SECTOR-SPECIFIC ANALYSIS OF TERRORIST FINANCING RISKS

THROUGH NONPROFIT ORGANIZATIONS

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1.- Executive Summary

Non-profit organizations (hereinafter, NPOs) play an essential role in the global economy by providing charitable services of a humanitarian, educational, religious, health, sports, cultural, or research development nature.

Despite the good works pursued by the vast majority of these organizations, it is well known that terrorist groups and organizations sometimes abuse them. For this reason, the Financial Action Task Force (FATF) dedicates its Recommendation 8 (R. 8) and Immediate Outcome 10 (IO. 10) to preventing the financing of terrorism through NPOs. Thus, R. 8 establishes that countries must identify organizations that meet the FATF's definition of NPOs and assess their terrorism financing risks. Furthermore, countries must establish targeted, proportionate measures aligned with the risk-based approach, without unduly disrupting or discouraging the legitimate activities of NPOs.

The overall objective of this sectoral risk analysis is to identify and understand the threats, vulnerabilities, and risks of terrorist financing within the nonprofit sector in Spain. All relevant stakeholders participated in this analysis, including those from both the public sector (at the national and regional levels) and the private sector, as well as the main organizations representing the nonprofit sector. The analysis is based on quantitative and qualitative information derived from the study of strategic documents, reports, and official statistics; interviews were also conducted with various stakeholders, and questionnaires were sent to entities within the nonprofit sector.

The methodology followed was that of the World Bank for analysing the risk of terrorist financing in the NPO sector, adapting it as necessary to the context and specific characteristics of the NPO sector in Spain.

In Spain, the nonprofit sector consists of legal entities that are not corporations, including the following types of organizations: (a) associations; (b) foundations; (c) organizations in the so-called "third sector," including development nongovernmental organizations (hereinafter, DNGO) and humanitarian organizations; and (d) religious organizations.

The first assessment of risks in the sector was conducted in the 2020 National Risk Analysis, which included a specific section on NPOs. Although no specific analysis of the NPO sector was conducted in the 2024 Addendum to the National Risk Analysis, mention was made of the use of this sector to channel funds associated with terrorist organizations, where the fragmentation of transactions and the use of new technologies—such as instant messaging apps—become significant.

To determine the risk exposure of the various entities in the NPO sector in Spain, existing evidence regarding the occurrence of different types of terrorist financing has been analysed, including: the diversion of funds intended for terrorist financing, the abuse of NPOs, affiliation with terrorist groups or organizations, support for recruitment, the creation of fraudulent NPOs (*sham* NPOs), and the collection, transfer, and/or disbursement of funds in certain areas.

Regarding the evidence detected, Law Enforcement Agencies (hereinafter, LEAs) highlight a case in which there were indications of possible abuses by religious entities and the diversion of funds for the purpose of financing terrorism.

The vulnerabilities of NPOs to the risk of being exploited for terrorist financing purposes have been analysed from two perspectives: vulnerabilities related to the *organization* and vulnerabilities related to *the sector*. The former include those related to: the organization's profile, its operations, methods of fund transfer, and the use of new technologies. Among the latter, the following can be identified: the existence of multiple registries and various responsible authorities; the complexity and fragmentation in the regulation of the different types of entities that make up the NPO sector in Spain; operational vulnerabilities linked to so-called *"de-risking"*; as well as other vulnerabilities stemming from difficulties in tracing their activities and ensuring accountability, high staff turnover, and a weak preventive culture (especially in smaller entities).

Following an analysis of the threats and vulnerabilities of NPOs in Spain, and the evidence regarding their possible links to cases of terrorist financing, it has been concluded that the inherent risk is as follows for each type of NPO:

- Religious entities with international activities in jurisdictions at risk of terrorist financing (hereinafter,TF): Substantial.
- Other religious entities: Medium.
- Humanitarian, educational, or cultural foundations with international activities in jurisdictions at risk of FT: Medium.
- Other humanitarian, educational, or cultural foundations: Medium-low.
- Humanitarian, educational, or cultural associations with international activities in jurisdictions at risk of TF: Medium.
- Other humanitarian, educational, or cultural associations: Low-medium.
- NGOs operating in jurisdictions at risk of TF: Medium.
- Other NGDOs: Medium-low.

With regard to other foundations and associations in Spain, it is understood that they would fall outside the definition contained in FATF Recommendation 8 and, therefore, would not be included in this analysis.

Existing mitigation measures include both those adopted by the public sector and those adopted by the NPOs themselves.

Among the mitigation measures adopted by the public sector, the following are worth noting: the existence of registration requirements; the adoption of policies to promote accountability, integrity, and public trust in the administration and management of NPOs; collaboration with the NPO sector in developing guidelines and best practices; the development of outreach and awareness programs for the NPO sector regarding the risks of terrorist financing; cooperation and collaboration among various authorities; the existence of effective, proportionate, and dissuasive sanctions; the expertise and capacity to investigate and prosecute NPOs suspected of being misused or actively supporting terrorism or terrorist groups and organizations; and the mitigation of terrorist financing risks through crowdfunding platforms, including financing

through donations, following their designation as regulated entities after the EU adopted the legislative package on the prevention of money laundering and terrorist financing (hereinafter AML/CFT).

Furthermore, among the mitigation measures adopted by the NPO sector, the following stand out in particular: the creation of spaces for mutual information exchange; the development of outreach and education programs within the sector itself; and the implementation of self-regulatory codes, certifications, accreditations, and quality seals.

Once the inherent risk level has been adjusted based on existing mitigation measures, it has been concluded that the residual risk for each type of NPO is as follows:

- Religious entities with international activities in jurisdictions at risk of FT: Substantial-medium.
- Other religious entities: Medium-low.
- Humanitarian, educational, or cultural foundations with international operations in jurisdictions at risk of TF: Low-medium.
- Other humanitarian, educational, or cultural foundations: Low.
- Humanitarian, educational, or cultural organizations with international operations in jurisdictions at risk of terrorist financing: Medium-low.
- Other humanitarian, educational, or cultural associations: Low.
- Public benefit associations: Low.
- NGOs operating in jurisdictions at risk of TF: Medium-low.
- Other NGDOs: Low

Finally, in line with FATF best practices, information has been gathered from various relevant stakeholders to assess whether NPOs face difficulties in accessing financial services due to the practice known as *"de-risking"* by financial institutions. In this regard, a few isolated cases have been identified, such as an organization that faced difficulties opening bank accounts during the process of establishing foundations, or another that encountered difficulties when operating the account.

Furthermore, it is also observed that difficulties in accessing the financial system vary depending on the type of NPO, the volume of funds they manage, and the size of the organizations, resulting in potentially more difficult access for smaller organizations.

2.- Introduction

In the global economy, nonprofit organizations (hereinafter NPOs) play a vital role in providing humanitarian, educational, religious, health, sports, cultural, and research development services.

Despite the good works pursued by the vast majority of these organizations, it is well known that terrorist groups sometimes abuse them to mask their activities, especially in high-risk areas.

For this reason, the FATF, an intergovernmental body that sets global standards for the prevention of money laundering and terrorist financing, dedicates its Recommendation 8 and Immediate Outcome 10 to preventing terrorist financing through NPOs.

In 2002, the FATF published for the first time the document *"Best Practices in Combating the Abuse of Non-Profit Organizations,"* with the aim of supporting the efforts of NPOs and protecting the integrity of this sector. The document recommended best practices and provided examples so that both governments and the NPO sector itself could work to protect the sector from terrorist abuse. In 2013, the document was revised and updated to incorporate the latest amendments to the Recommendations. Subsequently, in June 2014, the FATF published the report *"Typologies on the Risk of Terrorist Abuse in Non-Profit Organizations*," so the Best Practices document was revised again in 2015 to include some of the conclusions from that report.

In June 2016, following the detection of instances of erroneous and excessive application of Recommendation 8 in some jurisdictions, the FATF revised that Recommendation and its Interpretative Note with a twofold objective: (1) to clarify that not all NPOs are particularly vulnerable to abuse for terrorist financing, but rather that only a subset of them is subject to the requirements of R.8; and (2) to further develop the application of measures using a risk-based approach.

In February 2021, the FATF launched a project to study and mitigate the unintended consequences arising from the incorrect application of the Recommendations, including cases of *de-risking*[1] , financial exclusion, and intrusive supervision of NPOs without any consideration of their risks. The results of this work were compiled in a High-Level Overview.

Subsequently, in June 2023, the FATF launched a public consultation to review and update the Best Practices document, in parallel with the review process of Recommendation 8 and its Interpretative Note.

Meanwhile, in October 2023, the FATF published a study on the misuse of crowdfunding platforms to finance terrorism[2]. One of the points highlights the potential use of these platforms to raise funds for humanitarian, charitable, or nonprofit campaigns for-profit nature and the fact that they may be used by terrorist organizations to facilitate the financing of terrorism.

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[1] The FATF has defined *de-risking* as the phenomenon whereby financial institutions terminate or restrict business relationships with certain customers or categories of customers in order to avoid risk, rather than managing it in line with the FATF's risk-based approach.

[2] https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Crowdfunding-Terrorism-Financing.pdf.coredownload.inline.pdf

In October 2023, revisions to Recommendation 8 and its Interpretative Note were approved, including changes aimed at addressing the misapplication and misinterpretation of R.8 that has led some jurisdictions to impose disproportionate measures on NPOs. Likewise, the Best Practices were updated to help countries, the NPO sector, and financial institutions understand the best way to protect relevant NPOs from being abused for terrorist financing purposes, without unduly disrupting or discouraging the legitimate activities of NPOs.

In this regard, Recommendation 8 stipulates that countries must identify organizations that meet the FATF's definition of NPOs and assess their terrorist financing risks. Furthermore, countries must establish targeted, proportionate measures consistent with the risk-based approach, without unduly disrupting or discouraging the legitimate activities of NPOs. The objective of these measures is to protect these NPOs from being misused for terrorist financing purposes, including:

(a) by terrorist organizations posing as legitimate entities;
(b) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of evading asset freezing measures; and
(c) to conceal or hide the clandestine diversion of funds, intended for legitimate purposes, to terrorist organizations.

Due to the variety of legal forms that NPOs can take, depending on the country, the FATF has adopted a functional definition of NPOs, such that the definition of NPOs encompasses *"persons, legal structures, or organizations primarily engaged in the collection or disbursement of funds for charitable, religious, cultural, educational, social, or fraternal purposes, or for the performance of other types of good works*."

In Spain, the NPO sector consists of legal entities of a non-corporate nature. For the purposes of this analysis and in accordance with the aforementioned FATF definition, NPOs in Spain would take the form of the following types of entities:

a) **Associations and public-benefit associations**.
b) **Foundations**.
c) Organizations in the so-called **"third sector**," including NGDO's, whose activities are regulated by Law 1/2023 of February 20 on Cooperation for Sustainable Development and Global Solidarity, provided they have one of the legal forms referred to in the preceding paragraphs. The "third sector" also includes humanitarian organizations and social action organizations.
d) **Religious** entities registered in the Registry of Religious Entities of the current Ministry of the Presidency, Justice, and Relations with the Parliament.

Likewise, the NPO sector also includes branches of foreign foundations registered in the Registry of Foundations and the federations and associations of the non-profit entities referred to in sections a) through c) of the preceding list.

However, not all activities carried out by associations and foundations would fall within the FATF definition. Therefore, the following types of entities have been analysed:

a) **Humanitarian, educational, or cultural associations and public-benefit associations**.
b) **Humanitarian, educational, or cultural foundations.**
c) Organizations in the so-called **"third sector**," including NGDO.
d) **Religious** entities registered in the Registry of Religious Entities of the current Ministry of the Presidency, Justice, and Relations with Parliament.

3.- Methodology

3.1 Participating Institutions

The preparation of this analysis has involved representatives of all relevant stakeholders within the NPO sector, both public and private.

Among the private-sector stakeholders, in addition to the 62 foundations that participated in the analysis by submitting information, the analysis also drew on the expertise of representatives from the main associations in the nonprofit sector, such as:

- Spanish Association of Foundations, Asociación Española de Fundaciones (hereinafter, AEF)
- NGO Coordination Committee for Development, Coordinadora de ONG para el Desarrollo (hereinafter, CONGDE)
- Spanish Fundraising Association, Asociación Española de Fundraising (hereinafter, AEFr)
- Platform of Social Action NGOs.
- Third Sector Platform.
- Spanish Volunteering Platform.
- Lealtad Foundation.

On the public sector side, the spirit of collaboration at all levels of government—both central and regional—is noteworthy. Sub-directorates from various ministerial departments, security and intelligence agencies, state and regional protectorates, as well as the regulator of non-profit organizations in the area of anti-money laundering and counter-terrorism financing have participated in the preparation of this analysis:

- The General Subdirectorate of the Protectorate of Foundations, under the Ministry of Culture and Sports;
- the General Directorate of Religious Freedom, under the current Ministry of the Presidency, Justice, and Relations with Parliament;
- the General Directorate of Legal Security and Public Trust, under the current Ministry of the Presidency, Justice, and Relations with Parliament;
- the Subdirectorate General for Associations, Archives, and Documentation, under the Ministry of Home Affairs;
- Spanish Tax Administration Agency, Agencia Estatal de Administración Tributaria (hereinafter, AEAT);
- Information Directorate of Guardia Civil;
- General Information Directorate of Policía Nacional;

- Executive Office of the Commission for the Prevention of Money Laundering and Monetary Offenses, Servicio Ejecutivo de Prevención de Blanqueo de Capitales (hereinafter, SEPBLAC), Spain's financial intelligence unit;
- National Intelligence Centre, Centro Nacional de Inteligencia (hereinafter, CNI);
- Centre for Intelligence Against Terrorism and Organized Crime, Centro de Inteligencia contra el Terrorismo y el Crimen Organizado (hereinafter, CITCO), part of the Ministry of Homme Affairs;
- the regional foundation supervisory bodies of the Basque Country, Extremadura, the Balearic Islands, Catalonia, Galicia, La Rioja, Madrid, Murcia, Navarre, Asturias, the Canary Islands, Cantabria, Andalusia, Castile-La Mancha, the Valencian Community, Castile and León, Aragon, and Navarre;
- Spanish Agency for International Development Cooperation, Agencia Española de Cooperación Internacional para el Desarrollo (hereinafter, AECID), a state agency attached to the Ministry of Foreign Affairs, European Union, and International Cooperation.

3.2 Sources of Information

This analysis has taken into account various sources of information on the NPO sector, both qualitative and quantitative. Among these, it is worth highlighting public documents, as well as detailed informational questionnaires requested from the NPOs.

Risk analysis and other strategic documents

- Addendum to the 2024 National Risk Analysis (NRA).
- National Risk Assessment on Money Laundering and Terrorist Financing (2020).
- Supranational Risk Assessment (European Commission, 2022).

Guides and best practice documents

- FATF Best Practices on Combatting the Abuse of Non-Profit Organizations for Terrorist Financing (FATF, November 2023).
- FATF Report on Crowdfunding for Terrorist Financing (FATF, October 2023).
- Guidance Manual: Non-Profit Organizations TF Risk Assessment Tool by the World Bank (World Bank, June 2022).
- FATF Report: Terrorist Financing Risk Assessment Guidance (FATF, July 2019).
- Best Practices in the Fight Against Money Laundering and Terrorist Financing. Non-Profit Organizations Sector (Ministry of Economy and Competitiveness).
- Guidance for agencies responsible for ensuring that foundations and associations are not used for money laundering or terrorist financing (SEPBLAC, June 2015).
- FATF Report—Risk of Terrorist Abuse in Non-Profit Organizations (FATF, June 2014).
- FATF Guidance on Anti-Money Laundering and Terrorist Financing Measures and Financial Inclusion (FATF, February 2013).

Official statistics

- Statistical Yearbook of the Ministry of the Home Affairs (2023).
- Statistics on Foundations Subject to State Protection (2016–2021 Series).
- AECID Annual Report 2021.

Reports and analyses of the nonprofit sector in Spain

- Analysis of the Economic and Social Contribution of Spanish Foundations, Report prepared by Analistas Financieros Internacionales (AFI) for the Spanish Association of Foundations (February 2023).
- 2023 NGDO Sector Report. An Overview of NGDO Work Worldwide, Executive Summary, Coordinating Committee of Organizations for Development (hereinafter CONGDE), (2023).
- Sosvilla Rivero, S., Rodríguez Cabrero, G., and Ramos Herrera, M. C. The Foundational Sector in Spain: Fundamental Attributes (2008–2019). Fourth Report, AEF (2020).

Primary sources

- Requests for information to the various public sector authorities and agencies that participated in the preparation of the analysis.
- Requests for information from organizations representing the nonprofit sector.
- Inquiries to the National Registry of Associations, Registro Nacional de Asociaciones (hereinafter, RNA)
- Inquiries to the registries of foundations (national and regional).
- Searches in the Registry of Religious Entities, Registro de Entidades Religiosas (hereinafter, RER).
- Consultations with the Register of NGDO.
- Interviews with various authorities and organizations representing the sector.

3.3 Methodology for determining inherent and residual risks

Risk can be defined as the ability of a threat to exploit a vulnerability. Thus, the **risk of terrorist financing** (TF) can be viewed as a function of three factors: threats, vulnerabilities, and consequences. The risk of terrorist financing entails the risk that funds or other assets intended for a terrorist or a terrorist organization will be collected, moved, stored, or used within or through a jurisdiction, in the form of legitimate or illegitimate funds or other assets.

A terrorist financing **threat** is a person or group of persons with the potential to cause harm by raising, moving, storing, or using funds and other assets (whether from legitimate or illegitimate sources) for terrorist purposes. Terrorist financing threats may include domestic or international terrorist organizations and their facilitators, their funds, as well as past, present, and future activities, and individuals and populations sympathetic to terrorist organizations.

The concept of terrorist financing **vulnerability** encompasses all circumstances that can be exploited by the threat, or that may support or facilitate its activities

In the context of terrorist financing, one **consequence** refers to the impact or harm that may result from a terrorist financing threat materializing.

Based on the above definitions, this sectoral analysis was prepared using the World Bank's tool for analysing the risk of terrorist financing in the NPO sector (*Non-Profit Organizations TF Risk Assessment Tool—Identifying the FATF NPOs at Risk of Terrorist Financing Abuse*), adapting it as necessary to the context and specific characteristics of the NPO sector in Spain.

According to the World Bank tool, the assessment of the risks that NPOs may be used as a vehicle for terrorist financing will be based on an analysis of the following aspects:

1. An analysis of whether there is evidence of the misuse of NPOs for the purpose of terrorist financing in Spain.

2. Identification of existing terrorist financing threats in Spain.

3. Identification of the **vulnerabilities inherent in the nonprofit sector** that make such entities susceptible to being used as a vehicle for terrorist financing.

Once the threats and vulnerabilities have been identified and their impact assessed through the corresponding ratings, the various types of terrorist financing **risks** for entities within the nonprofit sector will be determined.

First, the **inherent risk** that NPOs may be used as a vehicle for terrorist financing will be determined, based on their specific vulnerabilities and characteristics.

Once the inherent risk for each type of NPO has been determined, existing **mitigation measures** will be analysed from a dual perspective:

a) Mitigation measures adopted by the public sector.

b) Mitigation measures adopted by the NPOs themselves.

In this way, the inherent risk will be addressed through mitigating measures to determine the **residual risk** that NPOs may be used as a vehicle for terrorist financing.

In accordance with the rating system established in Article 12.3 of Regulation (EU) 2024/1620 of the European Parliament and of the Council of May 31, 2024, establishing the Anti-Money Laundering and Counter-Terrorism Authority, the levels of inherent and residual risk shall be rated as follows:

- Low
- Medium
- Substantial
- High

4.- Regulatory Framework and Status of NPOs in Spain

In Spain, the NPO sector consists of legal entities that are not corporations. For the purposes of this analysis and in accordance with the FATF definition noted above, the following types of entities are considered NPOs:

a) **Humanitarian, educational, or cultural associations and associations declared to be of public benefit**.
b) **Humanitarian, educational, or cultural foundations**.
c) Organizations in **the** so-called **"third sector**," including the NGDOs referred to in Law 1/2023 of February 20 on Cooperation for Sustainable Development and Global Solidarity, provided they have one of the legal forms referred to in the preceding paragraphs. The "third sector" also includes humanitarian organizations and social action organizations.
d) **Religious** entities registered in the Registry of Religious Entities (RRE) of the Ministry of the Presidency, Justice, and Relations with Parliament (hereinafter, the Ministry of Justice).

Likewise, the NPO sector also includes branches of foreign foundations registered in the Registry of Foundations and the federations and associations of the non-profit entities referred to in subsections (a) through (c).

4.1 Associations and public-benefit associations

Associations are non-profit legal entities formed by agreement among three or more natural or legal persons who undertake to pool their knowledge, resources, and activities to achieve lawful, common objectives of general or particular interest [Article 5.1 of Organic Law 1/2002 of March 22, regulating the Right of Association, Ley Orgánica 1/2002, de 22 de marzo, reguladora del Derecho de Asociación (hereinafter, LODA)].

For the purposes of this discussion, their main regulation is contained in the following provisions:

- Article 22 of the Spanish Constitution, which recognizes and guarantees the right of association, establishing it as a fundamental right.
- Organic Law 1/2002, of March 22, regulating the Right of Association (LODA).
- Royal Decree 949/2015, of October 23, approving the Regulations of the National Registry of Associations (RNA).
- Law 49/2002, of December 23, on the tax regime for nonprofit organizations and tax incentives for patronage.
- Royal Decree 1740/2003, of December 19, on procedures relating to public-benefit associations.
- The bylaws governing the operation of each association.
- Article 39 of Law 10/2010, of April 28, on the prevention of money laundering and the financing of terrorism.
- Article 42 of Royal Decree 304/2014, of May 5, approving the Regulations of Law 10/2010, of April 28, on the prevention of money laundering and the financing of terrorism.

All persons have the right to freely associate for the pursuit of lawful purposes. This right includes the freedom to associate or form associations without the need for prior authorization (Article 2 of the LODA).

Associations, in turn, may group together to form federations, confederations, and unions of associations, which are second-tier entities whose promoters and members are legal entities of an associative nature previously registered in the general registers of associations.

Associations acquire legal personality and full legal capacity upon the execution of their articles of incorporation (Article 5.2 of the LODA), without prejudice to their registration in the relevant registry for the sole purpose of public notice (Article 22.3 of the Constitution and Article 10 of the LODA). For this reason, the law provides that, without prejudice to the liability of the association itself, the promoters of unregistered associations shall be personally and jointly liable for obligations incurred with third parties (Article 10.4 LODA).

In this regard, the **National Registry of Associations, Registro Nacional de Asociaciones** (hereinafter, RNA) serves as the sole public administrative registry for the entire territory, in which associations whose scope of activity extends beyond the geographical boundaries of a single autonomous community may be registered. The RNA is managed by the Subdirectorate General of Associations, Archives, and Documentation (Ministry of Home Affairs). In addition, each Autonomous Community will have an Autonomous Community Registry of Associations, whose purpose is to register associations that primarily carry out their activities within the territorial scope of that community. In any case, the regional registries must notify the RNA of the entries regarding the registration and dissolution of associations operating at the regional level. Likewise, mechanisms for cooperation and collaboration between the different Registries of Associations will be established (Articles 26 and 27 of the LODA).

According to the latest data published by the Ministry of Home Affairs[3], as of December 31, 2023, there were **66,011** associations registered in the RNA, of which **24,801** were active in the ideological, cultural, educational, and communications sectors, followed by 11,606 in the economic, technological, and professional sectors, and **6,901** in the sectors of solidarity, social integration, humanitarian aid, and development cooperation. However, the **number of associations that would fall under the criteria established by the FATF would be 31,702.**

Associations may serve public or private interests. Only those that have been **declared of public utility** by the Administration, pursuant to the procedures and requirements established in the regulations, may access the special tax regime provided for NPOs and the tax incentives for patronage (Law 49/2002, of December 23, on the tax regime for nonprofit entities and tax incentives for patronage).

As of December 31, 2023, there were **2,709** Public Benefit Associations registered in the RNA (793 at the national level and 1,865 at the regional level), with their main areas of activity being: solidarity, social integration, humanitarian aid, and development cooperation; disability and dependency; and the environment and health.

Associations must maintain an up-to-date list of their members, keep accounts that provide a true and fair view of the entity's assets, results, and financial position, as well as the activities carried out, and conduct an inventory of their assets

[3] Statistical Yearbook of the Ministry of Home Affairs (2022).

and keep a record of the minutes of the meetings of its governing and representative bodies in a book (Article 14 of the LODA).

Associations declared to be of public benefit are subject to stricter controls by virtue of their nature and characteristics; therefore, they must submit their annual financial statements for the previous fiscal year within six months of the end of that year and provide a descriptive report on the activities carried out during the same period. Likewise, public-benefit associations must provide public administrations (hereinafter, PA) with the reports they request regarding the activities carried out in pursuit of their purposes. Failure to comply with the above obligations will result in the revocation of the public-benefit designation (Articles 34 and 35 of the LODA).

Article 22.4 of the Constitution establishes that associations may only be dissolved or have their activities suspended by virtue of a reasoned judicial decision; without prejudice, of course, to cases of dissolution at the will of the members themselves. On the other hand, the LODA specifies that the dissolution of associations may only be declared by a court in the following cases:

a) When they are classified as a criminal organization under criminal law.
b) For the reasons provided for in special laws or in the LODA itself, or when it is declared null and void or dissolved under civil law.

4.2 Foundations

Foundations are legal entities characterized by being non-profit and pursuing objectives of general interest that benefit the general public, with it being expressly prohibited to act for the benefit of the founders, the board of trustees, their relatives, or specific legal entities that do not pursue objectives of general interest.

Their main regulation is contained in:

- Law 50/2002, of December 26, on Foundations.
- Regional laws on foundations.
- Royal Decree 1337/2005, of November 11, approving the Regulations on Foundations under State Jurisdiction.
- Law 49/2002, of December 23, on the tax regime for nonprofit entities and tax incentives for patronage.
- Article 39 of Law 10/2010 of April 28 and Article 42 of its implementing regulations (approved by Royal Decree 304/2014 of May 5).

Their creation requires a public document executed before a notary and must be registered in the corresponding state or regional Registry of Foundations to acquire legal personality (Article 4.1 of Law 50/2002, of December 26). Only entities registered in said Registry may use the designation “Foundation.”

State-level foundations (i.e., those that carry out their activities throughout the territory of the State or primarily in more than one Autonomous Community) must be registered in the **State Foundation Registry**, administered by the General Directorate of Legal Security and Public Trust (Ministry of the Presidency, Justice, and Relations with the Parliament).

Regional foundations, that is, those that carry out their activities primarily within the territory of a single Autonomous Community, must be registered in the corresponding regional registry.

The foundation, as a non-profit legal entity dedicated to pursuing objectives of general interest, has a common organizational structure that is divided into two elements: the protectorate and the board of trustees.

Throughout the life of a foundation, its governing body—known as the board of trustees—carries out a series of administrative and management activities to ensure compliance with current regulations governing foundations. This governing and representative body is responsible for fulfilling the foundation's purposes and diligently managing the assets and rights that make up the foundation's estate, while maintaining their value and utility. The board of trustees shall consist of a minimum of three members, who may be either individuals or legal entities.

For its part, the Protectorate is the administrative body responsible for ensuring the proper exercise of the right to establish foundations and the legality of the incorporation and operation of foundations. The functions of the Protectorate with respect to foundations under state jurisdiction are exercised by the Subdirectorate General of the Protectorate of Foundations (Ministry of Culture), except for banking foundations, where the functions of the Protectorate are exercised by the Protectorate attached to the Ministry of Economy, Trade, and Business. Alongside the state Protectorate, there are a total of 54 regional Protectorates, whose functions apply to foundations operating at the regional level.

Likewise, the protectorate and the board of trustees, in the exercise of the functions conferred upon them by Law 50/2002 of December 26 on Foundations, and personnel with responsibilities in the management of foundations shall ensure that these are not used for money laundering or to channel funds or resources to persons or entities linked to terrorist groups or organizations (Article 39 of Law 10/2010 of April 28). For this reason, both the state-level foundation supervisory authority and the regional supervisory authorities actively collaborate with other agencies and ministerial departments in their monitoring of foundations; in particular, they collaborate with AEAT, Policía Nacional, Guardia Civil, and CNI.

Furthermore, foundations that fail to comply with their registration or accountability obligations may not be considered nonprofit entities for the purposes of applying the special tax regime provided for in Law 49/2002 of December 23 (Article 3, paragraph 9).

According to the latest data from the Ministry of Culture and Sport[4], the total number of foundations subject to state supervision in 2021 stands at **4,707**.

A recent report prepared by the Spanish Association of Foundations (hereinafter, SAF) in 2023[5] indicates that in Spain there are a total of **15,821** foundations registered with one of the national or regional protectorates.

[4] Statistics on foundations subject to the State Protectorate (2016–2021 Series).

[5] Analysis of the Economic and Social Contribution of Spanish Foundations, a report prepared by Analistas Financieros Internacionales (AFI) for the Spanish Association of Foundations (SAF) (February 2023).

Regarding the foundations analysed in this report, it was found that 1,428 meet the criteria established by the FATF at the regional level and 256 at the national level.

To help foundations manage themselves more effectively and achieve greater transparency, there are several initiatives—such as those by the SAF, the Lealtad Foundation, and the Coordinating Committee of NGOs for Development (hereinafter, CONGDE)—that issue certificates of compliance or establish transparency indicators for foundations. These indicators are periodically reviewed so that foundations can not only meet the transparency standards set forth in specific regulations (Law 19/2013, of December 9) but also adapt to the sector-specific regulations in force at any given time.

4.3 "Third Sector": Non-Governmental Development, Humanitarian, and Social Action Organizations

The "third sector" refers to all private organizations that are not aimed at generating profits for their owners, but rather at carrying out activities focused on the development of other countries and/or humanitarian and/or social action.

Within the third sector, **NGDOs** stand out; these are private, legally incorporated, non-profit organizations that have, among their purposes or as their express objective—according to their own bylaws—the carrying out of activities related to the principles and objectives of international development cooperation (Law 1/2023 of February 20 on Cooperation for Sustainable Development and Global Solidarity).

NGDOs may register in the Registry maintained by the AECID or in any registries that may be established by the autonomous communities. This registration is essential to receive official aid to fulfill their development assistance objectives and to obtain tax benefits; the suitability of the entities must be verified, as well as the accuracy of the registered data, and the necessary measures must be taken to ensure that the collected information remains up to date. This obligation to update information falls on the NGDOs, which must submit their information within the first four months of each year or within three months of any specific changes occurring (Article 11 of the NGDO Registry Regulations, approved by Royal Decree 193/2015 of March 23).

According to the latest available data (as of June 20, 2024), the number of entities registered in the NGDO registry stands at **1,002**. In terms of legal form, of the 1,002 registered entities, the vast majority are associations (68%) or foundations (30%), while the rest are federations of associations (1.3%), religious entities (1%), or non-profit cooperatives (0.6%).

The organizational structure varies, with many Spanish development NGOs (ONGDs) belonging to the SAF; others belonging to the Coordinating Committee of Development Cooperation Organizations (CONGDE), which in turn has regional coordinating bodies; and still others belonging to both associations.

Of all Spanish NGDOs, the AECID concentrates its funding on 44 of them, the so-called **"qualified NGDOs**." A qualified NGDO is an organization that has passed a review conducted by the AECID, which evaluates more than 70 qualitative and quantitative criteria

related to experience, financial solvency, transparency, and human resources, among others. Qualified NGDOs therefore have a track record and capacity accredited by the AECID.

4.4 Religious entities

As far as this is concerned, the legal framework applicable to religious entities consists primarily of the following regulations:

- Article 16 of the Spanish Constitution, which recognizes and guarantees the freedom of ideology, religion, and worship of individuals, with no limitations on its expression other than those necessary for the maintenance of public order protected by law.
- Organic Law 7/1980, of July 5, on Religious Freedom.
- Organic Law 1/2002, of March 22, regulating the Right of Association.
- Agreements between the Spanish State and religious denominations.
    - Agreements of July 28, 1976, January 3, 1979, and September 21, 1994, between the Kingdom of Spain and the Holy See.
    - Law 24/1992, of November 10, approving the Cooperation Agreement between the State and the Federation of Evangelical Religious Entities of Spain (FEREDE).
    - Law 25/1992, of November 10, approving the Cooperation Agreement between the State and the Federation of Jewish Communities of Spain.
    - Law 26/1992, of November 10, approving the Cooperation Agreement between the State and the Islamic Commission of Spain.
- Law 49/2002, of December 23, on the tax regime for nonprofit entities and tax incentives for patronage, and its implementing regulations (approved by Royal Decree 1270/2003, of October 10).
- Royal Decree 594/2015, of July 3, regulating the Registry of Religious Entities (RER).
- Royal Decree 593/2015, of July 3, regulating the declaration of well-established presence of religious denominations in Spain.

Because religious entities in Spain have full organizational autonomy, as guaranteed by Organic Law 7/1980 of July 5 on Religious Freedom, it is difficult to identify characteristics common to all of them. Thus, there are religious entities that are not registered, and therefore lack legal personality, since registration as a religious entity in the **Registry of Religious Entities** (**RER**), managed by the General Directorate of Religious Freedom (Ministry of the Presidency, Justice, and Relations with the Parliament), is what grants legal personality to these entities and allows them to act and engage in legal transactions, have legal representatives, and have recognized organizational rules.

The Registry allows for the registration not only of churches, denominations, and religious communities (and their federations), but also of certain entities established by them and those affiliated with other religious entities established abroad (Article 2 of Royal Decree 594/2015, of July 3

According to data from the Registry of Religious Entities, as of June 13, 2024, **20,945** entities are registered.

In general, entities registered in the RER must keep their information up to date and must request any changes to the registry within three months of such changes being approved by the entity. Additionally, every two years they must submit an operational report, which may be filed electronically. At the time of registration (and, where applicable, at the time of recording any changes to the information in the registry), the General Directorate of Religious Freedom verifies compliance with the relevant statutory and legal requirements, as provided for in Royal Decree 594/2015 of July 3.

The Catholic Church receives funds from the tax allocation and submits an activity report detailing how those funds were used. Religious denominations with agreements in place (Protestants, Jews, and Muslims) receive a direct subsidy to cover the obligations that their respective representative bodies must fulfill in accordance with their agreements with the State. These grants are subject to the usual oversight regarding the justification of activities, as provided for in the regulatory bases of the corresponding grant and in accordance with the provisions of Law 38/2003 of November 17, the General Law on Grants.

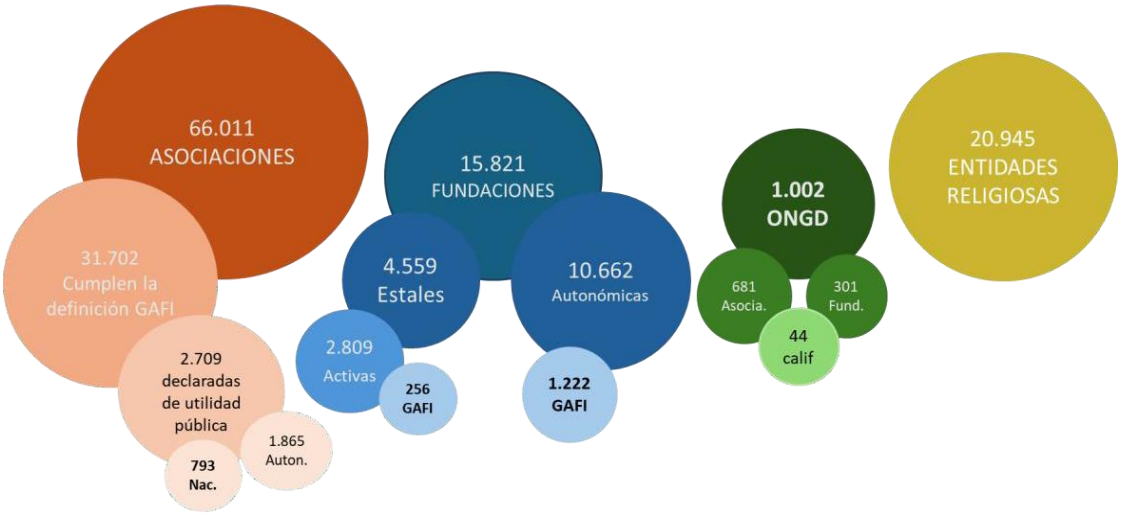
The legislation applicable to religious entities does not require them to file financial statements, either at the time of their registration or during their operation. Only entities that have obtained a declaration of public utility are required to file their financial statements with the Registry, with the scope and effects provided for in their own regulations. Currently, there are 7 entities that meet this condition. In these cases, failure to file annual financial statements could result in the loss of the declaration of public utility.

The cancellation of an entity's registration in the RER may only be carried out at the request of its duly authorized legal representatives, or in compliance with a final court ruling (Article 19 of Royal Decree 594/2015, of July 3).

The Ministry of the Presidency, Justice, and Relations with the Parliament oversees a public foundation, the Pluralism and Coexistence Foundation, which administers direct grants received by non-Catholic religious denominations with cooperation agreements, among other objectives related to the management of religious diversity.

Figure 2 shows the taxonomy of the NPO sector in Spain. The figure displays a breakdown of the number of organizations operating in Spain, identifying those that meet the definition established by the FATF and that are the subject of this report. All organizations falling within the NGDO sector meet the definition established by the FATF.

GRÁFICO 1. TAXONOMIA



FUENTE: Ministerio del Interior, Protectorado Estatal de fundaciones, Protectorados Autonómicos, AECID, D.G. de Entidades Religiosas

Table 1 below reflects the number of entities that fall within the FATF definition and are the subject of this sectoral analysis.

***Table 1*. Types of NPOs in Spain considered high-risk**				
Type	*No. entities*	*Legal form*	*Regulation*	*Registration authority*
Associations	31,702 [(1)] Of which 2,709 are associations *declared to be of public benefit* (793 at the national level and 1,865 at regional scope)	Association	Organic Law 1/2002 Law 49/2002 on the tax regime for nonprofit entities and tax incentives for patronage. The declaration allows access to the special tax regime	Subdirectorate General for Associations, Archives, and Documentation (Ministry of Home Affairs) Relevant regional authorities The declaration of public utility grants access to the special tax regime
Foundations	256 at the national level and 1,428 at the regional level.	Foundation	Law 50/2022 on Foundations Regional legislation	Directorate General for Legal Security and Public Trust (Ministry of the Presidency, Justice, and Relations with the Parliament) Regional authorities relevant
NGOs	1,002	Association/ Foundation/ Others	Law 1/2023 on cooperation for sustainable development and global solidarity Regulations on the Registration of NGDO (RD 193/2015)	AECID [NGDO Department / Office of Humanitarian Action (OAH)] Registration in the NGDO registry provides access to grants and a special tax regime
	NGOs with the legal status of an associatio n 68%	Association		
	NGOs with the legal status of a foundation 30%	Foundation		
	NGO qualified 44	Association/Foundation		
	NGO humanitarian 15 on average per year	Association/Foundation		AECID (Office for Humanitarian Action)
Religious organizations	20,945	Churches, denominations, religious communities, as well as their federations; and religious organizations established, created, or instituted by any of the foregoing (including associations for religious purposes)	Organic Law 7/1980 on Religious Freedom Regulations of the RER (RD 594/2015)	Directorate General for Religious Freedom (Ministry of the Presidency, Justice, and Relations with the Parliament)

5.- Main Threats of Terrorist Financing

5.1 Threats of Terrorist Financing in Spain

The 2024 Addendum to the Risk Analysis of Money Laundering and Terrorist Financing identifies **jihadist terrorism** as the **main threat of terrorist financing, based on its two main groups, ISIS and Al-Qaeda, which maintain particularly intense activity in North Africa and the Sahel region.**

However, the threat of jihadist terrorism in Spain has its own distinct characteristics, with a higher degree of complexity and diversification. The 2022 National Security Report notes that this threat manifests itself in Spain through:

- **Individual actors or "lone wolves," and independent cells.** While these constitute the main threat from jihadist terrorism in Spain, organized attacks by structured cells linked to ISIS cannot be ruled out.

- **The phenomenon of *"homegrown terrorist fighters*,"** hereafter "HTF." HTFs are individuals radicalized within national territory—in this case, Spain—primarily through the Internet, where they also issue calls for violence.

- **Terrorist fighters returning from conflict zones such as Syria and Iraq**. These individuals return to Spain having acquired knowledge and experience in the use of weapons, contacts, and knowledge of routes and facilitators, acting upon their return as ideological and operational catalysts.
  Logistical networks providing financial support, primarily in the case of Daesh, and, above all, **cells dedicated to the recruitment, indoctrination, and enlistment of followers**, in both physical and virtual environments.

Notwithstanding the above, **national terrorist organizations linked to the Basque independence movement (ETA) and the Marxist-Leninist armed movement (GRAPO)** have also historically played a significant role. However, these **groups have disappeared or** are **in the process of disappearing,** with activities linked to ETA becoming increasingly marginal and focused on demanding unconditional amnesty for all ETA prisoners, as well as the return of exiles.

5.2 Threats of terrorist financing through the nonprofit sector

The World Bank's Guide to Assessing Risks Associated with Nonprofit Organizations identifies a series of variables related to the threat of terrorist financing, in order to determine the risk exposure of different types of nonprofit organizations in a country. The existence of evidence regarding the occurrence of these variables will influence the level of risk attributed to each type of nonprofit organization operating in Spain. The variables analysed are as follows:

- **Diversion of funds to terrorist financing**. Sometimes this criminal activity is organized from within the organization, when it has been created for that purpose or there are individuals within it (employees or volunteers) who pursue that objective.

In this case, the organization may be being used for a purpose not covered by its stated mission.

- **Abuse of Nonprofit Organizations**. The trust placed in these types of organizations by the general public and the humanitarian culture inherent in them create the possibility that they may be used for a purpose not contemplated in their mission.
- **Organizational Affiliation**. Regarding this variable, it is necessary to evaluate any available evidence regarding individuals linked to or associated with terrorist organizations who are actively involved in the NPO.
- **Support for Recruitment**. In addition to serving as a source of funds for terrorist organizations, some NPOs may be misused to justify the dissemination of messages promoting affiliation with and recruitment of followers by terrorist organizations.
- **Fake NPOs**, which appear to be legitimate but whose establishment is linked to terrorist organizations seeking a channel to mobilize funds to finance their activities.
- **Fundraising in specific areas** linked to conflict zones that pose an active terrorist threat.
- **Transfer and expenditure of funds in certain areas**. The challenge in preventing the diversion of funds for illegitimate purposes lies in ensuring proper traceability of capital flows allocated to social action projects.

5.3 Analysis of evidence regarding the potential misuse of NPOs for terrorist financing in Spain

In Spain, there are currently no areas of terrorist conflict; however, at the national and even European levels, one cannot rule out the operations of NPOs established in conflict-free zones that subsequently interact with other charitable organizations located in high-risk territories.

In determining the existing evidence regarding the possible use of NPOs for terrorist financing purposes in Spain, the following information has been taken into account:

- Court rulings on terrorism or terrorist financing linked to the activities of NPOs.
- Ongoing investigations into terrorism or terrorist financing linked to the activities of NPOs.
- Reports of suspicious activity submitted to SEPBLAC linked to the activities of NPOs.
- News reports from public sources related to terrorist financing and linked to the activities of non-profit organizations.

As noted in the latest FATF Mutual Evaluation Report (2014), Spain has a track record of success in investigating and prosecuting activities related to the collection and movement of terrorist funds through the nonprofit sector. This was demonstrated through a series of cases involving cultural associations (e.g., see SAN 73/2007), which were an important part of ETA's distinctive support and fundraising network. Currently, ETA's activities are increasingly residual, focused on demanding unconditional amnesty for all prisoners, as noted in the previous section.

With regard to jihadist terrorism (the main terrorist threat in Spain today), Spain successfully prosecuted a TF case involving the financing of a terrorist and his family through the provision of alms (although the alms were paid to an individual, not to an NPO): SAN 5304/2011.

More recently, another case of financing a terrorist organization (Article 576.1 of the Criminal Code) was successfully prosecuted, in which the scheme involved sending funds to a member of ISIS based in the conflict zone in Syria, using an international payment platform. The convicted individual transferred various amounts totaling 2,860 euros through an intermediary in Türkiye, with the final destination of the funds being Syria (Judgment of April 7, 2022, of the Audiencia Nacional, Criminal Chamber, Section 3, No. 12/2022).

Furthermore, in 2020, an operation was uncovered involving the channeling of funds and the recruitment of individuals for terrorist activities through a private crowdfunding campaign on various social media platforms. Through this campaign, funds were collected that were subsequently to be sent to refugee camps for terrorist purposes, disguised under the false guise of charity.

Information provided by the LEAs indicates that evidence of terrorist financing has been detected in the course of two investigations related to the activities of religious organizations. The operation detected was linked to threats associated with the misuse of NPOs and the diversion of funds to finance jihadist terrorism. In addition, international connections were detected with other entities established in European Union countries and in third countries located in conflict zones that, through non-bank money transfer methods such as ***hawala***, sent remittances to Syria.

Religious organizations are increasingly vulnerable to the threat of abuse by individuals or organizations linked to terrorism seeking to raise funds, particularly those that work with groups susceptible to proselytizing and jihadist radicalization. Public sources indicate that these organizations have been found to be exploited to spread radical messages from international groups and to raise funds related to real estate investments, thereby generating passive income.

With regard to suspicious activity reports received for the period 2021–2013, SEPBLAC is aware of transactions involving a nonprofit organization or a third party associated with the activities of such organizations.

The suspicious transactions analysed show that:

- The main threats identified in these transactions are associated with **the diversion of funds for the purchase of real estate** linked to terrorist purposes.
- The international nature of NPOs and the opening of offices in multiple countries poses an added vulnerability.
- There is a connection to an **NGDO registered in another country but with branches in Spain,** regarding which adverse information exists in public sources.
- **Foreign non-profit organizations that send funds to jurisdictions at risk of terrorist financing, resulting in the loss of traceability of those funds**, with indications that they have been diverted for purposes related to terrorist financing. A notable form of such diversion is the **"hijacking of** funds" originally intended for humanitarian purposes.

- On occasion, it has been detected that fund transfers are linked to email addresses associated with terrorist organizations, such as *"@hamas*."

Furthermore, it cannot be ruled out that these criminal activities, in which terrorist financing is associated with NPOs, are linked to the commission of additional criminal activities such as fraud or scams and that they are aimed at the aforementioned terrorist financing.

6.- Main Vulnerabilities

Vulnerabilities are defined as issues that can be exploited by the threat or that can support or facilitate its activities. Vulnerabilities may include characteristics of a particular sector, a financial product, or a type of service that make them attractive to TF.

The "*Guide to Good Practices for Combating the Abuse of NPOs in Terrorist* Financing" (FATF, 2023) explains that a vulnerability may affect the sector as a whole or a specific organization; in the latter case, the vulnerability may have an impact on other NPOs with which that organization has collaborative projects.

Following this distinction, in this analysis we will differentiate between the following vulnerabilities:

1. *Organization-related vulnerabilities*.
    a) Vulnerabilities arising from the organization's profile.
    b) Vulnerabilities arising from the organization's operational characteristics.
    c) Vulnerabilities arising from methods of obtaining and transferring funds.
    d) Vulnerabilities arising from the use of new technologies.

2. *Vulnerabilities linked to the nonprofit sector*.
    a) Vulnerabilities arising from the existence of multiple registries and various responsible authorities.
    b) Vulnerabilities associated with the complexity and fragmentation of the regulation of nonprofit organizations in Spain.
    c) Operational vulnerabilities: *de-risking*.
    d) Vulnerabilities associated with difficulties in tracing their activities and a lack of accountability.
    e) Vulnerabilities stemming from staff characteristics.

6.1. Vulnerabilities linked to the organization

6.1.a) Vulnerabilities arising from the organization's profile.

The report *"Risk of Terrorist Abuse in Non-Profit* Organizations" (FATF, 2014) shows that there is a correlation between the type of activity carried out by a nonprofit organization and the risk of it being misused for terrorist financing purposes. Specifically, the analysis of various case studies worldwide indicates that **NPOs focused on service-providing activities (*service NPOs*), primarily humanitarian services, are more attractive targets for terrorist organizations** due to the nature of the resources used in their operations, the broad geographic scope of their activities, and their access to vulnerable groups. In contrast, none of the cases studied in the report involved NPOs engaged in sports, arts, politics, lobbying, or similar activities (*expressive activities*).

For this reason, special attention must be paid to transactions with countries or geographic regions where there is a greater presence of organizations or groups of citizens with radicalized ideological or religious views, or in countries whose political systems could

directly or indirectly support such groups. This vulnerability is particularly relevant regarding transactions with countries in North Africa and the Sahel region, given Spain's geographical location.

Likewise, the cultural, educational, humanitarian, or religious nature of NPOs in Spain makes them particularly vulnerable to the threat of terrorist financing, especially those working with communities susceptible to proselytizing and jihadist radicalization.

In the Addendum to the 2024 NRA, among the threats associated with terrorism and its financing in Spain, jihadist terrorism is cited as the primary threat, not only at the national level but also globally. Among other factors, demographic factors play a role in this.

Finally, among NPOs, those that work with groups susceptible to jihadist proselytizing and radicalization are more vulnerable to being exploited by terrorist organizations seeking to raise funds to finance their activities.

6.1.b) Vulnerabilities stemming from the organization's operational characteristics.

Sometimes, NPOs receive funding from third countries to provide educational activities to minors in schools. However, these activities can be exploited to spread radical ideas, as well as to indoctrinate these minors so they can later be recruited by terrorist organizations. This vulnerability is primarily present in organizations that work with groups susceptible to proselytizing and jihadist radicalization. While these organizations strive to prevent interference in their operations, there is a risk of abuse by terrorist organizations.

6.1.c) Vulnerabilities arising from methods of obtaining and transferring funds.

Currently, the funding needs of terrorist organizations, coordinated through cells and individual actors, are such that they do not require large-scale transfers of funds through the international financial system.

In many cases, individual cells and actors resort to a "microfinancing" system, which has led to the emergence of micro-patronage or "crowdfunding" as a method of fundraising. This system is attractive because it enables a large number of people to participate through small donations, while also allowing for the use of other payment methods such as cryptocurrencies, which can make investigations more difficult.

Likewise, anonymous cash donations to cover the expenses of NPOs or to fund a specific project present risks related to the traceability and transparency of the operation, with the risk that they may be used to finance terrorism. As indicated in the Addendum to the ANR 2024, cash remains the primary means of payment used in Spain.

In the context of those NPOs that work with groups susceptible to proselytism and jihadist radicalization, it has been observed that one channel for mobilizing donations is the transport of cash funds via individuals or groups of people attending conferences and meetings.

Consequently, there is a certain lack of transparency regarding the origin and final destination of the funds contributed, with the risk that they may be diverted to activities related to the financing of terrorism.

Among the techniques used for transporting cash, the *hawala* system stands out: an informal clearing system that allows funds to be made available in different parts of the world. This system allows for the financing of operations without physically moving funds or using the financial system, making these transactions undetectable by official financial control systems and enabling the mobilization of funds to conflict zones where there are high rates of unbanked populations.

There have also been reports of funds being obtained for real estate investment, generating passive income that is subsequently used to finance the activities of NPOs aimed at spreading messages of radicalization. This activity begins with the acquisition of real estate assets that are later exploited through rental or sale. The returns obtained are distributed among the NPOs or individuals linked to their administration.

Attention must also be paid, as noted in the Addendum to the NRA, to the emergence of new payment methods and platforms such as ***neobanks* in relation to international remittances**, especially those that facilitate the exchange between fiat and crypto assets.

6.1.d) Vulnerabilities arising from the use of new technologies.

The digital transformation of society, government agencies, and the financial system has streamlined and facilitated the lives of citizens and businesses in certain respects. However, at the same time, new technologies can be used to channel large amounts of funds toward terrorist financing and facilitate the global operations of actors pursuing this goal, giving rise to new vulnerabilities for NPOs.

***Crowdfunding* platforms have become one of the most widely used tools by NPOs to raise funds online.** These platforms provide quick access to a wide range of donors, who may be located in another country or jurisdiction, and allow the funds raised to be allocated to finance a project, with the risk that those funds could be misappropriated.

The FATF Guidance on *the Misuse of Crowdfunding for Terrorist Financing* (2023) defines the specific vulnerabilities associated with crowdfunding activities in relation to terrorist financing. As noted in this guide, social media and messaging apps may offer encrypted messaging services to secure conversations and documents. These can be exploited by terrorists and violent extremists to launch clandestine campaigns aimed at providing donation instructions to their networks.

6.2. Sector-related vulnerabilities

6.2.a) Vulnerabilities arising from the existence of multiple registries and various responsible authorities.

The NPO sector in Spain consists of associations, foundations, NGDO, and religious entities (see section 4). Each type of NPO has a different registration procedure. Furthermore, depending on their scope of activity, foundations and associations will be registered in either the national or regional registry.

Associations are subject to the RNA, which serves as the public registry where associations whose scope of activity extends beyond the geographical boundaries of a single autonomous community may register. Furthermore, each autonomous community maintains a Regional Registry of Associations, designed to register associations that primarily carry out their activities within that community's territory.

On the other hand, foundations also have a dual registration system depending on their scope of activity. Thus:

- Those that carry out their activities throughout the entire territory of the State or primarily in more than one Autonomous Community must register in the Single Registry of Foundations at the national level.
- In contrast, those that carry out their activities primarily within the territory of a single Autonomous Community must register with the corresponding regional registry.

As for NGDO's, they may register with the registry maintained by the AECID or with any registries that may be established by the autonomous communities; the relevant cooperation procedures must be established to ensure the communication and standardization of registry data.

Religious entities must register in a single national registry, the RER.

6.2.b) Vulnerabilities associated with the complexity and fragmentation of the regulation of nonprofit organizations in Spain.

The regulation of entities comprising the NPO sector in Spain is highly complex and fragmented, with each category subject to various state-level regulations depending on the typology described in previous sections; in the case of foundations, there are regional regulations for those carrying out activities in this field.

NGDOs have their own registration regulations; however, as noted, most NGDOs adopt the legal form of an association or foundation, and are therefore also governed by the regulations applicable to these two types of entities.

Regarding the filing of annual financial statements, the respective laws governing foundations and associations contain specific requirements for the preparation and filing of annual financial statements.

6.2.c) Operational vulnerabilities: *de-risking*.

At times, in order to avoid regulatory and compliance risks, financial institutions, rather than managing risks, simply reduce or avoid relationships with sectors vulnerable to being exploited by criminal organizations, including those whose objective is to finance terrorist groups. Among these sectors are NPOs, which may face delayed transactions and higher costs.

This risk leads these organizations to use clandestine methods to obtain funds, which would entail additional risks regarding control over the destination of the funds, facilitating the potential use of the funds by terrorist organizations to finance their activities.

On the other hand, credit institutions are among the sectors with the strongest preventive culture in Spain, being subject to robust systems that establish procedures and measures against money laundering and terrorist financing. Excluding NPOs as clients of financial institutions results in a loss of risk management for these organizations and, therefore, prevents the possibility of subjecting them to greater oversight under the umbrella of financial institutions' preventive systems.

In the course of preparing this report, it is worth noting that organizations representing the sector are aware of only one case in which an organization encountered difficulties accessing the financial system due to the requirements imposed on these entities when opening an account and the challenges they face in activating the account to begin operations; therefore, at first glance, this does not appear to be a widespread problem.

6.2.d) Vulnerabilities associated with difficulties in tracking their activities and accountability.

There are principles of Transparency and Best Practices with standards for the operation of NPOs. Among them, one is dedicated to the control of fund usage: there is a detailed breakdown of fund distribution, income and expenses from fundraising activities are itemized, mechanisms are established for the control of designated funds, and there is a policy for approving expenses and vendors.

These measures are less likely to be implemented by smaller NPOs due to the cost involved in establishing them.

On the other hand, while the filing of annual financial statements is mandatory for many of these organizations, not all of them comply with this requirement. For example, according to the report *"Analysis of the Economic and Social Contribution of Spanish* Foundations" prepared by SAF, only 33% of registered foundations have submitted annual financial statements to national or regional supervisory authorities.

This creates a greater risk in the oversight of funds for those NPOs that have not filed their financial statements, leading to greater opacity in the use of donations received.

On the other hand, monitoring the use of funds is particularly complicated for those NPOs that have agreements with international organizations whose purpose is also the provision of charitable services. The involvement of a greater number of actors in the execution of the NPO's project, in these cases, creates the need to develop international operational logistics networks through which it is difficult to establish proper traceability of funds.

6.2.e) Vulnerabilities arising from staff characteristics.

Law 50/2002, of December 26, specifies in Article 15.2 that *"Natural persons who have full legal capacity and are not disqualified from holding public office may be members of the Board of Trustees*." Furthermore, Article 42.3.a) of Royal Decree 304/2014, of May 5, states that Foundations and Associations must *"implement procedures to ensure the suitability of members of governing bodies and other positions of responsibility within the entity*." However, beyond this provision, in practice there is no regulation governing the need to verify the suitability and integrity of the members in charge of the body that administers and manages the remaining NPOs. This vulnerability has materialized in Spain in an investigation into the LEAs, where one of the senior executives of an organization was allegedly involved in a scheme to finance a terrorist organization.

Another factor affecting the sector is staff turnover within the organization: high turnover, a culture inherent to NPOs, is linked to the promotion of social causes and a lack of preventive measures.

The main organizations representing the sector—NPOs—state that exposure to this vulnerability is greater when the organization is smaller and has fewer financial and human resources.

To foster this culture of prevention, several training activities have been conducted by the sector's leading representative organizations.

Regarding fundraising, the Spanish *Fundraising* Association has conducted consultations and training sessions with the support of law firms, and the associations within that organization also belong to a working group involving various platforms and organizations from the Third Sector, which aim to align AML/CFT requirements with the risk profile of NGDOs to improve compliance.

7.- Sectoral risk

This analysis categorizes the different types of NPOs operating in Spain. Each type is subject to a different registration system and is governed by specific regulations regarding the conduct of its activities. Consequently, the attribution of inherent risk, as well as existing mitigation measures, differs among the four types of NPOs. Furthermore, it must be noted that, within the same type, risks may vary depending on the organization's profile and activities.

7.1 Inherent Risks

The inherent risks associated with each type of NPO (foundations, associations, NGDO, and religious entities) have been identified by taking into account: (1) existing evidence regarding the potential misuse of nonprofit organizations for the purpose of terrorist financing in Spain, (2) the threats to which they are exposed, and (3) the vulnerabilities that affect them.

The evidence shows that indications of terrorist financing have been detected in investigations related to the activities of religious entities. The operations detected were linked to threats associated with the misuse of NPOs and the diversion of funds for terrorist financing.

The threats affect the entire NPO sector and have been assessed based on two variables[6]: the typologies of terrorist financing and the proximity of the NPO to areas where there is an active terrorist threat. Regarding the former, as already noted, the typologies present in Spain correspond mainly to the abuse of NPOs and the diversion of funds for the purpose of financing terrorism in high-risk jurisdictions, and to support for radicalization through the dissemination of messages promoting affiliation with and recruitment of followers by terrorist organizations.

Based on the foregoing, it is considered that the NPOs most exposed to threats are those that meet two criteria: those that work with groups susceptible to jihadist proselytization and radicalization, and those that carry out international activities in a jurisdiction considered high-risk for the purposes of terrorist financing.

Vulnerabilities differ for each type of NPO and have been analysed based on three variables, following the World Bank's framework: the organization's profile, its operational characteristics, and the methods used to channel funds. The greatest vulnerabilities are considered to lie with those NPOs:

i. whose activities are focused on providing humanitarian, educational, or cultural services, as opposed to those engaged in *expressive activities* (sports, art, etc.), which fall outside the FATF's definition;
ii. those that rely more heavily on cash and informal systems for channeling funds;
iii. those in which the level of transparency and accountability is lower;

[6] Each of these two intermediate variables (types of terrorist financing and proximity to areas where there is an active terrorist threat) is constructed from various *input* variables, which have been assigned different ratings based on an analysis of existing evidence and other collected information.

iv. those with a higher risk appetite (for example, for carrying out humanitarian activities in disadvantaged countries or conflict zones); and
v. those with higher levels of turnover in the human resources employed for the collection and allocation of funds to various projects (given that higher staff turnover is typically associated with less training in preventive activities and a lower degree of professionalization).

As a result of the above analysis, the following levels of inherent risk have been identified for each type of NPO.

Foundations

There is no record in recent times of convictions, legal proceedings, or investigations related to terrorism, terrorist financing, or other related crimes linked to the activities of foundations. The evidence identified by intelligence units regarding the activities of foundations, following analysis, is considered to be of very little significance for the purpose of establishing evidence of terrorist financing through foundations in Spain.

Foundations that conduct international activities in jurisdictions considered high-risk for the purposes of terrorist financing will be exposed to greater threats compared to those that do not operate in these countries.

The main vulnerability stemming from the organization's profile lies in its focus on activities involving the provision of services, particularly in the case of foundations engaged in **humanitarian, educational, and cultural activities**. Furthermore, the presence of other additional vulnerabilities cannot be ruled out depending on the organization's operational characteristics, such as the fact that human resources may exhibit high turnover and temporary employment rates and lack preventive training (bearing in mind that volunteers account for nearly 27 percent of all human resources in the foundation sector[7]).

Consequently, the inherent risk is considered to be **medium** for humanitarian, educational, or cultural foundations conducting international activities in jurisdictions at risk of terrorist financing; and **medium-low** for all other foundations carrying out humanitarian, educational, and cultural activities.

Associations

Although there have been cases in the past involving cultural associations that played a significant role in ETA's distinctive support and fundraising network (e.g., see SAN 73/2007), ETA's activities are now increasingly limited, focusing on demanding unconditional amnesty for all prisoners, as has already been noted. ETA has maintained the "cessation of its armed activity" announced in October 2011, and, consequently, it has not carried out any attacks. Its dissolution as an organization was announced in the spring of 2018.

[7] Simón Sosvilla Rivero, Gregorio Rodríguez Cabrero, and María del Carmen Ramos Herrera, *The Foundational Sector in Spain: Fundamental Attributes (2008–2019). Fourth Report*, Spanish Association of Foundations, 2020, p. 111.

In the context of the threat posed by jihadist terrorism, there is no record in recent times of convictions, legal proceedings, or investigations for terrorism, terrorist financing, or other related crimes linked to the activities of associations and public-benefit associations. As with foundations, the information provided by intelligence units, following analysis, is considered to be of little significance for the purpose of determining the possible existence of evidence of terrorist financing through associations in Spain.

Associations operating in jurisdictions considered at risk for terrorist financing will be exposed to greater threats compared to those that do not operate in these countries. The risks associated with this international activity increase the likelihood of abuse of humanitarian aid programs and, consequently, the diversion of funds that were initially intended for the implementation of these programs.

The main vulnerability arising from the organization's profile lies in its focus on activities involving the provision of services, particularly in the case of foundations engaged in **humanitarian, educational, and cultural activities**.

Consequently, the inherent risk is considered **Medium** for humanitarian, educational, or cultural associations conducting international activities in jurisdictions at risk of terrorist financing; it is **Medium-low** for all other associations engaged in humanitarian, educational, and cultural activities.

Non-Governmental Development Organizations

There is no record in the recent period of convictions, legal proceedings, or investigations for terrorism, terrorist financing, or other related crimes linked to the activities of NGDOs. Similarly, financial intelligence data is considered insignificant for the purpose of determining the possible existence of evidence of terrorist financing through NGDOs in Spain.

NGOs and humanitarian organizations carry out their projects in disadvantaged countries, many of which are considered high-risk jurisdictions for the purposes of terrorist financing; as a result, they are exposed to greater threats due to their geographic scope of operation, compared to other types of nonprofit organizations. These threats take the form of fund diversion or "misappropriation."

In determining the inherent risk of NGDOs, special consideration has been given to the incidence of the following vulnerabilities: i) their **service-oriented activities (humanitarian and development cooperation)**; ii) the **larger size** of these organizations and their potential **membership in international humanitarian aid networks**, which facilitates interconnection as well as the mobilization of funds, thereby creating greater vulnerability to the misuse of collected funds; iii) their greater **risk appetite**, as they have a higher likelihood of implementing projects in disadvantaged countries, some of which are considered conflict zones or high-risk jurisdictions for the purposes of terrorist financing; and iv) the fact that human resources may exhibit a high turnover and temporary nature, coupled with limited training in preventive measures, especially in cases where temporary volunteers are relied upon to carry out projects.

For these reasons, the inherent risk for NGDOs is considered **Medium** for those operating in jurisdictions at risk of terrorist financing and **Medium-Low** for those operating in all other jurisdictions.

Religious organizations

Information provided by intelligence units, as well as that available from public sources, shows that **indications of terrorist financing have been detected in the course of investigations related to the activities of religious entities** operating with groups susceptible to proselytization and radicalization (see *Section 5.3*).

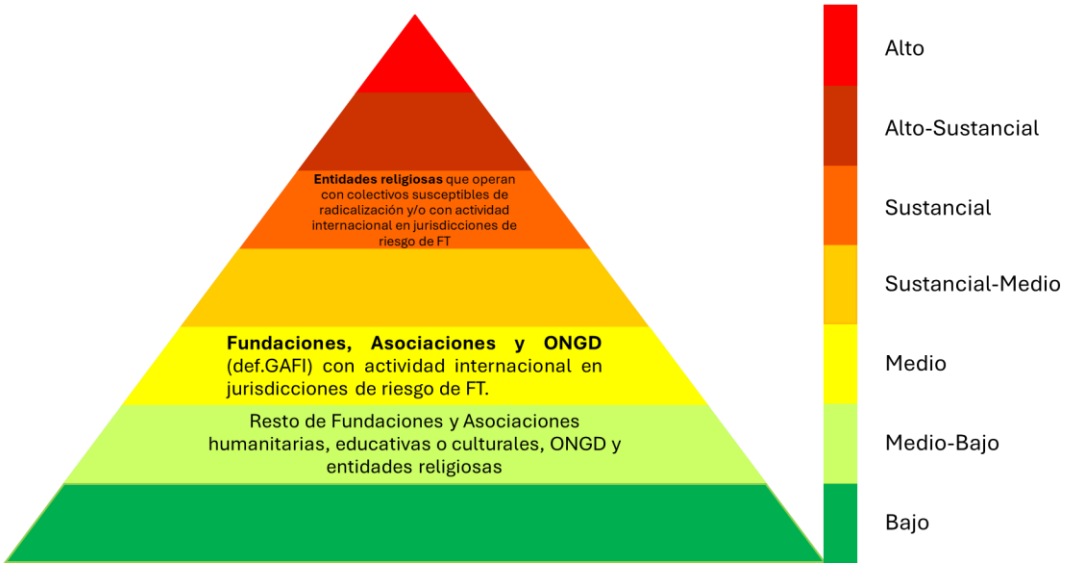
The types of terrorist financing detected correspond primarily to the diversion of funds and the misuse of the entity for terrorist financing purposes, as well as support for the dissemination of radical messages and support for recruitment. Therefore, **religious entities that work with groups susceptible to proselytism and radicalization, and those that conduct international activities in jurisdictions considered at risk for terrorist financing, are more exposed to these threats**.

In assessing the inherent risk of religious entities**,** particular attention has been paid to the impact of the following vulnerabilities: (i) their focus on **providing cultural and educational services, especially in the case of entities that work with groups susceptible to radicalization**; (ii) the greater **use of cash**; iii) the **low level of transparency and accountability regarding the verification of the origin and use of** collected **funds**; and iv) the fact that certain religious entities may more frequently resort to **informal channels for the transfer of funds**, as these organizations have followers who are more likely to be part of the unbanked population.

For all of the above reasons, the inherent risk of religious entities is considered **Substantial** for those that work with groups susceptible to proselytism and radicalization and/or carry out activities in jurisdictions at risk of terrorist financing; and **Medium-low** for the remaining religious entities that do not work with such groups nor carry out activities in high-risk jurisdictions.

Table 3. Inherent risk levels for each type of nonprofit organization	
Types of NPOs	**Inherent Risk**
Religious entities that work with groups susceptible to radicalization and/or engage in international activities in jurisdictions at risk of TF	Substantial
Other religious entities	Medium-low
Humanitarian, educational, or cultural foundations with international activities in jurisdictions at risk of TF	Medium
Remaining of foundations humanitarian, educational or cultural	Medium-low
Humanitarian, educational, or cultural associations with international activity in jurisdictions at risk of TF	Medium
Remaining of humanitarian, educational, or cultural	Medium-low
NGOs operating in jurisdictions at risk of TF	Medium
Other NGDOs	Medium-low

GRÁFICO 2. RIESGO INHERENTE



7.2 Mitigation measures

Once the inherent risk for each type of NPO has been determined, existing mitigation measures will be analysed from two perspectives: mitigation measures adopted by the public sector and mitigation measures adopted by the NPO sector itself.

a) Mitigation measures adopted by the public sector

- ✓ Registration requirements.
- ✓ Policies to promote accountability, integrity, and public trust in the administration and management of NPOs.
- ✓ Collaboration with the NPO sector in developing guidelines and best practices.
- ✓ Outreach and awareness programs for the NPO sector on the risks of terrorist financing.
- ✓ Cooperation and collaboration among the various authorities with jurisdiction over the prevention and combating of terrorist financing.
- ✓ Effective, proportionate, and dissuasive sanctions.
- ✓ Experience and capabilities to investigate and prosecute nonprofit organizations suspected of being exploited or actively supporting terrorism or terrorist groups and organizations.
- ✓ Mitigation of the risks of terrorist financing through crowdfunding platforms.

- **Registration requirements**.

As a first mitigation measure adopted by the public sector, the existence of various registries in which NPOs must be registered stands out (see section 4). These registries constitute an important control instrument available to authorities and a tool for public disclosure to third parties.

- **Policies to promote accountability, integrity, and public trust in the administration and management of NPOs**.

Second, among the mitigation measures adopted by the public sector, all policies and measures aimed at promoting accountability, integrity, and public trust in the administration and management of NPOs should be highlighted.

Thus, existing mitigation policies and measures can be grouped into four main categories: (a) measures established in AML/CFT legislation; (b) preventive measures and controls established in legislation specific to each type of nonprofit organization; (c) control and enforcement measures regarding funds provided for in general legislation on public subsidies; and (d) requirements and controls for eligibility under the special tax regime for nonprofit entities.

a) Measures established in legislation on the prevention of money laundering and terrorist financing

First, **anti-money laundering and counter-terrorist financing legislation contains targeted obligations** applicable to foundations and associations, which seek to prevent their abuse for criminal purposes without affecting the legitimate conduct of their activities [pursuant to Article 2.1.x) of Law 10/2010 of April 28].

Thus, Article 39 of the law provides that the protectorate, the board of trustees, and personnel with responsibilities in the management of foundations, as well as the governing body or general assembly, the members of the representative body, and the body responsible for verifying the incorporation of associations, shall ensure that these entities are not used for money laundering or to channel funds or resources to persons or entities linked to terrorist groups or organizations.

Foundations and associations must also apply the measures set forth in Article 42.3 of Royal Decree 304/2014, of May 5:

- Implement procedures to ensure the suitability of members of the governing bodies and other positions of responsibility within the entity.
- Implement procedures to ensure that it has sufficient knowledge of its counterparties, including their professional background and the integrity of the individuals responsible for their management.
- Implement appropriate, risk-based systems to monitor the effective execution of its activities and the use of funds as intended.
- Retain for a period of ten years the documents or records evidencing the use of funds in the various projects.
- Cooperate with the Commission and its supporting bodies in accordance with the provisions of Article 21 of Law 10/2010 of April 28.

In addition, public administrations or their subordinate bodies that grant subsidies to associations and foundations, as well as foundation guardianship authorities and bodies responsible for verifying the incorporation of associations, are required to report to SEPBLAC any situations they detect in the exercise of their duties that may be related to the financing of terrorism. Similarly, these bodies must inform the Commission's Secretariat when they detect breaches of the obligations established in Article 39 of Law 10/2010 of April 28 or in Article 42 of its implementing regulations (Article 42.4 of Royal Decree 304/2014 of May 5).

It should also be noted that the Central Registry of Beneficial Ownership, Registro Central de Titularidades Reales (hereinafter, RCTIR), as the sole centralized electronic registry covering the entire national territory, is intended to collect and disclose **information on beneficial ownership** as referred to in Articles 4, 4-bis, and 4-ter of Law 10/2010 of April 28, with respect to foundations, associations, and, in general, all legal entities, *trust-type* trusts, and entities or structures without legal personality analogous to *trusts*.

b) Preventive measures and controls established in the specific legislation for each type of OSFL

Beyond the measures provided for in AML/CFT legislation, the various types of NPOs are subject to various **controls under their specific legislation**.

With regard to **foundations**, Law 50/2002 of December 26 establishes the obligation to prepare annual financial statements and have them approved by the foundation's board of trustees within a maximum of six months from the end of the fiscal year. The approved annual financial statements must be submitted to the Protectorate within ten business days following their approval. In addition, there is an obligation to have the annual financial statements of all foundations audited by an external auditor at least two of the following circumstances apply as of the end of the fiscal year (Article 25):

- That the total assets exceed 2,400,000 euros.
- The net amount of its annual revenue from its own business activities, plus, if applicable, the revenue from its commercial activities, must exceed 2,400,000 euros.
- That the average number of employees during the fiscal year exceeds 50.

Similarly, **associations** must maintain an up-to-date list of their members and keep financial records that provide a true and fair view of the entity's assets, income, and financial position, as well as the activities carried out; they must also take inventory of their assets and record the minutes of the meetings of their governing and representative bodies in a book. The association's financial statements shall be approved annually by the General Assembly (Article 14 of the LODA).

For their part, **public-benefit associations** must submit their annual financial statements for the previous fiscal year within six months of the end of that fiscal year and file a report describing the activities carried out during that same period with the body responsible for verifying their incorporation and registering them in the corresponding registry. Likewise, they must provide public authorities with any reports they may request regarding activities carried out in pursuit of their objectives (Article 34 of the LODA). Entities declared to be of public utility that are required to prepare annual financial statements using the standard format must have their annual financial statements audited and must include with them a copy of the auditors' report, signed by the auditors (Article 5.4 of Royal Decree 1740/2003, of December 19).

On the other hand, in the NGDO subsector, the granting of **accreditation by the AECID** serves as an important measure aimed at promoting accountability, integrity, and public trust in the administration and management of NGDOs.

c) Control and execution measures for funds provided for in general legislation on public grants

Furthermore, it should also be noted that non-profit organizations that receive public funds are subject to the **oversight mechanisms set forth in the general regulations on grants** [Law 38/2003 of November 17, the General Law on Grants, and its implementing regulations (approved by Royal Decree 887/2006 of July 21)], and in the regulations governing each specific grant.

In this regard, entities are required to demonstrate compliance with the imposed conditions and the achievement of the intended objectives, submit to the necessary verification procedures, and retain supporting documents regarding the use of funds, among other requirements (Article 14 of Law 38/2003, of November 17).

Likewise, the following constitute grounds for the repayment of the grant: total or partial failure to meet the objective, activity, or subsidized project; failure to comply with the obligation to provide justification for the grant; and resistance, evasion, obstruction, or refusal to cooperate with verification and financial control procedures; among others (Article 37).

Finally, Law 38/2003 of November 17 also contains a penalty regime, with offenses including, among others, conduct consisting of: falsification of the conditions required for the grant of the subsidy (very serious offense), failure to comply with the established conditions by substantially altering the purposes for which the subsidy was granted, and failure to account for the use of the funds (serious offenses).

All of this contributes to promoting accountability and public confidence in the management of NPOs.

d) Requirements and controls for qualifying for the special tax regime for nonprofit entities

In addition, non-profit organizations are also subject to **rigorous controls in order to qualify for the special tax regime provided for in Law 49/2002** of December 23, on the tax regime for non-profit organizations and tax incentives for patronage.

This tax regime is voluntary, meaning that entities that meet certain requirements may opt into it and must notify the Ministry of Finance of their choice. The following may benefit from this regime: foundations, associations declared to be of public utility, NGDO's (provided they have the legal form of a foundation or association of public utility), and federations and associations of the aforementioned entities, among others, provided they meet the required criteria.

Thus, **NPOs that fail to comply with their registration or accountability obligations cannot be considered non-profit entities for the purposes of applying the special tax regime** (Article 3, paragraph 9 of Law 49/2002, of December 23).

- **Collaboration with the NPO sector in the development of guidelines and best practices**.

The Treasury has prepared a document titled "Best Practices in the Fight Against Money Laundering and Terrorist Financing: The Nonprofit Sector," which is available on its website and has been distributed to the sector's main representative organizations.

Furthermore, in preparing this sectoral risk analysis, meetings were held with the main *umbrella organizations* in the sector, during which the need to collaborate on updating the aforementioned best practices document was highlighted, as well as the need to develop additional measures aimed at strengthening awareness of the risks and promoting a culture of compliance within the nonprofit sector.

- **Outreach and awareness programs for the NPO sector on the risks of terrorist financing**.

In the meetings held with the main organizations representing the sector, it was observed that awareness of the risks of terrorist financing through NPOs is, in general, adequate; however, a lower level of understanding of the risks was detected among religious entities compared to foundations and associations that do not have a religious purpose.

Prior to the preparation of this sectoral analysis, risk communication and awareness-raising efforts took place within the broader context of outreach regarding the general risks of terrorist financing associated with NPOs. In this regard, the main organizations representing the sector were provided with a link to the webinar *"Approach to the Update of the National ML/TF Risk* Analysis" (May 31, 2024), which addressed the threats and risks of terrorist financing in Spain associated with NPOs.

In addition, Law Enforcement Agencies regularly cooperate with certain at-risk groups within the nonprofit sector to raise awareness of the risks of radicalization and terrorism, and to ensure that funds are not channeled toward activities intended to support them.

- **Cooperation and collaboration among the various authorities with jurisdiction over the prevention and combating of terrorism financing**.

Collaboration and cooperation among authorities takes place through various collegiate bodies and working groups, notably:

- the Commission for the Prevention of Money Laundering and Monetary Offenses, Comisión de Prevención del Blanqueo de Capitales e Infracciones Monetarias (COPBLAC) as a collegiate body, and through the Financial Intelligence Committee and the Financial Intelligence Operational Group, Grupo Operativo de Inteligencia Financiera (GOIF)

- Working Group for Monitoring the National Strategic Plan Against the Financing of Terrorism, Grupo de Trabajo de seguimiento del Plan Estratégico Nacional Contra la Financiación del Terrorismo (NSPCTF -GRUSEFIT).

- Working Group for the Prevention of the Abuse of NPOs for the Purpose of Terrorism Financing.

- **Effective, proportionate, and dissuasive sanctions**.

Both AML/CFT legislation and the specific laws applicable to the various types of NPOs provide for the imposition of effective, proportionate, and dissuasive sanctions on NPOs in the event of non-compliance with their obligations, in accordance with FATF recommendations. The existence of such sanctions constitutes a measure to mitigate the risks of terrorist financing associated with NPOs.

Thus, foundations and associations that fail to comply with the obligations established in AML/CFT legislation are subject to the sanctioning regime provided therein [Articles 2.1.x) and 39 of Law 10/2010 of April 28 and Article 42 of its implementing regulations, in relation to Chapter VIII (Articles 50 to 65) of Law 10/2010 of April 28].

Furthermore, in the case of associations declared to be of public utility, the law provides for the ex officio revocation of such declaration in the event of non-compliance with the required conditions and obligations (e.g., failure to file annual financial statements, failure to register in the relevant registry, etc.; Articles 34 and 35 of the LODA). This also applies to the 7 entities registered in the RRE that have received the declaration of public utility.

Likewise, the association may have its activities suspended or be dissolved by a reasoned decision of the competent judicial authority if it is deemed an unlawful association under criminal law (Article 38 LODA).

With regard to foundations, the Protectorate is empowered to exercise various oversight functions over foundations for reasons of legality, including the following (Article 48 of Royal Decree 1337/2005):

a) Bringing liability actions against trustees.

b) Seeking judicial removal of trustees for failing to perform their duties with the diligence required by law.

c) Challenging in court the acts and resolutions of the board of trustees that are contrary to the law or the bylaws.

d) Requesting the judicial authority to order the temporary intervention of the foundation, if the protectorate detects a serious irregularity in financial management that jeopardizes the foundation's continued existence, or a significant deviation between the foundation's purposes and its actual activities.

On another note, the legislation governing foundations in the Autonomous Communities establishes, in some cases, a system of penalties applicable to foundations that fail to comply with their legal obligations, such as the duty to approve and file the foundation's annual financial statements [see Chapter II (Articles 30–41) of Law 21/2014, of December 29, on the supervision of foundations and the verification of the activities of associations declared to be of public utility in Catalonia; or Chapter IV (Articles 66–74) of Law 9/2016, of June 2, on Foundations in the Basque Country]. In other cases, regional legislation imposes certain limitations on foundations that fail to comply with their legal obligations, such as the loss of the right to participate in calls for grants and to receive public aid (see, for example, the Second Additional Provision of Law 13/2002, of July 15, on Foundations of Castile and Leon), or the inability to register or file certain acts and documents with the registry of foundations, as well as the refusal to issue certificates at the foundation's request (see Article 26.8 of Law 6/2020, of July 15, on Foundations of Cantabria).

Furthermore, foundations that fail to comply with their registration or accountability obligations may not be considered nonprofit entities for the purposes of applying the special tax regime provided for in Law 49/2002 of December 23 (Article 3, paragraph 9).

Furthermore, in the case of accredited NGDO's, failure to comply with legal requirements and obligations would result in the loss of the accreditation granted by the AECID.

With regard to religious entities, the law establishes that cancellation of registration may only be carried out at the request of their representative bodies or in compliance with a final court ruling (Article 5.3 of Organic Law 7/1980 of July 5).

In short, legal entities in Spain may be held criminally liable for crimes committed within their organization (Article 31 bis of the Criminal Code).

- **Experience and capabilities to investigate and prosecute those NPOs suspected of being misused or actively supporting terrorism or terrorist groups and organizations**.

As noted in the latest FATF Mutual Evaluation Report (2014), Spain has been successful in investigating and prosecuting activities related to the collection and movement of terrorist funds through the NPO sector. This was demonstrated through a series of cases involving cultural associations (e.g., see SAN 73/2007), which were an important part of ETA's distinctive support and fundraising network. In addition, Spain successfully prosecuted a TF case involving the financing of a terrorist and his family through the provision of alms (although the alms were paid to an individual, not to an NPO): SAN 5304/2011.

The extensive experience and capabilities of the Spanish Law Enforcement Agencies in investigating and prosecuting non-profit organizations allegedly linked to terrorist financing have been demonstrated in various operations and investigations carried out. One example is the so-called *Operation Bruder*[8].

Among the capabilities of the Spanish security forces to prosecute and combat the abuse of these organizations are administrative procedures set forth in Organic Law 4/2000 of January 11 on the rights and freedoms of foreigners in Spain and their social integration. According to Article 57, under the regime of offenses and penalties, it is possible to expel a foreign national from the national territory, among other reasons, for reasons of national security.

Finally, it should be noted that intelligence units have personnel assigned by the intelligence units to analyse and investigate this type of operation.

- **Mitigating the risks of terrorist financing through crowdfunding platforms.**

Crowdfunding is a legitimate method of raising funds to finance personal, commercial, nonprofit, nongovernmental, or other types of initiatives. It can be used for a wide variety of purposes, including: disaster relief, support for social causes, funding for startups, investment generation, etc.

As explained in the report *Crowdfunding for Terrorism Financing* (FATF, 2023), while traditional fundraising systems rely on obtaining a sum of money from a limited set of sources, *crowdfunding* uses online platforms, such as the Internet or social media, to raise funds from a large pool of potential donors who can contribute to a project or idea through relatively small amounts.

In this regard, crowdfunding platforms are exposed to the misuse of these new channels for the circulation of illicit funds and, at the same time, are well-positioned to detect such movements and mitigate risks.

[8] https://policia.es/_es/comunicacion_prensa_detalle.php?ID=15963

For these reasons, with the recent adoption of the European Union's legislative package against money laundering and terrorist financing, **crowdfunding service providers and crowdfunding intermediaries—including those involved in donation-based crowdfunding—have been designated as entities subject to AML/CFT obligations** [Article 3(3)(h) of Regulation (EU) 2024/1624 of the European Parliament and of the Council of May 31, 2024, on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing].

b) Mitigation measures adopted by the NPO sector

According to information gathered from the NPO sector, as well as from public sources, the NPO sector in Spain has implemented a series of mitigation measures on its own initiative. Among these, the following stand out:

- **The creation of spaces for the mutual exchange of information** among entities affiliated with the same association, as well as with other sectoral platforms, organizations, or legal and *compliance* professionals. An example of these practices is provided by the AEFr and its affiliated entities.

- **The preparation of studies and analyses** on topics of interest to its member organizations, such as the AEFr´s analysis of cash usage and unregulated financial channels, the Lealtad Foundation´s analysis of its member organizations, the AEF analysis of the economic and social contribution of Spanish foundations in collaboration with International Financial Analysts (Analistas Financieros Internacionales, AFI), as well as regional reports. Furthermore, it highlights that several Third Sector associations collaborate to develop proposals for regulatory updates, bringing the practical difficulties of regulatory compliance to the attention of the public sector and contributing their expertise to the legislative process.

- **The development of outreach and education programs for the NPO sector**, through working groups with third-sector organizations to promote improvements to Law 10/2010 of April 28; training sessions on the risks and compliance with AML/CFT obligations, and the implementation of internal reporting channels; and membership in the *World Compliance Association* regarding AML/CFT matters.

- **The implementation of self-regulatory codes, certifications, accreditations, or quality seals**. These types of measures, implemented by the AEFr, the Lealtad Foundation, the NGO Platform, the Volunteer Platform, and the AEF, consist of the voluntary acceptance of common codes of good practice in areas such as transparency, good governance, donation management and partner selection policies, and general regulatory compliance in financial and grant management.

  In this regard, the **"Dona con Confianza" seal** deserves special mention; it is a certification developed by the Lealtad Foundation. This seal is available to public-benefit foundations and associations incorporated in Spain that carry out activities and projects in the areas of social action, development cooperation, humanitarian aid, and social research in health and/or the environment, and that meet established requirements.

The seal is renewed every two years, although an interim review is conducted annually, and the Lealtad Foundation may initiate a review and revoke the seal if it detects non-compliance.

- The exchange of information with LEAs, in some cases such as that of the AEF, with a view to formalizing it through the signing of an agreement or protocol.

- The development of open databases containing information on foundations. Of particular note is the AEF database, which allows users to identify individual foundations and determine which registry and supervisory body they are affiliated with, as well as the signing of an agreement between the AEF and the General Council of Notaries to encourage member foundations to update their beneficial ownership data in the Council's database, and to enable foundations to access this database to identify donors and recipients of funds.

7.3 Residual Risks

The residual risk for each type of nonprofit organization has been calculated after adjusting the inherent risk with the mitigating measures applied, both by the public sector and by the entities comprising the nonprofit sector themselves.

With regard to the mitigation measures adopted by the public sector, there are, on the one hand, **mitigation measures common to all types of NPOs**, such as registration requirements, the centralization of beneficial ownership information from other registries and databases in the RCTIR, controls under public subsidy legislation, and the experience and capabilities of the LEAs in investigating and detecting activities linked to terrorist financing. Alongside these common mitigation measures, **specific mitigation measures applicable to public-benefit associations and NGDOs have been considered particularly relevant**; due to their nature and activities, these entities are subject to more exhaustive controls.

On the other hand, the mitigation measures applied by the NPO sector itself differ depending on the type of entity in question, being more rigorous in the case of organizations representing the sector of associations, foundations, and NGDOs. In this regard, the information provided by the intelligence units shows that religious entities generally have fewer mitigation measures in the areas of governance, financial and project management, and transparency in their activities.

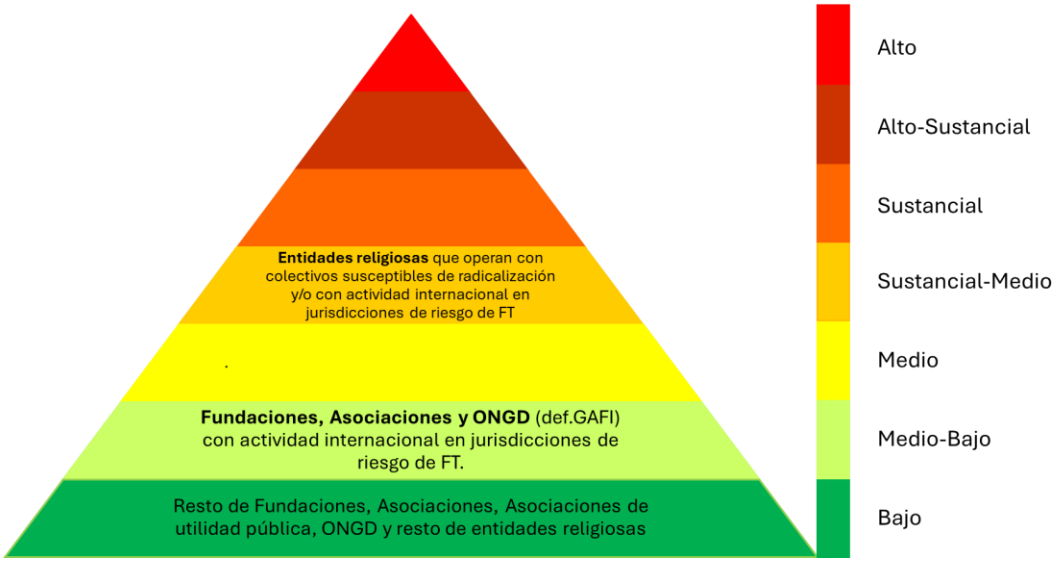
Table 4 below summarizes the results of the analysis regarding inherent risk levels and mitigation measures for each type of NPO.

<table>
<tr><th colspan="4">Table 4. Inherent risk and mitigating measures for each type of NPO</th></tr>
<tr><th rowspan="2">Type of NPO</th><th rowspan="2">Inherent risk</th><th colspan="2">Mitigation Measures</th></tr>
<tr><th>Adopted by the public sector</th><th>Adopted by the NPO sector itself</th></tr>
<tr><td>Religious entities working with groups susceptible to radicalization and/or with international activities in jurisdictions at risk of TF</td><td>Substantial</td><td rowspan="8">Common mitigating measures (registration, beneficial ownership reporting, controls on grants, LEAs experience and capabilities)</td><td>Less relevant</td></tr>
<tr><td>Other religious entities</td><td>Medium-low</td><td rowspan="8">Most relevant</td></tr>
<tr><td>Humanitarian, humanitarian, educational, or cultural with international activity in jurisdictions at risk of TF</td><td>Medium</td></tr>
<tr><td>Rest of humanitarian, educational or cultural</td><td>Medium-low</td></tr>
<tr><td>Humanitarian, educational, or cultural associations with international or activities in jurisdictions at risk of TF</td><td>Medium</td></tr>
<tr><td>Rest of humanitarian, educational or cultural</td><td>Medium-low</td></tr>
<tr><td></td><td></td></tr>
<tr><td>NGO that operate in jurisdictions at risk of TF</td><td>Medium</td><td rowspan="2">More comprehensive controls</td></tr>
<tr><td>Other NGDOs</td><td>Medium-low</td></tr>
</table>

Figure 3 illustrates the inherent risk level for each type of nonprofit organization. The following conclusions can be drawn from the residual risk levels:

- Religious entities that work with groups susceptible to proselytism and jihadist radicalization and/or have international activities in a jurisdiction at risk of terrorist financing are the entities with the highest level of inherent risk and, furthermore, the lowest quality of mitigating measures. Their residual risk is considered Substantial-medium.
- One level below are NGDO's and humanitarian, cultural, or educational foundations and associations with international activities in a jurisdiction at risk of terrorist financing. Although the former present a slightly higher level of inherent risk than the latter, the quality of the NGDO's' mitigating measures is also higher, so it can be concluded that the level of residual risk is similar between both types of NPOs. The residual risk for both types of NPOs is Medium-low.
- The remaining foundations, associations, and religious entities that do not fall into any of the above categories but meet the FATF definition all present a lower inherent risk. The quality of mitigation measures is particularly robust in the case of public-benefit associations, as they have stricter controls in place, and are therefore assigned a Low residual risk.

GRÁFICO 3. RIESGO RESIDUAL



In summary, based on inherent risk and the mitigating measures applied, the following residual risk levels have been determined for each type of NPO:

***Table 5*. Residual risk levels for each type of NPO**	
Type of NPO	**Residual risk**
Religious entities operating with groups susceptible to radicalization and/or with international activity in jurisdictions at risk of TF	Substantial-medium
Other religious entities	Low
Humanitarian, educational, or cultural foundations and associations with activities International in jurisdictions at risk of money laundering	Medium-Low
Other humanitarian, educational, or cultural	Low
Other humanitarian, educational, or cultural associations	Low
Public benefit associations	Low
NGOs operating in jurisdictions at risk of TF	Medium-Low
Other NGDOs	Low

8. Access to financial services for legitimate NPOs

The FATF has recognized the importance of ensuring that the implementation of its Recommendations does not have a negative and disproportionate impact on NPOs, unduly hindering the work of civil society and impeding access to financial services and, in particular, the provision of humanitarian assistance.

The FATF has defined "de-risking" as the phenomenon whereby financial institutions terminate or restrict business relationships with certain clients or categories of clients in order to avoid, rather than manage, risk, in line with the FATF's risk-based approach[9] . Thus, it has been observed that *de-risking* has contributed to limiting access to banking and financial services by NPOs in various countries and jurisdictions.

In line with FATF best practices, during the preparation of this sectoral risk analysis, information was gathered from various relevant stakeholders (*multistakeholder dialogue*) to assess whether NPOs face difficulties in accessing financial services. To this end, information was requested from public sector bodies responsible for supervising NPOs and from organizations representing the sector to determine whether NPOs face **difficulties in accessing the financial system**.

The main conclusions drawn from the analysis of the information are as follows:

- In general, there is no evidence that foundations face difficulties accessing the financial system.

- However, a specific case was identified involving **a foundation linked to a country considered at risk for terrorist financing, whose account was closed** by the bank and which was not permitted to open a new account.

- Banks do not follow a uniform approach when requesting the documents needed to open an account or to determine which individual account holders must be listed on each foundation's bank accounts.

- In the course of humanitarian projects, on some occasions it has been reported **difficulties in opening accounts in the name of projects in third countries.**

  Requests for documentation that NPOs do not yet have available (e.g., annual financial statements) and that is required to operate the opened bank account.

- It is also noted that **difficulties in accessing the financial system vary depending on the type of OSFL, the volume of funds they manage, and the size of the organizations**, as access may be more difficult for smaller organizations.

[9] High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards, p. 2.

9.- Conclusions

Terrorism remains a threat at both the national and international levels, as developments in the financial system and new technologies create new opportunities for terrorist organizations to finance and channel funds. In Spain, jihadist terrorism poses the primary threat through its two main groups, Daesh and Al Qaeda, which are particularly active in North Africa.

Among the types of terrorist financing through the NPO sector in Spain, no NPO has been identified as having been created with the initial purpose of financing terrorism; however, there are indications of the possible misuse of NPOs to divert funds for terrorist financing. Additionally, some NPOs are misused to spread messages of proselytism and jihadist radicalization. One of the practices associated with this diversion is the "hijacking" of funds initially sent for humanitarian purposes, especially to refugee camps in conflict zones (e.g., Syria), where individuals affiliated with terrorist organizations control the aid that arrives and can restrict funds to those who sympathize with ideologies or beliefs susceptible to radicalization.

As for the channels used to move funds, the traditional informal system known as *hawala* is the most commonly used method for sending funds to jurisdictions at risk of terrorist financing. However, links to other criminal categories, such as fraud, for the collection and movement of funds through the nonprofit sector may have contributed to the increased use of cryptoassets with the aim of making funds harder to trace and increasing anonymity.

The vulnerabilities inherent in NPOs have been analysed from two perspectives: vulnerabilities associated with each organization and those linked to the NPO sector itself.

Regarding the former, the humanitarian, cultural, educational, or religious nature of NPOs makes them particularly vulnerable to threats, especially those operating with communities susceptible to proselytism and jihadist radicalization and/or those with international activities in jurisdictions at risk for terrorist financing. In addition, other vulnerabilities can be identified, such as the use of cash or the possibility of funding projects through *crowdfunding*, which adds further difficulties regarding proper traceability and can be exploited to divert funds toward purposes other than the original ones.

On the other hand, the nonprofit sector is primarily affected by vulnerabilities related to the existence of multiple registries and various responsible authorities; vulnerabilities associated with the effective understanding and implementation of regulations, given the complex and fragmented nature of the regulatory framework; and vulnerabilities associated with the limited preventive culture of certain types of entities (especially smaller ones) regarding potential abuse by terrorist organizations.

Evidence of potential misuse of NPOs, combined with the threats to which they are exposed and their vulnerabilities, results in the **following levels of inherent risk** for the various types of non-profit organizations:

- Religious entities that work with groups susceptible to radicalization and/or engage in international activities in jurisdictions at risk of TF: Substantial.

- Other religious entities: Medium-low.
- Humanitarian, educational, or cultural foundations with international activities in jurisdictions at risk of TF: Medium.
- Other humanitarian, educational, or cultural foundations: Medium-low.
- Humanitarian, educational, or cultural associations with international activities in jurisdictions at risk of TF: Medium.
- Other humanitarian, educational, or cultural associations: Medium-low.
- NGOs active internationally in jurisdictions at risk of terrorist financing: Medium.
- Other NGDOs: Medium-low.

Furthermore, **both the public sector and the NPO sector itself implement risk mitigation measures.**

Among the former are, on the one hand, mitigation measures common to all types of non-profit organizations, such as: registration requirements, the centralization of beneficial ownership data from other registries and databases in the RCTIR, controls under public subsidy legislation, and the experience and capabilities of law enforcement agencies in investigating and detecting activities linked to terrorist financing. Alongside these common mitigation measures, specific mitigation measures applicable to public benefit associations and NGDO's have been deemed particularly relevant; due to their nature and activities, these entities are subject to more exhaustive controls.

Among the mitigation measures implemented by the nonprofit sector itself, the following stand out: the creation of forums for the mutual exchange of information; improving the sector's knowledge through the preparation of studies, analyses, and proposals for regulatory updates; the development of outreach and education programs for sector entities through seminars, training, and advisory services, as well as the development of open databases; the implementation of self-regulatory codes, certifications, accreditations, or quality seals; and collaboration and information exchange with the LEAs. These measures allow, on the one hand, for improved risk awareness within the NPO sector and, on the other, facilitate compliance with AML/CFT regulations and sector-oriented best practices.

Thus, once the inherent risk has been mitigated through the applied measures, the **following residual risk levels** are determined:

- Religious entities with international operations in jurisdictions at risk of TF: Substantial-medium.
- Other religious entities: Low.
- Humanitarian, educational, or cultural foundations with international operations in jurisdictions at risk of TF: Medium-low.
- Other humanitarian, educational, or cultural foundations: Low.
- Humanitarian, educational, or cultural organizations with international operations in jurisdictions at risk of terrorist financing: Medium-low.
- Other humanitarian, educational, or cultural associations: Low.
- Public benefit associations: Low.
- NGOs operating in jurisdictions with a medium-low risk.
- Other NGDOs: Low

Disseminating the results of this analysis among the various relevant stakeholders in the sector, in both the public and private spheres, is essential to ensure adequate understanding of the threats and risks of terrorist financing and to promote greater awareness in order to mitigate them.

Likewise, the analysis should serve as a basis for the development of appropriate and proportionate policies and measures by regulators to protect the NPO sector from being used as a vehicle for terrorist financing, with a risk-based approach and without unduly discouraging the legitimate access of NPOs to financial services.

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ACRONYMS

AEAT	Agencia Estatal de Administración Tributaria (Spanish Tax Administration Agency)
AECID	Agencia Española de Cooperación Internacional para el Desarrollo (Spanish Agency for International Development Cooperation)
AEF	Asociación Española de Fundaciones (Spanish Association of Foundations)
AEFr	Asociación Española de Fundraising (Spanish Association of Fundraising)
AFI	Analistas Financieros Internacionales (International Financial Analysts)
AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism.
NRA	National Risk Assessment
CNI	Centro Nacional de Inteligencia (National Intelligence Centre)
CGI	Comisaría General de Información de la Policia (Nacional General Information Directorate of Policía Nacional)
CITCO	Centro de Inteligencia contra el Terrorrismo y el Crimen Organizado (Centre for Intelligence Against Terrorism and Organized Crime)
CONGDE	Coordinadora de ONG para el Desarrollo (Coordinating Body of NGOs for Development)
COPBLAC	Comisión de Prevención del Blanqueo de Capitales e Infracciones Monetarias (Commission for the Prevention of Money Laundering and Monetary Offenses)
LEAs	Law Enforcement Agencies
LODA	Ley Orgánica 1/2002, de 22 de marzo, reguladora del Derecho de Asociación (Organic Law 1/2002 of March 22, regulating the Right of Association)
NGDO	Non-Governmental Development Organization
NPO	Nonprofit Organization
RCTIR	Registro Central de Titularidades Reales (Central Registry of Beneficial Ownership)
RER	Registro de Entidades Religiosas (Register of Religious Entities)
RNA	Registro Nacional de Asociaciones (National Registry of Associations)
SEPBLAC	Servicio Ejecutivo de Prevención de Blanqueo de Capitales (Executive Office of the Commission for the Prevention of Money Laundering and Monetary Offenses)
TF	Terrorist Financing