



The State Financial Monitoring Service of Ukraine

National review on the activities of the non-profit sector (the NPO sector) to identify, prevent and counteract the financing of terrorism and to define the mechanisms for prevention and countering the proliferation of weapons of mass destruction in Ukraine (2014 -2016)

Approved on the meeting of the
AML/CFT Methods and Trends
Council

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1. Introduction

The sustainable development of the Ukrainian society presupposes the availability of a transparent and effective financial and credit system and non-bank sector protected from abuse for laundering of the proceeds of crime by the criminals and the financiers of terrorism.

The AML/CFT Law defined the legal CFT mechanism, including the norms preventing abuse of the NPO sector for the financing of terrorism.

(1) According to the above mentioned Law terrorist financing means providing or collecting any assets in the knowledge that they are to be used in full or in part:

for any purpose by an individual terrorist, terrorist group or terrorist organization;

to organize, prepare and commit by an individual terrorist, terrorist group or terrorist organization of the terrorist act defined in the Criminal Code of Ukraine, to involve into commission of an act of terrorism, public incitement to commit a terrorist act, to set up a terrorist group or terrorist organization, to facilitate commission of a terrorist act, to carry out any other terrorist activity, as well as attempted offences.

The international practice and the assessment of international experts shows that there are numerous incidents of NPOs misuse for TF.

NPOs can be misused as a direct source of income or as covering for ML or TF.

Taking into consideration the actuality of this issue, this domestic review is aimed at assessing the NPO sector misuse risks for TF and is intended to provide the outcomes and suggestions on how to decrease the above-mentioned risks.

2. General review of the NPO sector

2.1. International standards

On February 16, 2012 the FATF adopted the International Standards on combating money laundering and the financing of terrorism and proliferation of weapons of mass destruction.

These standards define the requirements to prevent the NPO sector misuse by criminal terrorist organizations (the FATF Recommendation 8 NON-PROFIT ORGANIZATIONS).

On February 18-22, 2013 the FATF Plenary approved the Methodology for assessing compliance with the FATF Recommendations and the effectiveness of AML/CFT systems.

Thus, the FATF Methodology on assessing compliance with the FATF Recommendation 8 provides for that the countries should undertake domestic reviews of their NPO sector, in order to identify the features and types of NPOs that are particularly at risk of being misused for TF or other forms of terrorist support by virtue of their activities or characteristics; and periodically reassess their NPO sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities.

Taking into account the global nature of the counteraction to TF, the FATF pays significant attention to preparation and publication of the relevant Guidelines, Reports and Typologies on TF risks, including the examples with the NPO sector, particularly:

FATF Terrorist Financing Typologies Report (February, 2008);

FATF Report Risk of Terrorist Abuse in Non-Profit Organizations (June, 2014);

FATF Report Financing of the Terrorist Organization Islamic State in Iraq and the Levant (February, 2015);

Best Practices on Combating the Abuse of Non-profit Organizations (Recommendation 8) (June, 2015).

Besides, in October 2015 FATF published New TF Risks Report. This report is prepared to carry out further research of the TF issue. It contains the review of different financing mechanisms and practical methods on how to manage the funds misused by the terrorists and terrorist organizations. The report describes new vulnerabilities and new TF threats posed by foreign combat terrorists, fundraising through social networks, NPOs, new payment products and services and exploitation of natural resources.

2.2. The legislation of Ukraine regulating the activities of NPOs in Ukraine. The definition and main features.

The point 26, part one of the Article 1 of the AML/CFT Law of Ukraine designates the NPOs as the legal entities (except for state authorities, state administration bodies and institutions of state and communal property) which are not financial institutions and founded to run scientific, educational, cultural, recreational, environmental, religious, charitable, social, political and other activities to meet the needs and interests of the public within the limits determined by the legislation of Ukraine, without the purpose of deriving profit;

According to part six of the Article 6 of the Law the initial financial monitoring entity (reporting entity) as to the non-profit organizations, including charities, is obliged to take measures to limit the risk of their misuse to launder criminal proceeds, finance terrorism or finance proliferation of weapons of mass destruction, particularly on the basis of the recommendations of the respective state financial monitoring entity which according to this Law performs the functions of state regulation and supervision over the initial financial monitoring entity.

Besides, under the point 11, part one of the Article 15 of the Law transferring or receiving money by a NPO is subject to mandatory financial monitoring by the reporting entities.

Moreover, the Order of the SFMS of Ukraine On Approval of the AML/CFT Risks Criteria dated 03.08.2010 № 126 provides for that risk assessment under the customer's type should be also carried out if:

- the customer is a NPO or charitable organization (except for charitable organizations acting under aegis of international organizations);
- the transaction is related to TF.

In whole, the domestic legislation of Ukraine concerning founding NPOs lays down the following norms.

Under the Article 52 of Economic Code of Ukraine, non-profit economic activity is the independent systematic economic activity carried out by the economic entities and is aimed at obtaining economic, social and other results without the purpose of deriving profit.

Part two of the Article 53 of the Economic Code of Ukraine lays down that the above-mentioned Code and other laws shall prescribe the procedure for founding, state registration, operation, reorganization and liquidation of economic entities of certain organizational forms of non-profit economic activity.

It should be mentioned that under the Article 83 of the Civil Code of Ukraine, the legal entities may be founded in the form of partnerships and institutions and other forms prescribed by the law.

The partnerships are divided into entrepreneurial and non-entrepreneurial partnerships.

Non-entrepreneurial partnerships shall be the partnerships that have no the purpose of deriving profit to be shared later between its partners.

The peculiarities of the legal status of certain types of non-entrepreneurial partnerships shall be prescribed by the law (the Article 85 of the Civil Code).

According to the Statute of the Ministry of Justice of Ukraine, approved by the Regulation of the Cabinet of Ministers of Ukraine dated July 2, 2014 N 228, the Ministry of Justice shall be the main body in the system of the central executive bodies that forms and realizes the state policy in the area of state registration of legal entities, public entities that have no the status of the legal entity and natural persons-entrepreneurs.

Point 4, part one of the Article 1 of the Law of Ukraine On State Registration of Legal Entities, Individual Entrepreneurs and Public Unions (hereinafter referred to as the Law on Registration) lays down that the state registration of legal entities, public unions without the status of legal entity and individual entrepreneurs (hereinafter referred to as the state registration) is the official recognition by means of certification by the state of the fact of founding and termination of a legal entity, public union without the status of legal entity, certification of the fact of availability of a relevant status of a public association, professional union, its organization or association, political party, employees' organization, associations of employees and their symbols, certification of the fact of granting and deprivation of the status of entrepreneur by a natural person, amendments to the data contained in the Unified state registry of legal entities, individual entrepreneurs and public unions and carrying out other registration actions prescribed therein.

Public unions shall be the political parties, structural formations of political parties, public associations, local subsidiaries of a public union with the status of a legal entity, professional unions, associations thereof, organizations of the professional union, professional unions provided for by the Statute and associations thereof, artists' unions, local subsidiaries thereof, arbitrary courts acting on a permanent basis, employers' organizations, associations thereof, separated units of foreign non-government organizations, branch offices and subsidiaries of foreign charitable organizations (point 3, part one of the Article 1 of the Law on registration).

Moreover, under the sub point 133.4. point 133.4 of the Article 133 of the Tax Code of Ukraine non-profit entity, institution and organization shall be the entity, institution and organization that simultaneously meets the following requirements:

- founded and registered under the procedure prescribed by the law regulating the operation of a relevant non-profit organization;
- founding documents thereof contain the prohibition to share the income (profit) obtained or their parts between the founders (shareholders), members of such organization, employees (except for their salary, payment of unified social contribution), board of directors and other related persons;
- founding documents thereof provide for transition of assets to one or several non-profit organizations of the relevant type or admission to the budget

income in the case of termination of a legal entity (in the result of liquidation, merging, split, accession or transformation thereof). The provisions of this abstract shall not cover unions and associations of unions of co-owners of multi-storied buildings;

- included by the controlling agency to the Register of non-profit institutions and organizations.

The Article 17 of the Law on registration lays down that in order to register founding of a legal entity (including in the result of separation, merging, transformation, split), except for founding of central body of executive power, local government body, an applicant, if necessary, may submit an application, among other documents, to include a legal entity to the Register of non-profit institutions and organizations under the form approved according to the legislation. On the day of conducting registration action, a technical administrator of the Unified state registry of legal entities, individual entrepreneurs and public unions shall ensure submission of this application to the central body of executive power effectuating unified state tax policy and state policy on admission of unified social contribution to the obligatory state social insurance, namely the State Fiscal Service of Ukraine.

According to subpoint 133.4.6, point 133.4 of the Article 133 of the Tax Code of Ukraine non-profit organization may include:

- budget institutions;
- public unions, political parties, artists' unions, religious organizations, charitable organizations, pension funds;
- unions, associations of legal entities;
- housing cooperatives (from the first number of the month succeeding the month when a finished building was put into operation under the law, and such building was constructed or acquired by a housing cooperative), cottage, garden and garage cooperatives (partnerships);
- associations of co-owners of multistoried building, associations of owners of private houses;
- professional unions, associations and organizations thereof, employers' organizations and associations thereof;
- agricultural service cooperatives, cooperative associations of agricultural service cooperatives;
- other legal entities, activity of which complies with the requirements of this point.

The activity of the above mentioned organizations are regulated by the Laws of Ukraine: On State Registration of Legal Entities, Individual Entrepreneurs and Public Unions, On Public Associations, On Youth and Children's Public Organizations, On Political Parties of Ukraine, On Professional Artists and Creative Unions, On Professional Unions, Their Rights and Guarantees of Their Activity, On Associations

of Employers, their Unions, Rights and Guarantees of their Activity, On Cooperation, On Unions of Co-Owners of Multistoried Building, On Charitable Activity and Charitable Organizations etc.

Besides, part 7 of the Article 23 of the Law of Ukraine On Public Associations prescribes that public unions shall do the following:

1) keep title documents, documents that contain the information on the activity conducted according to the purpose (aims) and objectives; information and data sufficient to carry out identification under the requirements of the law of ultimate beneficiary owners (controllers), including founders, chief officers, board of directors and trustees. The above mentioned information shall not be the information with limited access;

2) prepare annual financial reports with a detailed analysis of incomes and expenditures;

3) carry out control measures to ensure admission and spending fully of all funds in a manner consistent with the purpose and objectives of the stated activity of a public union;

4) ensure accounting and keeping records for not less than five years of all necessary accounting documents concerning domestic and international transactions as well as the information provided for by point 1 and 2 of this part, and submit it to the competent state bodies under the appropriate query, and in other instances prescribed by the law.

Additionally, part five of the Article 7 of the Law of Ukraine On Public Associations prescribes that a founder of public association shall not be the legal entity of private law provided that the founder (major shareholder) of this legal entity is included to the list of persons related to terrorist activity or is subject to the international sanctions.

Liability

According to the Article 24 of the AML/CFT Law of Ukraine persons that financed terrorism or the proliferation of weapons of mass destruction shall bear criminal, administrative and civil liability under the law.

Legal entities that have carried out ML financial transactions, financed terrorism or the proliferation of weapons of mass destruction may be liquidated under the court decision.

The Article 258-5 of the Criminal Code of Ukraine lays down criminal liability for terrorist financing, namely acts committed with the aim of financial or material provision of an individual terrorist or terrorist group (organization), organization, preparation or commission of a terrorist act, involvement into commission of a terrorist act, public calls to commit a terrorist act(s), facilitating commission of a terrorist act, setting up of terrorist group (organization) shall be punishable by imprisonment for a term of 5 to 8 years with deprivation of the right to occupy certain

positions or engage in certain activity for a term up to 2 years and with confiscation of property.

2.3. Number of NPOs

As of April 1, 2016 number of public unions registered by the judicial authorities under the types thereof is the following:

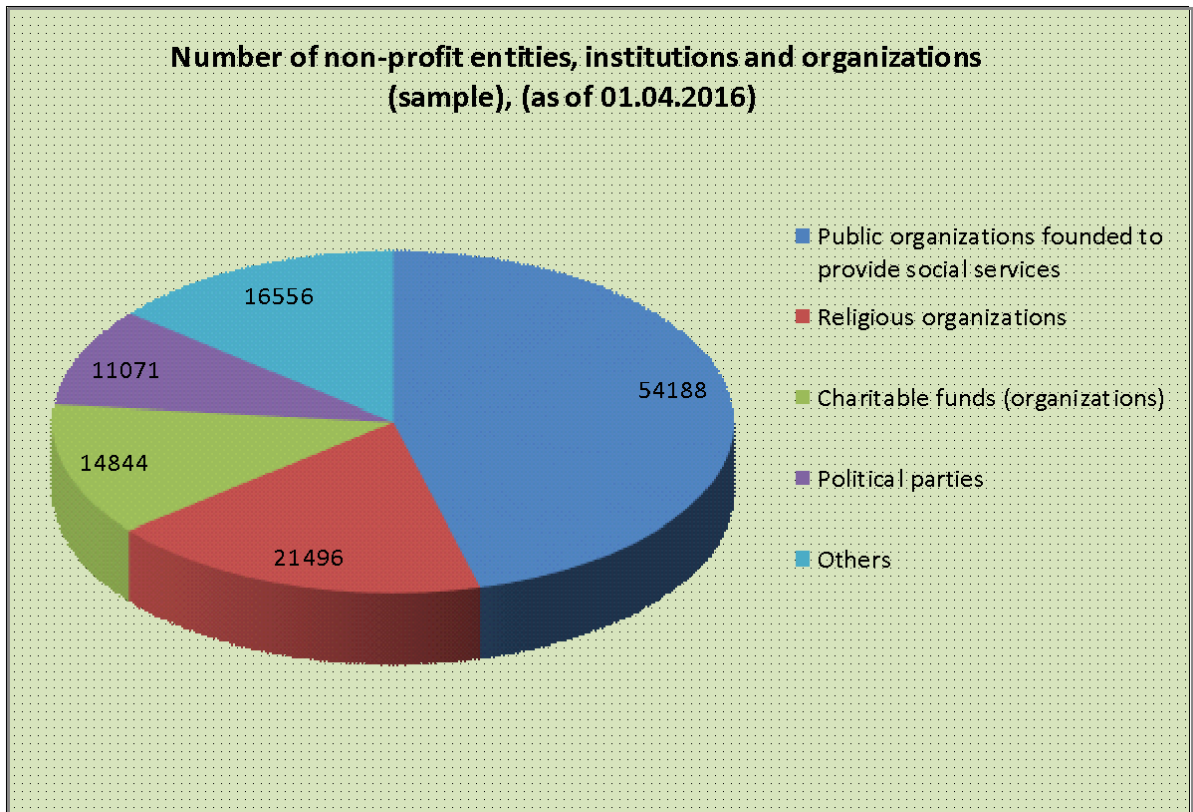
- political parties - 365;
- structural forms of political parties – 297 524;
- artists' unions - 72;
- local subsidiaries of artists' unions - 298.

In its turn, by the date of 01.04.2016 the Register of non-profit institutions and organizations, formed by the State Fiscal Service of Ukraine under the Order of the Ministry of Finance of Ukraine dated 24.01.2013 № 37, registered 244 520 institutions and organizations, particularly:

14 844 charitable funds (organizations) founded under the procedure prescribed by the law concerning charitable activity;

54 188 public organizations founded to provide rehabilitation, physical and sport services for disabled persons (children) and social services, legal assistance, to carry out ecologic, wellness, non-professional sport, cultural, educational and scientific activity, public organizations of disabled people and their local subsidiaries founded under the law;

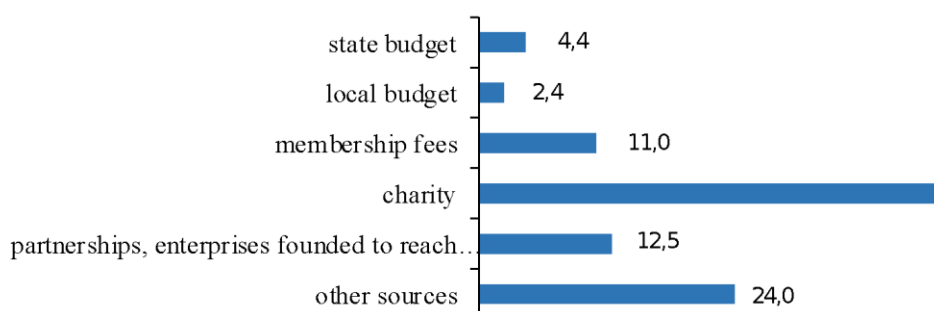
21 496 religious organizations, etc.



2.4. Financing and spending of NPO funds.

According to the information of the State Statistics Committee, in 2014 public organizations received 4,1 billion UAH from different sources to ensure their activity. Charity endowments constituted 1,9 billion UAH or 45,7% of overall sum of funds used to finance the operation of public organizations. Income from economic activity of partnerships, enterprises founded by public organizations to attain their aim and objectives constituted 510,9 million UAH or 12,5%, from membership fees – 454,6 million UAH, or 11,1%.

The sources of financing of public organizations in 2014 (percents to the overall sum)



In 2014 the available funds were used by public organizations by 84,4%; the account balance constituted 639,9 million UAH. The major share in the structure of funds spending by public organizations constituted: expenditures on charitable activity – 26,7% or 925 million UAH, salary – 23,2% or 803,6 million UAH and payment of services – 17,9%, or 621,1 million UAH.

The results of operation of public organizations in 2015 are represented in the table:

Including		Overall	
Separated units	Board of directors		
20669373	5011360	25680733	Number of members registered by public organizations, persons
7701	1570	9271	Number of partnerships, enterprises (legal entities) founded by public organizations to attain their purpose (aims) and objectives
16	97	113	Out of them Mass Media
1040659,6	5275829,5	6316489,1	Income, thousands UAH
			Including from
133232,1	93107,3	226339,4	The State Budget of Ukraine
65519,5	94942,2	160461,7	local budgets
163603,6	448001,8	611605,4	membership fees
93972,7	3618079,6	3712052,3	charity
499593,3	50155,8	549749,1	economic activity of partnerships, enterprises (legal entities) founded by public organizations to attain their aim and

			objectives
84738,4	971542,8	1056281,2	other sources
978111,2	4204199,1	5182310,3	Expenditures, thousands UAH
			including
79584,8	161511,4	241096,2	taxes and obligatory payments
400566,7	445433,2	845999,9	salary
101125,5	91163,4	192288,9	social aid
97981,4	1804989,3	1902970,7	charitable activity
34302,7	208534,7	242837,4	payment of goods
101228,5	797801,9	899030,4	payment of services
21878,9	294870,2	316749,1	activities
141442,7	399895,0	541337,7	other expenses

Tax report of NPOs funds spending shall be submitted under the form approved by the Order of the Ministry of Income and Charges dated 27.01.2014 № 85, registered in the Ministry of Justice 11.02.2014 за № 276/25053.

During January 2014 – March 2016 NPOs paid income tax to the State budget of Ukraine to the overall sum of 87,9 million UAH, including in 2014 - 33,5 million UAH, in 2015 - 48,4 million UAH, in the Ist quarter of 2016 - 6,0 million UAH.

According to the data of information resources of the State Fiscal Service of Ukraine, during January 2014 – March 2016 territorial audit units carried out 4,7 thousand inspections of non-profit entities, institutions and organizations, under the results of which 194 million UAH were additionally calculated.

3. TF typologies of NPOs abuse and the practice of the state authorities.

3.1. Typologies

International experience

Terrorist groups misuse some NPOs to obtain material and financial funds from them as well as to abuse their network and, therefore, they knowingly abuse NPOs in their aims.

FATF report, published in 2014, on the abuse of NPOs or risks of NPOs use in illicit activities unknowingly distinguishes 5 different indicators:

- diversion of endowment funds through affiliated persons to terrorist entities;
- misuse of directing offices of NPOs in the interests of terrorist entities;
- misuse of humanitarian aid programming to support terrorist entities;
- support in recruitment of new members for terrorist entities;
- deceiving into providing support and setting up of fictitious NPOs by means of false representation/fraud.

This FATF report also indicates that traditional transnational terrorist organizations that try to misuse in their aims some legal NPOs or to sham NPOs, are actors in a significant number of cases that demonstrates a threat for the NPO sector.

The report contains case studies of the NPO abuse for the financing of terrorism.

Case study 1. Diversion of funds raised by charitable organization (source: Switzerland).

The customer received on his account in Switzerland the endowments/small sums of money from different people from Germany. He notified the bank that he could not open the account of his charitable organization in Germany because of legislative restrictions and, therefore, used his personal account in Switzerland to raise endowments. These endowments were implied to be converted into cash and taken later by this man personally to Tanzania for building wells with portable water. Under the balance accounts, well doers indicated different destination of money remittance: “endowments for NPO Africa Fountain”, “endowments for charitable organization Streetwork”, “endowments for the orphanage house in Tanzania”, “endowments for building a mosque”, “endowments for the school on learning Koran” etc. Under the data of Mass media information, NPO «Africa Fountain» was affiliated to the extremists carrying out terrorist activities.

Case study 2: Plausible affiliation between foreign combat terrorists and charitable fund (source: the Netherlands)

The Authorities of the Netherlands indicated that some funds (stichtingen) and NPOs carrying out, for instance, charitable and religious activities may be affiliated with foreign combat terrorists. Irrefutable proofs of terrorism financing have not

been found yet. However, an indirect interaction and affiliation of such legal entities with combat terrorists have been revealed. Besides, the persons affiliated with the mentioned funds occurred to have visited Syria with a significant amount of cash.

The endowments were received from foreign states and later were transferred through the bank accounts of the funds pursuing unsimilar purposes and carrying out different activities but managed or affiliated with the same person. As a result, the funds were withdrawn from bank accounts that complicated the tracing of ultimate spending of funds.

Ukrainian experience

For the present moment, Ukraine is in the risk zone of terrorism, and the main reason for its spread in our state is the actions of the aggressor country.

Besides, the most significant Ukraine's vulnerability may be the actions of the supporters of terrorist organizations concerning transition or "disguise" of the source of assets for further direction thereof to reliable financial institutions of the developed countries. There is also a trend of increasing interest from the terrorists' side to the financial institutions of our state to abuse them as the transit instruments. Key factors facilitating the increase of activities of foreign radical representatives in Ukraine are negative social and economic conditions, namely a substantial share of "shadow" economy, established mechanisms of funds conversion, a high level of corruption in society, the positions of the financial institutions aimed at obtaining funds regardless their origin.

It should be taken into account that the commission of a terrorist act does not require substantial material expenditures, that is why even not significant financial or economic activity of legal entities and individuals may become its sponsor. Moreover, an annual fundraising company that takes place almost in all countries where the terrorists' supporters are present is very important for them. Such assets are accumulated by previously organized routes in safe financial institutions, commercial entities and NPOs, including the ones of the EU countries, and then are spent for defined priority purposes.

While reviewing the national TF risks assessment system, it is necessary to take into account that the attraction of cash flows supporting terrorism has two components: external and internal.

External sources of financing include the income from:

- international extremist organizations;
- radical representatives of the Islamic countries;
- the states interested to maintain instability in Ukraine and to instigate anti-state, separatist movements among radical strata of the Ukrainian population;
- the representatives of foreign units supporting the participants of regional armed conflicts.

Internal sources of financing include the income from:

- shadow activities of economy;
- illicit drug, weapon, human trafficking and illegal migration;
- supporters of anti-government and anti-state moods among population.

It is possible to distinguish the following features of terrorist financing: externally disguised criminal nature of economic and financial activity, attribution of legal nature to certain transactions, conducting economic transactions that have no economic sense, availability of corruption relations between influential persons and the representatives of the state authorities that disguise the sense of schemes pursuing mercenary interests. At the same time, the bank sector is the main but not the only sector where the persons affiliated with the terrorist financing are acting. Additionally to the bank institutions, the funds, public and religious organizations, parties, public movements, commercial institutions, criminal structures etc. are used. Their activities relate to financial support of the terrorist organizations, setting up of covering for its representatives and provision of opportunities to use the financial instruments of different type. The purpose of such actions is to set up an influential position and to form a significant material base.

Taking into account the aforesaid, in 2014 the SFMS of Ukraine jointly with the state entities of financial monitoring as well as other state authorities, including the law enforcement bodies, prepared typologies “Actual methods, means and financial instruments of terrorism and separatism financing”. The results of typological research were approved by the Order of the SFMS dated 25.12.2014 № 170 and placed on the official web-site.

The above mentioned typologies, Chapter 1. ”Terrorism and separatism financing risks”, describe typical features and sources of terrorism financing in Ukraine.

For the present moment, the most widely spread instruments in the terrorism or separatism financing schemes are the following:

- provision of financial assistance;
- legal claim cession agreements;
- purchase of goods on temporarily occupied territories;
- misuse of charitable organizations;
- fictitious persons.

In the course of analysis, the following terrorism (separatism) financing methods have been revealed:

- attraction of funds of the individuals to finance terrorist (separatist) activity;
- transmission of funds to the accounts of individuals related to terrorist (separatist) activities;
- extortion of financial assistance from economic entities by so-called high-rank officials of “Donetsk People’s Republic” and “Luhansk People’s

Republic”;

- use of conversion centers;
- fundraising in social networks as charity aid by the group of individuals;
- transmission of funds by means of electronic money remittance systems to factious persons.

Moreover, paragraph “NPOs” of Chapter 2 “Terrorism (separatism) financing means” describe the NPOs abuse risks to finance terrorism (separatism) and the examples of the investigations conducted.

Thus, under the information available, key (dominating) means of NPOs abuse was re-transmission of funds to the terrorists by NPOs. The NPO sector has a range of interdependent vulnerabilities, and the terrorist organizations try to misuse these vulnerabilities.

The NPOs’ peculiar features that may be attractive for abuse in criminal schemes include the following: the possibility to accumulate funds by means of membership fees, endowments and so-called non-profit activity, and spend cash to effectuate the projects and to acquire necessary equipment.

It is quite difficult to trace the schemes in this area, to hamper them due to the nature of such organizations (especially statute functions) and loyal system of state regulation and oversight in different countries. Being granted with the status of charitable organizations and exempted from taxation, NPOs may be abused for territorial transition of funds through their subsidiaries or for material and financial support of the terrorists and separatists (directly or as the covering for their actions).

The bank institutions also inform on abuse of charitable, public organizations and other NPOs to finance terrorism and separatism.

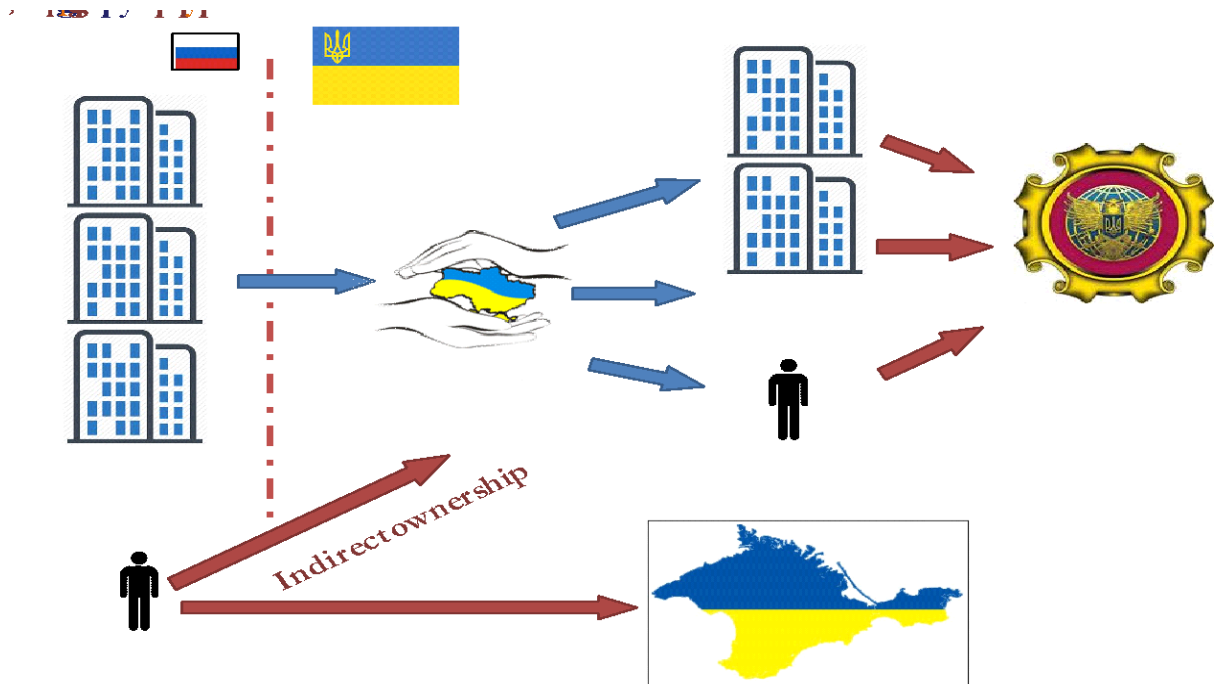
Case study 1.

The criminal proceedings have been initiated concerning illegal actions of public officials of Ukrainian public organization that, acting in accomplice with unidentified citizens of the Russian Federation, concluded with a public organization (RF) an agreement on granting funds to the amount of 8 million rubles. The funds have been transferred to the account of the above-mentioned Ukrainian public organization and should have been spent to carry out on the territory of Ukraine propaganda activities on discredit of acting state authorities, to provoke armed conflicts between different strata of the Ukrainian population, to instigate national hostility, to provide information support of carrying out in the Eastern regions of Ukraine, contrary to the provisions of Constitution of Ukraine, of so-called “referendum” regarding accession of administrative and territorial units of Ukraine to the Russian Federation.

Case study 2.

The law enforcement agency has initiated criminal proceedings against a citizen of the Russian Federation that has organized a flow to the charitable organization’s accounts controlled by him of funds to the amount of 23,9 million

UAH that later have been forwarded to finance illicit actions on the territory of illegally annexed the Autonomous Republic of Crimea.



To attract funds as a charitable endowment, the information resources are set up in Internet that publish the essential elements under which it is possible to transfer money.

Case study 3.

A number of persons set up the information resource in Internet where they suggest to the inhabitants of Kharkiv to transfer money for the charitable assistance of the army of self-proclaimed “Kharkiv People’s Republic” for further acquisition of bullet-proof vests, weapon and accoutrements for the revolutionists of “Kharkiv People’s Republic”. Therefore, taking into account the aforesaid, unidentified persons carried out actions in order to ensure financial and material provision of a terrorist group, that is a crime provided for by part 1 of the Article 258-5 of the Criminal Code of Ukraine “The financing of terrorism”.

3.2. Practical work of state authorities.

For the present day, one of priorities of the SFMS of Ukraine is the activity the purpose of which is to identify the charitable organizations among the actors of financial transactions suspected of being abused (or its financial transactions) as a channel to finance terrorism and/or separatism. The statistics data concerning case referrals and additional materials related to terrorism (separatism) financing submitted to the law enforcement and intelligence agencies are indicated in the table.

Overall		Additional materials submitted		Number of case referrals submitted		Reporting period
Concerning NPOs	Total	Concerning NPOs	Total	Concerning NPOs	Total	
6	73	2	18	4	55	2014
7	48	-	9	7	39	2015
-	1	-	-	-	1	I quarter 2016

Additionally, one of key priorities of the activities of the SFMS of Ukraine is to identify and freeze funds related to the financiers of terrorism and persons who publicly call to change or to overthrow the constitutionalism by violent means or to change the limits of the territory or state border of Ukraine.

Taking into account the aforesaid, during 2014 the SFMS of Ukraine prepared and submitted to the law enforcement agencies 73 materials (55 case referrals and 18 additional materials).

During 2015 the SFMS of Ukraine prepared 48 materials (39 case referrals and 9 additional materials) concerning financial transactions related to TF or conducted by the individuals who publicly call to change or to overthrow the constitutionalism by violent means or to change the limits of the territory or state border of Ukraine, and submitted to the law enforcement agencies:

- The General Prosecutor's Office of Ukraine – 2 case referrals;
- The Ministry of Interior – 3 case referrals;
- The Security Service of Ukraine – 33 case referrals and 9 additional materials;
- The External Intelligence Service – 1 case referral.

In 2015, 45 case referrals out of them were prepared taking into consideration the information of the Security Service of Ukraine and the Ministry of Interior of Ukraine laid down in 127 letters concerning counteraction to the financing of terrorism and separatism movements in Ukraine, and participation in illegal actions of public officials of state authorities (including local level) and local self-government bodies.

In case referrals submitted:

- the amount of the financial transactions that may be related to ML constitutes 387,5 million UAH.

- the amount of the financial transactions that may be related to the commission of other crime provided for by the Criminal Code of Ukraine constitutes 1 487 million UAH.

Under the results of the measures taken, during the period mentioned the SFMS of Ukraine traced and froze the funds under TF transactions and transactions, related to the actions aimed to change or to overthrow the constitutionalism by violent means or to change the limits of the territory or state border of Ukraine, to the overall amount of UAH 110 million, \$ 715,1 thousand, € 206,6 thousand, ₪ 3,0 million.

In its turn, during 2014-2016 the Security Service of Ukraine forwarded to the SFMS of Ukraine 208 information notifications on TF transactions.

During this period 302 criminal proceedings were registered under the indicia of crimes provided for by the Article 285-5 (Terrorist financing) of the Criminal Code of Ukraine. The court brought up a verdict of guilty to 13 persons for the financing of terrorism and appointed punishment in the form of imprisonment for the term of 5 years. Ten persons were informed about suspicion. Under the Article 258-4 of the Criminal Code of Ukraine (Facilitating commission of a terrorist act) during this period 26 criminal proceedings were initiated, and 5 indictments concerning 5 persons were forwarded to the court. The court passed a conviction sentence on 3 persons and appointed punishment in the form of imprisonment.

There is also a pre-trial investigation underway in the framework of criminal proceedings, registered under part 3 of the Article 258 of the Criminal Code of Ukraine, regarding the representatives of international terrorist organization Islamic State of Iraq and the Levant. In the framework of the investigation, a transnational network was disclosed with a nidus in Ukraine subordinated to the leaders of the above mentioned international terrorist organization that ensures financing of terrorist activities on the Ukrainian territory.

Particularly, in the framework of criminal proceedings under the Article 258-5 of the Criminal Code of Ukraine a group of citizens of the country A was detained, it is suspected in financing of terrorist activities of the above mentioned terrorist entity. Besides, there have been registered 28 criminal proceedings related to the activities of the conversion centres, 8 suspicions were announced to the actors of such cases, and over 64 million UAH was arrested. The SFMS of Ukraine together with the other agencies froze 16,5 million UAH on the accounts.

In 2015 a pre-trial investigation was initiated on the base of case referrals of the SFMS of Ukraine concerning the financial transactions conducted under the account that accumulated funds through Internet.

In the result of legal proceedings 250 terminals functioning on temporarily occupied territories of Donetsk and Luhansk regions have been disconnected, an illegal mechanism of financing terrorist activities and separatist groups by means of misuse of electronic payment system has been disclosed.

4. The information resources used to detect terrorists.

Taking into account how complicated is to detect abuse of NPOs by the terrorists or terrorist entities and affiliation thereof with financing of terrorism, the NPOs are recommended to carry out identification of persons in the course of admission them as shareholders (members) of such organizations, namely, the contributors to charity funds, and to pay special attention to the sources of acquisition of the property by NPOs in order to prevent being abused for financing of terrorism.

In this sense, it is very important the availability of the information resources, by means of which NPOs may identify the affiliation of their customers to the terrorism.

In Ukraine, the list of persons affiliated to the terrorist activities or internationally sanctioned persons is formed under the procedure prescribed by the Cabinet of Ministers of Ukraine.

The Resolution of the Cabinet of Ministers of Ukraine dated November 25, 2015 № 966 approved the Procedure for composing the List of persons affiliated to the terrorist activities or List of persons related to terrorist activity or concerning whom international sanctions are applied, which prescribes that composing and amending the list shall be carried out by the SFMS of Ukraine.

Under the point 4 of the Procedure, the List shall be communicated to the reporting entities according to the procedure defined by the Ministry of Finance and approved with the other state financial monitoring entities that under the AML/CFT Law exercise the functions of state regulation and supervision over the reporting entities.

The Order of the Ministry of Finance dated 05.05.2016 № 475 (registered in the Ministry of Justice of Ukraine on May 26, 2016 № 772/28902) approved the Procedure for communicating the List of persons affiliated to the terrorist activities or List of persons related to terrorist activity or concerning whom international sanctions are applied, and the Instruction on entering the information to such List to the reporting entities.

Under the point 3 of the Procedure, the List (amendments to it) shall be communicated to the reporting entities by the SFMS of Ukraine by means of publishing the List on its official web-site:

The List is placed in XML and PDF files under the structure and essential elements, defined in the Instruction on entering the information to the List of persons affiliated to the terrorist activities or internationally sanctioned persons, approved by the Order of the Ministry of Finance dated 05.05.2016 № 475.

OFFICIAL WEB-SITE

The State Financial Monitoring Service of Ukraine

Home Site Map Date: 04.08.2016 ukr pye eng

Home Site Map Date: 04.08.2016 ukr pye eng

Extended search

List of persons related to terrorist activity or persons to whom international sanctions were applied

07.07.2016 Print Version

Combating Terrorism :: List of persons related to terrorist activity or concerning whom international sanctions are applied

The SFMS of Ukraine by its Order has adopted the List of persons related to terrorist activity or concerning whom international sanctions are applied (with amendments). (PDF) (XML)

The SFMS of Ukraine has amended the List of persons related to terrorist activity or concerning whom international sanctions are applied, according to procedure established by the legislation, by the following Orders:

SCFM of Ukraine by its Order dated October 7, 2010 #183 has adopted the List of persons related to terrorist activity or concerning whom international sanctions are applied (PDF) (XML)

President of Ukraine

Verkhovna rada of Ukraine

Government portal

Contact Administrator News Archive

Moreover, it is worth mentioning that, in addition to the persons enlisted, the reporting entities and the NPOs should take into account the fact of conducting financial transactions by the persons that subject to the sanctions of the Council of European Union, the UNO and the USA (including OFAC), the lists of which are placed on the following web-sites:

<http://www.treasury.gov/ofac/downloads/prgrmlst.txt>;

<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;

<http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx>;

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014D0238&rid=1>;

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:078:0006:0015:EN:PDF>;

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014D0151&rid=4>;

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0433&rid=1>;

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0477&from=EN>;

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2014_160_R_0004&from=EN;

<http://www.treasury.gov/resource-center/sanctions/Programs/Documents/31cfr589.pdf>;

<http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140716.aspx>;

<https://www.un.org/sc/suborg/en/>;

та інших інформаційних джерелах, які розміщені за такими інтернет-адресами:

<http://www.whitehouse.gov/>;

<http://www.world-check.com/>;

www.lawua.info/jurdata/dir237/dk237300.htm;

www.fbi.gov;

www.ict.org.il.

5. Conclusions and suggestions.

Taking into account the results of the review of the NPO sector concerning the risk of being abused for the financing of terrorism, it should be noted the following:

availability in Ukraine of the legislative base concerning the activities of the NPO sector;

a significant number and different organizational forms of NPOs in Ukraine;

implementation into Ukrainian legislation of the FATF standards regarding due diligence measures to the NPO sector;

carrying out by the interested Ukrainian agencies of the typological research of TF risks and case studies with NPOs;

carrying out a practical work by the state agencies of Ukraine to counteract terrorist financiers abusing NPOs.

Public sector

Taking into consideration high risks of the NPO sector's abuse by terrorist entities, the interested state agencies, within their competence, shall ensure the following:

- to continue carrying out measures aimed at disclosing the facts of provision by the representatives of international terrorist and extremist organizations of financial maintenance to their supporters on the Ukrainian territory, including by means of legalized proceeds of crime and income from the NPO sector;

- to improve the principles of interagency coordination concerning identification and further freezing of the assets owned by the persons affiliated to the financing of terrorism and proliferation of the weapons of mass destruction, including the ones abusing the NPO sector;

- to enforce measures on identification of financial transactions and criminal proceedings of the persons affiliated to the financing of terrorism and the actions aimed to change or to overthrow the constitutionalism by violent means or to change the limits of the territory or state border of Ukraine:

- to promote the efficiency of the activities on preparation and upgrading qualification of the officials of special units of the law enforcement agencies taking part in identification, disclosure and investigation of the TF facts;

- to continue summarizing information on disclosed TF schemes and communicating it to the reporting entities;

- effective interaction and information sharing with the competent foreign counterparts and international organizations combating the financing of terrorism and proliferation of the weapons of mass destruction.

Private sector

The reporting entities shall continue taking measures to mitigate the risk of abuse of charitable and non-profit organizations for ML and TF as well as:

- to carry out enhanced identification of the transaction's actors;
- to identify the purpose of the transaction;
- to assess the amount and the source of existing and anticipated proceeds;
- to identify the source of origin and the means of money transfer (deposit) used in the transactions;
- to identify the affiliated persons;
- to submit the information to the SFMS of Ukraine.

In their turn, to prevent being abused by individual terrorists and terrorist organizations and being affiliated with the financing of terrorism, the NPOs are recommended:

- to take enhanced due diligence identification measures to the persons in the course of admission thereof as shareholders (members) of such organizations, particularly, the contributors of charitable funds, and to pay special attention to the sources of acquisition of the property by NPOs in order to prevent being used for TF purposes;

- to take measures to meet the requirements fully of part seven of the Article 23 of the Law of Ukraine On Public Unions concerning keeping documents and financial records.