On the basis of all the foregoing, it may be inferred that the aggregate threat, vulnerability and consequence indicates a medium-low overall risk of the NPO sector.

Andorran NPOs' overall risk of being used for TF



X. ACTION PLAN AND MITIGATING MEASURES

Despite the overall risk of TF of Andorran NPOs may be considered as medium-low due to the characteristics of the sector, it should be stressed that this risk must be appropriately mitigated and controlled. Accordingly, possible mitigating measures to be taken by both the NPOs and more extensively the country and the different authorities involved in this matter, are proposed below.

1. Mitigating measures to be implemented by NPOs

It should be pointed out that, on 8 July 2019, UIFAND published an informative note addressed to the NPO sector to raise awareness of good practices in this field to be implemented by the sector. For the most part, these good practices are presented below.

- As a starting point, each NPO should carry out its own assessment of the threats and vulnerabilities to which it is exposed, and adopt the appropriate risk mitigating measures. These measures should necessarily comprise the application of due diligence to donors and beneficiaries, within the entity's capacities, and the establishment of a robust method for the documentation of donations and the storage of such documents.
- Verification systems should be established to ensure that employees, collaborators, volunteers and beneficiaries are not connected with terrorist financing and/or linked to terrorist individuals, groups or organizations, especially by means of the periodic review of the consolidated list of sanctions of the United Nations Security Council. Likewise, internal policies should be established with selection criteria that will permit

a good knowledge to be obtained of the background and reputation of employees, collaborators and volunteers.

- A greater control of the source of income and the use of expenses should be ensured by means of the approval of the annual budget by the governing body. Both the budget and its liquidation, with the respective supporting documents, should be available to all the members of the governing body.
- Training plans should be developed for employees, collaborators and volunteers, mainly including those who take part in the raising and disbursement of funds, so that they will have sufficient knowledge with respect to the prevention and combatting of TF and will be capable of detecting possible indicators.

2. National mitigating measures

1. On the basis of this assessment, it is clear that the Registers of Associations and of Foundations, which are authorities that cover the greater part of the Andorran NPOs, limit themselves only to keeping a public record of the existence of such entities. The information that is found in them is often incomplete, incorrect or obsolete. Likewise, the term of ten years of inactivity to cancel an entity from the Register may be excessive and counter-productive.

In this respect, the Registers should be provided with appropriate instruments (both IT tools and personnel and procedures) in order to keep their databases up to date (so as not to have inactive entities registered) and to ensure that their information is accurate. In relation to the subject of this assessment, the Registers should be provided the pertinent training with respect to AML/CFT.

2. As was mentioned in the foregoing point, since the function of the official Registers is merely that of public record, it may be inferred that there is a need to promote the development of measures that will homogenize the adoption of standards and good practices within the sector, and to generate forums of discussion, of representation, of task coordination, and of training.

3. Even though the NPO sector presents a medium-low risk of terrorist financing, the impact of the materialization of this risk is such that the cooperation between the various actors, including both the cooperation among authorities (Register of Associations, Register of Foundations, Police, Tax and Borders Department, UIFAND, etc.) and the cooperation between authorities and the NPO sector, should be strengthened in order to ensure the transparency of the sector and to be equipped with supplementary instruments for identifying the possible use of NPOs for terrorist financing, and a more suitable regulatory and supervisory framework should be established while taking into consideration the sector's knowledge and sensitivities.

4. Considering the characteristics of the NPOs which present a greater risk of being used to finance terrorism, it would appear appropriate to establish that precisely this type of NPOs should be subject to specific provisions of Law 14/2017 such as, above all, the obligation to carry out an individual risk assessment (Art.5), the obligation to notify UIFAND of suspicious transactions which they may detect (Art.20), or the obligation to carry out an external AML/CFT audit, in addition to maintaining the obligations of the Law's Additional Provision 1.

5. With respect to the foregoing point, a system should be established for supervision of the NPOs which present a greater risk of being used for terrorist financing, and a follow-up of the rest of the NPOs should be carried out. Within the framework of this supervision, it is of primordial importance to update this assessment and its information periodically in order to detect possible changes in the articles of association of the NPOs, which could begin or cease to belong to the category of low or medium TF risk entities, or in order to discover pertinent new situations.

6. A training plan should be established in order to ensure that all the NPOs and especially those presenting a medium TF risk, will acquire up-to-date knowledge addressed to their sector.

7. Article 14.1 of the Regulatory Regulations on the recording of and access to information relating to beneficial owners in the registers of legal entities should be developed in order to allow associations and foundations to submit to the Register the reporting forms and the applications for access to information on beneficial owners by telematic means.

XI. TERMS AND ACRONYMS

Virtual assets: any digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes.

Threat: an external risk factor to which an entity is exposed as a result of the sector to which it belongs, the geographical area in which it is located, or the economic situation, among other factors.

ML (money laundering): the process consisting in giving the appearance of legitimacy to goods (money, assets, properties, etc.) which are the proceeds of criminal activity. For further information, see Article 409 of the Andorran Penal Code.

STR (suspicious transaction report): a formal document addressed to UIFAND, which is drafted by a reporting entity on its own initiative in order to notify a transaction or an envisaged transaction in connection with funds which could be related to money laundering or terrorist financing according to what the reporting entity is sure about, knows, suspects or has reasonable grounds to believe.

TF (terrorist financing): any form of economic action, aid or mediation which provides financial support to individual terrorists and/or terrorist organizations with the aim of committing terrorist acts in favour of their ideology. For further information, see Article 366 bis of the Andorran Penal Code.

FATF (Financial Action Task Force): an intergovernmental body which has the main goal of developing standards and promoting policies of both national and international scope, to combat money laundering and terrorist financing.

NPO (non-profit organization): in accordance with Article 3.19 of Law 14/2017: *“a legal person or arrangement or organisation, including associations and foundations, that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works”.*

Service NPO: according to the FATF definition, “non-profit organizations that primarily engage in providing housing, social services, education and healthcare”.

Expressive NPO: according to the FATF definition, “non-profit organizations that primarily engage in expressive activities, such as programmes focused on sport and recreation, art and culture, interest representation or advocacy, political parties, think tanks and advocacy groups”.

Risk: the sum of three factors: threat, vulnerability and consequence.

Reporting entity: natural persons or legal entities who belong to the categories or who, in the exercise of their professional activity, carry out the activities listed in Article 2 of Law 14/2017.

Terrorism: see Article 362 et seq. of the Andorran Penal Code.

UIFAND (Financial Intelligence Unit): the competent body for promoting and coordinating the measures for detection, prevention and combatting money laundering; terrorist financing; and the proliferation of weapons of mass destruction in the Principality of Andorra.

Vulnerability: an internal risk factor consisting in shortcomings and deficiencies in the control systems of the entity and the degree of response which the entity is capable of providing. These vulnerabilities may be exploited by external threats.

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