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The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights in Geneva, and, with regards to the Joint Communication from Special Procedures Ref. No. AL SRB 3/2020 from 6 November 2020, please find attached to this Note Verbal the Response of the Republic of Serbia, along with the pertinent Annex.

The Permanent Mission of the Republic of Serbia to the United Nations and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights in Geneva the assurances of its highest considerations.

Geneva, 24 December 2020



Office of the United Nations High Commissioner
For Human Rights
Geneva

RESPONSES OF THE REPUBLIC OF SERBIA

We appreciate very much this opportunity to give a responses as we value very much the principles of work of the non-profit sector and its significance for the democratic values of each country. Indeed, even though Administration for the Prevention of Money Laundering (APML) have intensified our cooperation with our NPO partners in the anti-money laundering and countering the financing of terrorism (AML/CFT) area, we went a step further and enshrined this partnership in the current National Strategy Against Money Laundering and Terrorism Financing (AML/CFT) and its Action Plan¹. The key stakeholders have been consulted as part of frequent meetings, seminars, workshops and other events both with respect to the implementation of the Moneyval recommendations and FATF Action Plan, and as part of the NRA process. Both private and NPO sectors were consulted.

Consequently, AML/CFT Strategy provides for relevant activities with regard to the NPO sector, such as comparative legal analyses, which will additionally enhance financial transparency and accountability in terms of both financing and expenditures. In line with the Action Plan of the AML/CFT Strategy, which was adopted on 13 February 2020, a range of activities is planned to take place, jointly conducted by state authorities and representatives of NPO sector (for example, activities 4.3.2, 4.3.5 and 4.3.10, etc.). For **the first time** in Serbia NPOs **will directly take part in the national terrorist financing risk assessment**, including development of a methodology according to which the assessment will be conducted. The Methodology and the findings of the assessment are not of public character – wider public will have access to a summary. Given the importance and gravity of the mentioned activities, it is clear that well-renowned NPOs with developed infrastructure and experience over many years in NPO activities, having exceptionally low risk of terrorism financing and other criminal offences should participate in the activities.

The above said, in line with the Action Plan state authorities initiated preparatory activities. In addition to the gap analysis, APML significantly contributed to the matter by developing the Strategic Analysis, which encompasses relevant risk elements, which have not been considered previously. The findings reached by APML will be used in developing both the National and the Regional NRA, which will be conducted within CRAAFT Project, funded by EU, implemented by the UK RUSI.

¹ <http://www.apml.gov.rs/english/strategy>

Question 1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

Background. To understand the current situation and developments in this area, it would be beneficial to read the studies conducted in 2013 and 2014 by the Council of Europe expert and a UK Charities Commission's experts, as well as Moneyval's Mutual Evaluation Report for Serbia from 2016².

The following are some key points identified in them:

- there was a lack of knowledge of the NPO sector,
- lack of transparency,
- lack of appropriate NPO oversight by relevant government agencies,
- lack of information sharing between authorities,
- there was no outreach to NPOs and
- no strategy that would ensure NPO participation in relevant processes.

Therefore, it came as no surprise that Moneval should provide the recommendations as formulated in its 2016 Mutual Evaluation Report for Serbia. Essentially, Serbia was found to be partially compliant on The Financial Action Task Force -FATF Recommendation 8 on NPOs, in terms of technical compliance, and more importantly Moneyval found that the Serbian AML/CFT system was at a low level of effectiveness on Immediate Outcome 10, which deals specifically with NPOs in the counter-terrorist financing context.

Given that Serbia did not show enough progress in implementing Moneyval recommendations, including on NPOs, the FATF decided to apply enhanced monitoring of Serbia in 2018, that is, to place it on the so-called grey list.

This was definitely a signal for the highest authorities in Serbia that the relevant Moneyval recommendations should be implemented as quickly and as effectively as possible.

The result was the following: in a record-short time, in 2018 and 2019, Serbia managed to

- do a review of the NPO sector as part of the 2018 National ML and TF Risk Assessment,
- a subset of NPOs which could be exposed to TF risk was established and its features were determined. Such NPOs are subject to supervision in line with FATF Recommendations,
- establish an NPO supervision mechanism on a risk-sensitive basis,
- conduct supervision in practice,
- to establish coordination and information exchange mechanism between the authorities and

² One general remark: most of the findings and issues identified in the documents were unpleasant for both the authorities and the NPO sector.

- to intensify outreach by providing guidance and organizing outreach events for our NPO partners³.

These activities were to a great extent done with our NPO sector partners, and the related media reports can be found on the internet.

In 2019, Serbia demonstrated to the FATF that it made significant progress on the NPO issues, which was acknowledged both by the FATF and subsequently Moneyval. Consequently, Serbia was delisted by the FATF in June 2019, and Moneyval formally upgraded the rating on FATF Recommendation 8 in December 2019, which means that Serbia is largely compliant with this FATF recommendation.

You state in your letter that ‘[t]he FATF recommendations, while non-binding, provide recognised international guidance for the countering of terrorism financing. Specifically, Recommendation 8 provides guidance to States on the laws and regulations that should be adopted to oversee and protect NPOs that have been identified as being vulnerable to terrorist financing abuse.’

Serbian legislation on anti-money laundering and countering the financing of terrorism (AML/CFT) is in line with the international legal acts and documents referred to in your letter.

It was not until 2018 that Serbia started in a more comprehensive way to look at compliance with FATF Recommendation 8. Related studies (Graham Barker, expert, EU/CoE MOLI-Serbia Project, 2013) identified that the principle vulnerability within Serbia was that very little was known about the sector. It was concluded that the sector is ‘highly vulnerable to wide criminal exploitation, both in terms of terrorist financing and activity, and money laundering’.

For this reason, and for the reasons of effectiveness and allocation of resources, the APML looks at the sector from a number of perspectives, in addition to the CTF perspective.

It seems that the previous lack of relevant NPO reviews, coordination, oversight and information exchange mechanisms had mislead some NPOs to believe that freedom of association also meant lack of transparency, oversight, responsibility and accountability. A more detailed look at the scale, scope and workings of this subset of the NPO sector by the authorities has definitely revealed further areas and room for outreach and improvement of authorities-NPO partnership in preventing NPO misuse for TF purposes and for preventing their misuse for criminal purposes.

The description that you provided in the letter, indicating that

³ APML and other authorities started active outreach to NPO sector and awareness-raising, which is one of the requirements from the Standards. This has been confirmed by FATF experts. APML developed a guide on risks of abuse of NPOs for TF purposes and published it with the support of OSCE Mission to Serbia. APML organized a series of events to raise awareness on risks of NPO abuse for TF purposes in major regional centres in Serbia. Examples of best practice in mitigating vulnerability have been presented, which helps NPOs protect themselves from abuse for TF purposes.

In November 2019 Donors’ Guide was issued and presented.

‘In 2016, MONEYVAL rated Serbia as partially compliant in its implementation of Recommendation 8, which concerns the protection of non-profit organizations (NPOs) from terrorist financing abuse. Specifically, evaluators stated that ‘Serbia has not conducted any review of the NPO sector with regard to its size, relevance, activities and its vulnerability to [financing terrorism] threats or that of the adequacy of the domestic legal framework in this field’.

The Serbian Law was passed on 14 December 2017, and appears to have been harmonized with these FATF recommendations. It was later on evaluated by MONEYVAL as largely compliant.

While mainly accurate on their own, the above statements are not causally related.

We believe this merits to be clarified as it may present the source of misunderstanding. Specifically, the deficiencies identified by the earlier expert studies and MONEYVAL evaluation could not be remedied by amending the Law on the Prevention of Money Laundering and Terrorism Financing in 2017. The nature of the deficiencies, i.e. ‘*review of the NPO sector with regard to its size, relevance, activities and its vulnerability to [financing terrorism] threats or that of the adequacy of the domestic legal framework in this field*’ is concerned with **effectiveness** rather than **technical compliance** with a particular FATF recommendation. The review of the NPO sector and the gap analysis with respect to the adequacy of the domestic legal framework were actually two major reviews in 2018, and they were part of the 2018 National Risk Assessment.

It is therefore because Serbia demonstrated that it reviewed the sector and conducted a gap analysis that the MONEYVAL and FATF noted Serbia’s progress in implementing the FATF Recommendation 8 and Immediate Outcome 10.

However, risk analysis is an ongoing process. Authorities must be able to identify and assess threats and vulnerabilities, and therefore risks, on a continuous basis.

This is why specific risk-based reviews and strategic analyses are conducted, including by the APML and not only in relation to NPOs, the purpose of which is a) to generate enough knowledge for the policy level and risk assessment updates that are taking place at the national level every three years according to the AML/CFT Law and b) to be alert and potentially identify, as a by-product, some specific operationally relevant issues that require immediate attention of various other authorities.

Serbian FIU’s roles – wider context. Serbian FIU – APML – has a number of responsibilities under the Law on the Prevention of Money Laundering and the Financing of Terrorism (AML/CFT Law) and Law on Freezing of Assets with the Aim of Preventing Terrorism and Proliferation of WMD (LAF). In addition to FIU core and additional FIU functions (transaction suspension, account monitoring, AML/CFT legislation drafting, development of regulations, indicators,

typologies, trends etc., taking part in the freezing of assets of designated terrorists, supervision under LAF), APML has several other roles which include participation in a number of coordination mechanisms such as the Government Coordination Body for the Prevention of Money Laundering and Terrorism Financing, Government National Coordination Body for the Suppression and Fight against Terrorism, Working Group on NPO Supervision, etc. Under the Law on Centralised Records of Beneficial Owners, APML has the power to supervise and file motions for misdemeanour proceedings, and under the Law on Organisation and Jurisdiction of Government Authorities in the Suppression of Organised Crime, Corruption and Terrorism, the APML is among the authorities that must have a designated liaison officer to work with other anti-corruption and anti-organised crime authorities, and it regularly takes part in task forces involving serious and organized crime, including financial investigations.

We would like to emphasise in particular that in line with Article 71 of AML/CFT Law APML reviews efficiency and effectiveness of AML/CFT system at least once a year. Such a comprehensive analysis helps identify risks and threats in different sectors, after which systemic mitigation of identified deficiencies begins, at the level of inter-agency cooperation, through specific action plans.

To be able to fulfil these roles effectively, which are mainly related to intelligence-gathering, the APML must be proactive and apply a risk-based approach that enables it to remain prepared and alert for new developments, (re-)allocating its resources as appropriate and promptly.

It is within this wider context that the APML's action should be considered. APML needs to be able to conduct high-level (strategic) analyses but also to use these results and further examine potential specific cases at the operational level if operationally-relevant information is detected along the way.

APML strategic analysis of the NPO sector

The framework for the development of this strategic analysis was set out in June 2020, and the main purpose of the analysis was to review the qualitative and quantitative data and information with the aim of considering the elements which had not previously been part of any analysis, such as transparency, beneficial ownership, etc. The framework set out the main and additional objectives of the analysis as well as the methodology, scope, selection of the sample etc. The wider context of the analysis, in terms of international FATF standards, was that related to Risk assessment and risk-based approach; prevention of misuse of nonprofit organisations; transparency and beneficial ownership of legal persons.

The main aim of the analysis was to **assess general and specific ML/TF risks related to the operation of the NPO sector**, but the additional or added-value objectives were also

- to identify NPOs whose activities may raise suspicion on ML or TF or related predicate crimes, which may further have an effect on the operations of the Working Group for NPO Supervision and

- to identify NPOs whose activities do not raise suspicion on illegal (or high-risk) operations, or NPOs that could be considered potential partners in implementing the activities envisaged in the national AML/CFT Action Plan

While the main aim was for the analysis to be strategic in nature and one which provides relevant insights for the NRA and policy level, the analysis was also to be relevant for the operation of the Working Group on NPO Supervision (interagency body supervising NPOs within the context of R8) as well as for the operational level.

Benefit. The analyses like this have the aim of helping the APML (and consequently other authorities) better understand certain aspects of our system's risks and support our operational capacities to combat ML/TF. We generally attempt to address potential policy and other gaps, and in this particular case the APML identified these potential gaps at the very outset (e.g. transparency, beneficial ownership).

The findings of the strategic research will benefit the system at various levels. Regional initiatives and the related EU/CoE projects have also justified this research as its subject-matter is closely related to the new, emerging trends and developments and have an effect on the country's response to them in terms of preventing ML/TF/predicate crimes.⁴

By-products/added value. Given that such focused analyses on NPOs have not been done before, we could not rule out the possibility that operationally relevant information would turn up. Therefore, this strategic analysis was expected to have some by-products that already proved to be relevant for the operational level.

Indeed, the APML detected 3 specific ML/TF/predicate crime cases, 1 being a suspected NPO involvement in a wider drug trafficking scheme, and two other are relevant from the point of view other types of misuse of NPOs that are relevant for the WG on NPO Supervision and other inspection authorities (potential fraud; potential misuse of NPO for engaging in business activities outside the normal scope). According to the Law on Centralised Records of Beneficial Owners, APML has filed 6 motions to the competent prosecutor's office for failure by some NPOs to comply with the BO legislation.

Finally, a very important by-product of this analysis is the knowledge that the APML have about the good NPO examples, those highly professional and transparent NPOs that will potentially be considered as partners for our 2021 NRA update (e.g. to be involved in the development of the NPO risk assessment methodology and the NRA exercise itself).

(Please refer to Annex 1 for the Findings of the Strategic Analysis by APML)

Response to particular statements and comments in the letter

In terms of factual description (page 3)

⁴ Council of Europe and EU Horizontal Facility programme; The CRAAFT Project (funded by EU, implemented by the UK RUSI)

Paragraph 1: Topic: How the list was compiled – sample. The sample NPOs that were covered in our analysis were not selected in an arbitrary manner and based on their prior criticism of the Government.

As you can see in our response to Question no. 3, the sample has been selected in order to analyse basic risk elements, namely, transparency (visibility, active status, whether there are accurate instructions for making donations, transparency in terms of disclosing an updated and accurate list of donors, possible cross-border risk) and transparency of beneficial ownership. When selecting the sample, APML made sure it was representative, as conclusions about the population are made on the basis of sample statistics. Therefore, the largest part of the sample is made of organizations with largest revenues and organizations where donations from abroad account for more than half the revenues. As you can see in Annex 1, there are more than 35000 NPOs active in Serbia, whereas 350 of them with the largest revenues generate 51% of the revenues of the entire sector. In terms of methodology, it would be utterly wrong to analyse elements such as transparency, beneficial ownership and cross-border risks on a sample made in greatest part of inactive NPOs or those with very low revenues. It is true that declared (proclaimed) goals were one of additional criteria when determining the sample. However, it is important to emphasise that this criterion is of no primary importance nor is applied in practice, as according to previous analyses (NRA in 2018) it is known that in more than 70% of cases NPOs declare “other activities on the basis of association” as their field of work and goals, when registering.

On a more general note, as the international and domestic experiences and analyses have so far shown, there is a clear threat to the NPO sector from organized crime, not only terrorist financing. The fact that the declared objectives of certain NPOs fall under the area of human rights, monitoring of the government’s work, etc. Does this mean that any NPO could invoke government criticism as an alibi and defense against potential research into or examination of their activities and transparency.

Paragraph 2: Topic: Grounds for examination.

It is of essential importance to reiterate that this is not investigation, but an examination under a strategic analysis, which had its main and by-products. APML invoked its legal powers to obtain missing data, such as beneficial ownership, signatory powers over accounts, the latter having been used as a measure of risk in cases when the registered owner does not have signatory power over the NPO’s account(s), and a list of donors, in order to compare the disclosed and the actual donor. NPOs in Serbia are not required by law to disclose their donors, nor is such information held by any state authority or institution, which is a deficiency of the system itself.

Paragraph 3: Topic: Previous explanations by government officials.

On this topic APML Director issued no more than two statements for the media, placing emphasis on and providing explanation of APML’s activities, including those related to strategic analysis,

which is a preparatory activity for coming NRA. The Director underlined the fact that no NPO is being targeted or investigated. Unfortunately, some individuals took advantage of this situation to make unfounded accusations on the basis of incomplete, incorrectly interpreted or completely made-up content. Following the completion of strategic analysis the Director spoke of the strategic analysis and its findings at a panel organized by NPOs, which was completely open to the media and public. In addition, APML organized a few webinars, through which it informed relevant professionals, representatives of international organizations and EU institutions. We would particularly like to emphasise that a part of the media made several stories, articles and TV shows without inviting APML representatives to participate or asking for any information from them. APML fully understood the interest that NPOs had in this matter, but it also deemed necessary that in return they showed understanding and refrain from reacting until the findings of the strategic analysis were completed.

APML firmly adheres to the principle that law applies equally to anyone. In the course of its work, APML has collected information on the cases which involved government officials, including ministers currently in office, using its powers to obtain information from foreign FIUs. Some of these cases can be found in media headlines. Despite intense media attention, no negative connotations of these cases can be found, or any insinuations that APML failed to do something, did something unprofessionally, selectively or in contravention to the law or moral. APML representatives act in a highly professional and conscientious manner in all their activities.

If there was an interest in analyzing media allegations and speculation, we highly recommend that special attention be paid to the statement made by the President of the Association of Judges and Prosecutors of Serbia, who is a judge of the High Court. The judge stated that APML did not violate any provision of the law, that in line with its powers and supervisory function APML had all the right to invoke the article which stipulates suspicion of money laundering or terrorism financing and that the activities conducted by preventive authorities (and APML certainly is one) should not be mistaken for the activities pursued by repressive authorities under criminal laws.

Paragraph 4: Topic: Expression of concerns; stating that ‘government employed CTF oversight powers in a broad and arbitrary manner against NPOs and individuals and thus inconsistent with Serbia’s obligations under international law’. This perception is absolutely inaccurate.

Namely, the CTF oversight powers are and have been focused, risk-based and part of larger risk-based efforts by the Government to ensure regular risk monitoring, review and gap analysis of the subset of NPOs (not entire NPO sector) in line with the FATF definition, and not NPOs operating in particular areas as was explained in detail in the description of our strategic research and sampling methodology. The overall aim of these activities is specifically to protect the NPO sector from being misused for TF purposes and from wider criminal exploitation while applying a risk-based approach which will enable the authorities to (re-)allocate their resources in accordance with the risks found.

Therefore, such actions cannot have any implications for the right of NPOs to exercise their fundamental rights and freedoms, but quite the opposite. They have the aim of learning about the scale, scope and workings of the NPO sector with the aim of protecting it from potential abuse and create a better and more secure environment in which NPOs can benefit the society through their legitimate activities.

Question 2. Please provide information on how the assessment of the threats and vulnerabilities of the NPO sector was carried out and address if such assessment was carried out in line with FATF guidance, including with the proper involvement of the NPO sector

The development of national risk assessments of money laundering and terrorist financing, pursuant to the amended and revised FATF recommendations adopted in February 2012, constitutes an international standard. Recommendation 1 calls on countries to identify, assess and understand the risks of money laundering and terrorist financing which they face. Under this recommendation, states should designate an authority or mechanism to coordinate actions to assess risk. Identifying, assessing and understanding the risk of money laundering and terrorist financing is an essential part of the implementation and development of an anti-money laundering and terrorist financing system in the country. This system includes laws, other regulations, enforcement measures and other measures undertaken to mitigate the risks.

In 2018, The Coordination Team set up a working group tasked with drafting a national risk assessment of money laundering and terrorist financing following the **World Bank methodology**.

The assessment of the terrorist financing risk has been made by reviewing terrorism threats, the impact on the terrorist financing threat, terrorist financing threats, and the vulnerability to terrorist financing, within which, among other things, the NPO sector has been analyzed from the standpoint of terrorist financing vulnerability.

The "Terrorist Financing Risk" has been assessed on the basis of: individual assessments of two independent factors: the "Terrorism Threat" and the "Impact on the Terrorist Financing Threat", which were specifically assessed within the "Terrorism Threat" criterion; the overall assessment of the "Terrorist Financing Threat" criterion; the overall assessment of the criterion "Terrorist Financing Vulnerability".

1. The "Terrorism Threat" factor was reviewed through a recent case opened in 2014 by the Prosecutor's Office for Organized Crime for the criminal offenses of terrorism and terrorist financing, which was concluded by a first instance judgment in the first half of 2018, and the data of the security services and other relevant state authorities relating to future tendencies, intelligence and publicly available information, on which basis this factor has been assessed as **MEDIUM HIGH**.
2. The factor "Impact on the Terrorist Financing Threat" was reviewed through the data from the above case concerning the degree of complexity of the operation and organization as

regards propaganda, recruitment and travel to foreign battlegrounds, on which basis this factor has been assessed as **LOW**.

3. The criterion "Terrorist Financing Threat" was reviewed based on the analysis of the case mentioned in Factor 1, and the data of security services, other relevant public authorities and the APML, which was related to the collection of funds intended for the recruitment, training and financing the travel of nationals of the Republic of Serbia to the war-affected zones in Syria, to join the ISIS. In order to achieve objectivity when making the assessment of the criterion "Terrorist Financing Threat", separate assessments were also made of the quantitative and qualitative data, due to their apparent disproportion, for which reason this criterion has been rated as **MEDIUM** with a "NO CHANGE" tendency.
4. The criterion "Terrorist Financing Vulnerability" was reviewed through the positive political commitment, good domestic and international cooperation practices, the high quality of intelligence and report analyses, the existence of the legal framework. Moreover, the "Terrorist Financing Vulnerability" criterion was also reviewed through the inadequately efficient implementation of the legal framework related to the supervision of the NPO sector, and the partial inadequacy of the resources needed to combat the financing of terrorism, and geographic and demographic factors, which is why this criterion is rated as **MEDIUM**.

By assessing the overall parameters and statistical data on which basis the criteria "Terrorism Threat", "Terrorist Financing Threat" and "Terrorist Financing Vulnerability" were assessed, the Working Group has made an assessment that the level of the "Terrorist Financing Risk" in the Republic of Serbia is "**MEDIUM**".

A total of 154 representatives participated in the money laundering and terrorist financing risk assessment, of whom 124 were representatives of the government sector and 30 were private sector representatives (reporting entities, associations, chambers, etc.). In addition to regular meetings of the groups within which the risk was assessed, numerous meetings were held with representatives of the private sector, the offices (Office for Combating Drugs, NALED, etc.), and agencies identified for resolution of certain issues (Directorate of Measures and Precious Metals), three video conferences with the World Bank were held, as well as a three-day workshop.

The participation of the private sector has changed and intensified - while in the previous risk assessment their participation was sporadic and through a series of questionnaires, and they were not aware of the importance of FATF Recommendation No. 1 and the impact of the assessed risks on their behavior and the importance of their own assessments, in the process of the updated assessment, private sector representatives were partners from the very beginning of the process and its active participants.

NRA Findings and NPO sector analysis are initial and the most important input of the strategic analysis conducted by APML. The strategic analysis used a method of comparative analysis of the following sources of information:

- risk assessments conducted to date (e.g. NPO sector review under the 2018 ML/TF NRA),
- APML operations (experience from specific cases involving NPOs, checks of available databases, open-source information),
- outcomes of the consolidated NPO supervision conducted to date (by the Working Group on NPO Supervision), and
- findings of the analysis of an NPO sample, which was created based on the following considerations:
 - transparency of the NPO sector
 - assessment of whether the beneficial owner (BO) registration criteria have been met for the BOs nominally recorded in the Central Records of BOs
 - cross-check of publicly available donor lists and actual NPO donors, especially focusing on the donors from the countries that are included on the list of high ML/TF risk countries

In short, APML started from the 2018 NPO sector analysis (done under the 2018 NRA) and looked at all relevant information available (listed above), including the APML analyses related to its specific cases involving NPOs, irrespective of whether the suspicion is related to TF, ML or a specific predicate offence.

Also, the findings of the consolidated NPO supervision were important in order to map the irregularities found in the NPO operation by the supervisors.

Consolidated supervision established several irregularities and the results of these controls are as follows:

- Administrative inspectorate imposed the total of 75 measures, while 58 measures were followed-up on.
- 34 misdemeanour reports were filed.
- 11 notifications were sent to the Registrar, stating there were reasons to strike out an NPO from the Register; 4 NPOs were struck out.
- Administrative supervision ended in 16 NPOs without finding any irregularities, whereas tax supervision ended in 36 NPOs without finding any irregularities.

Through consolidated inspections it was perceived that some NPOs had radicalist and extremist views, but no activities that might be related to TF were identified. On the other hand, the result of consolidate controls shows that NPOs are often misused for tax evasion purposes, which generates illegal funds which are further integrated into legal flows. For example, collection of membership fee is a monthly collection based on provision of a specific service.

The above statement confirms that NPO sector should be included not only in TF risk assessment but ML risk assessment as well.

Question 3. Please provide any information about the process and criteria that were used to select the targeted organizations and individuals, and any information about how those factors were risk-based and proportionate to the threat presented.

As stated above, the strategic analysis used a method of comparative analysis of the following sources of information: risk assessments conducted to date, APMML operations, outcomes of the consolidated NPO supervision conducted to date and findings of the analysis of an NPO sample. Unlike NRA (2018), when NPOs were assessed for terrorist financing risk, all of the above leads to a clear conclusion that this sector is exposed to other types of criminal activities, such as tax evasion and money laundering. For this particular reason APMML assessed these risk elements in the strategic analysis, which is something that had not been done before. The findings of the analysis justify our hypotheses and will serve as an important input for the new NRA. We would like to reiterate that representatives of NPO sector will have their full-fledged place in the NRA working group.

Please note that the Working Group for NPO supervision (where APMML is a member) has developed a risk-based approach. APMML had a key role in introducing the approach, as it is the first institution in the system to have developed a risk-based approach in supervision, which has been noted in relevant reports.

The sample was chosen based on a combination of indicators and criteria which include the following:

- annual income;
- total turnover;
- intensity of inflow of funds from foreign countries;
- registered annual profit/loss;
- declared NPO objectives;
- number of employees;
- prior information from publicly available and internal sources on potential suspicious activities;
- criteria developed by the Working Group for NPO Supervision.

Of the entire sample:

- 37% has been chosen based on the amount of total revenue of non-profit organisations;
- A comparative analysis of the total revenue and total inflows from abroad has covered 30% of NPOs whose total inflows from abroad make more than 50% of their total revenue as published officially in their financial reports;
- 18.5% of the sample was included based on prior information from publicly available and internal sources on potential suspicious activities;
- 14.5% of the sample was chosen using a combination of several criteria listed above.

We would like to further explain the sampling logic. Namely, we did not just take the first 37% or 30% NPOs from the top of the list but we also used additional criteria, such as:

- high-revenue NPO with zero employees;
- high-revenue NPO that was found to appear on a list of designated terrorists of a foreign country;
- high-revenue NPO that shares the physical address with a number of other legal entities;
- high-revenue NPO that uses an address that had been previously identified to be used by a phantom or fictitious company;
- high-revenue NPO which seem to be linked, based on the available open-source information, with persons investigated or convicted for corruption, money laundering or other serious crime
- high-revenue NPO where the proportion of revenue coming from business activity is larger than it would reasonably be justified for the achievement of the NPO's declared objectives
- high-revenue NPO which is a founder of two or more new NPOs
- high-revenue NPO which BOs/founders/director/ senior officers used cash transactions.

In this particular case, for the purpose of strategic analysis, APML did not start the proceedings under Article 77 of the AML/CFT Law (*Initiative to the APML to initiate a procedure*) but it started collecting missing information under Article 73 (*Requesting data from the obliged entities*) for the purpose of the strategic analysis (e.g. on authorized signatories on the account and accuracy of donor information).

The NPOs with respect to which the missing information was collected had been chosen based on the above described criteria and suspicion indicators. The criteria are used to recognize potential risks, and therefore constitute the lowest level of suspicion. Please note that certain criteria developed by the Working Group for NPO Supervision are deemed to be restricted and cannot be shared. As opposed to some foreign countries that have developed indicators explicitly referring to some religious, national or ethnic communities, or specific FI or DNFBP sectors as high-risk or posing more risk than others, the drafters of the indicators in the Serbian context have paid particular attention to avoiding discrimination on the grounds of religion, national or ethnic affiliation, cultural or social origin, race or gender. The indicators were developed based on the experiences and analyses of specific TF cases, as well as recommendations of organisations involved in CTF.

It goes without saying that the fact that a certain activity matches a particular indicator does not automatically mean that this activity is illegal. Indicators are there to point to suspicion, and certain activities may match a particular indicator by mere coincidence. This indeed is one of the purposes of a strategic analysis, i.e. to prove or disprove the indicator or the initial hypothesis.

But in order to understand the grounds for engaging in this activity, it is necessary to understand the wider context of the APML's powers and operation, mentioned above, so as to have an

overview of potential combinations of powers that the APML has access to according to various legislation.

Having in mind what was said, please note that the APML (Serbian FIU) analyses information from a large number of databases, including suspicious activity reports (SARs) and cash transaction report (CTR) database. More specifically, the APML uses IT tools, such as Business Intelligence, to conduct high-level analyses which indicate areas where further focus is needed. Such analyses often detect cases where the APML needs to probe further in order to determine whether a particular piece of information merits to be shared within a particular authority or national coordination mechanism (e.g. Working Group for NPO Supervision) or to prove or disprove the original hypothesis.

It is within this context that the use of the APML's powers under the AML/CFT Law should be considered.

It should be noted that the **APML is not an investigative authority** but intelligence body and it operates with reasonable suspicion rather than the level of suspicion required for investigation or prosecution (Article 73 employs the term 'osnov sumnje', which was translated in the AML/CFT Law as **reasons** for suspicion and the Criminal Procedure Code as **grounds** for suspicion.⁵ In any case, this is the lowest degree of suspicion needed. APML can request information on persons or transactions in such cases (Art. 73, paragraph 1), but it can also request information about the 'persons that participated or cooperated in transactions or business activities of person in respect to whom there are reasons to suspect money laundering or terrorism financing' (Art. 73, paragraph 2).

The purpose of further enquiries done by the APML is to prove or disprove its original (suspicion) hypothesis irrespective of whether it has been raised by an SAR, foreign FIU, other authorities or other APML's strategic and other analyses.

In this regard, the APML has power to request information from other authorities (Article 74), the purpose of which is **to assess whether there are reasons to suspect** ML or TF.

Therefore, in this particular case, involving the NPOs, APML had multiple more or less intertwined purposes that coincided, including:

- **to test transparency, check compliance** with beneficial ownership information

⁵ The translation of the Criminal Procedure Code (Article 2) employs the following terms and provides their definitions:

grounds for suspicion (osnov sumnje) is a set of facts which indirectly show that a certain person is the perpetrator of a criminal offence;

grounded suspicion (osnovana sumnja) is a set of facts that directly show that a certain person is the perpetrator of a criminal offence;

justified suspicion (opravdana sumnja) is a set of facts which directly substantiate grounded suspicion and justify the filing of an indictment;

- to test whether prompted by the APML’s own (operational, strategic) analysis or by a request of other authority or foreign FIU, there is reasonable suspicion on ML, TF or potentially any other (predicate) crime.
- to **assess/establish/prove/disprove** whether certain circumstances or persons merited further examination in the context of NPO misuse

Question 4. Please provide information on internal control and oversight mechanisms of the Administration for the Prevention of Money Laundering

As opposed to most government authorities and organizations, APML is an institution whose activities, in addition to being supervised and monitored by state supervisory authorities (Budget Inspection and Internal Audit within the Ministry of Finance⁶) are further assessed (horizontal review) for compliance with international standards and practice by international organizations (Moneyval Committee and Egmont Group).

In all the findings made by national and international bodies in recent years, emphasis is placed on professionalism, dedication, clear procedures and high quality of the information produced by APML.

When it comes to international assessment of APML’s compliance with international standards, please note that Serbia was assessed as largely compliant (LC) in 2016 MER.

MER cites as follows:

- “... functions of the FIU are assessed in detail in the previous MER. The functions of the APML are further governed by internal procedures (para 309).
- ... a) The APML is obliged by law to carry out operational analysis in order to substantiate the reasons for suspicion of ML/FT and disseminate the information to competent authorities. b) The APML continuously conducts research and analyses trends and typologies of ML and FT. The annual report of the APML contains information on trends and patterns and a number of other documents of the FIU examine strategic aspects of the AML/CFT system. The undertaking of strategic analysis by the APML is also key for the responsibility of the APML to provide information to the public on ML and FT issues, as well as it is essential for development of indicators for identification of ML/FT suspicions (para 312)”.

In terms of effectiveness assessment within IO 6, the report reads as follows:

- “The APML carries out its analytical function based on experienced and well-trained analytical staff, detailed internal procedures, the use of a number of software tools and the access to a wide range of information apart from the STRs and CTRs received.” (para 170)

⁶ Please note that one of mechanisms for supervision of APML is a regular internal audit of the Ministry of Finance, which has monitored business activities of and proper implementation of regulations by APML for three years successively. Internal audit of the Ministry of Finance is an independent organizational unit of the Ministry and any attempted influence on its employees is prohibited.

In terms of assessment of strategic analysis, the report reads as follows:

- “The APML has been conducting extensive strategic analysis of high quality since 2012. The APML significantly contributed to both ML and FT NRAs. The outcome of analyses is included not only in the annual reports of the APML in terms of typologies and trends but also in separate research documents by the APML. Strategic analysis covers a significant number of aspects of the functioning of the AML/CFT system in Serbia. Part of the analysis was also conducted with the assistance of OSCE and the Council of Europe (MOLI Project).” (para 178)
- “Strategic analysis was also used to further assist the data mining capabilities of the APML and the dissemination of relevant information to LEAs, e.g. analyses on the transportation of money across the state border for some individuals, analysis of offshore companies, and analysis of money transfers to/from selected countries.” (para 179)

In terms of compliance with international standards and practice, it is worth noting that all Moneyval Recommendations which were directly related to APML’s work were addressed at the shortest notice, which was acknowledged in reports of Europe-Eurasia Working Group within ICRG process.

After the MER was adopted by Moneyval, Egmont Group automatically initiated within *Support and Compliance Process* a preliminary analysis of APML’s technical compliance with Egmont Group Charter and Principles for Information Exchange. Please note that paragraph 315 of 2016 MER, in relation to criterion 29.7 explicitly says that there are no legal impediments to APML’s free performance of functions and that APML is “able to independently cooperate with national and foreign authorities“.

After the preliminary analysis by Egmont Group officials, a formal conclusion was made that APML performs its activities in line with international standards.

Internal procedures

APML is an institution with operational independence. Clear classification of work and powers of APML staff is defined in detail by a Job Classification Document from 2019. This document regulates that Director is in charge of APML operations. Civil servants in APML are accountable for their work to their immediate superior and to the Director. A Head of an internal unit plans, directs and supervises the work in the internal unit, provides technical knowledge in the matter to employees and conducts the most complex operations from the internal unit's term of reference. A Head of an internal unit is responsible for legality, accuracy and timelines of operations within the internal unit that they lead. Head of department, Head of Section and Team Leader are accountable for their work to Assistant Director and Director, or Director alone.

In addition, APML adopted a Risk Management Strategy, the primary purpose of which is to predict unfavourable developments which could impede the implementation of goals and threaten business success of APML. This Strategy determines a course of action when identifying and

assessing risks and when taking activities for risk mitigation. The Strategy also defines how to manage documentation arising from risk management and how to report on identified risks and their status. Persons holding different levels of managerial functions are responsible for the implementation of goals within their term of reference, in line with powers and responsibilities assigned, and consequently, risk management. Persons with managerial functions are bound to train their employees in risk management process and to ensure that they are aware of requirements that APML has in that respect. The employees have the right and obligation to identify a risk or a risky development/situation; to describe a risk/consequences; assess risk impact; assess risk probability; assess the efficiency of existing controls and propose additional actions/preventive measures, where necessary.

In accordance with all the principles and criteria, APML introduced clear and measurable result indicators, which are related to the set goals and business processes, by which output results will be successfully monitored and measured.

Business processes of APML are defined in a document called Working Procedures in APML (document is classified as confidential), based on which a Report on Financial Management and Control is made and submitted to the Ministry of Finance on an annual basis. This Document in detail describes work processes, notes potential risks and provides for elimination/mitigation of risks.

In addition, for the purpose of introducing additional security measures and protocols for the protection of confidential information, in early April 2018 APML Director issued a Directive on Action and Conduct of APML Employees for the Purpose of Enhancing the Protection of Confidentiality of APML Information. There will be an ongoing analysis and consequently, a proposal as to who should undergo relevant checks and obtain the certificate granting access to secret data in line with the Law on Data Secrecy.

Apart from that, in accordance with Article 85 of AML/CFT Law, APML is required to submit a work report for the previous year to the Government by 31 March of the current year at the latest. The Report necessarily includes statistical data on money laundering or terrorism financing manifestations and trends, as well as data on the APML's activities – all the reports so far have been posted on APML's website and are publicly available.

APML strives continuously to enhance its activities. In addition to positive assessments in all evaluations of its work so far, APML has gone a step further and in 2020. Within the IPA 2015 Project funded by EU, APML was assessed by independent experts and assessors for the purpose of improving its capacities, procedures and work quality. Documents called the Analysis of Business Processes of APML and the Report on the Assessment of Analytical and Technical Capacities of APML with Recommendations for Further Improvement analyse in detail and with the highest professional standards all processes in APML and result in specific proposals for further enhancement.

Question 5. Please provide information on what steps are being taken to ensure that measures taken to combat anti-money laundering and terrorism financing do not infringe upon the rights to freedom of association, opinion, and expression as well as the right to take part in the conduct of public affairs guaranteed under the International Covenant on Civil and Political Rights

A comprehensive analysis of NPO sector in 2018 showed that adequate supervision of NPOs is lacking. The inadequacy was reflected in the fact that no supervisory authority considered it was in its power to control how an NPO used its own assets; Tax Administration examined financial records from the perspective of tax crimes, whereas Administrative Inspectorate examined whether there were decisions on the use of assets and if the use was compatible with the NPO's declared goals, but not with factual use of assets.

For the purpose of coordinating the operation of these inspection authorities, the Coordination Commission established a Working Group for NPO Supervision (hereinafter referred to as: the Working Group). The Working Group develops and updates methodological documents necessary for selecting high-risk NPOs that should be the subject of supervision, and exercising consolidated supervision, developing monthly plans of consolidated supervision and organizing professional training of inspectors, nominated by their own institutions to supervise NPOs.

Tasks of the Working Group include coordination of certain issues of relevance for supervision of NPOs which are within the term of reference of two or more inspections or which are such in nature that participation of two or more inspections or of other authorities and organizations is required. The aim is to enhance comprehensiveness and effectiveness in ensuring legitimate and safe business operations and actions of supervised entities, to avoid overlapping and unnecessary duplication of supervisory inspection, to ensure legal certainty, implementation of relevant laws, effective risk management and improving conditions for business.

Members of the Working Group implement their objectives through cooperation in streamlining the plans of supervisory inspections, establishing the work plan for the Group, organizing and exercising joint inspections, cooperation in individual inspections (exchange of notifications, information and experience, emphasizing the examples of best practices and other types of mutual assistance, consolidating inspection practice, identifying the needs to train inspectors, and taking other actions as may be necessary for the implementation of goals).

Working Group for Supervision of NPOs produced a document called *Procedures and Criteria for Exercising Control of NPOs Supervision of NPOs*, based on which the NPOs will be selected for supervision - the document was issued on 28 November 2018 and amended on 9 August 2019.⁷ The Working Group issues specific criteria, as may be necessary, which constitute an integral part

⁷ <https://inspektor.gov.rs/cms/documents/16148/0>

of this document, and can be found in a separate Attachment. The separate Attachment is marked as *restricted*, given the fact that their public availability could harm the consolidated supervision.

At the initiative of the Working Group for Supervision of NPOs, from November 2018 to June 2020, supervision was exercised over 59 NPOs.

Consolidated supervision established several irregularities and the results of these controls are as follows:

- Administrative inspectorate imposed the total of 75 measures, while 58 measures were followed-up on.
- 34 misdemeanour reports were filed.
- 11 notifications were sent to the Registrar, stating there were reasons to strike out an NPO from the Register; 4 NPOs were struck out.
- Administrative supervision ended in 16 NPOs without finding any irregularities, whereas tax supervision ended in 36 NPOs without finding any irregularities.

As supervisory inspection is conducted in line with the Law on Supervisory Inspection (Official Gazette of RS, nos. 36/2015, 44/2018 - other laws and 95/2018), with the aim of ensuring legality and safety of business operations and activities of supervised entities, through preventive action and imposition of measures, and with the aim of preventing and removing adverse consequences on assets, rights and interests protected by law and other regulation, which in this case refers to NPOs and prevention of money laundering and terrorism financing, it is clear that in this specific case there are no activities whatsoever conducted in line with the mentioned law which would compromise or violate a right to the freedom of association, public expression of views and opinions or any other standards established by International Convention on Civil and Political Rights.

The entire procedure being regulated by a separate law, which has been harmonized with all international standards in this area, no activities have been initiated which would restrict the rights of supervised entities in any respect, which thus makes any corrective measure for mitigating such cases, unnecessary.

The 3rd Enhanced Follow-up Report on Serbia was adopted by the MONEYVAL Committee at its 59th Plenary Session (Strasbourg, 3 – 6 December 2019). It clearly states: “Serbia has meanwhile addressed most of the deficiencies under R. 8, with only minor deficiencies remaining. On that basis, Serbia is re-rated as LC with R.8”.

Action taken by APML. In the period between 1 Jan 2019 and 30 Jun 2020 APML examined at the request of other state authorities and foreign FIUs 29 NPOs, 18 of which were under suspicion of terrorism financing and 11 under the suspicion of money laundering. Of the NPOs which were examined for suspicion of terrorism financing, 50% were foreign NPOs, while all the NPOs suspected of being involved in money laundering are domestic.

The above shows that, although FATF Recommendation 8 focuses on the fight against abuse of NPOs for terrorist financing purposes, repressive authorities in Serbia recognize NPOs as being abused more often in ML cases, when it comes to domestic NPOs. This can be the case due to consolidated supervision of NPOs which were identified as high-risk for terrorism financing, according to the methodology of the Working Group, which followed TF risk assessment in 2018. At the same time, the above statement demonstrates that in the analysis of NPO sector, risk of abuse for money laundering and of other predicate crimes should not be disregarded.

Question 6. Please indicate what measures have been taken to ensure that human rights defenders and other civil society actors are able to freely carry out their legitimate activities, including the freedom to solicit and receive financial support from domestic and international sources

There are currently more than 30.000 associations in the register held by Serbian Business Registers Agency. Diversification and activities of these organizations is a testimony of interest that citizens have in participating in social activities for promotion and pursuit of different interests and goals in various areas of social life.

Ministry of Public Administration and Local Self-Government and Faculty of Political Sciences, Belgrade University, conducted an **Analysis of implementation of legislation in the exercise of the freedom of association**, where special emphasis was placed on the Law on Associations, as well as on a comparative analysis with countries in the region and EU member states. These countries included ones with similar background and legal systems, namely, Slovenia, Croatia, Montenegro, Macedonia, ones which are post-socialist EU member states, namely, Bulgaria, Romania, Slovakia, and a number of EU member states with long democratic tradition - Finland, Germany, etc.

This analysis has shown that the Serbia's Law on Associations currently in place fully converges with the content of relevant laws in the analysed countries in terms of its content, structure and comprehensiveness of norms; in many aspects Serbia's Law is a more comprehensive piece of legislation.

Basic findings of this comparative analysis are proof of high quality of our legal solutions in the domain of rights to the freedom of association; our legal solutions leave little room for possible changes and amendments and the general assessment of the Analysis is that the freedom of association in Serbia is regulated according to the highest standards that enable the application of this right by citizens striving to exercise specific interests and participation in political life.

European Commission's Annual Progress Report on Serbia in 2020 does not identify any challenges with regard to exercising the right to the freedom of association either. What is more, the Progress Report identifies a certain degree of progress made in including the representatives

of civil society in decision making, as well as creating favourable environment for development and financing of civil society.

Laws and regulations of the Republic of Serbia provide for a transparent process of approving financial support for NPO projects.

The legal basis for the financing of NPOs by the Serbian Budget is regulated in the Law on Associations providing that the ‘Government shall specify more detailed criteria, conditions, volume, method, award procedure and method and procedure for refunding the funds in case of unauthorised use.’ Funding of associations through public competition was introduced in 2012; however, a number of deficiencies were noticed in practice in relation to the implementation of the competition procedure, treatment of irregularities and reporting in the area. Consequently, the Ministry of Public Administration and Local Self-Government established a special working group which in 2017 worked to amend the Regulation with the aim of improving the framework setting out the criteria, conditions, volume, method and procedure for awarding the funds and introduction of the requirement to publish the performance report for supported programmes and projects, as well as introduction of anti-corruptive measures, i.e. proactive and affirmative approach with the aim of minimising the risks. The Regulation on Funds Intended to Incentivize Programs or Lacking Part of Funds for Funding Programs of Public Interest Implemented by Associations was passed in March 2018. The main amendments to the Regulation are presented in terms of increasing the transparency of the funds allocation process, starting from the allocation planning, by introducing the obligation to publish a plan for announcing public competitions and submitting information to the Office for Cooperation with Civil Society, as well as the obligations of the Office for publishing the calendar of public competitions of all competent authorities on its website, so that the civil society organizations have the opportunity for prompt insight into the plan of public competitions. The Regulation introduced a number of anti-corruption measures, which are primarily reflected in the definition of conflicts of interest and measures to prevent conflicts of interest of the Committee’s members, but also of users of funds. In addition, the Regulation specifies the regulated deadlines for conducting the procedure of public competitions, as well as those related to the insight into the submitted applications and attached documentation, i.e. for submitting an objection to the evaluation list and ranking of applied programs. Furthermore, the obligation is introduced for the competent authority to reason the decision on the complaint.

Transparency of the process is ensured by expanding the list of sources, where the data on the public competition and the results of the competition are published: the official website and bulletin board of the competent authority as well as the e-Government portal. A significant novelty is the possibility of including or appointing representatives of the professional public in the Committee for conducting the competition, i.e., the possibility of hiring experts for certain areas in order to prepare an analysis of the success, quality and achievement of the goals of the program that are being implemented.

The Regulation more precisely regulates the obligations of the user of funds when signing the contract, as well as the obligations of reporting during the implementation of the program. Methods for monitoring the implementation and execution of supported programs are more precisely

defined. More precisely, the Regulation recognizes possible mechanisms for monitoring the implementation of the program (reporting, monitoring visits, collection of information, etc.) by the competent authority, the possibility and manner of redistribution of the approved amount of funds. The procedure in case of irregularities is also more precisely regulated. Transparency of the process is also ensured in terms of the obligation to inform the public about the results of the conducted competitions through the report on the realized financial support to the programs of the associations.

The Law on Associations regulates in detail the issue of acquisition of assets and performance of activity by associations. More specifically, an association may raise funds from membership fees, voluntary contributions, donations and gifts (in money or in-kind), financial subsidies, inheritance, interests on deposits, rents, dividends and by other lawful means. In addition, associations were allowed to perform those activities that serve to achieve the objectives set out in their organisations' statutes. An association may perform indirectly business activity too or other profit-generating activity in line with the law governing the classification of business activities, but only to the extent that such activity is in line with their statutory objectives, that the business activity is provided for in the statute and that it is performed at a small scale, i.e. at a scale needed for achieving the association's aims. The Law on Associations sets out the requirement for associations to keep business books, prepare financial statements and be subject to financial statement audit, in line with the legislation on accountancy and auditing, the statements being published on the SBRA Financial Statement Register.

Endowments, foundations and funds may be established by both natural and legal persons. In order to meet the registration requirements, the founder must submit the establishing act, statute and rules of operation. Endowments, foundations and funds may acquire assets from voluntary contributions, gifts, donations, financial subsidies, inheritance, copyright and other lawfully generated revenue.

With regards to financial reporting and operating in accordance with the Law on Accounting, we would like to ass that a consultation process involving civil society organizations was held pertaining to the drafting of by-laws of the Law on Accounting which regulate financial supervision and reporting, specifically for parts which concern the financial reporting of the non-profit sector, the transparency of the financial operation and reporting. In accordance with the provisions of the Law on Accounting, the Ministry of Finance adopted the Ordinance on the Contents and Structure of Forms for Financial Reports and the Contents and Structure of the Statistics Report for Other Legal Persons which accepted the proposals made by civil rights organizations and which pertain to easier insight into the structure of financial organizations and better tax control. To be more precise, a clearer and more detailed overview of the donations and their origins was ensured as well as records on volunteers and their average number per month, cash flows, paid VAT in the reporting period. In addition, a new item was introduced, which shows the VAT exempt amounts in the reporting period. The adoption of these proposals, made by the civil sector, should bring financing transparency to a new level and enable easier monitoring of cash flows.

In Annex I –Key Findings, you can see that the number of NPOs almost doubled since 2013, and the sector revenue has a growing trend. More than 44% of all revenue of the sector is generated through economic activity. The analysis has shown that 408 NPOs generated revenue from donations only, and these donations account for 28.51% of all donations in the sector.

When we talk about civil society organizations that have registered economic activity, in 2018, the Office for Cooperation with Civil Society, in cooperation with Ipsos Strategic Marketing conducted a study “Cooperation between the public administration authorities, the provincial administration authorities and independent bodies with civil society organizations in 2017.” The study was done exclusively on the data the Office for Cooperation with Civil Society gathered from the aforesaid public administration authorities with the aim of continuing with the regular monitoring of the state of play in the field of civil society organizations in Serbia and cooperation they establish with public administration bodies as well as on the status of endowments and foundations submitted by the Serbian Business Registers Agency. According to data from the aforesaid study, in 2017, a total of 8,269 associations foresees a commercial activity in their memorandums of associations which is slightly more than one fourth (26.1%) of the total number of associations. By contrasting the data on the planned commercial activity with those on actually registered commercial activities we can note significant discrepancies. E.g., out of the total number of associations which planned commercial activities in 2017 (8,269) only 1,817 actually registered their commercial activity in the Serbian Business Registers Agency. In relation to the total number of associations (31,640) this only amounts to 5.7%. Even though these data indicate a fairly small occurrence, we can still note a slight increase of this share in contrast to 2016 (when the share of associations who formally registered a commercial activity with the Serbian Business Registers Agency was 5.3%) which is the result of the increase in the number of these associations by 17.9% in 2017 in contrast to 2016.

Question 7. Please indicate what remedial measures are taken when measures to combat anti-money laundering and terrorism financing are undertaken without due process of law, or in contravention of domestic legal standards. Specifically, what measures to address financial and reputation harm to individuals negatively affected are undertaken.

The Protector of Citizens (Ombudsman) controls, by checking the allegations of complaints or acting at own initiative, whether state administration bodies, Republic Public Attorney, bodies or organizations exercising public authority, treat the citizens of Serbia in accordance with law and other regulations of the Republic of Serbia or in compliance with the principles of good administration.

The role of the institution of the Protector of Citizens, defined by the Constitution of the Republic of Serbia and the Law on the Protector of Citizens, is to constantly influence the respect of human liberties and rights by personal and institutional authority. By the power of argument, the Protector of Citizens should persuade the authority that an error has been committed, that it is necessary to rectify it and change the way of work.

The Protector of Citizens is an independent and autonomous government body, responsible for the protection and promotion of rights and liberties. The role of the institution of the Protector of Citizens, defined by the Constitution of the Republic of Serbia and the Law on the Protector of Citizens, is to constantly influence the respect of human liberties and rights by personal and institutional authority. By the power of argument, the Protector of Citizens should persuade the authority that an error has been committed, that it is necessary to rectify it and change the way of work.

The Protector of Citizens can publicly recommend dismissal of the official responsible for the violation of citizen's rights. The Protector of Citizens can request a disciplinary action to be initiated against the employee of the administration body who is directly responsible for the violation of citizen's rights.

Should it be found that the actions of the official or employee of the administration body contain the elements of criminal or some other punishable act, the Protector of Citizens is authorized to submit to the competent body a request for initiating a criminal, misdemeanor or some other applicable procedures.

The Ombudsman approached APML in August 2020. in order to consider all relevant facts and circumstances, and if necessary, taking further actions in the specific case. In accordance with relevant legal requirement, APML provided the Ombudsman with all requested information about the matter, after which the Ombudsman notified APML in November 2020 that there were no grounds for further action.

The developments referred to in your report on NPO sector aimed in no way to restrict their actions, but rather, APML undertakes preventive activities exactly for the purpose of adequate protection of freedom of association, opinion and expression, as well as the right to participate in governing of public affairs. In other words, APML strives to prevent restrictions to and abuse of fundamental civil and political rights, which are a part of a wider corpus of universal human and minority rights.

Human and minority rights guaranteed by generally accepted rules of international law, ratified international agreements and laws are guaranteed by the Constitution of the Republic of Serbia and are applied directly. This is exactly the reason that the actions and measures taken by APML within its term of reference and commonly accepted protection of human rights are not conflicting goals per se, but are complementary.

So far APML has been recognized as an institution which cherishes cooperation with private and civil sectors, in testimony of which dozens of meetings, seminars, round tables and other joint activities were organized at an annual level together with representatives of associations, professional organizations and chamber of commerce. In cooperation with international partners, such as OSCE, donors from EU and USA, a couple of different training programmes for all obliged entities were organized in last three years.

We would like to emphasise that APML has not compromised or harmed a reputation of any individual/legal person with any activity it took. Persons whose identity is not known so far published a part of an APML's request for information in the media, thus violating Article 90 of AML/CFT Law (No tipping-off). This information has been presented in a biased and inappropriate manner as part of activities that state institutions allegedly take against the media, media professionals and critics of the Government policies. APML denied these incorrect statements on several occasions, offering valid argumentation and observing the restrictions imposed by confidentiality of data and procedures. At the meetings with representatives of the NPO sector, media, international institutions, Moneyval, Council of Europe and other interested parties, APML presented the findings of the strategic analysis of NPO sector, including its goals and methodological framework.

Finally, please remember that APML acts in line with laws, international recommendations and standards, with no selective approach and discrimination.

Should you need any additional explanation or information, we remain at your disposal.

More detailed information can be found in **Annex I: Key Findings of the strategic analysis of the NPO sector conducted by the Administration for the Prevention of Money Laundering**