

SURVEY



EU AML / CFT
GLOBAL FACILITY

TYOLOGIES OF ILLICIT FINANCIAL ABUSE OF THE NPO SECTOR

SPECIFICITY, COMPLEXITY, COMPLICITY AND HARM

AUGUST 2021



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ACRONYMS AND DEFINITIONS

AML	Anti-Money Laundering.
Beneficiary	In NPO terms, this means the people of part of society that the NPO is established to assist. It may be very narrow or very broad. NPO beneficiaries do not normally control the NPO.
BO	Beneficial owner. Defined by FATF as “the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.” Sometimes referred to as beneficiary, which may cause confusion with the distinct meaning of this term in relation to NPOs.
‘Captured’ NPO	An existing and legitimate NPO that has been commandeered for illicit purposes.
CFT	Countering the Financing of Terrorism.
Comman-deered	The process by which the controllers of an illicit scheme capture an NPO.
‘Complicit’ NPO	An NPO whose controllers are aware that it is being used for an illicit scheme. Complicit NPOs may be sham or captured.
Controllers	The people who are in control of a scheme, company or NPO. They are the ultimate authority that makes decisions on how the entity operates. In an NPO, that could be the trustees, board or senior management. This term has a specific legal meaning in relation to ‘Beneficial Ownership’ regulations.
DNFBP	Designated Non-Financial Business and Profession. A specific and narrowly defined list of legal entities, other than banks or similar financial services providers, which are considered to be at greater risk of money laundering abuse. It consists of money transfer services, casinos, real estate agents, dealers in precious metals and stones, lawyers, notaries, accountants, and trust and company service providers.
ERMTF	Ethnically or Racially Motivated Terrorism Financing. Terrorist financing committed by Extreme Right Wing (ERW) groups.
ERW groups	Extreme Right Wing Groups. More colloquially known as the ‘Far Right’.
FATF	Financial Action Task Force. The international body which assesses international standards on money laundering and terrorist financing.
FIU	Financial Intelligence Unit. The central, national agency responsible for receiving, (and as permitted, requesting), analyzing and disseminating to the competent authorities, disclosures of financial information: (i) concerning suspected proceeds of crime and potential financing of terrorism, or (ii) required by national legislation or regulation, in order to combat money laundering and terrorism financing.
Gift Aid	The UK tax scheme which allows NPOs to claim 20% of a donation from a UK tax-payer from HMRC, and allows higher rate tax payers to claim tax deductions.
HMRC	Her Majesty’s Revenue and Customs. The UK tax authority.
Illicit	An unlawful or illegal activity.
Illicit finances	Money or assets generated, transferred or applied in a way that is illicit.

Layering	The process of combining a number of legal entities, often shells, usually to disguise the ultimate source or end use of funds.
ML	Money Laundering. The process of disguising the criminal origin of funds, and then regaining control of them for a personal benefit.
NPO	Non-Profit Organisation. For this report, we use the FATF definition of 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””.
NRA	National Risk Assessment. The formal assessment of all money laundering and terrorist financing threats and risks that states are required to do by FATF.
Obligated entities	Legal entities which are covered by laws or directives on money laundering, often with an obligation to undertake due diligence on connected parties or individuals, apply specified risk management processes, and report specified information to the authorities. NPOs are not normally obliged entities. Also called ‘designated entities’.
PEP	Politically Exposed Person. Defined by FATF as “individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, important political party officials.”
Predicate offences	A crime that is a component of a more serious crime.
Private Benefit	A benefit for a natural person. Usually the controller or someone connected to the controller.
Public benefit	A benefit for a wider range of beneficiaries (as defined above).
Scheme	A systemic plan or arrangement for achieving a particular outcome. In this context, it usually refers to an arrangement intended to obtain an illicit benefit.
‘Sham’ NPO	An NPO established purely for an illicit scheme, and which primarily or exclusively engages in the illicit scheme. Sometimes referred to as a ‘shell’, ‘paper’ or ‘briefcase’ NPO.
Shell	A legal entity that has no physical presence. An entity that exists on paper only.
Sport	All forms of physical activity which, through casual or organised participation, aimed at expressing or improving physical fitness and mental well-being, forming social relationships or obtaining results in competition at all levels.
Sport NPO	An organisation that meets the FATF definition of an NPO and also fulfils at least one of these criteria: <ul style="list-style-type: none"> • An organisation that provides opportunities for participation in sport at any level • An organisation that governs sport at any level • An organisation that promotes involvement in sport in some way, including as a fan.
SAR / STR	Suspicious Activity Report / Suspicious Transaction Report. Reports that obliged entities are obliged by law to provide to FIUs if certain triggers are met or if they suspect ML or TF.
TF	Terrorist financing.
FATF Typologies Report	“The Risk of Terrorist Abuse in Non-Profit Organisations”. A survey on terrorist financing in the NPO sector published by FATF in 2014.



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1. INTRODUCTION



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1. INTRODUCTION

- In June 2019, the European Commission launched the “Global Facility on Anti-Money Laundering and Countering the Financing of Terrorism (GF-AML/CFT)” to provide support to third countries to strengthen their AML/CFT regimes.

The overall objective of the project is to **cut off access to funding for individual terrorists and terrorist organisations and introduce enhanced measures against serious organised crime**, through support to increase compliance with the EU AML/CFT Framework, the FATF Recommendations and relevant UN Security Council Resolutions.

The project has a **global mandate and is demand-driven**: it operates all around the globe, upon request of the partner countries.

The general purpose of the project is:

- to increase awareness of AML/CFT issues and best practices;
- to provide assistance to improve the AML/CFT legislative, regulatory and policy framework; to foster AML/CFT analytical and operational capacity;
- to help improve the effectiveness and efficiency of AML/CFT systems such that financial flows from the informal economy and from organised crime to terrorist organisations are reduced, the use of serious organised crime proceeds is hindered and asset recovery mechanisms are improved;
- to encourage co-operation and networks on AML/CFT matters at national, regional and international levels; and
- to facilitate dialogue between public authorities and civil society and private sector actors.

The project has three specific objectives: to strengthen the AML/CFT legislative, regulatory and policy framework; to build AML/CFT

institutional capacity in third countries; and to increase national, regional and international cooperation on AML/CFT issues.

The project has been structured around three distinct project components, each component corresponding to one of the three above mentioned project objectives.

Genesis of the Project - the Expert Hub

The genesis of this report lies with discussions held in the Expert Hub on Anti-Money Laundering and Counter-Terrorism Financing. The Expert Hub is a resource group of local NPO leaders and activists from around the world which collects good practices, monitors and alerts on trends, contributes to peer learning, information-sharing and the development of guidance. Individual members initiate and engage in local reforms, convene actors, and share practices from global to the national level. They also document the effects of counter-terrorism and anti-money laundering measures, develop strategies and work on reforming legislation.

In 2018 and 2019, discussions were held at the hub about money laundering and NPOs after members from Latin America had highlighted money laundering as a more relevant risk in their region. Members from other countries highlighted an increase of AML measures targeting NPOs. Attempts at further research revealed a gap in understanding, and the need for a report of this nature was recognised. ■



■ Literature Review: Existing Perceptions and Evidence

Prior to the publication of FATF’s Typologies Report in 2014⁵, FATF’s position on terrorist financing abuse (as opposed to money laundering) reflected a widespread perception that NPOs were ‘particularly vulnerable’ to it. The Typologies Report provided evidence that added nuance to that understanding, after which FATF’s position had changed:

“Not all NPOs are high risk, and some may represent little or no risk at all.”⁶

Anecdotal evidence suggests a common perception that NPOs are vulnerable to money laundering abuse, although with some significant regional variations. The authors have noted more concern in Latin America and, to a lesser extent, in the developing world. These have been expressed both by NPOs and by the authorities (see Section IX below). This may be explained by some notorious historic cases involving money laundering and NPOs in Latin America.⁷

However, like with terrorist financing before 2014, there have been few attempts to collect data to test this assumption. Two studies have been found, both of which date from 2008.

The first is the *“Study to Assess the Extent of Abuse of Non-Profit Organisations for Financial Criminal Purposes at EU Level”* published by the European Commission in 2008. The authors were asked to:

- Identify the most serious and frequent types of financial criminal activity affecting non-profit organisations (NPOs);
- Estimate, if possible, the volume and value impact of such offences at the EU level; and
- Identify policy responses that might reduce NPO vulnerability to financial criminal abuse.

The study used a three-part data collection exercise comprising scoping interviews with a range of stakeholders; an internet-based rapid literature review; and a one-round Delphi study. The authors of the study recognised the limitations of the research:

“There are no reliable statistical databases on NPO abuse in any EU country or across the EU as a whole; the UK is the only Member State to have benefited from a well-designed victim survey.”

Responses to the Delphi questionnaire reflected this lack of data: the majority of questions generated high levels of non-response even though the questions asked were very general in nature.

The literature review highlighted the extent to which this field is dominated by journalistic and unsupported case descriptions. The case histories obtained in the study suffer from lack of detail and supporting documentation.”⁹

The recommendations largely lament the challenges in obtaining data. However, it did offer the following conclusion on the scale of the threat.

“If the available information is to be believed, the incidence and prevalence of NPO financial abuse in the EU are limited. Nevertheless, some level of criminal and terrorist misuse exists. The extent to which this is judged to be “a serious threat” depends on the tolerance levels of the observers.”¹⁰

“There are no reliable statistical databases on NPO abuse in any EU country or across the EU as a whole...”

The second study is the *“Report on Abuse of Charities for Money-Laundering and Tax Evasion”¹¹* published by the OECD in 2008. The report contained information on tax crime and money laundering through the abuse of charities collected in a survey completed by 19 countries in May 2008. It reported that:

- Eight countries had noted little or no abuse of NPOs (Austria, Chile, Denmark, France, Germany, Turkey, Netherlands and Ireland);
- Seven countries reported fraud or tax evasion in their NPOs (Spain, Sweden, Portugal, Belgium, Norway, Argentina and Italy);
- Two countries suspected or feared money laundering (United Kingdom and Czech Republic); and
- Two had identified money laundering in the NPO sector (Canada and the United States).¹²

5. *Risk of Terrorist Abuse in Non-Profit Organisations* (FATF (2014))

6. *The International Best Practices: Combating the Abuse of Non-Profit Organisations* (FATF (2015))

7. Perhaps the most notorious example relates to the Columbian drug lord, narcoterrorist and parliamentarian Pablo Escobar, whose charitable activities from 1979 onwards include the Medellín sin tugurios programme which built thousands of social housing units. See Bowley, J. *“Robin Hood or Villain: The Social Constructions of Pablo Escobar”* (University of Maine, 2013). Also in the region, the Budget “dwarves” scandal in Brazil in 1993 found that congressmen were systematically defrauding the Treasury by writing amendments that transferred funds to fake charities, amongst other fraudulent schemes. See *“CORRUPTION AND DEMOCRACY IN BRAZIL: The Struggle for Accountability”* edited by Timothy J. Power and Matthew M. Taylor, 2011, University of Notre Dame Press

8. Matrix Insight, European Commission, 2008

9. P.6, *“Study to Assess the Extent of Abuse of Non-Profit Organisations for Financial Criminal Purposes at EU Level”*, Matrix Insight, European Commission, 2008

10. *Ibid*, p.6

11. Centre for Tax Policy and Administration, Organisations for Economic Co-operation and Development (OECD), 2008.

12. p.14, *“Report on Abuse of Charities for Money-Laundering and Tax Evasion”*, Centre for Tax Policy and Administration, Organisations for Economic Co-operation and Development (OECD), 2008

The emphasis in this report was on tax fraud. Money laundering was perceived through the lens of tax fraud, and so is narrower in scope than in this report. However, it included certain frauds of the NPO or of donors which would not fall within the scope of this report.

The report also recorded 14 tax evasion methods or schemes involving NPOs as follows. Although the evidence basis was not stated, some of these scenarios are corroborated by the evidence found in this study.

1. An organisation poses as a registered charitable organisation to perpetrate a tax fraud;
2. A registered charity wilfully participates in a tax evasion scheme for the personal benefit of its organisers or directors;
3. A registered charity is involved wilfully in a tax evasion scheme to benefit the organisation and the donors, without the assistance of an intermediary;
4. A registered charity is involved wilfully in a tax evasion scheme to benefit the organisation and donors with the assistance of an intermediary;
5. A charity is abused unknowingly by a taxpayer or a third party, such as unscrupulous tax return preparer who prepared and presented false charitable receipts;
6. Tax sheltered donations as part of a tax evasion scheme;
7. Salaried employees concealed as volunteer workers;
8. An organisation registered as exempted from the VAT that is performing taxed activities;
9. The issuance of receipts for payments that are not true donations;
10. The issuance of receipts to individuals working for the beneficiary organisation;
11. Criminals use names of legitimate organisations to collect money;
12. Terrorism financing scheme using charities to raise or transfer funds to support terrorist organisations;
13. Misuse of charity funds by charities; and
14. Manipulation of the values of donated assets.¹³



Anecdotal evidence suggests that NPOs in Latin America tend to be more vulnerable to money laundering abuse.

13. *Ibid*, p.11



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2. EXECUTIVE SUMMARY



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2. EXECUTIVE SUMMARY

2.1 Scope, definitions and methodology

This report has been commissioned by the EU Global Facility on Anti-Money Laundering and Countering Terrorist Financing to examine the evidence for illicit financing in the NPO sector and identify typologies of abuse. It is a companion to the FATF Typologies report on terrorist financing in the NPO sector.

In addition, as it was agreed at the inception of this project with the EU GF-AML/CFT, it examines the specific illicit financing risks (including terrorist financing) that impact sports NPOs. Sports NPOs' ambiguous status and a lack of clarity or consistency in the types of legal entity that they adopt increases the chances that they are overlooked in risk assessments or typologies reports. This report therefore has a deliberate and specific focus on sports NPOs.

The report uses the FATF definition of NPOs and the Council of Europe's definition of sport.

It is based on a survey of observed cases of illicit financing in NPOs and sports NPOs in 15 core countries. These are: Argentina, Bulgaria, the Republic of Cyprus, India, Indonesia, Jordan, Kenya, Kyrgyzstan, Mexico, the Republic of Moldova, Nigeria, North Macedonia, Spain, Tunisia and the United Kingdom. A small number of cases from other jurisdictions were provided by members of the Expert Hub and have been included where they are relevant or illustrative.

The report also includes an analysis of the legal and regulatory regime for money laundering and NPOs selected from among the core countries. An analysis section examines the evidence for correlation between observed cases and certain political, regulatory and economic metrics. The following section identifies and examines four recurrent themes in the observed cases, namely: specificity, complexity, complicity and harm.

Key findings are below. This section ends with recommendations for further actions.

■ Key findings

1. The number of cases in absolute and relative terms is very small. Even allowing that most cases go undetected, there is little evidence to suggest a systemic problem. Convictions of NPOs make up a very small proportion of all known money laundering convictions or cases of tax evasion, for example.

2. The data is patchy, with large gaps in publicly available data. It is not clear if this is because this kind of abuse is rare, is undetected or is unreported.

3. A lack of publicly reported cases ('zero case' countries) is heavily correlated with countries scoring poorly on the corruption, democracy and AML risk indexes. The bottom six places on all of these metrics are occupied by four 'zero case' jurisdictions.¹⁵ There is also a weaker correlation with low scores on the press freedom and financial sector development indexes.

4. Observed typologies of illicit financing in the NPO sector take a number of forms, including money laundering, reputation laundering and purchasing of influence, the circumvention of monetary controls and embezzlement of public funds.

5. There are regional variations between typologies, although the small number of cases makes it hard to identify correlations with strong confidence. Most cases were noted in Western Europe, with Latin America and, to a lesser extent Asia, showing the greatest range of typologies.

6. There is an apparent strong correlation between a highly developed financial sector and typologies relating to tax evasion, avoidance and fraud. The top five countries on the finance sector index account for eight of the nine cases under typology 5 'Tax evasion, avoidance and fraud'.

¹⁵ Two other jurisdictions with zero cases have very small populations.

- 7. There is a clustering of certain types of typologies with some of the metrics.** For example, all of the ‘public corruption’ typologies are notable for occurring in jurisdictions occupying the middle of the rankings on the corruption index; all specific allegations of PEP impropriety occur in jurisdictions clustered in the middle of the democracy and press freedom indexes.
- 8. A significant minority of the observed cases involve a network of legal entities.** The other entity in the network is most likely to be a company, particularly in the ‘money laundering’ typology.
- 9. PEPs, beneficial ownership and conflicts of interest were a recurrent theme.** This was noted in the general NPO and sports typologies.
- 10. Cross-border elements occur in a significant minority of observed cases,** including in all cases of illicit funding for influence on a PEP.
- 11. In certain cases, a link between specific types of sports NPOs and Extreme Right Wing (ERW) groups was noted,** although the number of cases remains small. There is evidence of such groups cultivating deliberate ambiguity over their NPO status, and of cross-border collaboration or inspiration.
- 12. Most cases involve complicit NPOs, although there is significant variation.** Sham or captured NPOs are more likely in cases involving money laundering, circumventing political funding rules, embezzlement and sports. Non-complicit NPOs were noted in typologies involving illicit funds for public benefit, and in tax evasion, avoidance and fraud.
- 13. NPOs are more likely to profit from an observed schemes than they are to lose money.** This is strongly linked to sham NPOs, some of which provide a public benefit as cover for a broader scheme. This is particularly noted in the ‘political’ typologies.
- 14. Some typologies are highly country-specific, with little scope for transferability.** These relate to loopholes created by specific regulations on fund movements or tax privileges.
- 15. No cases were observed on the abuse of religious donations for money laundering.** This was contrary to expert expectations.
- 16. There is no obvious correlation between the perception of the risk and the level of risk evidenced by observed cases.** Whilst we have not directly measured perceptions, national risk assessments, media reports and anecdotal evidence suggest that perceptions of illicit financing of NPOs is highest in India, Nigeria and Latin America, and lowest in the UK. This does not correlate with observed cases.
- 17. The regulatory response to ML risk is extremely varied,** with no clear correlation with observed cases, development or any other metric which could explain the variation.
- 18. A number of NPO ML regulations are inconsistent with the risk-based targeted approach mandated by FATF.** More than half of the studied countries have specific ML obligations for NPOs which appear to be inconsistent with a risk-based, targeted approach.
- 19. There is no obvious correlation between the strictness of a jurisdiction’s ML regulations for NPOs, and the level of observed risk.** The four most restrictive regimes have one observed case between them. The country with the highest number of observed cases (the United Kingdom) has one of the most permissive regimes. There is no evident connection between the type of regulation and the observed number and nature of cases. It remains unclear what was the basis of AML regulation for the NPO sector.
- 20. Only five countries have published assessments of money laundering risks in the NPO sector, with four rating them as ‘low’ or ‘low medium’.** Nigeria alone rated the risk higher (at Low-Medium) but provided no evidence. No cases were observed in Nigeria. ■



■ Recommendations for further action

1. Stakeholder consultation. It is recommended that a roadmap for consultation is developed to disseminate this report and encourage consideration of its findings. The roadmap should include plans for a conference of key stakeholders to discuss next steps, with follow-up workshops on sub-topics as necessary. The key stakeholders are:

- a. FATF and FSRBs.** This report may be of particular interest to FATFs Unintended Consequences Work Group, and its Strategic Review Work Group.
- b. The NPO sector.** Consultation should start with the Expert Hub and NPO Global Coalition on FATF.
- c. National governments and inter-governmental organisations.** In particular, the seventeen countries at the heart of this study should be invited to participate, as well as inter-governmental bodies with a core interest (European Commission, World Bank, IMF, UNODC, UNOTC, UNCTC, Council of Europe).
- d. The European Union,** as an important source of regulations on illicit finance.

2. Areas for policy consideration. Policy papers or proposals could be developed by the respective authorities and/or institutions on the following topics.

- a. Managing conflicts of interest, particularly in relation to PEPs.
- b. Improving standards in governance and financial management in NPOs exposed to potential risks.
- c. Improving coordination between competent authorities.
- d. Ensuring the impact on NPOs of general regulations on legal entities is considered.
- e. Ensuring beneficial ownership regulations are appropriate to the nature of NPOs and the specific risks they face. Reviewing regulations which distort legitimate fund flows.
- f. Developing policy proposals on sports NPOs and ERW groups.

3. Areas for further research on illicit financing and NPOs:

a. Case studies of countries with zero public-source cases of illicit finance. The analysis offers theories on why there are no cases identified in these countries. Deeper research into a selection of these countries may help uncover the reasons for this discrepancy and guide the policy response.

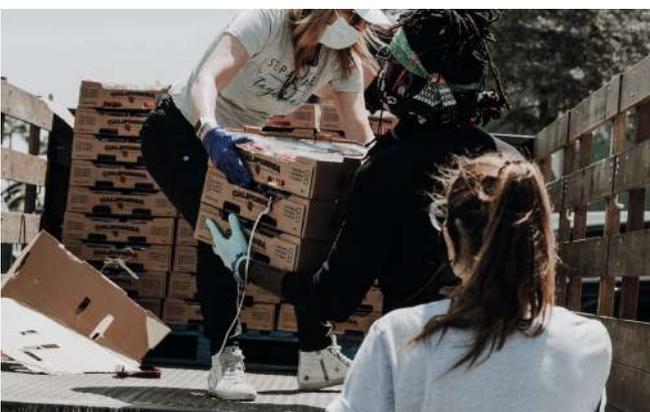
b. Ground-level study of the abuse of religious donations for money laundering. The absence of this typology was unexpected. We would propose further in-depth investigations in selected countries using an amended methodology to identify the possible reasons.

c. Survey on public and official perception of the probity of the NPO sector against illicit finance. The report notes the particular sensitivity of NPOs to public and official perceptions of their probity. The anecdotal evidence suggesting wide variations of this perception between countries needs to be better understood, as the root cause of these perceptions does not appear to be the number of reported cases of illicit finance.

d. Possible study on the link between sports NPOs and far right extremism. The ambiguity of some sports organisations' status, perhaps deliberately exploited in some cases, needs to be understood to better inform the NPO legislative and regulatory response.

e. Comparative study of best practices in addressing the identified ML and illicit finance risks to NPOs. The study should consider the role of NPO regulators; of other competent authorities, particular in relation to the tax and political risks; and of NPOs themselves (both internal governance and self-regulatory mechanisms) in reducing ML and other illicit finance risks.

f. Establishment of a database on illicit funding and policy responses. Establish an open database where experts can log any cases of interest they identify, and any development in the legal, regulatory or policy response. There is perhaps potential for a partnership between the EU Global Facility and the NPO Global Coalition on FATF. ■



Illicit financing in the NPO sector takes many forms, such as money and/or reputation laundering, circumvention of monetary controls and embezzlement of public funds.



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3. Scope



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3. Scope

- The Financial Action Task Force is tasked with setting and assessing standards for combatting the risk of money laundering and terrorist financing. As part of its remit, FATF sets specific requirements for combatting terrorist financing risks in the NPO sector. These are covered under **Recommendation 8 and Immediate Outcome 10**.

As of 13th July 2021, only seven countries have been assessed as ‘Compliant’ with Recommendation 8, and only two assessed as ‘Highly Effective’ under Immediate Outcome 10. Nine of the fifteen core countries in this research have been evaluated under the Fourth Round, and their assessments on R8 and IO.10 can be found in Annex 4.

Recommendation 8 and Immediate Outcome 10 are supported by detailed guidance and support. Most notably there is:

1. **The Interpretive Note to Recommendation 8** (see **International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation – the FATF Recommendations** (2012, updated 2016)). Technically this forms part of R8 and is binding.
2. **The Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems** (FATF (2013)) provides guidance to assessors on assessing compliance with R8.
3. **The International Best Practices: Combating the Abuse of Non-Profit Organisations** (FATF (2015)) is referenced as either the ‘Best Practices Paper’ or ‘BPP’. This is a supplementary advisory document on best practices in the application of R8.
4. **The Risk of Terrorist Abuse in Non-Profit Organisations** (FATF, 2014), most commonly referred to as the ‘Typologies Paper’ or ‘Typologies’. This provides background and guidance on observed cases of abuse of NPOs for terrorist financing purposes.

However, FATF does not have specific requirements for dealing with money laundering or other financial risks in the NPO sector, even where such risks fall within the remit of FATF. Nor does it have specific requirements for dealing with risks presented by non-commercial organisations which do not meet the FATF definition of NPOs. There has been little research into the risks, or into the response of the authorities.

This is of concern as anecdotal evidence suggests that various constituencies, including governments, financial institutions and NPOs themselves perceive a potential money laundering risk. Legislative and regulatory measures to address perceived money laundering risks have been observed around the world.

Furthermore, the authors have identified a second potential issue in their discussions with authorities about terrorist financing risk assess-

ments for the NPO sector. Authorities in Europe, Africa and the Caribbean have raised concerns about the link between community sports organisations and unlawful activities including money laundering and the promotion of extremism (which can be considered as terrorist financing under FATF). These non-profit making, participation-focused organisations do not always fall within the scope of a jurisdiction’s NPO laws or its TF Risk Assessment for NPOs.

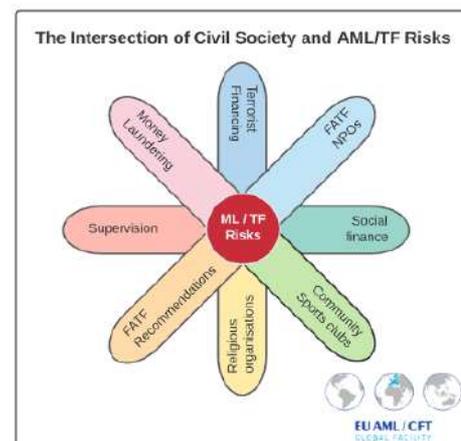
This paper explores these two issues.

Sections V-VI of this paper identify and analyse the scope and nature of potential money laundering risks, in the broadest sense, in NPOs as defined by FATF.

Sections VII-VIII focuses on what are termed ‘community sports organisations’. The research covers both money laundering and terrorist financing risks.

A separate research project is being developed with the EU-funded Global AML/CFT Facility to look at the money laundering and terrorist financing risks in what is termed the ‘social finance sector’. This covers financial institutions whose objectives are primarily, although not necessarily exclusively, social rather than commercial. It includes legal types which meet the broad definition of civil society as non-governmental, non-profit making organisations, but which do not meet the narrower definition of NPO in FATF, which excludes what may be termed ‘self-interest’ organisations.

The Intersection of Civil Society and ML/TF Risks





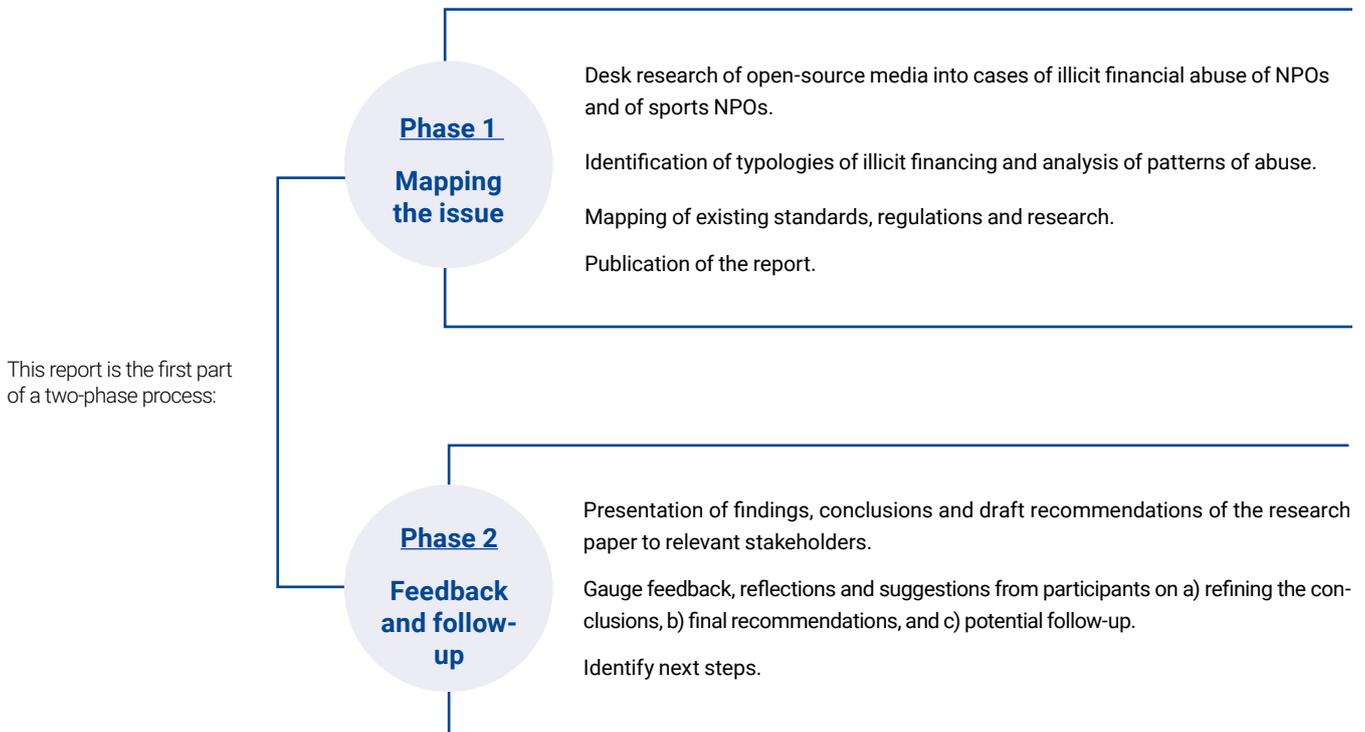
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4. Methodology



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4. Methodology



■ Research methodology

Researchers were given a brief to: identify cases of money laundering in the NPO sector in the identified countries; identify cases of money laundering, support for terrorist or extremist causes in sports NPOs only; and identify any legislative and regulatory responses to money laundering risks, and their impact on NPOs.

The scope was later clarified to ensure it covered research into abuse of NPOs for financing of political goals, and the use of NPOs as a vehicle for avoiding or evading tax or defrauding the tax authorities.

Incidences to be recorded:

Must be from 2015-2020. This will include incidences which ceased prior to 2015 but were investigated or prosecuted in 2015-2020. Long running incidences, investigations or prosecutions which span multiple years may be included, so long as they were occurring in the time period.

Must relate to the allocated country, but not need be restricted to that country. Researchers should identify and record international in-

cidences which are connected to the country in one of the following ways:

- The NPO is based in the country.
- The initial crime and/or money laundering occurred in the country.
- The investigation or prosecution was instigated by authorities in the country.

Must involve a conviction, prosecution or official investigation; or an allegation reported by a credible source. Researchers should exercise their judgement and scrutinise what counts as a 'credible source' within their country.

Cases were recorded on a pro forma spreadsheet (see Annex C).

Original sources were provided to enable analysis by the authors. Where necessary, online translation tools were used.

■ Criteria for core countries selection

The countries were selected for inclusion on the following criteria:

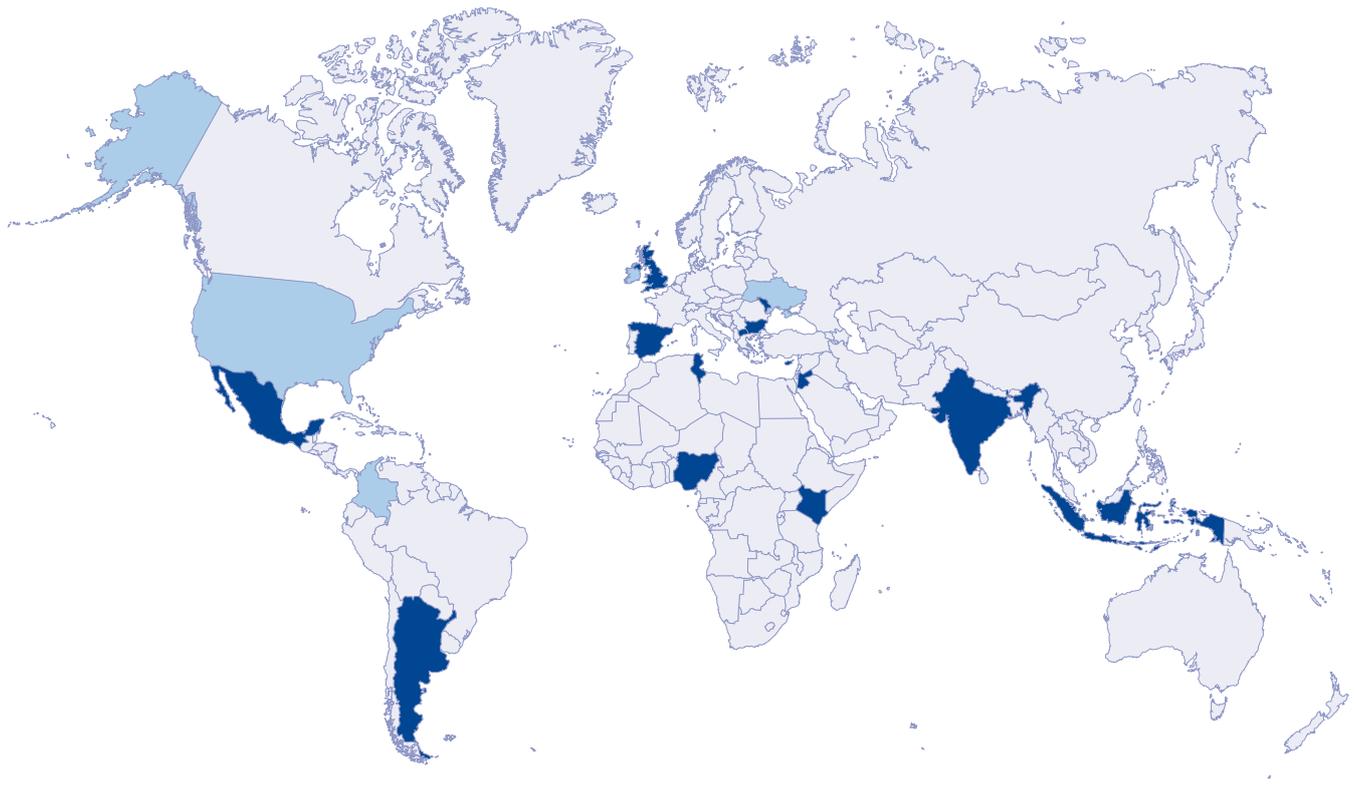
1. Six regions were identified for investigation to ensure geographical, legal and cultural representation, with a minimum of two countries selected from each region.
2. Additional countries were selected in Eastern Europe (to compensate for the small populations) and Asia (to increase diversity).

Preference was given to countries which, at the moment of research, were priorities for the EU Global Facility; and to countries with representatives on the civil society Expert Hub on FATF.

The analysis that follows refers only to the core countries, unless otherwise stated. Kosovo is excluded from some metrics. It is clearly stated where this is the case.

Cases from non-core countries

The typologies also include a handful of cases from non-core countries. These cases were provided to the by members of the NPO Coalition on FATF and were included because they illustrate an otherwise unidentified typology.



■ Selected countries

■ Cases from non core countries

Latin America: Argentina, Mexico

Western Europe: UK and dependencies, Spain

Eastern Europe: Cyprus, Republic of Moldova, Bulgaria, North Macedonia

MENA: Jordan, Tunisia

Sub-Saharan Africa: Nigeria, Kenya

Asia: India, Indonesia, Kyrgyzstan

Columbia

Ireland and others

Kosovo, Ukraine

United States of America



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5. DEFINITIONS AND SCOPE of THE RESEARCH

Illicit Financing of NPOs



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Illicit Financing of NPOs

1. It relates to NPOs as defined by FATF. It is recognised that identifying FATF NPOs can be difficult in many jurisdictions. Sports NPOs and religious NPOs are noted as two types which present particular challenges as they are often excluded from the NPO law.

Sports NPOs are dealt with separately in section VII. A note on religious NPOs is included in section IX.

2. It is concerned with issues that fall under the remit of FATF, but which are not covered by Recommendation 8 or Immediate Outcome 10. In other words, it excludes terrorist financing.

3. It is limited to what are technically termed ‘predicate offences’. A predicate offence is a crime that is a component of a more serious crime. In practice, this means that the research is focussed on the use of NPOs as a means or mechanism to disguise or facilitate a criminal activity. In these cases, the NPO may not itself be the victim of the crime but does provide a mechanism which facilitates or enables the crime to occur.

For the sake of analysis, these cases were divided into six typologies:

1. Laundering Illicit funds for Private Benefit: Diverting criminal funds through an NPO and then extracting the ‘cleaned’ funds for personal benefit. The key features of these cases are that the funds are illicit in origin, and that they are extracted for the benefit of a private individual.

2. Laundering Illicit funds for Philanthropic Reasons: These cases involve illicit funds being donated to an NPO but with no known intent to extract a private benefit.

3. Laundering Illicit Funds for Influence: These cases involve illicit funds being donated to an NPO with no intent to extract a direct private financial benefit, but with the intent to extract an intangible benefit. Two separate types of influence are examined:

a. PEP: Where the attempt is to extract an intangible political benefit, position or more general social influence from a PEP;

b. Extremism: Where the intent is to advance extremist causes within a country.



In typologies 1, 2, and 3, the NPO is used as a vehicle for laundering illicit funds into a benefit for the scheme controllers.

4. Circumventing Financial Controls: In these cases, an NPO is created or commandeered as a vehicle for circumventing legal or regulatory controls on certain types of financing or transaction. Two separate types are examined:

a. Political motivations: Where an NPO is created or commandeered as a vehicle for circumventing limits or controls on the financing of political parties or campaigns;

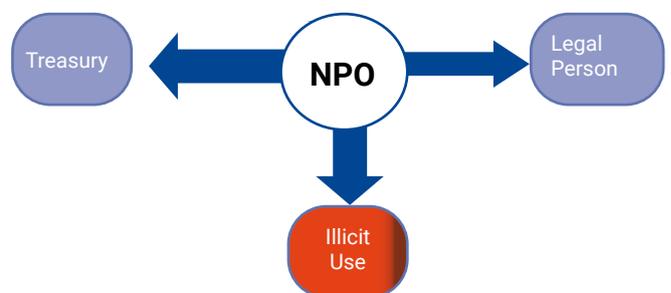
b. Monetary controls: Where an NPO is created or commandeered as a vehicle for circumventing controls on specific financial transactions.



In typology 4, the NPO is used as a means for circumventing a financial control.

5. Tax Avoidance, Evasion and Fraud: The use of an NPO primarily as a mechanism for avoiding or evading tax; or as a mechanism for unlawfully claiming tax rebates.

6. Vehicle for Embezzling Public Funds: Cases where an NPO has been created or commandeered primarily as a vehicle to enable the embezzlement of public funds over which the scheme’s controllers have influence or control.



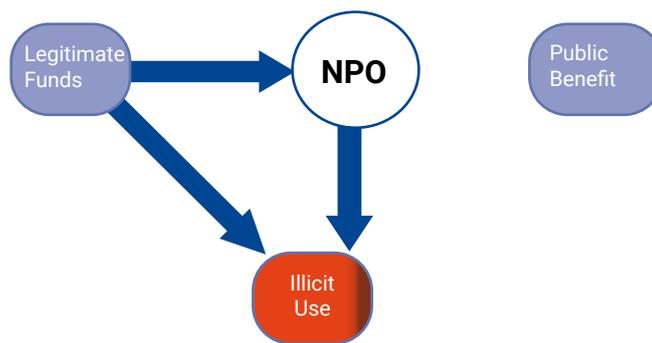
In typologies 5 and 6, the NPO is used as a vehicle for diverting funds to/from government for an illicit use.

7. Exclusions

This report therefore excludes the following financial crimes and unlawful activities.

- Theft from an NPO, including theft of monies from fundraising (which is likely to be the most common financial crime involving NPOs);
- Fraud or embezzlement with an NPO as the victim. These cases sometimes have money laundering as a component, but they are laundered through a separate entity;
- Fraudulent fundraising, whereby donors are defrauded by a sham NPO, or by false representation of a legitimate NPO;
- Corruption, where an NPO either pays or receives bribes in relation to a decision of service.

Whilst these typologies form the bulk of financial crimes involving NPOs, they are not within the scope of this study.



This study **excludes** cases of fraud or theft from an NPO or its donors.

#	Type of Illicit Financing	Use for ML
1	Laundering Illicit Funds for Private Benefit	NPO is used as a vehicle for laundering illicit funds into benefit for the scheme controllers
2	Laundering Illicit Funds for Philanthropic Reasons	
3	Laundering Illicit Funds for Influence	
4	Circumventing Financial Controls	NPO is used to circumvent a financial control
5	Tax Avoidance, Evasion and Fraud	NPO is used as a vehicle for diverting funds to/from government for illicit use
6	Vehicle for Embezzling Public Funds	



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6. OBSERVED Typologies of Illicit FINANCING in NPOs



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LAUNDERING Illicit Funds FOR PRIVATE BENEFIT

1 TYPOLOGY

See also typology A below.

We have defined 'money laundering' as 'diverting criminal funds through an NPO and then extracting the 'cleaned' funds for personal benefit'. The key features of these cases are that the funds are illicit in origin, and that they are extracted for the benefit of a private individual.

■ Analysis

In total, nine cases were observed with this typology. Most cases were in the UK (three), with others identified in India, Latin America and one case in Indonesia. No cases were identified elsewhere in Europe, in Asia or in Africa. There is no obvious pattern to the countries where these cases were observed, and no obvious correlation between the effectiveness or strictness of money laundering regulations or of NPO regulations and the prevalence of these cases.

A notable feature of these incidences is the complicity of the NPOs. Complicit NPOs were observed in eight of the nine cases, with the NPOs likely established primarily for a criminal purpose in three or four of them. Case #34 involved seven NPOs, of which six appear to have been established to facilitate money laundering. The other cases involved captured NPOs being run by criminals.

Another feature is the link between the NPOs' controllers and commercial entities, a feature of six of the cases (#3, #9, #14, #17, #29 and #35).

In addition to the observed cases, two National Risk Assessments mentioned PEPs as risks in relation to money laundering in NPOs. The United Kingdom's NRA included the following statement:

"There is a risk that high-risk individuals such as non-domestic PEPs may make donations where the source of their funds is unknown, or where third parties make payments on their behalf. This is the case for a number of suspicious donations including to universities, and the payment of services such as independent school fees."

The key feature in this case is that the illicit funds are used to purchase a high value service for personal benefit from an NPO. This is a feature of certain elite education establishments in the UK which provide benefits only accessible to high-wealth individuals yet maintain a 'public benefit' status.

Nigeria's NRA stated:

"Some [NPOs] have become tools for money laundering either by PEPs or public servants under the guise of contributing for a

particular cause or projects."

However, no evidence or cases were provided.

Even acknowledging that almost all money laundering cases are undetected, there is little evidence to suggest that there is a systemic risk that NPOs are being used as means of laundering and then extracting criminal funds for personal benefit.

Most cases came from the UK. In the last 10 years, two people have been convicted of using NPOs to launder and then extract funds from NPOs in England and Wales.¹⁶ Putting this figure in context, UK Government statistics record 1,435 convictions for money laundering in the UK in 2016 alone.¹⁷ An estimated 1 in 750 money laundering convictions in the UK involve NPOs being used as a vehicle for laundering illicit funds for personal benefit.

A study by the European Commission in 2008 considered the likelihood that NPOs might be used as means of laundering and then extracting criminal funds¹⁸. It stated:

"Apparent donors can misrepresent their motives for providing financial assistance or depositing funds with NPOs. The true aim may be to launder funds obtained by criminal activity. Money laundering – "the process by which criminal proceeds are sanitized to disguise their illicit origins" – requires the initial deception to be coupled with a fraudulent means of recovering money or assets from the NPO once the laundering process has been completed. Engineering the recovery process can involve complex manoeuvres."

Our research tends to concur with this analysis. The necessity to deceive both in the input and output stage may make money laundering through NPOs a less attractive proposition than laundering through a commercial entity, where the deception is required at the input stage only. This calculation changes if the advantages from potentially anonymous donations are greater than the disadvantages of additional scrutiny of the use of funds.

16. Note, this excludes money laundering convictions where an NPO is the victim of a crime, rather than the vehicle for it; and cases where the benefit is intangible (see next sections).

17. [Economic crime factsheet - Home Office in the media](https://www.blog.gov.uk/2017/01/10/economic-crime-factsheet-home-office-in-the-media/) (blog.gov.uk)

18. 'Study to Assess the Extent of Abuse of Non-Profit Organisations for Financial Criminal Purposes at EU Level', Directorate-General Justice, Freedom and Security, European Commission, 2008.

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Nine of 39 cases involved this typology. These were cases #3, #9, #12, #14, #17, #29, #34, #35 and #36. • Three incidences involved the United Kingdom, two from India, with one each from Argentina, Columbia, Indonesia, Ukraine and Ireland. • Four incidences resulted in convictions and jail terms, and one in a trial without conviction. Two are under official investigation. One incident resulted in an internal investigation, and one in the issuance of a regulatory warning. • Eight of the cases involved a complicit NPO. • The proven sums involved are in the low-medium range, between €600,000 and €15 million, with one case (#12) involving large sums (€112 million).
<p>Remedies</p>	<p>Given the low numbers of cases, it would perhaps be unwise to draw too many conclusions. Nevertheless, the evidence points to one red flag and two possible remedies.</p> <p>First, concerns may be heightened by NPOs founded by and closely connected to individuals with business interests, particularly where those individuals or connected persons retain significant control. As a result, reporting on the controllers of an NPO, clear rules on the management of potential conflicts of interest, and measures to ensure the independence of those who control an NPO are primary tools of mitigation.</p> <p>Secondly, corporate money laundering controls often emphasise the origin of funds. NPOs, by contrast, have a protected status for anonymous donations, reflecting both their operational practices and the requirement in many cultures and religions that donations be anonymous. By contrast, there is an expectation that NPOs are far more transparent about the use of their funds.</p> <p>This form of money laundering would be exposed by such transparency, and so focus on public reporting and transparency could be a useful remedy. Transparency requirements should be proportionate to the nature and size of the NPO and consistent with international standards of freedom of association.</p>



Suspicious donations to universities, and the payment of services such as independent school fees, have been identified in relation to money laundering in NPOs.

LAUNDERING Illicit Funds FOR PhilANTROPic REASONS

2 TYPOLOGY

These cases involve illicit funds being donated to an NPO but with no known intent to extract a private benefit.

■ Analysis

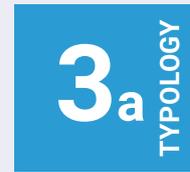
These are highly unusual cases, with only three incidences uncovered. Two cases relate to criminals directing that funds from a criminal scheme be paid to NPOs, with no evidence that the NPOs concerned had any prior knowledge or complicity. In case #4, the funds come from an unlawful circumvention of currency controls (see also 4.b below). In case #6, the funds were a ransom from kidnapping. At face value, it seems the money was passed to an NPO as the criminals had no method for obtaining the funds for themselves.

Case #39 is different, as the criminal gang had obtained the funds, which were proceeds from 'ransomware' attacks on corporations. The hackers behind the scheme voluntarily made a donation to two NPOs, seemingly to cultivate a 'Robin Hood' image.

In #39, the NPOs immediately refused the donations. In #6, however, the NPO contested the donation in Court but was ultimately obliged to repay the funds.

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Three of 39 cases involved this typology. These were cases #4, #6 and #39. • The cases were from Argentina, the United States and Bulgaria. • Two cases resulted in convictions and jail terms. • None of the cases involved a complicit NPO. • The proven sums involved are in the low-medium range, between €17,000 and €315,000.
<p>Remedies</p>	<p>As stated, these are highly unusual cases. The sole remedial measure would be to remind NPOs of their obligations to do due diligence on unusual donations and to refuse funds that are known to be criminal in origin, regardless of any possible good intent.</p>

LAUNDERING Illicit Funds FOR INFLUENCE: PEPs



See also typology B below.

These cases involve illicit funds being donated to an NPO with no intent to extract a direct private financial benefit, but with the intent to extract an intangible political benefit, position or more general social influence from a PEP.

■ Analysis

These are the most nebulous of the cases identified in this report. Of the five cases, none have resulted in prosecutions, let alone convictions, and only two have resulted in investigations (#13 and #26). Two cases (#33 and #37) have no specific allegations of impropriety but are merely highlighting relationships which could be perceived as unethical. The bar for these cases to be deemed newsworthy is notably lowered than for all of the other typologies.

A second observation is the high-profile nature of the PEPs involved. A notable feature of these cases is that the PEPs involved are very high profile, in all but one case being at most one-step removed from the head of state or head of government.

Our suspicion is that these two observations are directly correlated. First, it is suspected that the involvement of high-profile PEPs appears to make these cases more newsworthy, and therefore more likely to be observed. The inclusion of PEPs makes the bar for newsworthiness much lower.

Linked to this is the freedom of the press and high expectations on standards in public behaviour. The cases from the UK, for example, carry no specific allegations of impropriety. Perhaps it is not a coincidence that the UK scores low on perceptions of public corruption and high on press freedom.¹⁹

In other regions, an alternative explanation is offered. The two cases involving active investigations (#13 and #26) are in Mexico and India, neither of which score well on perceptions of public corruption or on press freedom. Both cases involve investigations into PEPs launched once they had lost power. These incidences are often met with vigorous claims that the allegations are the result of a political vendetta. In case #13, for example, representatives from the connected political party stated that the issue was a “*manufactured charge*” and “*diversionary tactic*”. Without judging the merits of the allegations, it does seem plausible that NPOs connected to former

leaders are more likely to be targets of political vendettas.

Whatever the true motivation, it is clearly the case that standards for public propriety vary significantly between countries, and are likely to directly impact on which cases come to public attention.

These cases lack a clear criminal benefit, and there is often a demonstrable public benefit. The potentially unlawful benefit which would qualify these cases as illicit is influence or status, and in three of these case donors were given honorary positions (#25, #32 and #36). However, these are common drivers for much philanthropy, particularly in the higher status parts of society, and not necessarily unlawful or even unethical. At some point these benefits may cross a line and become a corrupt and unlawful transaction, but this is hard to define, quantify or prove. Accordingly, whereas the ‘criminal funds/private benefit’ incidences (above) could draw evidence from both ends of the transaction, these cases are more heavily reliant on demonstrating an unlawful source of funds as evidence of impropriety.

This ambiguity also makes it difficult to assess the level of complexity.

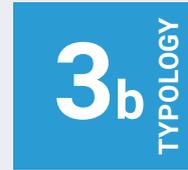
Overall, it is difficult to analyse the severity of this threat from the cases. More so than for the other cases, it may be concluded that the very factors that make this risk more likely to occur also make it less likely to be detected, and vice versa. These factors include the standards of public behaviour, the rule of law, the presence of well-resourced and politically-independent regulatory agencies, and the presence of a well-resourced, uncensored and politically-independent media. ■

19. See section IX for details.

3_a
TYPOLOGY

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Five of 39 cases involved this typology (#13, #24, #26, #33 and #37). • Two cases were from the United Kingdom, with one each from India, Moldova and Mexico. • There have been no prosecutions. Two are under investigation. Two reports make no specific allegations of impropriety. • Three of the cases imply that there is a complicit NPO. • Most sums involved are in the low range, between €10,000 and €161,000, with one exception (#24) which involved €29 million.
<p>Remedies</p>	<p>PEPs and other high-profile individuals bring significant benefits to NPOs. Nevertheless, the presence of a PEP brings a particular type of risk of impropriety which may envelop an NPO.</p> <p>Additional scrutiny of NPOs connected to PEPs by the authorities may seem to offer a solution, but the possibility of politically-motivated investigations may complicate this in many jurisdictions. The primary onus must therefore rest on the NPOs themselves to make extra efforts to demonstrate their propriety. As with typology 1 above, there is a role for clear policies on management of potential conflicts of interest, as well as on ethical giving.</p> <p>Case #37 provides a best practice example. It is the weakest of the cases, with a degree of separation between an individual prosecuted for money laundering and a donation to the NPO, and no specific allegation that the donation was sourced from criminal funds. Nevertheless, it resulted in the clearest action by the NPO. The donor stepped down for her position at the NPO, and the NPO instituted a new ethical giving policy as a result. No perception of impropriety was tolerated.</p> <p>Contrast this with Case #25. Here, specific allegations have been made, and despite public assurances, there has been a marked lack of transparency and no enforcement of the rules by regulators. The opportunity to demonstrate propriety whilst the connected PEP remains in office has been lost and claims that any subsequent investigation is politically motivated will be assessed within this context.</p> <p>Ultimately, the significant benefit accruing from a PEP’s involvement in an NPO brings with it a duty to demonstrably conform to higher standards of propriety. This statement is generally true, not just in relation to this particular form of impropriety.</p>

LAUNDERING Illicit Funds FOR INFLUENCE: EXTREMISM



These cases involve illicit funds being donated to an NPO with no intent to extract a direct private financial benefit, but with the intent to advance extremist causes within a country.

■ Analysis

These cases involve elements of terrorist financing through support for extremism. They share common features with one of the terrorist financing typologies identified by FATF’s *Report Risk of Terrorist Abuse in Non-Profit Organisations*²⁰, specifically that ‘NPOs were abused to provide support to recruitment efforts by terrorist entities.’²¹ This factor was noted in 26% of the Typologies report’s 102 cases.

Ultimately these cases are included as the potentially unlawful end use is accompanied by unlawful elements in the origins of the funds, or the mechanisms through which they were transferred through the NPO. It is these latter features which bring them within the scope of this report.

In case #15, Indonesian investigators considered if the NPO was a vehicle for transmitting locally raised funds via a Turkish NPO to ISIS. There were separate allegations about unlawful political uses of the funds. This appears to be a complicit NPO.

In cases #21 and #22, by contrast, the NPOs were not a conduit but the destination. Instead, concerns were raised about the source of the

funds. Specifically, that the origins of the funds were unlawfully obscured to hide their origins with a foreign government. Again, the allegations imply complicit NPOs.

However, two of these cases are somewhat unclear in their accusations, perhaps due to the national security issues – see in particular #20, where 21 NPOs were suspended. Concerningly, no clear reasons for the suspensions were given, and after a year all of the suspensions were lifted.

The evidence in two cases is strong (#15 and #22). However, the overall number of cases is small, particularly if the three Kosovan cases are interpreted as part of the same national security action (there is overlap between the NPOs named in these cases). One can assume that the national security issues mean that this is a priority for many countries and is therefore more likely to be identified than other forms of illicit finance. In this context, and considering also the small number of cases identified in the FATF Typologies report from a much larger survey, the evidence supports the conclusion that the risk is present but small.

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Four of 39 cases involved this typology (#15, #20, #21, #22). • Three cases were from Kosovo, with one from Indonesia. • Each case has resulted in regulatory action, with indictments, investigations, and regulatory sanctions. However, there have been no convictions and all regulatory actions have since been reversed. • The cases relate to multiple NPOs, with a total of 21 NPOs named in the Kosovan case. • Only two cases mention a sum of money, which are at the medium-large end: €220,000 (#15) and €1.45 million (#22).
<p>Remedies</p>	<p>Standard measures to counter illicit finance will apply here, such as verification of the source and end use of funds, appropriate due diligence, and best practice in internal governance and in financial management and controls. In addition, the national security element will require a significant role for intelligence agencies.</p>

20. FATF, Paris, 2014. See <https://www.fatf-gafi.org/media/fatf/documents/reports/Risk-of-terrorist-abuse-in-non-profit-organisations.pdf>

21. Ibid, p.5.

CIRCUMVENTING FINANCIAL CONTROLS: POLITICAL MOTIVATIONS

4a TYPOLOGY

In these cases, an NPO is created or commandeered as a vehicle for circumventing limits or controls on the financing of political parties or campaigns.

■ Analysis

These cases involve attempts to circumvent restrictions on political funding, including funding of political parties or political campaigns. In contrast to 3.a and 3.b above, this is not necessarily about funds from illicit sources. Instead, the funds become illicit through the use of an NPO to circumvent the restrictions. The cases therefore depend entirely on the specificities of the political funding laws.

In all cases, complicity was a key factor. The NPO was established and operated primarily for political purposes, with the public benefit essentially an incidental means to advance that purpose.

Notwithstanding the complicity, in many of these cases a genuine public benefit was clearly provided. However, it was enmeshed in the broader goals of the political campaign. This may undermine the integrity of the entire NPO sector in those countries.

All cases involve PEPs, although, in contrast to 3.a, these are not notably high level.

There is evidence that this is a systemic problem in Moldova (#25). An exhaustive report in Anti Coruptie²² revealed multiple instances of wealthy individuals creating NPOs as vehicles for channelling funds into and supporting their political ambitions. The sums involved were large, exceeding €1 million in two cases. Case #27, from Tunisia, shared many of the features with the Moldovan cases.

Cases #1 and #7 (Argentina and Bulgaria) were less clear in their public benefit, and had the additional feature of the misappropriation of public funds. It is alleged that officials or representatives used their influence to award government funds to NPOs under their control, and then used the funds to support their political campaigns.

Cases #7 and #27 also share the feature of collaboration with media owned by the controlling PEP.

Researchers from Jordan and Kenya reported rumours that NPOs were used to unlawfully finance political parties. Indeed, the Kenyan

regulator of NPOs said there might be several such NPOs. However, no evidence was provided in either case.

More broadly, concerns have been raised at attempts by foreign state actors to influence political activities in different jurisdictions through NPOs, amongst other channels. In particular, the use of foundations for election interference was noted in a Working Document of a Special Committee of the European Parliament in 2021.²³ Third party funding is unregulated in almost all EU Member States, meaning that organisations are not required to disclose the identity of their donors and are allowed to finance political parties and candidates. ■



NPOs can be used as a vehicle to control the financing of political parties or political campaigns.

22. <https://anticoruptie.md/ro/investigatii/integritate/de-ce-plahotniuc-dodon-sor-si-usatii-pompeaza-milioane-in-actiuni-de-caritate>

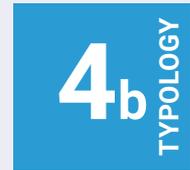
23. 'Working Document on Covert Funding of political activities by foreign donors'. Special Committee on Foreign Interference in all Democratic Processes in the European Union, including Disinformation, European Parliament 2019-2024 (Brussels, 2021).



4a
TYPOLOGY

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Six of 39 cases involved this typology (#1, #7, #15, #25, #26 and #27). • Two cases are from Moldova, with one each from Argentina, Bulgaria, Indonesia and Tunisia. • The cases include one conviction (#27) and one indictment (#1), with one under investigation (#15) and two media allegations. • Most sums involved are in the low range, between €11,400 and €104,000. The exception is case #26, which involved sums of €1.7 million and €1.8 million.
<p>Remedies</p>	<p>See typology 3.a. (above), which explores the challenges that close association with a PEP brings and offers some remedies.</p> <p>Remedies will also depend on the nature and implementation of political funding rules to ensure that they legislate for this type of abuse. Specifically, measures should be taken to remove loopholes in national legislation which can lead to the abuse of NPOs as a means for obscuring the identify of donors or to allow funding restrictions to be circumvented. Such abuse results in collateral damage for both the political process and the entire NPO sector.</p> <p>Such measures should also consider the nature and severity of sanctions for any breaches, and ensure that they sanction those responsible for abuse, rather than the NPO’s beneficiaries.</p> <p>Measures should also clearly distinguish between the illegitimate use of NPOs to directly influence electoral processes, elections or referendums; and the legitimate and protected role of NPOs in participating in the public debate through representation of neglected communities or by providing expertise.</p>

CIRCUMVENTING FINANCIAL CONTROLS: MONETARY CONTROLS



In these cases, an NPO is created or commandeered as a vehicle for circumventing specific controls on financing transactions.

■ Analysis

These cases involve the opportunistic exploitation of a specific feature in a law or regulation which restricts or prohibits what would otherwise be a routine transaction. As such, they are inherently circumstantial with little scope for transferability.

A different restriction was at the root of each incident. Case #4 relates to currency control laws in Argentina which restricts the exchange and import of foreign currencies. Case #10 is a media entrapment case. It related to the demonetisation laws in India in 2016, when the two largest denomination notes (Rs500 and Rs 1,000) were removed from circulation at short notice. Case #11 relates to the Foreign Contribution Regulation Act (FCRA) in India, which requires NPOs to obtain pre-approval to obtain money from overseas.

The FCRA law is of more interest as similar measures are increasingly

being adopted worldwide. The law is implemented by the Enforcement Directorate of the Ministry of Finance, and violations of the regulation are routinely described as ‘money laundering’, despite not fitting the normal definition for this offence. The result is a large number of ‘money laundering’ cases appear in the media which are not, strictly speaking, money laundering, as neither the origin nor end use of the funds is illicit.²⁴

Of the many FCRA cases in the media, case #11 alone met the criteria for inclusion as it involves an intent to circumvent the regulations through a deliberate deception in which an NPO is used as a shell. In this case, officials investigated claims that an NPO had been accepting foreign funding for projects which it untruthfully claimed it was implementing, with the funds in fact transferred to other NPOs. There is no specific allegation that funds were misappropriated.

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Three of 39 cases involved this typology (#4, #10 and #11). • Two cases were from India, with one from Argentina. • One case resulted in convictions, one in an official investigation and one in a media investigation. • Sums involved are in the medium range, between €113,000 and €315,0000.
<p>Remedies</p>	<p>These cases are all caused by unusually restrictive laws, which create distortions which are exploited in a small number of cases. There is no evidence that the exploitation is systematic. The obvious remedies are to fix unnecessary distortions or disruptions to legitimate transactions that may be caused by the laws, and specifically to remove any restrictions that are contrary to international best practices or human rights standards.</p> <p>Additionally, the misuse of the term ‘money laundering’ in relation to violations of the FCRA has a broader distortive effect on the perceptions of Indian NPOs, feeding a wide-spread perception that Indian NPOs are complicit in this crime. As evidence, the following statements were found in the press during the research:</p> <p><i>“Many not-for-profits are known for money laundering, misusing funds and even funding anti-national activities [...]”</i></p>

24. The FCRA is being disputed by a wide range of NPOs as being over-regulation and contrary to international standards, as noted by [the UN special procedures](#)



4_b
TYPLOGY

<p>Remedies</p>	<p><i>[...] anti-national activities” Asian Age²⁵</i></p> <p><i>“Money laundering in India was rampant through NGO’s. The majority of industrialists and even some top Politicians were using NGOs to launder their black money back into the country.” Lawyer Bhushan Bahal, quoted in Business Standard²⁶</i></p> <p>These articles offer no evidence to support these claims, and our research does not corroborate them.</p> <p>The situation is complicated by criticisms that FCRA is used as a political weapon against critical NPOs, and that NPOs are being ‘singled out’²⁷. The recent decision of Amnesty International to close down its Indian office was, it said, caused by the freezing of its bank accounts following an FCRA-related investigation into a linked organisation²⁸, but this is only the highest profile of a number of decisions which have been criticised for being politically motivated²⁹.</p>
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The Foreign Contribution Regulation Act in India in 2016 led to a sharp increase in the number of so-called ‘money laundering cases’ being reported in the media.

25. [Asian Age ‘The Malaise in India’s NGO sector’ 28/07/17](#)

26. [Business Standard, ‘Trusts, NGOs under ambit of money-laundering law’ 21/01/13](#)

27. <https://cuts-international.org/the-fcra-ngo-conundrum/>

28. <https://globaltribune.in/amnesty-halts-all-operations-in-india-due-to-freezing-of-bank-accounts/>

29. For example, see also the cases of Greenpeace and the Lawyers Collective.

Tax Avoidance, Evasion AND FRAUD



The use of an NPO primarily as a mechanism for avoiding or evading tax; or as a mechanism for unlawfully claiming tax rebates.

■ Analysis

Many countries provide tax exemptions for donations to NPOs, and some provide tax rebates. This typology identifies cases where the primary purpose of an NPO is to exploit these rules, rather than to provide a public benefit.

The schemes include those which are clearly unlawful (tax evasion); those which are fraudulent, with the NPOs used as a means of extracting payments from the treasury unlawfully; and those where the purpose of the NPO is overwhelmingly as a tax vehicle, rather than as a means of providing a public benefit.

The mechanisms used fall into three categories (with two exceptions -see below):

- **Cases of inflated value:** where the book value is higher than the true value of a donation, either as a result of accounting fraud or price manipulation. See cases #8, #19 and #30;
- **Cases of personal benefit:** where the benefit from the donation is essentially private rather than public. This is because the benefit is largely enjoyed by or returned to the original donor. See cases #24, #28, #31 and #38;
- **Cases of bogus beneficiaries:** where a beneficiary is temporarily given as an NPO to access associated benefits, and then swapped. Whilst there is just one case (#5), it names three separate incidences and refers to potentially tens of thousands more.

These cases are notable for their complexity. Many involve layering, multiple entities or commercial entities (cases #5, #8, #19, #28, #31 and #32); or off-shore or cross-border elements (#5, #28, and #31).

The complexity provides a means to take advantage of lax regulations in certain jurisdictions or to confuse oversight or the identification of beneficial owners (#5, #28, #31). As a result, there are often clear and unresolvable conflicts of interest (#24, #28, #30, #31, #32 and #38).

Many involve accounting or bookkeeping frauds (#5, #8, #19, #28, #30 and #31). All but #30 are designed and implemented by accountancy or tax specialists. In some cases, the fraud came first, with clients recruited by the devisers of the scheme, who charge beneficiaries to access the scheme (#5, #8 and #31, and also probably #32 and #38).

Some schemes show such sophistication that they are adjudged lawful (#38) or evade significant criminal or financial consequences for those responsible (#31 and #32).

In most cases the NPOs are complicit, although some public benefit

may be provided. The exceptions are cases #5 and #8, which involve no benefit for the NPO, and indeed no awareness by the NPOs that they have been used in the scheme.

The complexity of these schemes, the fee for the service and the nature of the benefits provided mean that they are only viable for high or very-high wealth individuals (except for Case #30).

This is a particular problem in the UK and for off-shore jurisdictions. The UK is further embroiled through crown dependencies, which often operate as off-shore tax havens. It is not clear if this is a problem specific to the UK, or if it is shared by other jurisdictions which share the features of international financial centre, large NPO sector, generous NPO-related tax benefits, high wealth individuals and a sophisticated financial services market.

Our researchers uncovered statements in other jurisdictions that NPOs were systemically engaging in tax evasion through non-reporting or misreporting (for example Indonesia³⁰). However, no specific evidence to support these assertions was uncovered.

Finally, the UK's complex NPO tax regime provides two examples of circumstantial frauds which may have limited applicability in other jurisdictions.

Case #32 is a scheme designed to exploit a very specific feature of UK charity and property tax law. They involve sham or complicit NPOs being used to exploit a loophole. Subsequent rulings have clarified that the loophole is unlawful.

The second example relates to the UK's 'gift aid' scheme. This enables higher rate tax payers to deduct 15-20% of the value of the donation from their tax liability. This is a common feature of many tax regimes, and its exploitation is explored above.

The Gift Aid scheme differs by also allowing NPOs to reclaim 20-25% of the tax from a donation from all UK tax payers. This is paid in the form of a rebate to the NPO. Cases #30 and #31 both exploit this. #31 is a highly sophisticated scheme, whereby the rebate is claimed against actual donations, with the value returned to the donors through manipulated transactions involving government bonds. In the event, the tax authorities refused to pay this rebate after assessing the whole scheme as unlawful.

Case #30, by contrast, identifies five similar criminal cases of little sophistication to unlawfully claim rebates. Fictional donations and forged documents are used to claim rebates which were then stolen from the NPO. The sums were not high (£99,000 - €583,000), all involved complicit or controlled NPOs, and all ended in jail sentences.



5
TYPOLOGY

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Nine of 39 cases involved this typology (#5, #8, #19, #24, #28, #30, #31, #32 and #38). • Five cases were from the United Kingdom or its dependencies, with one each from Argentina/ Spain, Jordan, Mexico, and the United States of America. • Three cases include three convictions (#8, #28, #30) and one official investigation (#24). Cases #31 and #32 were declared unlawful but not criminal. The remainder were the subject of media investigations. • Sums involved, where known, are large, with assets of tens-to-hundreds of millions of Euros untaxed. The exception was case #30, which identifies five cases involving small-medium sums (€99,000 - €583,000).
<p>Remedies</p>	<p>Case #31 is most notable for its complexity, sophistication, brazenness and size. The case has been cited as a “major factor” in the granting of new powers of scrutiny and disqualification to the UK’s NPO regulator in the Charities Act 2016 , which include:</p> <ol style="list-style-type: none"> 1. Powers to publicly issue official warnings to a trustee or charity where it thinks a “breach of trust or duty or other misconduct or mismanagement” has taken place; 2. Extension of the number of criminal offences which lead to someone being automatically disqualified from becoming a trustee to include convictions for money laundering; 3. Extension of the power to disqualify individuals to include senior managers in a charity, such as the chief executive or finance director. <p>This is in addition to the ‘fit and proper persons’ conditions on NPO trustees in the UK imposed by the Finance Act 2010 .</p> <p>A number of cases imply failures in ‘beneficial owner’ regulations. The scheme in case #5 rested on the ability to nominate an NPO as a ‘discretionary beneficiary’ to obtain tax exempt status, but without informing the NPO; and then to switch the ‘discretionary beneficiary’ to a non-tax exempt owner without incurring tax. Whilst this is the most egregious case, better implementation of beneficial owner rules may also have assisted in cases #24, #28, #31 and, arguably, #38.</p> <p>The complexity and layering of these cases, and the prominent involvement of tax specialists and accountants, means that remedies may need to include consideration of how the existing financial and tax regulation are implemented effectively, and guidelines and standards for financial professionals.</p>

30. [Upaya Wajib Pajak Melakukan Tax Avoidance Melalui Hibah \('Analysis of Taxpayer Efforts to Tax Avoidance Through Grants'\)](#) by Oleh Afrizal Izzaki B.M and Suparna Wijaya

31. <https://www.civilsociety.co.uk/governance/how-the-charities-act-2016-will-affect-the-sector.html>

Vehicle for Embezzling Public Funds



See also *typology C* below. Cases where an NPO has been created or commandeered primarily as a vehicle to enable the embezzlement of public funds over which the schemes' controllers have influence or control.

■ Analysis

As noted in Section III above, this report excludes simple cases of fraud of an NPO or of a donor. To be eligible for inclusion in this typology, cases must involve collusion between those who control the funds and those who control the NPO, with the intent that the NPO is used primarily as a vehicle for the unlawful extraction of those funds.

There is a clear overlap with corruption here, and all cases come from countries with medium or high ratings for perception of public corruption.³³

In most cases, the fraud was supply driven – that is to say, the driving force for the scheme were the individuals who controlled or influenced the dispersion of the funds. They created or co-opted an NPO as a means to obtain those funds. (#1, #13, #16 and #23).

Cases #2 and #12 appear to be demand driven, where individuals who control an NPO worked with accomplices in government to secure unlawful grants.

In cases #1 and #7, the funds were secured due to the influence of an elected representative and used to support a political purpose. Cases #13 and #23 also involve an elected representative, but the benefit was private. The other cases involve civil servants.

Cases #2, #12 and #23 involve unlawful extraction of the funds from the NPO through some form of misappropriation. Case #2 involved a complex trail of companies designed to disguise the end use. In case #12 the funds were distributed through illegal loans.

Cases #2, #13 and #16 are somewhat ambiguous. In case #2, it is not clear if the NPO, a well-established and respected human rights NPO, was complicit or merely neglectful. In case #13, which involves very high profile PEPs, it is alleged that the charges are politically motivated.

Case #16 is the least clear and most interesting. No specific allegations of impropriety have been made. Instead, it is the unusual structure of the scheme that has invited speculation over its intent. The Indonesian Ministry of Defence has established a company to implement a food development project. The company is a legal subsidiary of a foundation that the Ministry controls. An article in the media speculates about the rationale for the arrangement, as does a thesis which identifies this as a systemic problem. Both allege that the arrangement is adopted because it reduces oversight and accountability, and by implication facilitates corruption and embezzlement.

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Seven of 39 cases involved this typology (#1, #2, #7, #12, #13, #16 and #23). • Two cases each were from Argentina and India, with one each from Bulgaria, Indonesia and Kosovo. • One case involved a conviction (#23), two cases include indictments (#1 and #2) and two involved investigations (#12 and #13). The remainder were the subject of media investigations. • Sums involved vary from the small (€11,400) to the very large (€112 million)
<p>Remedies</p>	<p>Typology 3.a. explores the challenges that close association with a PEP brings and offers some remedies. Many of these are relevant here. In particular, additional transparency and scrutiny of NPOs connected to PEPs, and clear policies on the management of potential conflicts of interest.</p> <p>Most of the cases would have been avoided with clear and effective public procurement rules and/or effective auditing of public bodies. These rules and audits need to cover grants authorised by legislators (#7).</p> <p>Case #2 shows the importance of internal governance, financial management and controls within NPOs.</p>

33. Transparency International [Corruption Perceptions Index](#) rates countries out of 180 as follows: Argentina 78, Bulgaria 69, India 86, Indonesia 102 & Kosovo 104. See section IX



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7. DEFINITIONS AND SCOPE of THE RESEARCH

Community Sports Organisations



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the European Union

7. DEFINITIONS AND SCOPE OF THE RESEARCH

COMMUNITY SPORTS ORGANISATIONS

■ The Rationale for Studying Sport NPOs as a Distinct Category

NPOs related to sport comprise a distinct component of the sector overall and one that has specific and well-recognised risks relating to money laundering, terrorist financing, PEPs and other illicit financing. Additionally, whilst terrorist financing in NPOs is studied in FATF’s Typologies Report, no such survey of the specific risks of terrorist financing (in the broadest sense) in the sporting NPO sector has been completed. Given these specificities, it was agreed that sporting NPOs should be studied as a distinct theme in the project.

In the traditional European model of sport, most sports lack a professional structure. In these sports, there is a sizeable NPO community of voluntary sports clubs and associations which cater for mass-participation through to international competition. In this sporting “pyramid”, individuals and clubs are often affiliated with national sports federations, which are members of the corresponding international sports federation and also the National Olympic Committee (in the case of Olympic sports).

A handful of sports are fully professional at the top level. The range of professional sports varies from one country to another, but the number dwindles to no more than three or four beyond developed markets (e.g.

football, basketball, volleyball plus local interests such as cricket or ice hockey). The large majority of sporting activity around the world is not-for-profit in nature.

Beyond Europe, the sporting model varies. In much of Asia, for example, the government is more prominent in the sport sector with a less visible role for genuine NPOs. In many parts of the world PEPs or other well-connected figures from politics and business occupy the senior positions in the sporting hierarchy.

Scope of the Research

1. It relates to NPOs as defined by FATF (see section III).
2. It relates to sport NPOs (see below).
3. It is concerned with illicit financing (see section III).
4. It is additionally concerned with terrorist financing (see below).
4. It is limited to what are technically termed ‘predicate offences’ (see section III). ■



The large majority of sporting activity around the world is not-for-profit in nature.

■ Definitions

Sports NPOs

For the purposes of this research, only sports organisations which are NPOs were relevant. There is not currently a standard definition of a sport NPO and there will be some variation around the world.

Typical sport NPOs may include:

- Local sports clubs that provide opportunities for participation (including a proportion of participants competing at elite level, provided that the organisation itself is not-for-profit).
- National Olympic/Paralympic Committees (even if there is significant government funding and/or involvement).
- National sports federations that govern a specific sport (even if there is significant government funding and/or involvement).
- Other types of voluntary organisations that offer sports participation among a range of activities.
- Voluntary organisations that promote involvement in sport in some way, including as a fan.

It was anticipated that there would be cases involving sport organisations where there was some uncertainty about whether or not the organisation met the definition of an NPO. If in doubt, cases were included.

For the purposes of the project the following definition of sport NPOs was developed:

A sport NPO is an organisation that meets the FATF definition of an NPO and also fulfils at least one of these criteria:

- **An organisation that provides opportunities for participation in sport at any level**
- **An organisation that governs sport at any level**
- **An organisation that promotes involvement in sport in some way, including as a fan**

“Sport” means all forms of physical activity which, through casual or organised participation, aimed at expressing or improving physical fitness and mental well-being, forming social relationships or obtaining results in competition at all levels³⁴.

*Note that computer gaming (sometimes known as e-sports or e-gaming) is not included within this definition.

Terrorist Financing

FATF defines terrorist financing in the Typologies report³⁵ as “The financing of terrorist acts, and of terrorists and terrorist organisations”. Five specific types of terrorist financing risk are identified, namely:

1. Diversion of funds
2. Affiliation with a terrorist entity
3. Support to recruitment efforts
4. Abuse of programming
5. False representation

There is no internationally agreed definition of terrorism or extremism. For the purposes of this research, we define terrorism or extremism as any movement which achieves, or proposes to achieve, its aims through violent means. Violence may be directed at the state, civilians or property.

34. Source: European Sports Charter, Council of Europe, Article 2: <https://rm.coe.int/16804c9dbb>

35. “The Risk of Terrorist Abuse in Non-Profit Organisations”, FATF, 2014.



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8. OBSERVED TYPOLOGIES OF ILLICIT FINANCING AND TERRORIST RECRUITMENT IN SPORT NPOs



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LAUNDERING CRIMINAL FUNDS FOR PRIVATE BENEFIT

Note that there are substantial overlaps with section VI regarding the typologies, analysis and remedies. Where relevant, content from section VI is repeated or slightly adapted to reduce the need for constant cross-referencing.

■ Analysis

A key feature of these incidences is the complicity of the NPOs. One of the NPOs appears to have been captured by criminals ('commandeered'). The other two were established wholly or largely to facilitate criminal activity ('sham NPOs').

In two of the cases (#D and #F), the NPOs were linked to a professional football club. In both cases the accused individuals are alleged to be involved in organised crime and occupied leadership roles with the football clubs. In case #D, the involvement of the NPO is perhaps incidental – the football club is ultimately owned by a co-operative for historical reasons. There is evidence of money laundering between clubs and promoters. In case #F, the key defendant led the club's 'ultra' fan group, which is an NPO with extensive business interests linked to the club. Money was extracted through acquiring the economic rights of footballers (third-party

ownership), and also possibly through inflated contracts for services.

The countries concerned (Mexico and Argentina respectively) both have a sizeable professional football industry. It is possible that the existence of a significant professional league in a country (in football or other sports) with large funds is a risk factor as there will often be associated entities (including NPOs) and greater opportunities for layering or comingling of illicit funds. In very small countries or those without a large domestic sports market, other sectors may appear more attractive for the purposes of money laundering.

In case #G, public officials and their associates extracted funds from a sham NPO that was supposedly established to support disability sport through invoices for bogus services provided.

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Three of eight cases involved this typology. These were cases #D, #F and #G. • The incidences involved Argentina (two) and Mexico. • All three cases are under investigation. • In all three cases the NPOs appear to be complicit. • One case involves a suspected large sum of (c. €60 million). One case involves a fairly small sum (c. €27,000). In the third case the sum involved is not known.
<p>Remedies</p>	<p>As noted elsewhere in the report, concerns may be heightened by NPOs founded by and closely connected to individuals with business interests, particularly where those individuals or connected persons retain significant control. As a result, reporting on the controllers of an NPO, clear rules on the management of potential conflicts of interest, and measures to ensure the independence of those who control an NPO are primary tools of mitigation.</p> <p>This form of money laundering would be exposed by transparency in the use of funds, and so focus on public reporting and transparency could be a useful remedy. Transparency requirements should be proportionate to the nature and size of the NPO and consistent with international standards of freedom of association.</p> <p>Guidance from FATF about the risk of money laundering through professional football and other sports may raise awareness and help public authorities to tackle the issue. There is no evidence from the study that sports NPOs play a particularly important role in such money laundering activity</p>

LAUNDERING Illicit Funds for INFLUENCE: PEPs

See also typology 3.a above.

These cases involve illicit funds being donated to an NPO with no intent to extract a direct private financial benefit, but with the intent to extract an intangible political benefit, position or more general social influence from a PEP.

■ Analysis

There is initial evidence that such cases may be relatively common, as they are observed in four countries in three regions. PEPs and prominent individuals involved in organised crime may be attracted by the prestige and high profile of sport to distribute funds for community sport in the hope of gaining influence and enhancing their reputations. When funds are desperately needed, beneficiary organisations and individuals may be less likely to question the source.

In case #H, there appears to have been public disquiet because the foundation through which funds were distributed was openly led by an alleged criminal leader. In case #A, the NPO that was established to distribute funding is on a small scale and has not yet attracted much public attention, but the same principle applies.

Some of these cases lack a clear criminal benefit, and there is often a demonstrable public benefit, although cases #D and #F appear to have an overlap with typology A 'Laundering Criminal Funds for Private Benefit'. Three of the cases have definitely resulted in a prosecution (#D, #F & #H).

As noted in Typology 3.a above, definitions are difficult. Gaining influence and enhancing reputation are common drivers for much philanthropy, particularly in the higher status parts of society, and not necessarily unlawful or even unethical. At some point these benefits may cross a line and become a corrupt and unlawful transaction, but this is hard to define, quantify or prove. Accordingly, whereas the 'criminal funds/private benefit' incidences (above) could draw evidence from both ends of the transaction, these cases are more heavily reliant on demonstrating an unlawful source of funds as evidence of impropriety.

It may be concluded that the very factors that make this risk more likely to occur also make it less likely to be detected, and vice versa. These factors include the standards of public behaviour, the rule of law, the presence of well-resourced and politically-independent regulatory agencies, and the presence of a well-resourced, uncensored and politically-independent media. ■



PEPs and prominent individuals involved in organised crime tend to be attracted by the prestige and high profile of sport.

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Four out of eight cases involved this typology. These were cases #A, #D, #F and #H. • The cases were from Argentina, Mexico, UK and Moldova. • In two cases #D (Mexico) and #F (Argentina) there is believed to be an overlap between this typology and Typology A 'Laundering Criminal Funds for Private Benefit'. • Three of the cases are currently believed to be under investigation. • It is believed that the NPOs are complicit in all cases. • The proven sums range from large (c. €60m) to fairly small, perhaps €100,000.
<p>Remedies</p>	<p>Additional scrutiny of NPOs connected to PEPs by the authorities offers one potential solution, but the possibility of politically-motivated investigations may complicate this in many jurisdictions.</p> <p>National football associations and leagues sometimes have an "owners' and directors' test", although such processes are frequently criticised as being inadequate. Within the Olympic Movement, there is a principle that sports organisations should be "autonomous" from government, essentially meaning that the leadership should not comprise PEPs. However, attitudes and practices vary widely around the world. International sports bodies have demonstrated only a selective appetite to tackle abuses, often lacking the capacity and jurisdiction to investigate, and perhaps also wary of potential political consequences.</p> <p>The primary onus must therefore rest on the NPOs themselves to make extra efforts to demonstrate their propriety. As noted above, there is a role for clear policies on management of potential conflicts of interest, as well as on ethical giving.</p>

Vehicle for Embezzling Public Funds

See also typology 6 above.

Cases where an NPO has been created or commandeered primarily as a vehicle to enable the embezzlement of public funds over which the schemes' controllers have influence or control.

■ Analysis

As noted in 'Scope' above, this report excludes cases of fraud of NPOs. These cases are included because they require the use of an NPO primarily or exclusively as a vehicle to enable the embezzlement of public funds over which the schemes' controllers have influence or control.

In case #E (Indonesia), PEPs appear to have taken advantage of a large public procurement project involving the construction of a national sports education centre. There is an indication that investigations and convictions focused on corruption (bribes paid to project leaders) but potential money laundering was not pursued when investigations

reached closer to senior political figures.

Case #G was also to some extent opportunist. Public officials appear to have identified a potential source of public funding and created a disability sports NPO that was eligible to receive the funding. Money once received was extracted using false or inflated invoices for services. The sport NPO comprised only one part of a large-scale money laundering case, which is being prosecuted.

There is a clear overlap with corruption here, and the two cases come from countries with medium or high corruption ratings.

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Two of eight cases involved this typology (#E and #G). • The cases were from Indonesia and Argentina. • Both cases involved multiple convictions. • The sum involved was large in case #E and fairly small in case #G.
<p>Remedies</p>	<p>Typologies 3.a and 6 explore the challenges that close association with a PEP brings and offers some remedies. Many of these are relevant here. In particular, additional transparency and scrutiny of NPOs connected to PEPs, and clear policies on the management of potential conflicts of interest.</p> <p>Most of the cases would have been avoided with clear and effective public procurement rules and/or effective auditing of public bodies. These rules and audits need to cover grants authorised by legislators.</p> <p>Case #G illustrates the importance of internal governance, financial management and controls within NPOs.</p>

TERRORIST FINANCING

The use of a sports NPO to finance terrorism in one of the forms recognised by the FATF Typologies report.

■ Analysis

The observed cases fall within a particular range of terrorist financing typologies. Specifically, they all involve ‘support to recruitment efforts’ and, to a degree, ‘affiliation with a terrorist entity’. One possible incident of ‘False representation’ was observed (Case #C). ‘Diversion of funds’ and ‘Abuse of programming’ have not been observed.

It is observed that the activities of the organisations are intrinsically violent in a way separate from any extremist activity. This is either through violent fan groups (‘ultras’) or through intrinsically violent sports such as Mixed Martial Arts or boxing. The groups are also male dominated.

All four typologies are associated with what FATF terms ‘Ethnically or Racially Motivated Terrorism Financing’ (ERMTF) and ‘Extreme Right Wing Groups’ (ERW). A recent report by FATF examines the threat from ERW, including links to non-profits and links with football and martial arts, without specifically conflating sports, NPOs and ERMTF.³⁷

Specific links between Mixed Martial Arts and ERW has been noted in multiple countries, including in Germany, USA and Brazil.³⁸ The Mixed Martial Arts organisation Ultimate Fighting Championship (UFC) based in the USA has known ERW connections.

Commentators have noted that there have been multiple connections between the ERW and football fan groups in recent decades both in the UK³⁹ and globally⁴⁰. This has now also been noted by FATF, which states that “Interactions between ERW groups and... football hooligans have been observed for years, indicating possible involvement of ERW groups, or at least some of its members, in crimes com-

mitted by them.”⁴¹

In the UK, the Democratic Football Lads’ Alliance and its forerunner the Football Lads’ Alliance (case #C) attracted significant attention and managed to mobilise large numbers of supporters for marches. The organisations have cultivated a deliberate ambiguity over their status, implying or claiming that they are charitable. The DFLA is registered as a for-profit company. An associated company, the Football Lads Alliance Limited (FLAL), was also registered as a company, but its status as for-profit or non-profit was not clear. However, the DFLA stated that funds raised from sales would be used to support charities, and the FLAL had a GoFundMe page under the ‘charity’ tag. Furthermore, the DFLA raised funds for the British Legion (a registered NPO) using the Legion’s symbols, although the donation was returned⁴².

More generally there is an ambiguity about the status of some of these organisations. In cases #B and #C it is not clear that the organisations in their current incarnations have attempted to formally adopt NPO status in the UK, their home jurisdiction, although the legitimate athletic purposes would possibly qualify the sports clubs referenced in #B as NPOs under the FATF definition.

The ‘terrorist’ status of ERW groups introduces further ambiguity, as these groups are not consistently designated as terrorist entities. We have included groups in this analysis which are recognised as being violent and extremist without necessarily triggering a designation in their country.

36. ‘Ethnically or Racially Motivated Terrorism Financing’, FATF, June 2021

37. A link also made in a [speech by David Lewis](#), FATF Director, at Chatham House in March 2021

38. References: <https://www.theguardian.com/sport/2018/sep/11/far-right-fight-clubs-mma-white-nationalists>
<https://www.economist.com/britain/2020/10/15/mixed-martial-arts-is-on-the-rise-in-britain-and-on-the-right>
<https://www.dw.com/en/germany-police-raid-far-right-martial-arts-tournament/a-55069002>

39. Source: <https://www.newstatesman.com/politics/sport/2018/08/football-lads-alliance-far-right-extremism-fighting-islamophobia>

40. Source: <https://www.gq-magazine.co.uk/sport/article/james-montague-interview-football-ultras>

41. P.18, ‘Ethnically or Racially Motivated Terrorism Financing’, FATF, June 2021

42. <https://www.bbc.co.uk/bbcthree/article/c92aa56d-bbaf-4bcb-b717-9e3cb8f74847>

<p>Scope of the problem</p>	<ul style="list-style-type: none"> • Four out of eight cases involved this typology. These are cases #B, #C, #F and #H. • The cases were from the UK (two), Argentina and Moldova. • The cases are all believed to be under investigation with at least one conviction. • The NPOs are all complicit or sham organisations. • The sums involved are unknown but small. • The status of the organisation as an NPO is not clear cut in case #C.
<p>Remedies</p>	<p>The fact that the sport NPOs involved in the cases seem either to be complicit or sham organisations suggests a potential role for regulators. In the connected cases B and C (both in the UK), regulatory action appears to have disrupted recruitment activity over a period of years. Infiltration of extremist right-wing groups by law enforcement and the work of investigative journalists may well also have curtailed the extremist groups.</p> <p>As the known sums of money raised are fairly small and the networks are often informal (without much need for sophisticated banking), typical AML approaches may only be of limited value).</p> <p>Ambiguity over status, as revealed in Case #C, invites a regulatory response to ensure that there is clarity over what qualifies an organisation to claim it is an NPO, and the policing of that status.</p>



There have been multiple connections between the ERW and football fan groups in recent decades both in the UK and globally.



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9. Analysis



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9. Analysis

■ Scale of the Money Laundering Risk to NPOs.

A study by the European Commission in 2008⁴³ considered the likelihood that NPOs might be used as means of laundering and then extracting criminal funds. It stated:

“From the Delphi survey, it has already been established that [money laundering] is perceived to be the most common form of abuse by the sample of experts (mentioned by 30 per cent of respondents as a threat or significant threat)”.

But the report went on to state:

“The survey does not make it clear whether this perception of money laundering as a large risk was merely a conventional wisdom accepted without independent evidence. This possibility cannot be excluded.”

In 2019 a meeting of the Expert Hub of civil society on FATF discussed money laundering. Many expert hub members felt that money laundering posed a bigger threat to NPOs than terrorist financing, particularly in Latin America – a view echoed by authorities at a GAFILAT plenary side-meeting in 2018. In the 2019 expert hub meeting, a poll asked eighteen civil society experts on FATF to rate various financial crime risks to NPOs.⁴⁴ It rated money laundering as the third biggest risk, ahead of terrorist financing, but behind fraud and corruption

In the same poll, eight respondents (from 13) rated the money laundering risk to NPOs in their country as ‘very small’, with ten stating their own NPO faced ‘no risk at all’. Only three of twelve respondents were aware of any money laundering cases in their country (Kazakhstan, Bulgaria and United States of America). See Annex 1 for full results.

A researcher spoke off-the-record to the chief investigator at a special chamber created to investigate financial crimes. The judge said that ‘very few’ money laundering cases related to NPOs, and that, *“in relative terms, the amounts are not that big”*.

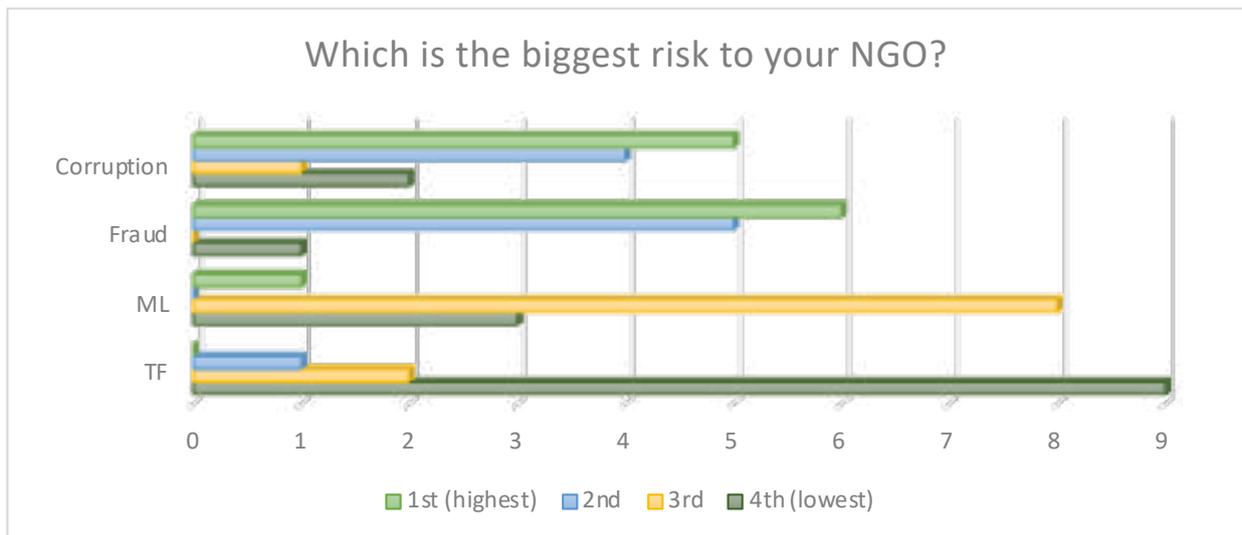


Figure 2: Straw poll on illicit financing risks to NPOs

43. Study to Assess the Extent of Abuse of Non-Profit Organisations for Financial Criminal Purposes at EU Level’, Directorate-General Justice, Freedom and Security, European Commission, 2008.

44. See Annex 1 for countries surveyed and full results.

Large risk or conventional wisdom?

Criminal activities involving the flow of illicit funds are, by their nature, hidden. Best estimates are that less than 1% of global illicit financial flows are currently seized or frozen.⁴⁵ Any survey of open-source information will inevitably undercount significantly. Further, this is not a global survey, but one that focussed on seventeen jurisdictions from across the world⁴⁶. A survey of this kind can at best hope to be representative of the nature of the abuse, rather than definitive on its scale.

The analysis therefore focuses on selected countries where deeper analysis is possible and have used that to draw some tentative conclusions about the global picture.

Our analysis starts with the UK, which has the advantage of a clear definition of NPOs, a specialist NPO-regulator, a sophisticated financial regulation system and NPO sector-specific media. We have more cases from the UK and its dependencies than any other jurisdiction. This allows us to be more confident that serious cases involving NPOs have been identified, and about the broader illicit financing context.

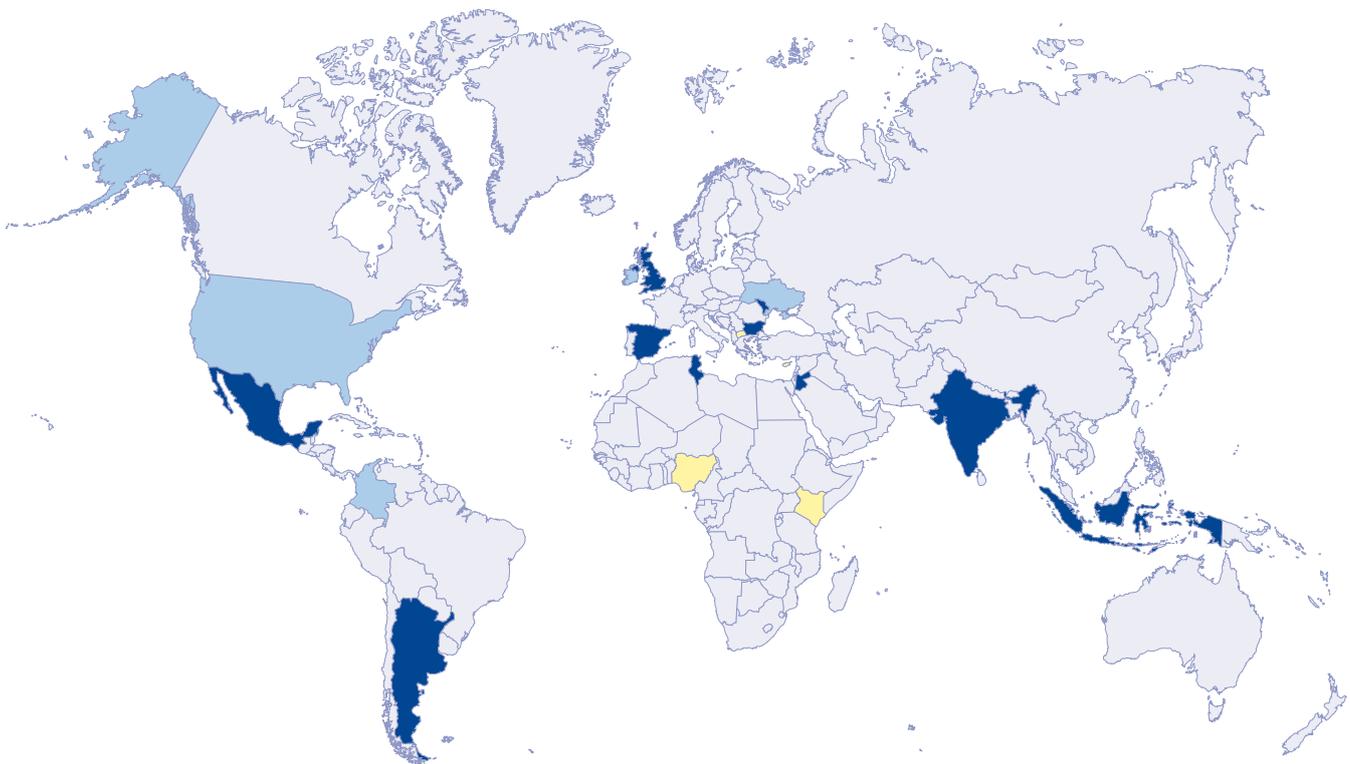


Figure 3: Number of observed cases in researched countries



45. Estimating illicit financial flows resulting from drug trafficking and other transnational organized crime' OECD, 2011.

46. Five cases relate to non-core countries which are included for the reasons set out in Section IV.

Laundering Illicit Funds for Private Benefit

In the last 10 years, two people have been convicted of using NPOs to launder and then extract funds from NPOs in England and Wales.⁴⁷ According to UK Government statistics, 1,435 people were convicted of money laundering in the UK in 2016 alone,⁴⁸ meaning an estimated 1 in 7500 money laundering convictions in the UK involve NPOs being used as a vehicle for laundering illicit funds for private benefit.

Tax Evasion, Avoidance and Fraud

In the last 10 years, three cases on tax evasion using NPOs were found in the open-source materials, representing a loss to the exchequer of £106 million (€123 million). One individual was convicted and imprisoned. In 2017/18, there were 3,809 tax evasion cases in the UK, with £37 billion (€43 billion) evaded in these cases. There were four arrests.⁴⁹ This implies the NPOs are responsible for 0.02% of tax lost to evasion in the UK.

Specifically in relation to Gift Aid, in 2016 it was worth £1.16 billion (€1.35 billion). £106 million (€123 million) over the last 10 years of losses equates to 0.91% of the total.

For context:

- Official estimates of the UK charity sector's contribution to British GDP is £17bn (€20 billion), or about 0.9% of the total.⁵⁰
- Global losses to money laundering are \$800 billion - \$2 trillion (€675 billion - €1.7 trillion).⁵¹
- Global tax evasion and avoidance is estimated at US\$427 billion (€360 billion) per year.⁵²

Circumvention

There are no reliable figures for the amount spent on global elections and political campaigns. Local figures are available, and case #25 from Moldova suggests that NPOs are a significant issue. However, Moldova is likely to be an outlier.

Alternative data is available from India. Reports from 2012 suggest that upwards of \$2 billion (€1.7 billion) in so-called "black money" was spent to influence the Uttar Pradesh state elections alone.⁵³ The one allegation from India (case #13) involved sums of less than €67,000.

Missing Data – the Other Typologies

Despite some assertions to the contrary, reliable information on the scale of global embezzlement of public funds is unknown.⁵⁴ The other typologies are of a nature which resist statistical analysis or comparison.

Returning again to the EU study⁵⁵ from 2008, and the question it posed:

"The survey does not make it clear whether this perception of money laundering as a large risk was merely a conventional wisdom accepted without independent evidence."

Whilst it is impossible to make confident statements about the levels of any illicit financial flows, this survey finds no independent evidence to suggest that the use of NPOs as vehicles for illicit financing is a serious or systemic problem, except in a small number of very specific circumstances in a small number of countries.

Missing Typology – Co-mingling of Illicit Funds with Religious Collections

The authors, researchers and reviewers were expecting to find a seventh typology for NPOs, namely the co-mingling of funds with religious collections. No cases were observed in the core countries or provided by NGO Expert Hub members.

Possible reasons for the absence of these cases are:

- **This is not a common form of abuse.** The expectations of the consulted experts were therefore misplaced.
- **This is not a common form of abuse in the core countries studied.** In other words, it was a coincidence. However, the spread of analysed countries makes this an unsatisfactory explanation.
- **Failures in the research methodology and/or research.** Section IV (above) notes the difficulty in identifying religious NPOs, and it seems likely that the sources in a case of this type might fail to positively identify the organisation as an NPO. Whilst our researchers were briefed on the FATF definition of NPOs and are the authorities in their countries on the topic, the wording of the research brief does not refer to this specific issue and it is possible that cases have been missed.
- **This is an easily disguised form of abuse.** This is, in theory, an attractive mechanism for money laundering, as it involves significant sums of legitimate anonymous cash donations. Further, the structure and activities of religious organisations appear to present opportunities to control the disbursement of the funds. It is therefore plausible that this is a common yet largely undetected form of abuse.

47. Note, this excludes money laundering convictions where an NPO is the victim of a crime, rather than the vehicle for it; and cases where the benefit is intangible.

48. [Economic crime factsheet - Home Office in the media \(blog.gov.uk\)](#)

49. <https://www.patrickcannon.net/insights/uk-tax-evasion-statistics/>

50. [NCVO/Office for National Statistics](#).

51. [UN Office for Drugs and Crime](#).

52. Global Alliance for Tax Justice

53. Indian Electoral Commission, as reported by Transparency International to [CNN](#)

54. [U4 Anti-Corruption Resource Centre](#)

55. 'Study to Assess the Extent of Abuse of Non-Profit Organisations for Financial Criminal Purposes at EU Level', Directorate-General Justice, Freedom and Security, European Commission, 2008.

Sports cases

The total number of cases observed does not support a thesis that there are systemic risks from illicit financing to sports NPOs. Whilst illicit financing in sports is known to be a problem, this appears to be associated with professional sports, where the far larger sums involved facilitate the layering or disguise of illicit funds. It is notable that the cases observed were disproportionality linked to professional sports in some way.

■ Regional features of the observed issues

For the sake of analysis, the 15 surveyed countries were sorted into regions:

- **Latin America:** Argentina, Mexico
- **Western Europe:** UK and dependencies, Spain
- **Eastern Europe:** Cyprus, Republic of Moldova, Bulgaria, North Macedonia
- **MENA:** Jordan, Tunisia
- **Sub-Saharan Africa:** Nigeria, Kenya
- **Asia:** India, Indonesia, Kyrgyzstan

Table 1: Analysis of observed typologies by region

	Latin America	Western Europe	Eastern Europe	Middle East/North Africa	Sub-Saharan Africa	Asia
Illicit Funds, Private Benefit	1	3				3
Illicit Funds, Philanthropy	1		1			
Illicit Funds, (PEP Influence)	1	3	1			1
Illicit Funds, (Extremist Influence)						1
Circumvention (Political)	1		3	1		1
Circumvention, (Controls)	1					2
Tax Evasion, Avoidance and Fraud	2	6		1		
Embezzling Public Funds	2		1			3
A. Illicit funds, private benefit	3					
B. Illicit funds for influence: PEPs	2	1	1			
C. Embezzlement of public funds	1					1
D. Terrorist financing	1	2	1			

Even allowing for the different populations, number of NPOs, sizes of economies, levels of development and regulatory capacity, it is clear that different issues are more likely to occur (or be detected) in different parts of the world. Observations include:

- Western Europe is notable for the high levels of tax evasion, avoidance and fraud cases, and for a higher number of observed cases in general.
- Eastern Europe is more likely to note abuses linked to politics.
- Latin America is more likely to note abuses linked to sports, particularly football.
- The Middle East/North Africa and Sub-Saharan African region are significantly less likely to record any type of case.
- Asia and Latin America record the widest range of typologies of abuse.

Four variables are presented as possibly pertinent to the regional variations in the observed cases, namely:

1. The levels of money laundering risk;
2. The level of financial sector development.
3. The level of democratic and press freedom; and
4. The level of corruption.

1. The levels of money laundering risk

The theory: Higher AML risks in general are linked with more observed cases in the NPO sector.

The variable being tested is the level of money laundering risk.

Money laundering risk is measured using the Basel AML Index⁵⁶, published by the Basel Institute of Governance. It provides risk scores based on data from 16 publicly available sources such as the Financial Action Task Force (FATF), Transparency International, the World Bank and the World Economic Forum. The risk scores cover five domains:

1. Quality of AML/CFT Framework
2. Bribery and Corruption
3. Financial Transparency and Standards
4. Public Transparency and Accountability
5. Legal and Political Risks

The most notable feature is a weak inverse correlation between the AML risk ranking and the number of observed cases.⁵⁷ This inverse correlation is most striking at the riskier end of the scale, with just one case observed in the four 'high risk countries'; by contrast, the four 'low risk' countries have 14 cases. The UK, with the most observed cases, is one of only two countries in the world to receive a 'Compliant' assessment on R8 and 'Highly Effective' on IO.10 (see annex 4).

Table 2: Basel AML Index 2020



Country	Ranking	Overall score	Risk
BULGARIA*	138	3.12	High
SPAIN	129	3.66	High
MACEDONIA NORTH*	117	3.98	High
UNITED KINGDOM	116	4.02	High
INDONESIA	96	4.62	Medium-High
CYPRUS	88	4.81	Medium-High
ARGENTINA*	74	5.08	Medium
MOLDOVA	71	5.14	Medium
INDIA*	70	5.15	Medium
MEXICO	68	5.2	Medium
AZERBAIJAN*	66	5.24	Medium
TUNISIA	56	5.4	Medium-Low
JORDAN	35	5.96	Medium-Low
KYRGYZSTAN	27	6.32	Low-Medium
NIGERIA*	14	6.88	Low
KENYA*	9	7.18	Low

* Countries not yet assessed with the fourth-round FATF methodology, limiting comparability. Income and region categories by World Bank.

57. $r = -.39$. This and all following calculations of correlation were calculated using a [Pearson Correlation Coefficient Calculator](#)

2. The level of financial sector development

The theory: More sophisticated financial sectors bring greater money laundering risks to the NPO sector.

The variable being tested is the level of development of the financial sector.

As a proxy, we used the Global Financial Centres Index (GFCI), developed by the Z/Yen Group and the China Development Institute. This ranks 114 cities on an aggregate of indices from five key areas:

1. Business environment
2. Financial sector development
3. Infrastructure factors
4. Human capital
5. Reputation and general factors

The highest ranked city for each country was used. Seven countries did not have a ranking city and were rated zero.

There is a moderate correlation between observed cases and the countries rating on GFCI⁵⁸, but these figures may be skewed by the UK which dominates in both metrics measured here.

Nevertheless, there appears to be a strong correlation between a highly developed financial sector and typologies relating to tax evasion, avoidance and fraud. The top five countries on this index account for eight of the nine cases under typology 5 'Tax evasion, avoidance and fraud'. It is observed above that these are the most complex and the most lucrative of the typologies.

Table 3: Global Financial Centres Index

Country	City	Rating	Typology 5
United Kingdom	London	743	5
Spain	Madrid	683	1
India	Mumbai	599	
Mexico	Mexico City	595	1
Argentina	Buenos Aires	571	1
Indonesia	Jakarta	567	-
Bulgaria	Sofia	565	-
Cyprus	Cyprus	561	-
Kenya	Nairobi	520	-
The other six		-	1

3. The level of democratic and press freedom

Theory. The number of observed cases is linked to the level of democratic development and press freedom.

Democratic development is measured using the Economist Intelligence Units Democracy Index⁶⁰. The Index is based on sixty scores given in five categories:

1. Electoral process and pluralism
2. Civil liberties
3. The functioning of government
4. Political participation
5. Political culture

Based on their scores, each country is classified as one of four types of regime: full democracy, flawed democracy, hybrid regime or authoritarian regime.

Press freedom is measured using Reporters Without Borders Press Freedom Index⁶¹. The index is calculated on seven criteria:

1. Pluralism
2. Media Independence
3. Environment and Self-Censorship
4. Legislative Framework
5. Transparency
6. Infrastructure
7. Abuse

An analysis of the data on democratic development found a moderate negative correlation between low levels of democracy and the likelihood of a case being observed.⁶² Using the Index's classifications, we observe that cases are more likely to be observed in democracies than in authoritarian or hybrid regimes.

Table 4: Analysis of cases across democratic classifications

Classification (rating)	Countries	Cases	Average
Full democracies (0-4)	2	13	6.5
Flawed democracies (4-6)	7	18	2.7
Hybrid democracies (6-8)	5	3	0.6
Authoritarian (8-10)	2	1	0.5

No overall correlation is clear for press freedom.⁶³ Cases were observed across this metric, including in three of the four worst performers on this metric. Most cases overall are observed in the UK (third on this metric) and India (second last).

58. Z/Yen Group and the China Development Institute's Global [Financial Centres Index](#).

59. $r = .72$. Excluding sports typologies.

60. The Economist Intelligence Unit [Democracy Index](#).

61. [Reporters Without Borders Press Freedom Index](#).

62. $r = -.57$. Excluding sports typologies

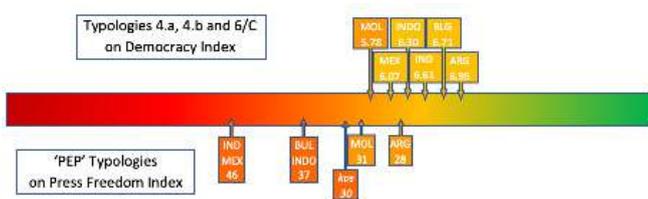
63. $r = .06$. Excluding sports typologies

Table 5: Analysis of cases across democratic classifications

Classification (rating)	Countries	Cases	Average
Good (0-15)	-	-	-
Satisfactory (15-25)	3	12	4
Problematic (25-35)	7	13	1.9
Difficult (35-55)	6	13	2.2
Very Serious (55+)	1	0	0

A more nuanced analysis focuses on typologies 4.a ('Circumventing Financial Controls: Political motivations'), 4.b ('Circumventing Financial Controls: Monetary controls') and 6/C ('Vehicle for Embezzling Public Funds'). These typologies are isolated as they involve PEPs, political activity and/or the corruption of public officials. This covers seventeen cases and seven countries with specific allegations of impropriety.⁶⁴ These countries are clustered very closely on the democracy index, all rating between 5.78 and 6.95, which largely overlaps with the upper half of what are termed 'hybrid democracies' (4-6).

Figure 4: Democracy Index ratings and Press Freedom Index ratings for selected typologies



On 'press freedom', we focused on specific allegations involving a PEP as those most likely to be victims of a controlled press. Such cases are observed in India, Mexico, Argentina, Bulgaria and Indonesia. Amongst non-core countries, this was a case was also observed in Kosovo, which with a score of 30 also fits within this range.

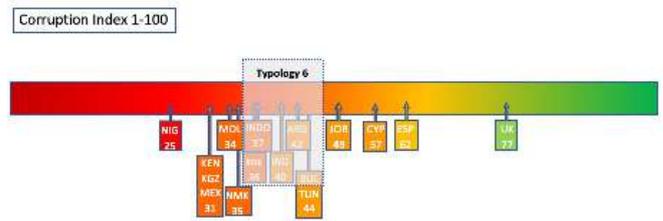
On the democracy index the clustering appears broader, covering ratings from 28-46, largely correlating with 'problematic' and 'difficult' situations. However, the cases involving India and Mexico exclusively involve official investigations of opposition figures amid credible accusations of political motivations. None of the other cases fit this description⁶⁵, and all but one involves allegations made against PEPs in power at the time of the accusation. These four countries (Indonesia, Argentina, Moldova and Bulgaria) are clustered in a band of ratings from 28-37, which largely overlaps the 'problematic' category (25-35).

4. The level of corruption.

Theory: The number of observed cases is linked to the level of corruption

Data on corruption is measured using Transparency International's Corruption Perceptions Index⁶⁶, which measures perceptions of public sector corruption from a survey of experts and businesspeople. A simple categorisation into 'perceived as less corrupt' (rating >50) and 'perceived as more corrupt' (rating <50) is provided.

Figure 5: Corruption Perception Index ratings for studied countries



An analysis of the data on corruption found a moderate negative correlation between levels of corruption and the likelihood of a case being observed for all countries.⁶⁷ A specific analysis of typology 6 and C ('Vehicle for Embezzling Public Funds') finds that these cases are notable for occurring in jurisdictions occupying the middle of the rankings on corruption: the countries represented in typology 6 and C (Argentina, India, Bulgaria, Indonesia) occupy the middle four places in the corruption rankings, with ratings from 37 - 44. Again, the one non-core country with an observed case (Kosovo) also fits into this pattern, with a score of 36.

Zero cases

As noted above, no cases were observed in five countries: Kyrgyzstan, Cyprus, North Macedonia, Nigeria and Kenya.⁶⁸

Cyprus and North Macedonia are the smallest and third smallest countries in the survey, with populations of 1.2 million and 2.1 million. We may expect to see fewer cases in smaller countries.

For the other three, a consistent feature in the analysis is their very poor scores on the five metrics measured above. On all the metrics apart from press freedom, these countries occupy the bottom places in the rankings.

64. We therefore excluded cases #33 and #37 as they had no specific allegations of impropriety.

65. Two cases resulted in charges being laid (Argentina, Kosovo), the others were credible media allegations.

66. Transparency International's [Corruption Perceptions Index](#)

67. $r = -.53$

68. Both North Macedonia and Kyrgyzstan had complex cases of fraud involving NPOs, both of which involved PEPs and subsequent laundering or disguise of the assets. However, in both cases the NPO was the victim, nor the mechanism through which the fraud was enacted.

Table 6: Analysis of four zero cases countries positions in the metrics

Country	Cases	Ranking 1-17 (lowest first)				
		Basel	GFCI	Democracy	Press	Corruption
Nigeria	0	2	1	2	4	1
Kyrgyzstan	0	3	1	3	12	2
Kenya	0	1	1	4	7	2

Possible reasons for this include:

- 1. The abuse is happening, but it is not reported.** This may be because the cases are perceived as security issues and censored by the authorities⁶⁹; because of a lack of a free press; or because of influence on the press by powerful individuals. However, the relatively good scores for the ‘zero cases’ countries on the Press Freedom Index do not support this explanation.
- 2. The abuse is not happening because of effective regulations.** This is not a satisfactory explanation given the low Basel scores for all, and the lack of NPO specific regulation for the three (see below).
- 3. NPOs are more heavily regulated than other sectors.** This will make them comparatively unattractive as vehicles for money laundering. See next section for more analysis.
- 4. Simpler mechanisms for ML are available.** NPOs may be useful for disguising money laundering but would not be needed where simpler

forms of money laundering are undetected.

No sport NPO cases were observed in Bulgaria, Cyprus, India, Jordan, Kenya, Kyrgyzstan, Macedonia, Nigeria, or Tunisia. In addition to the theories above, it is additionally possible that the lack of an established definition of a sport NPO and the difficulty of differentiating between NPOs and professional sports organisations made it more challenging to identify relevant cases.

Clustering

The analysis revealed a common theme of ‘clustering’. That is to say, the evidence that certain typologies follow a ‘goldilocks’ pattern for certain metrics. Specifically, typologies 2, 4 and 6 are observed in those countries that are not too high and not too low on the metrics relating to democracy, press freedom and corruption. ■



There have been multiple connections between the ERW and football fan groups in recent decades both in the UK and globally.

69. A researcher from one of these countries speculated that this might be the case in their jurisdiction.



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Complexity

‘Complexity’ refers to cases where the scheme would not be possible through control of the NPO alone. Four categories of legal entity are identified to note whether they are also under the control of the scheme’s architects.

Separately, cases with cross-border elements were logged.

As before, cases may have more than one scheme, each of which is assessed where the information is available.

The evidence shows that in a significant minority of the observed cases the scheme is structured with the NPO as one part of a larger network. The other entity in the network is most likely to be a company, particularly in the ‘money laundering’ typology (typology 1. and A. ‘Illicit funds, private benefit’).

The second most common associate entity is ‘political party’ which dominates typology 4.a. (‘Circumventing controls: politics’) and sports typology D (‘Terrorist Financing’). It also observed in typology 6 and C (‘Embezzlement of public funds’).

Cross-border elements also occur in a significant minority of observed cases, including in all cases of illicit funding for influence on a PEP.

A feature of complexity, as noted in typology 5 (above), is its cost. Complex, structured schemes are notably correlated with high wealth individuals and high value schemes.

Table 7: Levels of complexity in the observed typologies (15 core countries)

Typology	NPOs	Companies	Political parties	Media	None	Cross-border
1. Illicit funds, private benefit	1	5			3	2
2. Illicit funds, public benefit		1			2	1
3.a. Illicit funds for influence: PEPs					4	4
3.b. Illicit funds for influence: Extremism	1					1
4.a. Circumventing controls: Politics	1		6	3	1	3
4.b. Circumventing controls: Monetary		1			2	1
5. Tax evasion, avoidance, fraud	1	3			8	3
6. Embezzlement of public funds	1	1	2	1	3	1
Unclassified					1	1
A. Illicit funds, private benefit		2				
B. Illicit funds for influence: PEPs		3				
C. Embezzlement of public funds			2		1	
D. Terrorist financing		1	2			2
Total	5	16	12	4	29	18

Complicity

The work of FATF on the related area of terrorist financing abuse of the NPO sector clearly distinguishes between 'legitimate' and 'sham' NPOs in its analysis of the five typologies.

The question of complicity in the observed cases varies depending on the typology. We have estimated the degree of complicity of the NPOs in each typology.

- **'Established' NPOs:** established primarily for use in the scheme.
- **'Captured' NPOs:** architects of the scheme have control of the NPO. They may have initially established the NPO for legitimate purposes.
- **'Legitimate' NPOs:** the architects of the scheme remain external to the NPO, although there may be accomplices in the NPO.
- **'Unaware':** nobody in the NPO has any knowledge of the scheme.
- **'Unknown':** the level of complicity is unknown.
- Some cases have multiple schemes, and where possible each individual scheme is assessed.

The figures show that in a quarter of observed cases, the NPO is unaware that it is being abused for illicit purposes. In five cases, that relates to the unusual situation of NPOs being named as beneficiaries of illicit funds. The other major cause relates to tax fraud, where NPOs are named as beneficiaries to access tax deductions but receive no value. In neither case is there a clear regulatory or self-regulatory remedy for the NPO. None of the sport cases involve an NPO that was unaware.

One-third of cases relate to NPOs established for an illicit purpose. For these NPOs, remedies must focus on registration mechanisms, with a particular focus on identifying connections to PEPs, criminals, or potential tax avoidance.

Slightly less than one-third of cases relate to NPOs captured for an illicit purpose. Remedies will require good standards of internal governance within NPOs to reduce the risk of capture or abuse, which in turn will require measures by government to educate on these standards and encourage their adoption.

Table 8: Levels of complicity in the observed typologies (15 core countries)

Typology	Established	Captured	Legitimate	Unaware	Unknown
1. Illicit funds, private benefit	4	4		1	
2. Illicit funds, public benefit				5	
3.a. Illicit funds for influence: PEPs	2			2	
3.b. Illicit funds for influence: Extremism	1				
4.a. Circumventing controls: Politics	6	4			
4.b. Circumventing controls: Monetary		1	2	2	
5. Tax evasion, avoidance, fraud	6	4	1	6	
6. Embezzlement of public funds	2	6	1		
Unclassified				1	
A. Illicit funds, private benefit	1	1	1		
B. Illicit funds for influence: PEPs	2	1	1		
C. Embezzlement of public funds	1		1		
D. Terrorist financing	3	1			
Total	29	25	7	17	1

Specificity

There is a common approach to the addressing of some forms of illicit financial abuse of NPOs across all jurisdictions. Partly this is due to FATF, which has led to consistency in the treatment of money laundering as a predicate offence and, increasingly, in the treatment of beneficial owners.

However, other laws and regulations specific to a jurisdiction can have a particular effect on the prevalence or impact of illicit financial activity. Six such specific laws and regulations have been identified, and their impact on the typologies are logged below.

Not surprisingly, typologies relating to monetary controls and tax evasion are well-represented here.

These cases are isolated because they are by the nature specific to the jurisdiction in which they occurred, and the solutions to them will also be jurisdiction-specific. The transferability of the lessons from these cases is limited.

For half of these cases, a notable feature is that the laws, regulations or practices themselves are not NPO-specific, but relate to all legal entities. In these cases, consideration of remedies will also need to consider the broader impacts of the laws on other entities. The exceptions are the UK tax laws and the Indian FCRA.

A second feature relevant to all of these cases (at least in part) is that the relevant competent authority is not the NPO regulator. This may be a factor in reducing the effectiveness of the laws or their implementation.

Table 9: Observed cases which relate to a specific law or regulation

Specific law or regulation	Relevant cases #	Typologies	Competent authority
Argentina: currency control regulations	4	2. Illicit funds, public benefit 4.b. Circumvention of controls: Monetary controls	Banco Central de la República Argentina (Argentina Central Bank)
UK: Gift Aid laws – tax rebate to NPO ⁷⁰	5, 30, 31	5. Tax evasion, avoidance and fraud	HM Revenue and Customs / Charity Commission
UK: Business rate relief for NPOs	33	5. Tax evasion, avoidance and fraud	Local authorities / HM Revenue and Customs
India: 2016 banknote demonetisation	10	4.b. Circumvention of controls: Monetary controls	Federal Reserve of India
India: Foreign Contributions Regulations Act	11	4.b. Circumvention of controls: Monetary controls	Enforcement Directorate of the Ministry of Finance
Moldova: Implementation of political funding regulations	25, 26	4.a. Circumvention of controls: Political	Ministry of Justice / Central Election Commission

70. Also relevant are the US tax laws and regulation in relation to donations of art (see case #38), although the US is not one of the core countries under consideration here

HARM

Harm takes two forms – financial and reputational.

Financial Harm.

In the first case, we are examining the direct quantifiable financial impact of the scheme on the NPO. In this table:

- **‘Gain’**: the NPO obtained additional revenues for its public benefit purposes. Some funds may have been used for other purposes, but overall the funds for spending on good causes increased.
- **‘Gain neutralised’**: an initial gain was returned or refused.
- **‘Neutral’**: no net impact. Either no funds were received, or all illicit funds passed through the NPO.
- **‘Loss’**: the NPO lost money. Includes cases where there was a loss as a result of additional administrative or legal costs.

Notably, most cases resulted in no-financial loss to the NPO, with sports NPOs perhaps less likely to face a loss. A small plurality of cases resulted in a benefit. This is explained by the needs for the NPO in some of these schemes to appear legitimate, a particularly notable feature of the ‘political’ typologies (3.a, 4.a, B and D). Remedies focussing on the application of funds will be of less use in detecting or preventing these forms of abuse.

The other notable feature is that ‘neutral gain’ is a significant feature in typologies 1 (‘Illicit funds, private benefit’) and 5 (‘Tax evasion, avoidance and fraud’). This illustrates how NPOs are often ‘shells’ in these schemes. This points towards remedies focussed on the controller/managers of an NPO and conflicts of interest.

Table 10: Impact of the scheme on the NPO’s spending on public benefit purposes

Typology	Gain	Gain neutralised	Neutral	Loss	Unknown
1. Illicit funds, private benefit	1		6	1	
2. Illicit funds, public benefit		1		1	
3.a. Illicit funds for influence: PEPs	4	1			
3.b. Illicit funds for influence: Extremism	1				
4.a. Circumventing controls: Politics	6		1		1
4.b. Circumventing controls: Monetary	3				
5. Tax evasion, avoidance, fraud	6		8		
6. Embezzlement of public funds	1		3		2
Unclassified				1	
A. Illicit funds, private benefit				2	1
B. Illicit funds for influence: PEPs	2				1
C. Embezzlement of public funds				2	
D. Terrorist recruitment	3				1
Total	26	2	18	7	6

Reputational Harm

The second form of harm is reputational and is not so easily quantifiable either in terms of prevalence or impact.

The notable factor here is that reputational harm is not restricted to the compromised NPO. A very small number of illicit activities by NPOs can lead to a widespread perception that the entire sector is corrupt. As an example, typology 4b (above) reflects on the widespread mistrust of NPOs in India.

Whilst quantifying reputational damage is hard, it is undeniable that it has tangible impacts. It can directly and deeply affect the finances, operations, and even security of an NPO. With only a few cases from the sector, their reputations – and the associated public confidence – built up over many years, could be seriously affected.

Individual NPOs can do much to protect themselves through effective risk management. Relevant measures in relation to the typologies here include understanding the risk of each typology, the NPO's exposure to it, and crafting an appropriate internal response.

However, the authorities will have a role in preventing or mitigating damage caused to the sector as a whole by the actions of a small minority of rogue actors. This includes effective legal and regulatory frameworks, the development, promotion and support of best practices in partnership with the sector, and in careful public messaging when cases of criminality are exposed.

Sport as a sector should be considered separately. In reputational terms there is probably not a clear distinction between sport NPOs and professional sport organisations. The 'sports' status of sports NPOs is generally more prominent than the 'NPO' status. Sporting scandals of various types pose a serious threat to the integrity of sports NPOs, ranging from financial corruption to doping, match-fixing, athlete harassment and abuse, and "sport-washing" by authoritarian regimes. Criminal cases and apparent criminal infiltration involving sports bodies, whether NPOs or professional sport organisations are severely damaging to the reputation of sport. ■



Criminal cases and apparent criminal infiltration involving sports bodies, whether NPOs or professional sport organisations are severely damaging to the reputation of sport



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11. REGULATORY RESPONSE

MONEY LAUNDERING REGULATIONS

■ Global Standards

The Financial Action Task Force (FATF) is the global standard-setter on money laundering and terrorism financing.

FATF's Recommendation 8 and Immediate Outcome 10 (in part) set requirements for jurisdictions to follow in relation to NPOs. Crucially, these requirements relate solely to terrorist financing. Neither Recommendation 8 nor Immediate Outcome 10 are intended to address money laundering risks.

The FATF anti money laundering (AML) standards are a part of Recommendations 10, 11, 20, 22, 23, 24. The recommendations on money laundering cover issues such as proper implementation of international conventions, criminalising certain activities, due diligence and verification (KYC), establishing a Financial Intelligence Unit (FIU) and the collection, retention and sharing of data. Some of these requirements apply to the regulation or monitoring of all legal entities, which would encompass relevant NPOs.

Underlying all FATFs recommendation is the 'Risk-Based Approach' (RBA). The focus on a risk-based approach emphasises proportionate, targeted and effective compliance measures. This applies to all measures taken by government.

In practice, this has meant that countries can no longer adopt broad regulations that affect all NPOs by claiming the whole sector is at risk. Instead, countries must use a risk assessment process to identify specific NPOs at risk and then take appropriate legislative action or other measures, proportionate to the risk and targeted only to those NPOs found at risk. Furthermore, it requires jurisdictions to respect interna-

tional law and avoid over-regulation of NPOs.

So far this has had most relevance in relation to Recommendation 8, and the requirement to do a risk assessment of the specific terrorist financing risk to the NPO sector. However, it follows that the principle would also apply to how states would deal with any other money laundering risks or AML measures in relation to the NPO sector. States would be expected to gather evidence from intelligence and information about the forms and methods through which money launderers use non-profits to demonstrate that any mitigating measures are targeted at a known risk.

Finally, FATF has clarified in its Best Practices Paper⁷¹ on Recommendation 8 that NPOs should not be treated as 'obliged entities' for money laundering purposes.

"35. Countries should establish appropriate mechanisms to ensure that, when there is suspicion that a particular NPO is being abused by terrorists, this information and any other relevant information are promptly shared with relevant competent authorities, in order to take preventive or investigative action. This does not mean that the FATF Recommendations require countries to impose a suspicious transaction reporting obligation on NPOs, along the lines of Recommendation 20. NPOs are not considered designated non-financial businesses and professions (DNFBPs) and should therefore not be subject to the FATF requirements for DNFBPs."

■ Regional Standards - European Union

The European Union currently has the most elaborate regional framework for AML. EU Directive 2015/849, 2015⁷² (often referred to as the 4th AMLD or AMLD4) is a part of robust European Union legislation to fight against money laundering and terrorist financing. Like the FATF standards, it requires states to take a risk-based approach.

The EU Directive sets out a long list of 'obliged entities' which are covered by the Directive. This does not include NPOs. However, Article 4 of the Directive allows States "in accordance with the risk-based approach" to extend the list of obliged entities to categories of undertakings "which engage in activities which are particularly likely to be used

71. *Best Practices Paper on Combating the Abuse of Non-profit Organisations (Recommendation 8)* (FATF, 2015)

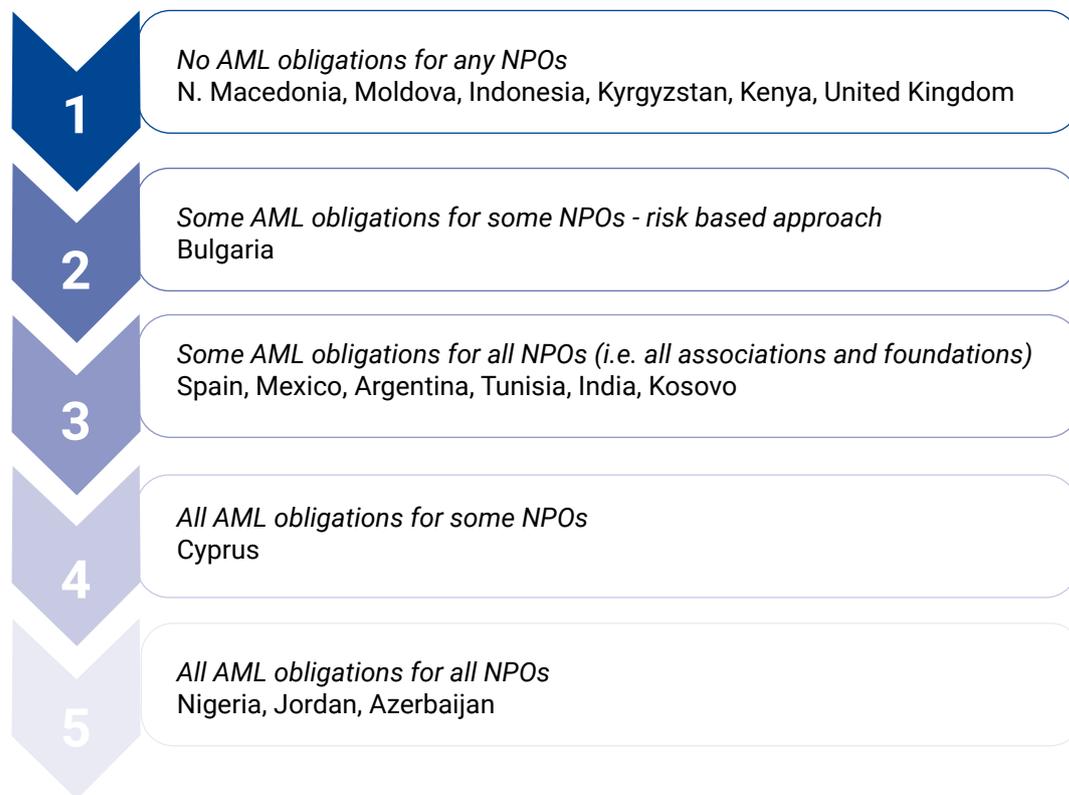
72. *Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing*

for the purposes of money laundering or terrorist financing”.

As can be seen from the texts cited, the addition of categories of persons and activities other than those listed in the Directive should be based on a proven probability or risk that they will be used for money laundering or terrorist financing. Therefore, the inclusion of NPOs as obliged entities can only be based on the risk-based approach, after a specific risk assessment has been conducted to identify those at high risk of money laundering abuse. In other words, it cannot be applied indiscriminately to all NPOs.

Under the EU Directive, the proposed law must also comply with the EU Charter of Fundamental Rights, which includes freedom of association. The blanket inclusion of all (or generic groups of) NPOs interferes with this right because it provides disproportionate and burdensome obligations for exercising this right freely. Moreover, any sanctions for non-compliance would be disproportionate in the absence of evidence of risk in these organizations. Whilst a government is allowed to limit rights in public interest, these limits must not exceed the absolute necessary measures

Table 11: A list of national AML obligations on NPOs



■ National Standards

The regulatory framework on money laundering and NPOs for all seventeen jurisdictions covered by this report were reviewed. Every one of them had some form of AML regulation in their legal framework. However, there was great diversity in the specific AML obligations imposed on NPOs. A selection of the analysis is provided below.

It was observed that some jurisdictions apply AML regulations to the NPO sector inconsistently, and in some cases in ways that are clearly

beyond the requirements of the international standards. This includes examples of some or all NPOs being made ‘obliged entities’ for AML purposes, with no risk assessment cited as justification for such an approach. As noted above, this is contrary to the risk-based approach and the requirements of FATF, AMLD4 and other regional instruments.

■ Bulgaria

AML requirements for the NPO sector in Bulgaria are based on the NPO's annual financial turnover or assessment of risk.⁷³ All NPOs with an annual turnover exceeding BGN 20,000 (€10,000) (regardless of risk), and any NPO which determines that there is a risk of the activity of the organisation being used for money laundering or financing of terrorism (self-assessment), are obliged to meet the following requirements:

- Undertake an internal organisational risk assessment, using a methodology provided by the State Agency for National Security⁷⁴;
- Adopt internal rules for the control and prevention of money laundering and financing of terrorism, based on a template published by the State Agency for National Security;
- Appoint a person responsible for the Internal control over the fulfilment of obligations under the law. The contacts of this person must be provided to the State Agency for National Security.

At the time of writing, no risk assessment of the NPO sector had been done.

■ Spain

In Spain, all foundations and associations are subject to the obligations from the AML legal framework⁷⁵ that include:

- Identification of beneficiaries: identity of all people who receive funds or resources free of charge. When the nature of project or activity makes individualized identification unfeasible or when the activity carried out entails a low risk of money laundering or financing of the terrorism, they can identify the group of beneficiaries and the counterparts or collaborators in the project or activity.
- Identification of donors: identify and verify the identity of all the people who contribute funds or resources for an equal or greater amount free of charge to 100 euros.
- Implement procedures to guarantee the suitability of the members of the governing bodies and other positions of responsibility of the entity.
- Apply procedures to ensure the knowledge of their counterparts, including their adequate professional career and the honourability of the persons responsible for its management.
- Apply adequate systems, depending on the risk, to control the effective execution of its activities and of the application of the funds as planned.
- Keep for a period of ten years the documents or records that prove the application of funds in different projects.
- Inform the Executive Service of the Commission of the facts that may constitute indication or proof of money laundering or terrorist financing.

The law includes the possibility to extend the scope of the obligations for the NPO sector, taking into account the risks to which the sector is exposed. However, it is not clear that existing obligations have been allocated to the NPOs in a proportionate manner based on the found risks, since they include "one size fits all" measures.

73. Measures Against Money Laundering Act (MAMLA), adopted March 2018, as amended January 2021 <https://www.lex.bg/bg/laws/ldoc/2137182924>

74. <https://www.dans.bg/bg/msip-091209-menu-bul/kritsum-mitem-bul>

75. Law 10/2010, of April 28, on the prevention of money laundering and terrorist financing and its Regulation, approved by Royal Decree 304/2014, of May 5. <https://v7lcpibh7vcwryvrv2cj5nhwb4--www-sepblac-es.translate.goog/es/sujetos-obligados/preguntas-frecuentes/>

■ Tunisia

All associations (which includes all non-profit organisations) in Tunisia must adopt the following management rules⁷⁶:

- Refrain from receiving any donations or subsidies whose origin is unknown or coming from illegal acts that the law qualifies as an offense or crime or coming from natural or legal persons or organisations or bodies involved, inside or outside the territory of the Republic, in activities related to terrorist offenses.
- Refrain from receiving any contributions whose value is greater than 500 TND, or €160.
- Refrain from receiving any donations or other forms of financial assistance, whatever the amount, except exception provided for by the Law on Associations.
- Refrain from receiving any goods from abroad without the assistance of an approved intermediary residing in Tunisia, provided that the legislation in force does not prevent it.
- Refrain from receiving any money in cash whose value is greater than or equal to 500 TND, or €160, even by means of several payments likely to present links.

It remains unclear how the existing obligations correspond in a proportionate manner to the risk assessment of Money Laundering, considering they include “one size fits all” measures. Some requirements might not be in line with the international standards of freedom of associations, which includes access to resources for legitimate associations.

■ Cyprus

Most NPOs in Cyprus, namely the “administrative bodies of associations, foundations, federations and/or unions”⁷⁷, must comply with and implement the provisions of the Law on the prevention and suppression of money laundering and terrorist financing⁷⁸. The same obligations that apply for other legal entities under the AML Law apply for most types of NPOs, with no evidence that this measure is based on a known risk or is proportionate to the scale of that risk.

■ Azerbaijan

All NPOs in the jurisdiction are under all obligations from the Law on the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism.⁷⁹ This law includes obligations to:

- Set up internal control system.
- Identify and verify “clients”.
- Inform the financial intelligence unit about suspicious transactions and operations.

Azerbaijan has not undertaken a risk assessment of the NPO sector. There is no evidence that these regulations are based on or targeted at a known money laundering risk.

76. [Law](#)

77. Law Amending the Associations and foundations Laws of 1972 and 1997 and repealing the Law on registration of Clubs, Law. 104 (I)/2017, as amended (2018, 2019, 2020). (the new NPOs Law) 14/07/2017.

78. [Prevention and Suppression of Money Laundering Activities Laws of 2007 to 2019](#)

79. [Law](#)

■ United Kingdom (England and Wales)

There are no specific legal obligations on charities (NPOs) in relation to money laundering. There is a general fiduciary duty on trustees to protect a charity's assets against any potential abuse, which would include money laundering.

*"Charity trustees have a legal duty to take all necessary steps to protect their charity's funds and assets from misuse, and to comply with the general law on fraud and financial crime. The starting point is to make sure that the charity's governance framework includes good, robust financial controls together with effective risk assessment and due diligence."*⁸⁰

Specifically in relation to money laundering risks, the Charity Commission advises the following:

*"Internal financial controls are essential checks and procedures that help to safeguard against money laundering. It can be hard for a charity to detect that it is the innocent victim of money laundering, so an initial assessment of the type of money laundering risks that might affect the charity's activities, and what this would mean to the charity's finances and reputation, should help to determine the level of anti-money laundering procedures that is appropriate."*⁸¹

The UK's National Risk Assessment of Money Laundering and Terrorist Financing stated that the "NPO sector is not attractive for money laundering and assesses the risk to be low."⁸²



Legal obligations on charities (NPOs) in relation to money laundering vary from one country to another.

80. 'Compliance Toolkit: Protecting Charities from Harm - Chapter 3, Fraud and Financial Crime' Charity Commission for England and Wales, 2017

81. Ibid, Section G1.

82. "National risk assessment of money laundering and terrorist financing 2020" HM Government, 2020.

DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS (DNFBPs)

■ Global Standards

Designated Non-Financial Business or Professions are a specific and narrowly defined list of legal entities, other than banks or similar financial services providers, which are considered to be at greater risk of money laundering abuse. It consists of money transfer services, casinos, real estate agents, dealers in precious metals and stones, lawyers, notaries, accountants, and trust and company service providers.

FATF and other authorities impose specific additional requirements on DNFBPs because of the greater money laundering risk. They are often designated as 'obliged entities'.

As noted above, FATF is explicit that NPOs are not DNFBPs and should not be treated as DNFBPs. FATF's Best Practices Paper on Combating the Abuse of Non- Profit Organisations states:

"This does not mean that the FATF Recommendations require countries to impose a suspicious transaction reporting obligation on NPOs, along the lines of Recommendation 20. NPOs are not considered designated non-financial businesses and should therefore not be subject to the FATF requirements for DNFBPs."

This reflects the recognition that there is no concrete evidence or research that shows that the non-profit sector is more vulnerable to AML abuse as a whole than other non-DNFBP legal entities.

Accordingly, some of the obligations on DNFBPs are incompatible with the nature of NPOs. For example, provisions that are designed clearly for profit and professional entities, such as the detailed due diligence requirement for their "customers" (which NPOs do not have).

■ National Standards

Legal requirements which impose DNFBP status on some or all NPOs have been observed in five jurisdictions, namely Azerbaijan, Mexico, Kenya, Nigeria and Indonesia⁸³. It is not clear on what basis or standards this designation is made.

■ Nigeria

The legal framework treats NPOs in the same way as financial institutions, lawyers and real estate agencies.⁸⁴ These obligations include, among others:

- Limitation to make or accept cash payment by persons or body corporate in excess of 5 million (For individuals) or 10 million (body corporate), except through a financial institution.
- Duty to report international transfer of funds and securities. Transportation of cash or negotiable instruments in excess of US\$10,000 or its equivalent by individuals in or out of the country shall be declared to the Nigerian Customs Service.
- Identification of customers and customer due diligence.
- Cash transaction reporting in excess of US\$1,000.
- Requirement to submit suspicious transaction reports to FIU.
- Preservation of records – records of a customer's identification and financial information for a period of at least 5 years.
- Raising awareness among employees of DNFBP

83. In Indonesia only "trustee" and "micro-finance" institutions are mentioned, which could include NPOs.

84. [Money laundering prohibition act 2011 \(as amended\)](#) | [SCUML regulation 2013](#) | [Economic and financial crimes laws](#) | [SCUML Regulations and DNFBs 2016](#) | [AML/CFT Regulations for designated non-financial business and professionals in Nigeria \(SCUML regulation 2016\)](#)

BENEFICIAL OWNERSHIP (BO) REGULATIONS

■ Global Standards

Beneficial Owners are defined by FATF as “the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.”⁸⁵

Requirements relating to beneficial owners are set out in Immediate Outcome 5 and Recommendations 24 and 25. Immediate Outcome 5 reads:

‘Legal persons and arrangements are prevented from misuse for money laundering or terrorism financing, and information on their beneficial ownership is available to competent authorities without impediments’.

The FATF states in its Beneficial Ownership Best Practices paper that:

“As stated in Interpretative Note to R.24, countries should use one or more of mechanisms (the Registry Approach, the Company Approach and the Existing Information Approach) to ensure that information on the beneficial ownership of a company is obtained by that company and available at a specified location in their country; or can be otherwise determined in a timely

manner by a competent authority.”

This means that certain information needs to be available on all legal entities, although it does not necessarily require a public register specifically of beneficial owners.

These requirements apply to all legal entities, and as such are currently the AML requirements most likely to impact NPOs. However, implementation of these requirements can lead to problems for NPOs due to confusion between terms, the unique philanthropic mandate of NPOs, and its consequent impact on its legal form and financial structures.

In particular, NPOs do not have ‘beneficial owners’ in the common use of the word. NPOs use their revenues to further their objectives, and are often legally prohibited from distributing their income to the organization’s shareholders, leaders or members.

NPOs do have ‘beneficiaries’. However, this is often a nebulous group (‘the public’), and in many jurisdictions is prohibited from exercising control over the assets of the NPO.

These distinct meanings of ‘beneficiary’ and other terms⁸⁶ need to be clearly understood for beneficial ownership regulations to be applicable to NPOs.

■ Regional Standards - European Union

The Fourth EU Anti Money Laundering Directive⁸⁷ requires “publicly available” registers of beneficial owners of all legal entities. The Fifth EU Anti Money Laundering Directive extended this level of transparency so that any member of the general public can have access to parts of the register information, and in the case of trusts and similar legal

arrangements, can have access to all parts of the register if they have a legitimate interest.

Article 3 Paragraph 6 of AMLD4 guides countries to identify the controllers of an entity if it is not possible to determine a “beneficial owner”.

85. <https://www.fatf-gafi.org/glossary/>

86. In common law countries, there are also potential confusions over the meaning of the terms ‘trusts’ and ‘trustees’ in the different contexts.

87. Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

88. Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

■ National Standards

Requirements for the disclosure of beneficial ownership by NPOs is being increasingly observed.

As noted above, the application of beneficial ownership rules to NPOs can cause problems if the terms are misunderstood. In most jurisdictions there is a unified approach of defining the beneficial owners of an NPOs as the 'controllers' of the NPO. The 'controllers' are those in the NPO who are responsible for its functioning and for ensuring that it is not misused for anything other than its mandate. The following specific designations of beneficial owners have been observed:

- Representatives of the governing body (for associations).
- Members of the supervisory body (including the founder with reserved rights) (for foundations).

- The senior managing official or the official representative of the NPO (any type).
- The trustees (common law countries).

This information is usually available with competent authorities as part of standard non-profit registration and licensing procedure for tax purposes (exemptions), and therefore additional requirements for NPOs are not necessarily required under the Existing Information Approach.

However, two jurisdictions were observed not to have specific guidance or legal definitions of BOs for the non-profit sector (Jordan and Moldova). Moreover, two other jurisdictions have no BO requirement in their legal framework (Kyrgyzstan and Kenya).



The Fourth EU Anti Money Laundering Directive⁸⁷ requires "publicly available" registers of beneficial owners of all legal entities.

AML AND SPORTS ORGANISATIONS

Of the seventeen surveyed countries, only Argentina has a specific law or regulation for sports organisations in relation to money laundering or associated risks. Resolution 32/2012 establishes the measures and

procedures for the Argentine Football Association to prevent, detect and report the facts, acts, operations or omissions that could constitute crimes of Money Laundering and Terrorism Financing.

Analysis

There are no clear connections between the cases observed, the types of abuses detected and the existing jurisdiction regulation. Cases observed indicate a much broader normative and regulatory base than the AML legal framework. Essentially, there is no evident connection between the type of regulation or lack of and observed typologies.

This points to the disconnect of existing AML regulatory efforts from the actual practice in cases and leads to the conclusion that analysed regulatory efforts are based on assumptions, rather than assessed risks or cases. As mentioned in the European Commission report from 2008⁸⁹ (mentioned above), regulatory reactions to ML might be based mostly on conventional wisdom.

Such a conclusion is further confirmed by analysis of the National Risk Assessments (NRA). NRAs were available for eleven of the seventeen surveyed countries.⁹⁰ Analysis of these assessments shows:

- Six out of eleven don't include findings on the Money Laundering risk for the NPO sector
- Four of the NRAs rate the money laundering risk of NPOs as low or low-medium.
- One NRA rated the risk as Medium-High.

However, there was often an observable disconnect between the ML risk noted in the NRA and the regulatory action taken by the authorities.

For example, Cyprus noted that:

“the overall ML/TF risk of the NPO sector is assessed as Medium-Low since there is no evidence or case law for its abuse for ML and TF.”⁹¹

Similarly, Mexico assesses risk of receiving donations as low-medium.⁹² Yet, both Cyprus and Mexico have very stringent AML regulations for the NPO sector.

Nigeria assessed its ML risk to NPOs as medium-high. Yet, its NRA noted *“the abuse of NPOs for ML may seem to be potentially low”* and *“there are no available data on cases, assets frozen, seized or confiscated in relation to money laundering”*. Our own research failed to uncover a single credible allegation of money laundering in the NPO sector. It remains unclear how the NRA findings support the ‘medium-high’ assessment as the analysis does not present evidence.

The United Kingdom’s NRA assessed the money laundering risk to NPOs as ‘low’. Notably, it imposes no specific AML obligations on NPOs beyond the general fiduciary duty for trustees and provides guidance for NPOs on how to assess their own ML risk, and how to respond to any risk that is identified. This is a good example of a targeted and risk-based approach in practice.

However, an overall comparison of the analysed cases and jurisdiction legislation does not establish any link between the level or nature of the observed money laundering risks and the legislative measures taken to mitigate the risks. It is not clear how some of the regulatory measures in jurisdictions have been justified with the required risk-based approach and nuanced risk assessment of the NPO sector.

89. “The survey does not make it clear whether this perception of money laundering as a large risk was merely a conventional wisdom accepted without independent evidence. This possibility cannot be excluded.”

90. NRAs from 11 surveyed countries were available for analysis.

91. <https://eimf.eu/wp-content/uploads/2018/12/National-Assessment-of-Money-Laundering-and-Terrorist-Financing-Risks.pdf>

92. <https://www.pld.hacienda.gob.mx/work/models/PLD/documentos/enr.pdf>



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ANNEXES



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Regulatory actions

	Named motivations		Risk management	Due diligence	Fund transfers	Reporting entity?	Report funds	Registration requirements	Restrictions on bank accounts	Beneficial Ownership	Exceptional treatment	Comments
	ML	TF										
Jordan												Forbids dealing with anonymous people
Pakistan												Guidelines issued on best practices.
India												Relates to transfer of funds to non-registered NPOs.
Nigeria												Additional register with FIU
Kenya												Personal bank a/c checked at registration
Bulgaria												
Mexico*												Draft law

■ Annex 2: Case Studies (NPOs)

#	Country	Alleged Issues
1	Argentina	Circumventing Financial Controls: Political motivations Vehicle for Embezzling Public Funds
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The cases should be recorded on a single shared excel spreadsheet. A link to the spreadsheet will be provided. Please complete in English. Guidance on completing the form is provided below

1	Circumventing Financial Controls: Political motivations Vehicle for Embezzling Public Funds	ARGENTINA
<p>Two city government officials and the chair of an NPO were charged with fraudulently diverting funds from the city government to an NPO established to support their political party's objectives and campaigns.</p> <p>Hernán Lombardi (Minister for Culture for Buenos Aires), Facundo De Almeida (Member of the Council for Cultural Promotion of the City of Buenos Aires), and Matteo Goretti (president of the Pensar Foundation) were charged in 2015. The prosecutors alleged that they had engineered a scheme involving an NPO, the <i>Centro de Estudios de Políticas Públicas Aplicada</i> ("Center for Studies of Applied Public Policies") (CEPPA), and a political think tank, the <i>Fundación Pensar Argentina</i>, both of which were chaired by Mr Goretti. They charged that Mr Lombardi approved funds of 1.3m Pesos (€11,400) to CEPPA, and that these funds were not applied for the intended cultural purposes but were instead donated to the <i>Fundación Pensar</i> to support the political activities and campaigns of the political party of which Mr Lombardi and Mr Goretti were members.</p> <p>The case remained under investigation in 2019.</p>		
Source(s)		Article in Fiscales (Spanish) Article in Infobae (Spanish)
2	Vehicle for Embezzling Public Funds	ARGENTINA
<p>A high-profile human rights NPO was used to facilitate the embezzlement of government funds.</p> <p>The <i>Fundación Madres de Plaza de Mayo</i> ("Association Mothers of Plaza de Mayo") implemented <i>Sueños Compartidos</i> ("Shared Dreams"), a major federal housing programme. It has been established that between 2008 and 2011, more than 200m Pesos (€1.7 million) were fraudulently diverted from the scheme which was funded by the Ministry of Public Works. The charges claim that the stolen funds were channelled to various individuals and companies in a manner designed to disguise their trail.</p> <p>The Programmes Chief Financial Officer, Sergio Schoklender, and his brother Pablo, were indicted for the fraud and subsequent laundering of proceeds in 2017, along with two public officials. Numerous others were charged for facilitating the laundering of the funds, for failure in public duties, and for failing to oversee the scheme. Those charged include elected officials and other PEPs, including the leader of the NPO and her daughter.</p> <p>It is not yet established whether key individuals within the NPO were complicit or merely failed to exercise proper oversight. The indictment specifically stated that the scheme exploited the prestige and the trajectory that the <i>Fundación Madres de Plaza de Mayo</i> has in the area of the defence of human rights. Court proceedings were ongoing in 2020.</p>		
Source(s)		Article in Infobae (Spanish) Notice of Indictment (Spanish)
3	Laundering Illicit funds for Private Benefit	ARGENTINA
<p>An NPO formed part of a complex web of entities laundering funds from drug trafficking. Carlos Salvatore, his wife, father-in-law and partner were all found guilty of laundering the funds in 2019. The laundering operations also included the use of a non-profit organization called <i>Fundación Salvatore para el Estudio e Investigación de Enfermedades, Tratamientos y Recuperación de Pacientes</i> ("Salvatore Foundation for the Study and Investigation of Diseases, Treatments and Recovery of Patients"), whose stated purpose was to carry out academic activities, diagnosis, rehabilitation and social reinsertion of patients, among others.</p> <p>The Court judgement found that the Foundation has been established solely to facilitate money laundering as "<i>part of the group of companies and societies that were set up to disguise the money coming from illicit activities</i>". The convicted four constituted the three Board Members and treasurer of the Foundation. The founding donation of \$125,000 (€105,000) was of illicit origin, as were donations of a car and two further cash donations totalling \$600,000 (€502,400). One of the defendants admitted that the Foundation had no activity. Tax returns state that the Foundation had assets of £125,000 (€105,000) in 2011, but zero assets in subsequent years.</p>		
Source(s)		Article in Fiscales (Spanish) Resolution issued in the proceedings: Principal in Oral Tribunal T001 - DEFENDANT: SALVATORE, CARLA YANINA AND OTHERS s//. YANINA AND OTHERS s//INFRINGEMENT ART. 303 INC. 3 QUERELLANT: UIF - FEDERICI, MARIANO ALBERTO ET AL.

4	Laundering Illicit funds for Philanthropic Reasons Circumventing Financial Controls: Monetary controls	ARGENTINA
<p>A complex money laundering scheme to exploit foreign exchange controls allegedly utilised two foundations.</p>		
<p>Five people were convicted in relation to the scheme, which allegedly fabricated 36m (€315,000) pesos of imports to obtain US dollars at the official market rate and illegally sent them overseas. The bill of Indictment charges that two foundations were amongst a large number of legal entities utilised to launder the funds, being the <i>Fundación Nuestra Señora de Luján</i> and <i>Fundación Nuestra Señora del Rosario</i>. Both are established and legitimate religious NPOs focussing on education and healthcare respectively. The specifics of their involvement in the alleged criminal scheme have not been elaborated.</p>		
Source(s)	<p>Article in (Spanish)</p> <p>Bill of Indictment San Nicolas, March 28 2018 Case No. FRO. 12598/2016 of the Registry of the Secretariat No. 2 of this Federal Court, entitled "INES JUAN CARLOS JUAN CARLOS AND OTHERS S/ INF. ART. 303 ART. OF THE C.P.";</p>	
5	Tax Avoidance, Evasion and Fraud	BRITISH VIRGIN ISLANDS and others
<p>Leaks suggest that trusts have been established in off-shore tax havens that name legitimate NPOs as beneficiaries to reduce requirements for beneficial ownership and money laundering checks. A leak of 2.5m records relating to more than 120,000 offshore companies and trusts to the International Consortium of Investigative Journalists (ICIJ) identified hundreds of trusts listing established and legitimate NPOs as the discretionary beneficiaries, including Greenpeace, Amnesty International and the British Red Cross. Typically, they receive no funds.</p>		
<p>Reports say that tens of thousands of similar arrangements may have been formed in tax havens with the intention of concealing ultimate beneficiaries.</p>		
<p>Examples include:</p>		
<ul style="list-style-type: none"> - The Carthage Trust (British Virgin Islands) claimed the British Red Cross as its beneficiary, but was a tax evasion scheme for the benefit of actor Paul Hogan; - The Trigon Trust (British Virgin Islands) named UK charities including Cancer Research UK, the National Society for the Prevention of Cruelty to Children and the National Trust. None received funding, and reports allege it is for the benefit of businessman Raheem Brennerman; - The SICC Trust (Cook Islands) named three Italian NPOs as beneficiaries (<i>Lega Italiana per Lotta Aids</i>, <i>Unione Italiana Ciechi</i> and <i>Centro Bambino Maltrattato</i>). The NPOs has no knowledge or the SICC Trust, which reports suggest was established for the benefit of three Italian families. 		
Source(s)	<p>Article in The Times (paywall) (English)</p>	
6	Laundering Illicit funds for Philanthropic Reasons	BULGARIA
<p>An NPO was forced to return a donation to a man who was forced to pay it as part of a ransom.</p>		
<p>Angel and Kamelia Bonchev were kidnapped separately in 2008. After his release, Mr Bonchev was told to pay €157,000 to a foundation that had an advertising campaign on television, which Mr Bonche took to mean <i>утре за всички фондация</i> (the 'Tomorrow for Everyone' Foundation). The following day his wife was released. At first Mr Bonchev stated that the payment was a donation of funds raised by friends for his own release, but later claimed that it was a ransom and demanded the return of his money. The foundation denied that it was made under pressure and fought the case. In 2013 the Supreme Court of Justice annulled the donation contract between Bonchev and the foundation and ordered it to return the money to him with statutory interest from the date of filing the lawsuit.</p>		
<p>The NPO was later investigated by the authorities for money laundering, and claims were made in the media that the Foundation operated on a commercial basis.</p>		
Source(s)	<p>Article in DIR (Bulgarian)</p> <p>Article in Novinite (English)</p> <p>Article in Darik News (Bulgarian)</p> <p>Article in Legal World (Bulgarian)</p>	

7	Circumventing Financial Controls: Political motivations Vehicle for Embezzling Public Funds	BULGARIA
<p>An article implies that a political party was using an NPO to channel state funds into political activities.</p> <p>VMRO is a member of the Bulgarian government. Since 2014, when VMRO started supporting the government, payments of BGN 100,000 (€51,000) have been made to the <i>Македонски научен институт</i> ("Macedonian Scientific Institute") by the Ministries of Education and Science under a budget line for "subsidies and other current transfers for non-profit legal entities".</p> <p>The article states that, despite its name, the Institute is not an accredited scientific institute. Further, it is claimed that the Institute is controlled by VMRO and in fact supports Bulgaria 24, a TV station known to support VMRO. The Institute is represented by an elected official from VMRO and shares a headquarters with Bulgaria 24 and VMRO headquarters. The Institute also has the same vice-president and the same founder as the <i>Българско сдружение на родовете от Македония</i> ("Bulgarian Association of the Families of Macedonia"), which also receives state funding. Proposals to fund both NPOs were made by VMRO MPs.</p>		
Source(s)		Article in Svobodna Europa
8	Tax Avoidance, Evasion and Fraud	CHANNEL ISLANDS
<p>A tax advisor was jailed after devising a tax loophole involving donations of artificially high valued shares to NPOs. David Perrin established four companies on the Channel Islands stock exchange, then inflated their book value via manipulated sales. His clients then donated shares in the companies to NPOs and deducted the inflated value from their tax bills. 600 clients avoided \$70 million (€58.6 million) in taxes, and paid Mr Perrin £2 million (€2.3 million) in fees. Mr Perrin was jailed for 18 months.</p>		
Source(s)		Article in Civil Society News (English)
9	Laundering Illicit funds for Private Benefit	COLUMBIA
<p>Drug traffickers create a paper NPO as part of a money laundering scheme.</p> <p>The NPO was a paper-exercise, part of a scheme also involving front-companies to disguise the illicit origin of US\$10m (€8.3 million). Businessmen Salomón Korn and Andrés Felipe Puyana created a foundation in 2014 which purported to help pregnant women and children with limited resources. At one point, the men took photos of a series of children with a doll to create a gallery for the fake NPOs' website.</p>		
Source(s)		Article in RCN Radio (Spanish)
10	Circumventing Financial Controls: Monetary controls	INDIA
<p>An investigation reveals NPO offering help to circumvent currency controls.</p> <p>An undercover sting in 2016 found two NPOs willing to offer services to circumvent new currency laws. The laws removed the two largest denomination notes from circulation (Rs500 and Rs 1,000). The bosses of two NPOs, <i>Yuva Shakti</i> and <i>Akhil Bharatiya Viklang Vidhwa Vridh Seva Samiti</i> offered to bank funds in the demonetised currency as donations from members received prior to the cut-off date, and then return the funds through bogus transactions. Each agreed to launder Rs 1 Crore (€113,000) in return for a commission of between 30% and 40%.</p>		
Source(s)		Article in India Today (English)
11	Circumventing Financial Controls: Monetary controls	INDIA
<p>An NPO is investigated for facilitating avoidance of foreign transfer controls.</p> <p>The Enforcement Department officials opened an investigation in 2018 into foreign payments to a local wildlife NPO, with concerns it was accepting payments from abroad and then transferring them to local representatives of an international group of wildlife NGOs. The funds totalled Rs 1.35 Crore (€152,000).</p>		
Source(s)		Article in Latest Laws (English)

12	Laundering Illicit funds for Private Benefit Vehicle for Embezzling Public Funds	INDIA
<p>An NPO is accused of forging government checks and distributing benefits through loans.</p> <p>The Enforcement Directorate seized assets of Bhagalpur-based NGO <i>Srijan Mahila Vikas Sahyog Samiti</i> in 2020. It is alleged that individuals forged the signature of the district magistrate on chequebooks procured fraudulently from banks and transferred funds of Rs 1,000 Crore (€112 million) to the NPO. The funds were distributed in illegal loans which have not been repaid.</p>		
Source(s)	Article in Discourse in Development (English)	
13	Laundering Illicit Funds for Influence: PEPs Vehicle for Embezzling Public Funds	INDIA
<p>An investigation is ongoing into the possible criminal sources of funds paid to three NPOs connected to senior political figures.</p> <p>Investigations into the Rajiv Gandhi Foundation, Rajiv Gandhi Charitable Trust and the Indira Gandhi Charitable Trust were opened in 2020. The Trusts' boards include members of the Gandhi family and two former Prime Ministers from the opposition Congress Party. Reports detailed five donations to the foundations which are reportedly proceeds of crime. The sums come from individuals, businesses and NPOs and range from Rs 945,000 (€10,700) to Rs 50 Lakh (€56,500). Further allegations include that the foundations received embezzled public funds, and funds from the Government of China. Representatives from the Congress Party stated that the issue was a "manufactured charge" and "diversionary tactic".</p>		
Source(s)	Article in Newsroom Post Article in India Blooms Article in Free Press Journal Article in India TV News	
14	Laundering Illicit funds for Private Benefit	INDIA
<p>A businessman is investigated over a bribe paid to an NPO on his behalf.</p> <p>The investigation in 2018 was looking into allegations that aviation consultant Deepak Talwar received a bribe from two European firms, MBDA and the Airbus group. The bribe was paid to six entities, including Rs 90 Crore (€10.2 million) to NPO Advantage India which was then diverted.</p>		
Source(s)	Article in HW News Article in ETV Bharat	
15	Laundering Illicit Funds for Influence: Extremism Circumventing Financial Controls: Political motivations	INDONESIA
<p>A religious and political is under investigation over misuse of funds and money laundering relating to the use of funds from a foundation.</p> <p>The <i>Yayasan Keadilan untuk Semua</i> (KUS) ("the Justice for All Foundation") accepted donations for religious and social causes. Unknow to the management of the Foundation, Bachtiar Nasir opened an account in the name of foundation through which some funds were forwarded to the National Movement to Safeguard the Indonesian Ulema Council's Fatwa (GNPF-MUI), a political movement that he led. He was aided by the Chair of the Foundation and an employee of the bank. Allegations were also made that some funds were transferred to a foundation in Turkey with connections to Islamic State. Mr Nasir's representatives insist that is no connection to terrorism or money laundering, and that he merely 'borrowed' the foundations name to facilitate monitoring of donation to the political movement. In total Rp 3.8 billion (€220,000) was raised, of which Rp 1.8 billion (€104,000) is accounted for.</p>		
Source(s)	Press Release by PPATK (Indonesian FIU) (Bahasa) Article in the Jakarta Globe (English) Article in Liputan 6 (Bahasa)	

16	Vehicle for Embezzling Public Funds	INDONESIA
<p>A foundation is used as a shell for a government-owned profit-making food company.</p> <p>The Ministry of Defence implements a food development project funded from the state budget which is managed by a company (<i>PT Agro Industri Nasional (Agrinas)</i>). The company is a subsidiary of <i>Yayasan Kesejahteraan Pendidikan dan Perumahan</i> “the Education and Housing Welfare Foundation” (YKPP), an NPO that is controlled by the Ministry of Defence. Directors of the company are senior Ministry officials who are in many cases connected to a particular political party.</p> <p>There are a number of laws and regulations which limit the practicality of this arrangement relating to benefits payable through a foundation, connected parties, conflicts of interest and corruption, but these are weakly enforced. The article speculates about the rationale for the arrangement, as does a thesis referenced below which identifies this as a systemic problem. Both allege that the arrangement is adopted because it reduces oversight and accountability.</p>		
Source(s)	<p>Article in Universitas Al Azhar (Indonesian)</p> <p>Thesis <i>Analisa Badan Hukum Yayasan dalam bentuk Rumah Sakit untuk kepentingan Kemanusiaan</i> (Analysis of Foundation Legal Entities in the form of Hospitals for the benefit of Humanity) by Riska Wulandari (Indonesian)</p>	
17	Laundering Illicit funds for Private Benefit	INDONESIA
<p>A foundation was used to launder embezzled funds through land transactions.</p> <p>Investigations into embezzlement of customer funds by former President Director of Century Bank Robert Tantular led to charges relating to land transactions involving the <i>Yayasan Fatmawati</i> (“Fatmawati Foundation”). The land forms part of a plot on which a hospital has been built, alongside land owned by the Ministry of Health.</p> <p>The trial found a sale and purchase agreement between the Foundation and a company laundering embezzled funds on behalf of Century Bank. Amongst a complex series of transactions, the Foundation sold land to the company for Rp269 billion (€15.5 million) but only received Rp65 billion (€3.8 million), with the excess distributed between three men who were charged with money laundering. All three men were found to have engaged in the scheme but were acquitted of criminal charges. The Foundation subsequently established its legal ownership of the land in a dispute with the Ministry of Health.</p>		
Source(s)	<p>Abstract of thesis <i>Utilization of the Foundation as a Mode of Operandi in the Crime of Money Laundering (Study of Decision Number: 152/Pid.B/2011/PN.KPG and Decision Number: 1260/Pid.B/2012/PN.JKT.PST)</i> Submitted by Resti Imaliya (Indonesian / English).</p> <p>Article in Republika (Bahasa)</p> <p>Article in Info Breaking News (Bahasa)</p> <p>Statement by the Attorney General of the Republic of Indonesia (<i>Kejaksaan Agung Republik Indonesia</i>)</p>	
18	Unclassified	IRELAND and elsewhere
<p>Criminals in possession of stolen credit card details test the validity of the details through donations to NPOs.</p> <p>Reports suggests NPOs are used because they are quick to do; because donations see fewer charge backs, as cardholders are less likely to query a donation; and because NPOs are less likely to have sophisticated fraud prevention programmes. NPOs eventually have to repay the funds and devote resources to dealing with the aftermath. They may also suffer reputational damage.</p> <p>In May 2013, the Irish Jack & Jill Children’s Foundation announced it had returned more than €130,000 in fraudulent credit card donations. The foundation received the contributions over a six-week period, in amounts ranging from 2 cents to €3,000, all fraudulently charged to private credit cards.</p>		
Source(s)	<p>Article in CreditCards.com (English)</p>	

19	Tax Avoidance, Evasion and Fraud	JORDAN
<p>It is alleged that food companies are requesting NPOs to inflate the value to food donations made to them by corporations to reduce their tax liability.</p> <p>An article refers to official invoices that confirm that hundreds of in-kind donations of food are made to associations provided that the association agrees to sign an invoice for receipt of three times the value of the good. These donations are tax deductible.</p>		
Source(s)		Article in Addustour (Arabic)

20	Laundering Illicit Funds for Influence: Extremism	KOSOVO																																												
<p>In 2018, 21 registered associations were suspended by the NGO department, apparently over suspicions of links, financial or otherwise, to criminal organizations. Some are believed to have links to terrorism and promoting radical Islam, but it is not clear if this is the case for all of the organisations and some of the organisations are not religious or cultural in nature. No official reasons for the suspensions were provided by the authorities in their website or in their notifications to the suspended NPOs, other than that the action was requested by a competent agency. Six of the NPOs were earlier implicated in cases involving money laundering and the promotion of extremism (see cases 21 and 22). After a year all the suspensions were lifted and all the organisations are today currently active.</p> <p>The 21 organisations were:</p> <table border="0"> <thead> <tr> <th><u>Albanian name</u></th> <th><u>Translation</u></th> </tr> </thead> <tbody> <tr> <td><i>Shoqata Kulturore 'Devotshmeria'</i></td> <td>Association Cultural 'Devotion'</td> </tr> <tr> <td><i>Gjurma</i></td> <td>Footprint</td> </tr> <tr> <td><i>Instituti per Kulture dhe studime Bashkekohore</i></td> <td>Institute for Contemporary Culture and Studies</td> </tr> <tr> <td><i>Kosovo Aid and Development</i></td> <td>Kosovo Aid and Development</td> </tr> <tr> <td><i>Orgasnizata Humanitare Kalliri i Miresie</i></td> <td>Kalliri i Miresie Humanitarian Organization</td> </tr> <tr> <td><i>Shoqata Kulturore Meszxhidi Studentor</i></td> <td>Association Cultural Masjid Student</td> </tr> <tr> <td><i>Nektari-He</i></td> <td>Nektari-He</td> </tr> <tr> <td><i>Njeanshmeria</i></td> <td>Bias</td> </tr> <tr> <td><i>Ehli-Bejti</i></td> <td>Ahl-Bayt</td> </tr> <tr> <td><i>Shoqata Kulturore Kurani</i></td> <td>Association Cultural Quran</td> </tr> <tr> <td><i>Instituti per Shkenka Humane Ibni Sina</i></td> <td>Ibn Sina Institute for Human Sciences</td> </tr> <tr> <td><i>NISA</i></td> <td>Started</td> </tr> <tr> <td><i>Asociacioni per Kulture Edukim dhe Arsim</i></td> <td>Association for Culture, Education and Education</td> </tr> <tr> <td><i>Shoqata Kulturore Parimi</i></td> <td>Association Cultural Principle</td> </tr> <tr> <td><i>Patient Help Fund</i></td> <td>Patient Help Fund</td> </tr> <tr> <td><i>Pema e Bamiresise</i></td> <td>The Tree of Charity</td> </tr> <tr> <td><i>Rinia Istogase</i></td> <td>Rinia Istogase</td> </tr> <tr> <td><i>Shoqata Kulturore Celsi</i></td> <td>Association Cultural Chelsea</td> </tr> <tr> <td><i>Shoqata per Sherbime Edukative dhe Kulturore "Bregu i Diellit"</i></td> <td>Association for Educational and Cultural Services "Sunshine Coast"</td> </tr> <tr> <td><i>Shoqata Kulturore Sinqeriteti</i></td> <td>Association Cultural Sincerity</td> </tr> <tr> <td><i>Al Waqaf Al Islami</i></td> <td>Islamic Endowment</td> </tr> </tbody> </table>			<u>Albanian name</u>	<u>Translation</u>	<i>Shoqata Kulturore 'Devotshmeria'</i>	Association Cultural 'Devotion'	<i>Gjurma</i>	Footprint	<i>Instituti per Kulture dhe studime Bashkekohore</i>	Institute for Contemporary Culture and Studies	<i>Kosovo Aid and Development</i>	Kosovo Aid and Development	<i>Orgasnizata Humanitare Kalliri i Miresie</i>	Kalliri i Miresie Humanitarian Organization	<i>Shoqata Kulturore Meszxhidi Studentor</i>	Association Cultural Masjid Student	<i>Nektari-He</i>	Nektari-He	<i>Njeanshmeria</i>	Bias	<i>Ehli-Bejti</i>	Ahl-Bayt	<i>Shoqata Kulturore Kurani</i>	Association Cultural Quran	<i>Instituti per Shkenka Humane Ibni Sina</i>	Ibn Sina Institute for Human Sciences	<i>NISA</i>	Started	<i>Asociacioni per Kulture Edukim dhe Arsim</i>	Association for Culture, Education and Education	<i>Shoqata Kulturore Parimi</i>	Association Cultural Principle	<i>Patient Help Fund</i>	Patient Help Fund	<i>Pema e Bamiresise</i>	The Tree of Charity	<i>Rinia Istogase</i>	Rinia Istogase	<i>Shoqata Kulturore Celsi</i>	Association Cultural Chelsea	<i>Shoqata per Sherbime Edukative dhe Kulturore "Bregu i Diellit"</i>	Association for Educational and Cultural Services "Sunshine Coast"	<i>Shoqata Kulturore Sinqeriteti</i>	Association Cultural Sincerity	<i>Al Waqaf Al Islami</i>	Islamic Endowment
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Source(s)		Official Statement by <i>Departamenti per Organizata Jo-Qeveritare</i> (Department of NGOs) (Albanian)																																												

21	Laundering Illicit Funds for Influence: Extremism	KOSOVO
<p>Igballe Huduti is a founder of three different NGOs in Kosovo, <i>NGO NISA</i>, <i>Fondacion Kulturor Shpetimtari i Kohes</i> (“Cultural Foundation The Savior of Time”), and <i>International Research Institution Naim Frasheri</i>. <i>NGO NISA</i> was raided in June 2015 by Kosovo Police with the suspicion of terrorist financing and money laundering. Four other NGOs were raided at the same time: <i>NGO Bregu i Diellit</i>, <i>NGO Ibni Sina</i>, <i>NGO Kurani</i>, and <i>NGO Ehli Bejti</i>. The news article does not specify the outcome, but four of the named NGOs were active three years later as their registration was suspended (see Case 20).</p>		
Source(s)	<p>Article in Kallxo (Albanian) Article in Reuters (English)</p>	
22	Laundering Illicit Funds for Influence: Extremism	KOSOVO
<p>Hasan Azari Bejandi was charged with laundering nearly \$1 million in undeclared cash between 2014 and 2015. Bejandi was the head of the Qur’an Kosova Foundation, an organization that included five other organizations operating in Kosovo suspected of having links to Tehran, all of which were suspended and which later closed. It was reported that the NPOs were spreading anti-Western and anti-Semitic propaganda, that the authorities discovered the NGOs were hiding their sources of revenue and their spending intentions, and that “ideological agents” of the Iranian government become active in Kosovo through the Qur’an Foundation of Kosovo, an Iranian NPO which is affiliated with the Albanian organisation of the same name. The group’s stated objectives were to establish a museum of Iranian culture in Kosovo and endow a chair of Iranian studies at the University of Pristina. Mr Bejandi reportedly had links to the Iranian government, and the NPOs were reportedly linked to the Al Mustafa National University which is reportedly owned and run by Iran’s Supreme Leader, Ayatollah Ali Khamenei.</p>		
<p>Mr Bejandi was indicted under the Law on Prevention of Money Laundering and Prevention of Terrorist Financing on the following grounds:</p>		
<ul style="list-style-type: none"> - In 2014 he received from Besnik Shala a donation of €2000 as director of the NGO “Kurani”; - In 2014, he made a false statement that funds of €21,454 donated to NGO Quran were received from the state of Kuwait which in fact originated in China; - In 2015 he failed to provide evidence required to release €30,000 donated by an individual in Turkey to NGO “Kurani” - Between 2005 and 2015 he failed to keep proper accounts for NGO “Kurani”, which had expenditure of €871,000 and income of €579,000. 		
<p>It was reported in 2018 that the authorities had lost contact with Bejandi, who was in Iran, and were negotiating a plea deal with the Iranian Embassy. All five entities were on the list of suspended NPOs in Kosovo from 2018.</p>		
Source(s)	<p>Article in Radio Free Europe (English) Article in Radio Europe e Lire (Albanian) Article in Betimi per Drejtesi (Albanian)</p>	
23	Vehicle for Embezzling Public Funds	KOSOVO
<p>MP Etem Arifi used his influence to secure two subsidies totalling nearly €26,000 for a sham NPO. The funds were misappropriated by Mr Arifi and associates. Mr Arifi was convicted in 2018 and received a suspended sentence of 15 months jail. Co-accused Bajram Gashi, who headed the NPO, was given a suspended sentence of two years. Mr Arifi was acquitted of a charge of Exercising Influence. Both would face jail if the funds were not reimbursed within six months.</p>		
Source(s)	<p>Article in Prishtina Insight (English) Article in Betimi per Drejtesi (Albanian)</p>	

24	Laundering Illicit Funds for Influence: PEPs Tax Avoidance, Evasion and Fraud	MEXICO
<p>Two foundations are part of an investigation into a former president for money laundering.</p> <p>Reports suggest that the FIU's investigations into former President Fox are looking at thirteen companies and two foundations, the Fox Center and the Fox Foundation, linked to the former president and his son. They reportedly received approximately Pesos 700 million (€29 million) over a period of four years. The investigation is looking at potential tax evasion and money laundering.</p> <p>The investigation has been opened as allegations have been made that high-ranking people in Mr Fox's government of 2000-2006 accepted bribes of \$3 million (€2.5 million) from drug traffickers. Simultaneously, the media has raised questions about the charitable activities of the former president and his wife since leaving office. The couple have raised millions of pesos for the <i>Vamos México</i> foundations and others through lavish fundraisers. The foundation, founded by former first lady Martha Sahagún, reported income of Pesos 62 million (€2.6 million and expenditure of Pesos 16 million (€666,000) in 2019. No specific allegations of wrong-doing have been made.</p>		
Source(s)		<p>Article in El Universal (Spanish)</p> <p>Article in Vanguardia (Spanish)</p> <p>Article in Sinembargo (Spanish)</p>
25	Circumventing Financial Controls: Political motivations	MOLDOVA
<p>Multiple politicians and political parties are accused of creating NPOs exclusively to facilitate political funding and political activities that would otherwise be ineligible. At least three politicians have opened NPOs to coincide with the political activities of the founder. Ilan Shor founded his NPO's four months before entering politics, and Renato Usatii two weeks after he became Mayor of the second largest city in the Republic of Moldova.</p> <p>The arrangement allows these politicians to use funds ineligible for political funding. For example, the "Renato Usatii" Foundation founder Renato Usatii channels money earned abroad into supporting his political Multiple politicians and political parties are accused of creating NPOs exclusively to facilitate political funding and political activities that would otherwise be ineligible.</p> <p>However, in some cases it is not known where funding comes from. For example, the Asociația "Pentru Orhe" (the 'For Orhe' Association) was established by businessman and mayor of Orhei Ilan Shor. The 'For Orhe' Association has not applied for the (voluntary) status of public benefit organisation (PBO), which obliges PBOs to publish and disclose activities and financial reports. Nor have the authorities received other documentation that all organisations must submit, despite claims to the contrary from the Association. Political parties are forbidden from receiving undeclared donations.</p> <p>The arrangement also allows the funding of activities that political parties would not be allowed to fund but which are openly political. Some are directed solely at localities controlled by the founder or their political allies. In November 2016, the "Renato Usatii" Foundation made 13 grants to towns and villages totalling Lei 1.5 million (€71,000) all of which were controlled by political allies. Lei 10 million (€472,000) went to the city of Balti in 2016, of which Mr Usatii is mayor.</p> <p>Activities are also explicitly linked to their founder-politician's political goals. All donations made by the "Renato Usatii" Foundation to the municipality of Balti were listed in the mayor's activity report. The Foundation does not have its own website, with information on its activity posted on the blog of the politician-founder. 'For Orhe' founder and Mayor of Orhei Ilan Shor himself announced at a meeting of the Orhei City Council that the association would become a financing institution for the implementation of his electoral promises. The main source of information on the association is the Orhei City Hall website. The NPOs are significantly more active during elections. For example, Vlad Plahotniuc Foundation "Edelweiss" spent an average of Lei 3.8 million (€178,000) in the non-election years of 2013 and 2015, but Lei 38 million (€1.8 million) in 2016, a presidential election year.</p> <p>Some activities are seen as essentially bribing voters. For example, the 'For Orhe' Association was openly supporting the presidential campaign of Inna Popenco. 12 days before the election, Ms. Popenco handed voters discount shopping vouchers. In response to a complaint, Ms. Popenco stated that this was a social activity on behalf of the Foundation, rather than a political activity, and records show that the give-away was funded by a company founded by the 'For Orhe' Association. Magistrates later concluded that they "saw in the candidate's actions direct and indirect elements of bribery of voters, including from undeclared sources".</p> <p>The President of the Central Electoral Commission acknowledges the existence of the phenomenon of indirect financing of political parties through charitable foundations set up by politicians. "We have noticed the phenomenon of direct/indirect involvement of charities in politics... when the name of a politician appears both in the name of the party and in the name of the charity foundation, it is difficult to distinguish, at a perceptive level, where is the charity action of the organization and where is the actual political activity of the electoral contestant. Confusion arises. However, from the point of view of the legal regulations, there is little to object to in such cases. The foundation, under the name of the electoral contestant, organises an action in a locality. It makes some donations, gives some gifts. The event ends and in a few minutes, in the same room, with the same audience, the meeting with the voters begins, but only the candidate remains."</p> <p>So far, the Ministry of Justice has not sanctioned any charitable foundations for involvement in political activities.</p>		
Source(s)		Article in Anti Coruptie (Romanian)

26	Laundering Illicit Funds for Influence: PEPs Circumventing Financial Controls: Political motivations	MOLDOVA
<p>Reports suggest that an NPO is used as a means of obtaining influence with a PEP.</p>		
<p>"<i>Din suflet</i>" ("From the Heart") is an NPO founded by a friend of the former President Igor Dodon. The public face of the NPO is First Lady Galina Dodon, even though she has no official role, and it often used the official state residence. Despite the First Lady's promise at launch that the organisation would be transparent, there is no public information on its funding sources and it has failed to file a tax return. Leaks suggest its income in 2018 exceeded Lei 12 million (€566,000). In 2019, allegations arose that a €70,000 donation from a public official in Russia was made to the foundation, after which his son was appointed to a business ambassador position in the country.</p>		
Source(s)	<p>Article in Ziarul de Garda (Romanian)</p> <p>Article in Deschide (Romanian)</p>	
27	Circumventing Financial Controls: Political motivations	TUNISIA
<p>A court audit concluded that an Association was a front for supporting the political ambitions of a media mogul and the political party he led.</p>		
<p>The مؤسسة خليل تونس ("Association Khalil Tounes") was founded by presidential candidate and media mogul Nabil Karoui as a memorial to his son Khalil. The association provided free breakfasts and other social assistance for the poor. Leading up to the election, ten minute videos highlighting Mr Karoui's work with the foundation were broadcast nightly on his TV channel. In 2019, an Audit Court report found that the Association Khalil Tounes received anonymous foreign funds totalling just under US\$100,000 (€84,000) from 2017-19, in contravention of Chapter 99 of the Anti-Terrorism and Money Laundering Law No. 2015, and that Dinar 8,300 (€2,500) was unaccounted for.</p>		
Source(s)	<p>Article in Legal Agenda (Arabic)</p> <p>Article in L'Obs (French)</p> <p>Article in Arab News (English)</p>	
28	Tax Avoidance, Evasion and Fraud	SPAIN / ARGENTINA
<p>Authorities in Spain and Argentina are investigating the <i>Fundación Leo Messi</i> (Spain) and the <i>Fundación Leo Messi Argentina</i> (Argentina) for tax evasion and laundering of undeclared income. The investigations relate to payments to Messi's foundations by Barcelona FC, by sponsors and by commercial entities with contracts to exploit Messi's image rights.</p>		
<p>A leak of a report by investigators states that less than 7% of the Spanish Foundation's income of \$47 million (€39 million) was used for donations. The rest of the funds are not accounted for. The foundation itself was established in 2007, but only registered in Barcelona in 2013. It allegedly unlawfully issued tax exemption certificates prior to its registration. It appears to receive almost all of its income from Barcelona FC, which had itself benefited from tax deductions on the donations.</p>		
<p>The Argentinian foundation was created in 2009, de-registered for failure to submit required statements, then re-registered in 2013. The Foundation again failed to submit required documents and was consequently not issued with a tax code before finally submitting accounts which showed a zero balance. It has had various contract with commercial entities whereby payments are made relating to the use of Messi's image rights.</p>		
<p>The foundations are run by relatives of Mr Messi, and the investigations are targeted at these relations as well as a business partner.</p>		
<p>Aspects of the investigation include that the foundations are shells with no activities; that funds are paid to shell companies and off-shore tax havens; and that it overpays for property or contacts to entities owned by the Messi family.</p>		
Source(s)	<p>Article in Infobae (Spanish)</p> <p>Article in Perfil (Spanish)</p> <p>Article in De Spiegel (English)</p> <p>Article in El Confidencial (Spanish)</p>	

29	Laundering Illicit funds for Private Benefit	UKRAINE
<p>Mining company Ferexpo established an NPO called Blooming Lands in Ukraine to carry out its corporate social responsibility in the country, and donated US\$110 million (€92 million) to it between 2013 and 2018. In 2018, Ferexpo's auditors Deloitte identified discrepancies in the NPO's accounts, and resigned after the company initially failed to investigate. A subsequent independent investigation by the company confirmed in 2019 that funds could have been misappropriated but found no evidence of complicity from Ferexpo directors or staff.</p> <p>The majority shareholder of Ferexpo is Kostyantyn Zhevago, a former Ukrainian MP. Blooming Lands was established by Ferexpo and funded solely by Ferexpo and another company controlled by Mr Zhevago. Deloitte was unable to agree with Ferexpo's conclusion that Mr Zhevago did not control Blooming Land. Reports in The Times state that it is thought that Ukrainian authorities have been investigating whether the charity was used for money laundering and tax evasion.</p>		
Source(s)		<p>Article in The Times (paywall) (English)</p> <p>Press Release from Ferexpo (English)</p> <p>Article in Guardian (English)</p>

30	Tax Avoidance, Evasion and Fraud	UNITED KINGDOM																																				
<p>This relates to the fraudulent or unlawful claiming of NPO-related tax benefits from the authorities.</p> <p>In the UK there are numerous cases of individuals or groups claiming 'gift aid' rebates in relation to phantom donations to an NPO.</p>																																						
<table border="1"> <thead> <tr> <th>Name</th> <th>Conviction date</th> <th>NPO</th> <th>Defrauded amounts</th> <th>Sentence</th> <th>Notes</th> </tr> </thead> <tbody> <tr> <td>1. Mark Lewis 2. Elizabeth Lewis</td> <td>2013</td> <td>Welsh Independent School of Climbing and Mountaineering Trust</td> <td>£885,000 (€99,000)</td> <td>1. 4 years 2. 18 months (suspended)</td> <td>Married. They controlled a legitimate NPO</td> </tr> <tr> <td>1. Raymond Agbo 2. Akua Owusu</td> <td>2013</td> <td>Church of Grace Ministries UK</td> <td>£145,000 (€169,000)</td> <td>1. 2 years 2. 2 years</td> <td>Fictitious donations claimed by financial advisors. NPO not complicit.</td> </tr> <tr> <td>1. Abdulshakour Juma 2. Ashraf Salim Ali</td> <td>2016</td> <td>1. East Coast of African Community Association 2. Bongo Community Association</td> <td>£500,000 (€583,000)</td> <td>1. 30 months 2. 30 months</td> <td></td> </tr> <tr> <td>1. Afran Ali 2. Imran Ali</td> <td>2018</td> <td>Unnamed aid NPOs.</td> <td>£456,000 (€531,000)</td> <td>1. 5 years 2. 5 years</td> <td>Twin brothers. One sham NPO was created, and false representation of a legitimate NPO.</td> </tr> <tr> <td>Teslim Johnson</td> <td>2018</td> <td>Agape Church</td> <td>£155,000 (€180,000)</td> <td>4 years</td> <td>Pastor and trustee who controlled legitimate NPO</td> </tr> </tbody> </table>			Name	Conviction date	NPO	Defrauded amounts	Sentence	Notes	1. Mark Lewis 2. Elizabeth Lewis	2013	Welsh Independent School of Climbing and Mountaineering Trust	£885,000 (€99,000)	1. 4 years 2. 18 months (suspended)	Married. They controlled a legitimate NPO	1. Raymond Agbo 2. Akua Owusu	2013	Church of Grace Ministries UK	£145,000 (€169,000)	1. 2 years 2. 2 years	Fictitious donations claimed by financial advisors. NPO not complicit.	1. Abdulshakour Juma 2. Ashraf Salim Ali	2016	1. East Coast of African Community Association 2. Bongo Community Association	£500,000 (€583,000)	1. 30 months 2. 30 months		1. Afran Ali 2. Imran Ali	2018	Unnamed aid NPOs.	£456,000 (€531,000)	1. 5 years 2. 5 years	Twin brothers. One sham NPO was created, and false representation of a legitimate NPO.	Teslim Johnson	2018	Agape Church	£155,000 (€180,000)	4 years	Pastor and trustee who controlled legitimate NPO
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Source(s)	<p>Article on case 1 in Civil Society News (English)</p> <p>Article on case 2 in Civil Society News (English)</p> <p>Article on case 3 in Civil Society News (English)</p> <p>Article on case 4 in BBC (English)</p> <p>Article on case 5 in Civil Society News (English)</p>
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31	Tax Avoidance, Evasion and Fraud	UNITED KINGDOM
		<p>An NPO is created as a key part of a large, complex and structured tax avoidance and benefit extraction scheme.</p> <p>The UK has a 'gift aid' scheme to encourage donations to registered charities. The scheme allows UK charities to re-claim from the Treasury the tax paid on donations received from UK tax-payers at the basic rate (currently 20%). So, a £10 donation by a UK tax-payer will allow the charity to claim £2 from the Treasury. Additionally, higher rate tax-payers (those who pay 40% tax on income) can personally deduct an additional 20% from their tax bill.</p> <p>The Cup Trust presented a sophisticated scheme to exploit this system. A UK tax specialist, Matthew Jenner, established with Darren Stones and Anthony Mehigan a company called Mountstar, of which they were directors. Mountstar then established the Cup Trust as a registered charity as the sole corporate trustee.</p> <p>The three individuals then offered tax services to wealthy clients. Clients were invited to make donations to the Cup Trust. 20% of the value of that donation could then be deducted from their personal tax bill.</p> <p>The Cup Trust used the donation to purchase government bonds, which were then sold at a large discount to the original donor. Finally, the Cup Trust claimed the additional 20% in gift aid from the treasury. Less than 1% of the funds were allocated to charitable causes.</p> <p>At no point did the charity pay money to Mountstar or its directors. The three instead received considerable funds from the donors for tax consultancy services. Jenner was said to have received in excess of £2 million (€2.3 million)⁹⁶.</p> <p>The sums were very large. The scheme raised £176 million (€205 million) for the Cup Trust in ten rounds of donations from 360 participants between March 2009 and March 2011. The bonds purchased with the donations were sold for £17,000 (€19,800) – a 99% discount. £55,000 (€64,000) – about 0.03% of the income – was donated to charitable causes.</p> <p>The scheme was never completed, as the gift aid claim of £46m was queried. Following enquiries by the NPO regulator, the NPO was wound up and no gift aid claim was made. However, in theory, such a scheme could work as follows:</p>

96. "...the conflicts were so inherent they could not be properly managed under charity law. The various conflicts of interest were numerous, serious and substantial."



	Donor	Shell Charity	Tax advisor	Treasury	Charitable causes
Donation	-£1m	£1m			
Donor tax deduction (20%)	+£200,000			-£200,000	
NPO gift aid (20%)		+£200,000		-£200,000	
NPO bond purchase (£1.2m)		£0			
NPO bond sale price	-£1,000	+£1,000			
Bond transfer to donor	£1.2m	-£1.2m			
Fee to tax advisor	-£200,000		£200,000		
Charitable causes		-£1,000			£1,000
TOTAL	£199,999	£0	£200,000	-£400,000	£1,000

There are three potentially unlawful parts to such a scheme.

- First, the gift aid claim may be adjudged to have been claimed on false pretences. In practice, no payments were made.
- Second, as the NPO regulator noted, there is an inherent and unavoidable conflict of interest for the persons acting as tax advisors and as controllers of the NPO¹;
- Third, the sale of the bonds at an almost total loss constitutes a breach of trust by the trustee.

A report by the Charity Commission, the UK government regulator of NPOs, stated that *"the Scheme was an artificial arrangement, created to give the impression all parties involved in the Scheme were separate and independent of each other when they were not. Mountstar [the trustee] knew or ought to have known the Scheme was designed to obtain relief in a way that was not as intended, namely to stimulate genuine charitable giving."*

The establishment of Mountstar, which was registered in the British Virgin Islands, as the sole corporate trustee was presumably intended to shield the true controllers of NPO from the unlimited personal liability that a charity trustee can face under UK law. In that respect, it must be considered a success for the scheme organisers. Whilst the Cup Trust was wound up by the NPO regulator in 2017 and the inquiry completed in January 2019, to date no criminal charges have been made. The Charity Commission did not pursue restitution from Mountstar as the trustee under charity law as it had no assets. It appears that Mountstar was established in such a way as to prevent it from claiming restitution from its directors, which might have been an option in some jurisdictions.

Source(s)	<p>Report by the National Audit Office (English)</p> <p>Inquiry Report from the Charity Commission (English)</p> <p>Decision of the Charity Commission (English)</p> <p>Article in the Guardian (English)</p> <p>Article in Step (English)</p> <p>Article in The Times (Paywall) (English)</p> <p>Article in Civil Society News (English)</p>
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32	Tax Avoidance, Evasion and Fraud	UNITED KINGDOM
<p>An NPO in England is established seemingly for the primary purpose of exploiting a tax loophole.</p> <p>An investigation by the <i>Financial Times</i> in 2011 revealed that owners of commercial properties were paying charities to lease empty properties to avoid business rates (a local commercial property tax). Corporate property owners must pay business rates even when a property is empty, but charities were entitled to an 80% reduction in these taxes at the time (section 43(6)(a) of the Local Government Finance Act 1988).</p> <p>The most egregious case involved the Public Safety Charitable Trust Limited. It was established to broadcast public safety messages via Bluetooth in shopping centres. A commercial company, Commercial Link Ltd (“CL”), was contracted as the sole provider of the Bluetooth equipment. The charity was paid by commercial property owners to lease 2,000 empty properties across the UK, thereby, they claimed, qualifying them for the business rate reduction.</p> <p>In a court judgment on 14 May 2013 relating to the charity, the judge held that exemption from rates should depend upon the charity making extensive use of the premises for charitable purposes, and that the use of the properties by the PSCT did not meet this test. The charity was therefore liable for rates of £17 million (€19.8 million). It was declared insolvent and dissolved in 2013. The two trustees and directors of the charitable company were disqualified from being directors or trustees for 9 and 5 years respectively.</p> <p>Subsequent investigations were conducted by the Insolvency Services, Official Receiver and the Charity Commission. It found that 95% of the benefits from the arrangement went to Commercial Link Ltd, and just 5% to the charity.</p> <p>Official guidance on the taxes now reflect this judgement, and the Charity Commission issued an alert to charities advising them not to enter into such arrangements.</p> <p>See also the Kenya Aid Programme.</p>		
Source(s)	<p>Article in Financial Times (paywall) (English)</p> <p>Article in Civil Society News</p> <p>Press Release from the Charity Commission (English)</p> <p>Inquiry Report from the Charity Commission (English)</p> <p>Article in Third Sector (English)</p>	
33	Laundering Illicit Funds for Influence: PEPs	UNITED KINGDOM
<p>The Princes Charities’ Foundations is a charity established by the Prince of Wales, heir to the throne in the UK. The charity received three donations totalling US\$203,000 (€170,000) from Quantus Division, a BVI-registered company. The Chief Executive of Quantus Division, Ruben Vardanyan, stated that the donations were from his personal funds. The Organized Crime and Corruption Investigation Project released leaked documents which linked Quantus Division and the donations with the Troika Network of Companies, which it claims launders money on behalf of Russian clients (although no charges have been brought).</p> <p>The Foundation stated that it has undertaken due diligence on the donation, and the Prince of Wales is not involved in any operations related to fundraising. The funds were used to restore a stately home in Scotland.</p> <p>See also donations by Lalit Modi to another charity of the Prince of Wales, the Elephant Trust, of which Mr Modi became a Patron.</p>		
Source(s)	<p>Article in BBC (English)</p> <p>Article in The Statesman (English)</p>	



34	Laundering Illicit funds for Private Benefit	UNITED KINGDOM
<p>A trustee laundered criminal proceeds from a brothel through an NPO. Francis Uwagbae was a trustee of Urban Relief, an anti-poverty charity. An Inquiry from the Charity Commission was “unable to establish the source of the charity’s incoming funds or how they had been applied in furtherance of the charity’s objects, as the records consisted of numerous unreferenced cash deposits and withdrawals. The analysis also revealed that there were discrepancies between the levels of income and expenditure shown in the bank account records and the information contained in the charity’s annual returns submitted to the Commission by the charity for the same period.”</p> <p>Reports imply that the charity had provided charitable services for eight years but had recently ceased to do so. Of the three other trustees, two denied any connection to the charity; the third was Mr Uwagbae’s wife. Charity seized operations in 2014, before the Inquiry was completed. Mr Uwagbae was jailed for ten months.</p>		
Source(s)	<p>Inquiry Report by the Charity Commission (English)</p> <p>Article in Civil Society News (English)</p> <p>Article in Accountancy Daily (English)</p>	
35	Laundering Illicit funds for Private Benefit	UNITED KINGDOM
<p>Edward Cohen used a network of eight NPOs to launder criminal funds from the sale of counterfeit Viagra pills.</p> <p>Seven charities were established between July 2006 and December 2007, Chabad UK, Mamosh Worldwide Limited, Or Simcha, Ozer Dalim limited, Pikuach Nefesh Ltd, Havenpoint Worldwide Limited, and Worldwide Hatzala Ltd. Another, Havenpoint Limited, was established in 1985.</p> <p>Police investigations revealed that in March 2012, 14 bank accounts were opened in the names of these charities and another associated company. At this time, the number of transactions dramatically increased. By September 2014, the nine companies had processed more than £10.3 million (€12 million). During this period, £8.6 million (€10 million) was transferred to foreign exchange accounts, and £1.7 million (€2 million) was transferred to a number of money service bureaus. Thousands of pounds were also transferred to the Cohen’s personal accounts. The Police said a very small proportion of transactions were confirmed as legitimate charitable donations.</p> <p>In 2019, Cohen was convicted of an offence under section 60 of the Act for providing false or misleading information to the Charity Commission, two charges of money laundering, theft (of approximately £165,000 (€192,000)) and fraud, for which he received a total prison sentence of nine years and nine months, including fifteen months for the section 60 offence and seven years for Money Laundering and Fraud. Two trustees were removed and disqualified. The regulator is considering efforts to recover US\$75,000 (€63,000) that was misappropriated from one of the NPOs. Cohen was manager of the charities but was not a trustee. However, he was connected to a former trustee.</p> <p>Police stated that Chabad UK was initially a legitimate charity. The Charity Commission Inquiry did not conclude that the charities had been set up for an improper purpose.</p> <p>Chabad UK is entirely separate from Chabad Lubavitch UK and is not part of the official Chabad movement.</p>		
Source(s)	<p>Inquiry Report issued by the Charity Commission (English)</p> <p>Article in the Guardian (English)</p> <p>Article in the Jewish Chronicle (English)</p>	
36	Laundering Illicit funds for Private Benefit	UNITED KINGDOM / IRELAND
<p>A criminal uses an NPO as a vehicle for stealing money from stolen credit cards.</p> <p>UK police and the Charity Commission issued a warning about the scam in 2013. A fraudster tells a charity that they will be donating a large sum of money on the condition that the charity sends half of the donation onto another specified charity that is in fact the personal bank account of the fraudster. The initial payments are made using a compromised or stolen credit card. Once the credit card company realises that the card has been compromised it recalls the full amount, but by then the charity has already passed half the donation on to the other “specified charity” – the fraudster’s own account. No details on specific cases were provided.</p>		
Source(s)	<p>Article in Civil Society News (English)</p>	

37	Laundering Illicit Funds for Influence: PEPs	UNITED KINGDOM
<p>A Russian billionaire resigns from senior role in London Mayor's NPO following concerns over money laundering.</p>		
<p>Elena Baturina's Be Open Foundation donated £138,000 (€161,000) to the Mayor's Fund for London in 2016. Ms. Baturina was become a trustee of the Mayor's Fund in 2017. She resigned as a trustee after an investigative website highlighted that a Board Member of the Be Open Foundation was prosecuted in Spain for tax crimes and money laundering unconnected to the Foundation or Ms Baturina. Ms Baturina's fortune is rooted in a number of contracts awarded to her company by the city of Moscow whilst her husband was Mayor, but she denies any impropriety.</p>		
<p>The Mayor's Fund for London is closely linked to the Mayor and the Greater London Authority (GLA) and instituted a new ethical fundraising policy and MoU with the GLA shortly after Ms Baturina's resignation.</p>		
Source(s)	Article in Finance Uncovered (English)	
38	Tax Avoidance, Evasion and Fraud	UNITED STATES OF AMERICA
<p>Wealthy individuals may be colluding with museums and art valuers to inflate prices of donated art to reduce personal tax liabilities, and in some cases, museums may be established primarily to exploit tax advantages.</p>		
<p>Wealthy individuals donate to museums which they or their family have established and control. The museums are on the private, estates of the owners, are closed for long periods, and require visitors to pre-book and be accompanied on visiting.</p>		
<p>For example, the Hall Art Foundation founded in 2013 by executive bank manager Andrew J. Hall is located on his private estate. It has an estimated \$38 million (€32 million) in total assets, is closed for half the year and received fewer than 20 visitors a week between 2013 and 2015. The Glenstone Museum was founded by technology entrepreneur Mitchell Sales. It is located on his private estate, has assets of \$702 million (€588 million), and received fewer than 25 visitors per week between 2006 and 2013. The museums claim that additional educational benefits are provided, including through loans and partnerships with other museums.</p>		
<p>Federal tax rules require that art donations provide an educational benefit to the public to qualify for an exemption and have issued memoranda requiring public signs and advertising of a museum, particularly when the art is held adjacent to a donor's property. Nevertheless, tax-exempt organizations can fulfil their mission solely by lending out works, giving grants or making the collection available to researchers. A study by the University of Montana strongly recommended a ban on charitable donations to private museums founded and or indirectly owned by the donor. <i>"In the event that a donor owns a private museum that is not easily accessed by the public and displays a large number of works donated by the founder of the museum, it is really functioning as a private art gallery and does not meet the needs of a community as a public museum would."</i></p>		
Source(s)	Study published by Laura Sikoski, University of Montana Conference on Undergraduate Research	
	Article in the New York Times	
39	Laundering Illicit funds for Philanthropic Reasons	UNITED STATES OF AMERICA
<p>A ransomware hacker group directs donates criminal proceeds to two NPOs.</p>		
<p>The Darkside hacking group posted US\$10,000 (€8,400) in Bitcoin to two NPOs, to The Water Project and Children International. The money was donated anonymously through an online portal The Giving Block, which facilitates anonymous donations of crypto-currency. The giving block stated it was working to identify the source of the money so it could return the funds. The two NPOs said they would not accept the donations.</p>		
Source(s)	Article in the BBC	



■ Annex 3: Case Studies (Sports NPOs)

Ref	Short description	Headline from case study	Country	Name of NPO	Sport	A. Laundering illicit funds for private benefit	B. Laundering illicit funds for influence: PEPs	C. Vehicle for embezzling public funds	D. Terrorist Financing
A	Alleged drug dealer uses NPO for reputation laundering	NPO has alleged links with organised crime	UK	MTK Global Foundation	Boxing/MMA/ Fighting	0	1	0	0
B	Right-wing extremist recruits through MMA	Mixed Martial Arts group suspected of terrorist recruitment	UK	Not known - linked to Britain First group	Boxing/MMA/ Fighting	0	0	0	1
C	Right-wing group recruits football fans for marches / implies public benefit status	Football fan group suspected of terrorism recruitment	UK	Democratic Football Lads' Alliance	Football	0	0	0	1
D	Alleged crime boss launders money through football club	Money laundering through a sport club and NPO	Mexico	Cooperativa Cruz Azul, SCL	Football	1	1	0	0
E	Politicians use national sports centre project for corruption and money laundering	Corruption and possible money laundering through national sport education centre / PEPs	Indonesia	Hambalang Sports Complex	Multi-sport	0	0	1	0
F	Alleged crime boss launders money through fan group	Money laundering through fan group NPO	Argentina	Los Guerreros Rosario Central	Football	1	1	0	1
G	Politicians use sham NPO for money laundering	Money laundering via a sport NPO / PEPs	Argentina	Libertad	Disability sport	1	0	1	0
H	Alleged crime boss launders money through NPO	NPO used for money/ reputation laundering	Moldova	IFAVIS	Boxing/MMA/ Fighting	0	1	0	1
					Total	3	4	2	4

■ Annex 4: Recording the Case Studies

The cases should be recorded on a single shared excel spreadsheet. A link to the spreadsheet will be provided. Please complete in English. Guidance on completing the form is provided below

The case study - general NPO

Source	Source of the information. Provide link to any online resources.
Credibility	Include a short assessment of how credible the source is as follows: Official; High credibility; Medium credibility; low credibility.
Case status	Select which one of the following describes the current status of the case. conviction; prosecution; linked criminal case ⁹⁵ ; criminal charge; administrative or regulatory action; ongoing investigation; closed investigation; allegation; rumour.

The NPO

Level of funds	Annual income, expenditure or budget of the NPO. Convert to USD\$. Estimates are acceptable if there is no official information, although please indicate if they are used.
Legal type	The legal type, according to the classification in your country.
Activities	A one- or two-word description of its main activity area.
Foreign links	Add any links to foreign individuals, legal entities, activities or funders.
Website	Add a hyperlink.

The abuse

Level of funds	The level of potentially criminal funds known or alleged to have been under the nominal control of the NPO. Convert to USD\$.
Links to other legal entities	Identify if the NPO was one part of a layered or structured crime; summarise its role; note the other legal entities in the structure, including their type, location, role within the crime and links to the NPO. For example, funds were donated by a commercial entity, and were then paid to a second commercial entity through alleged fraudulent contract.
Purpose	A short statement on the purpose of the abuse if known: e.g. political funding, purchasing influence, tax evasion, disguise of criminal funds, corruption etc..
Foreign links	Note any foreign features of the crime.
PEPs	Note any connection to Politically Exposed Persons (often referred to as a PEP. This an individual who is or has been entrusted with a prominent public function.
Complicity	Note if the NPO was a legitimate NPO unwittingly abused, or an NPO established to facilitate the criminal activity.
Comments	Are there indications or credible sources claiming that the case presents (political) abuse of power towards the NPO or individuals connected with NPO? Please explain and add links to sources. Note any other significant features of the NPO or the abuse not recorded above.

The case study – sports NPO

Source	Source of the information. Provide link to any online resources.
Credibility	Include a short assessment of how credible the source is as follows: Official; High credibility; Medium credibility; low credibility.

95. A linked criminal case is a prosecution or conviction which may not directly involve either the NPO or money laundering, but which is nevertheless integrally linked to the crime which is being recorded.

Case status Select which one of the following describes the current status of the case.
conviction; prosecution; linked criminal case ; criminal charge; administrative or regulatory action; ongoing investigation; closed investigation; allegation; rumour.

The NPO

Level of funds Income, expenditure or budget. Convert to USD\$. Estimates are acceptable if there is no official information, although please indicate if they are used

Legal type The legal type, according to the classification in your country.

Type of sports organisation Single-sport club, national association etc. Identify the sport(s)

Activities A one- or two-word description of its main activity area.

Foreign links Note any links to foreign individuals, legal entities, activities or funders.

Website Add a hyperlink.

The abuse – money laundering

Level of funds The level of potentially criminal funds known or alleged to have been under the nominal control of the NPO. Convert to USD\$.

Links to other legal entities Identify if the NPO was one part of a layered or structured crime; summarise its role; note the other legal entities in the structure, including their type, location, role within the crime and links to the NPO.

Purpose A short statement on the purpose of the abuse if known: e.g. political funding, purchasing influence, tax evasion, disguise of criminal funds, corruption etc.

Foreign links Note any foreign features of the crime.

PEPs Note any connection to Politically Exposed Persons.

Complicity Note if the NPO was a legitimate NPO unwittingly abused, or an NPO established to facilitate the criminal activity.

Comments Note any other significant features of the NPO or the abuse not recorded above.

The abuse – promotion or support of terrorist or extremist causes

Type of promotion or support Activities to recruit, disseminate propaganda, finance or otherwise support objectives of terrorist or extremist groups

Group Identify the terrorist or extremist group or cause involved.

Links to other legal entities Identify if the NPO was one part of a layered or structured crime; summarise its role; note the other legal entities in the structure, including their type, location, role within the crime and links to the NPO.

Foreign links Note any foreign features of the crime.

Complicity Note if the NPO was a legitimate NPO unwittingly abused, or a NPO established to facilitate the criminal activity.

Comments Note any other significant features of the NPO or the abuse not recorded above.

Recording the Legal Framework

Legal framework refers to legislation, regulation, rules or bylaws applicable to legal persons with a purpose to deter or combat money laundering. Usually referred to anti-money laundering regulation (AML).

Legal framework must be in place - actively valid - in 2021.

Please answer the following questions:

1. Is there any legal framework on AML imposing obligations to legal persons in general (all legal persons, including NPOs but not particularly mentioning specific types of NPOs)?

Yes / No / Not clear

If Yes, please cite the name of the document, date of becoming valid and link, where available.

If yes, please include brief bullet points on obligations that apply to all legal persons / including NPOs.

2. Is there any legal framework on AML imposing obligations to specific types of NPOs?

Yes / No / Not clear

If Yes, please cite the name of the document, date of becoming valid and link, where available.

If Yes, please indicate which types of NPOs are specified in the document and subject to obligations.

If yes, please include brief bullet points on obligations that apply to specific NPOs.

3. Is there any legal framework defining NPOs as designated non financial businesses and professions - DNFBPs?

Yes / No / Not clear

If Yes, please cite the name of the document, date of becoming valid and link, where available.

If Yes, please indicate which types of NPOs are specified as DNFBPs.

4. Is there any legal framework defining beneficial owners (BOs) of any specific types of NPOs? (Note - this can usually be found in general AML legislation)?

Yes / No / Not clear

If Yes, please cite the name of the document, date of becoming valid and link, where available.

If Yes, please indicate which types of NPOs are included and how are BOs defined for each NPO type.

5. Is there any legal framework on AML imposing obligations to sports organizations or structures in particular, such as relevant provisions in a national "sports law"?

Yes / No / Not clear

If Yes, please cite the name of the document, date of becoming valid and link, where available.

If yes, please include brief bullet points on obligations that apply to sport organizations in particular



■ Annex 5: FATF Ratings of the Core Countries

Consolidated Assessment Ratings⁹⁶ downloaded from FATF website. Countries rated under Fourth Round only.

Updated 13 July 2021

Jurisdiction (click on the country name to go to the report on www.fatf-gafi.org)	Report Type	Report Date	Assessment body/bodies	IO10	R.8
Cyprus	MER	Dec/19	MONEYVAL	ME	PC
Indonesia	MER	Sep/18	APG	ME	LC
Jordan	MER	Jan/20	MENAFATF	LE	NC
Kyrgyzstan	MER+FUR	Dec/19	EAG	ME	NC
Kyrgyzstan	MER	Sep/18	EAG	ME	NC
Kyrgyzstan	FUR	Dec/19	EAG	ME	NC
Mexico	MER+FUR	Jun/21	IMF/FATF/GAFILAT	SE	LC
Mexico	MER	Jan/18	IMF/FATF/GAFILAT	SE	PC
Mexico	FUR	Jun/21	IMF/FATF/GAFILAT	SE	LC
Moldova	MER	Jul/19	MONEYVAL	ME	PC
Spain	MER+FUR+FUAR	Dec/19	FATF	ME	LC
Spain	MER	Dec/14	FATF	ME	LC
Spain	FUR1	Mar/18	FATF	ME	LC
Spain	FUAR	Dec/19	FATF	ME	LC
Tunisia	MER+FURs	Jan/20	MENAFATF	LE	C
Tunisia	MER	Jun/16	MENAFATF/ WB	LE	LC
Tunisia	FUR1	Dec/17	MENAFATF	LE	PC
Tunisia	FUR2	Jan/19	MENAFATF	LE	LC
Tunisia	FUR3	Jan/20	MENAFATF	LE	C
United Kingdom	MER	Dec/18	FATF	HE	C
	MER	Mutual Evaluation Report			
	FUR	Follow-Up Report			

96. <https://www.fatf-gafi.org/publications/mutualevaluations/documents/assessment-ratings.html>



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