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UNIVERZITET CRNE GORE  
PRAVNI FAKULTET



University of Maribor

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Faculty of  
Criminal Justice and Security



**ARRS**

SLOVENIAN RESEARCH AGENCY

## PREVENTION OF MONEY LAUNDERING IN MONTENEGRO

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Aleksandra Spalevic

Jelena Markovic

Biljana Paljevic

Anastasija Vuksanovic

# INTRODUCTION

## TERM AND DEFINITION



- Money laundering is an activity that aims to convince institutions of the legal origin, existence or use of illegal sources of income and the use of that income
- This term originated in the USA during Prohibition when the money earned from the illegal sale of manufactured and smuggled alcoholic beverages was presented by criminals as the earnings of their chain of laundromats.

In the sense of the Law of prevention of money laundering and financing terrorism, money laundering is considered to be:



- conversion or transfer of money or other property, with the knowledge that this money or other property was obtained through criminal activity or participation in that activity for the purpose of concealing or falsely presenting the illegal origin of the property or helping any person participating in such activities to avoid the consequences.
- concealing or misrepresenting the nature, origin, location, movement, disposal or ownership of money or other property, rights associated with money or other property, knowing that this money or other property was obtained through criminal activity or participation in those activities;

*Law on the Prevention of Money Laundering and Terrorist Financing "Official Gazette of RoM", no. 033/14 from 04/08/2014, 044/18 from 06/07/2018, 073/19 from 27/12/2019, 070/21 from 25/06/2021, ( art. 2)*

- acquisition, possession or use of money or other property if at the time of receipt it is known that this money or other property was acquired through criminal activity.



- participation in execution, association for the purpose of execution, attempted execution and assisting, encouraging, facilitating and consulting in connection with the execution of the above-mentioned actions

*Law on the Prevention of Money Laundering and Terrorist Financing"Official Gazette of RoM", no. 033/14 from 04/08/2014, 044/18 from 06/07/2018, 073/19 from 27/12/2019, 070/21 from 25/06/2021, ( art. 2)*

- In national criminal legislation, money laundering was considered a criminal offense only in the last decade of the last century.
- It was first introduced into the Montenegrin Criminal Code in 2002. The 2017 amendment to the Criminal Code stipulates that for the criminal offense of money laundering to exist, it is not necessary to have a conviction for the predicate criminal offense from which the money originated.



- The basic form of committing this criminal offense is punishable by imprisonment from six months to five years, and qualified forms by imprisonment from one to ten years, that is, from three to twelve years if it is a question of association of several persons for the purpose of money laundering.
- Confiscation of money and other property derived from criminal activity is also foreseen.

# The regulatory and institutional framework for the prevention of money laundering in Montenegro

The regulatory and institutional framework for the prevention of money laundering in Montenegro was established in 2003, with the adoption of the Law on the Prevention of money laundering and financing terrorism, which has been amended several times. The latest amendments were adopted in June 2018, with the aim of harmonizing with MONEYVAL recommendations from 2015 and 2017, newly adopted FATF standards and European Union directives, especially the Anti-Money Laundering Directive (AMLD).



This Law establishes the measures and actions taken in the plan of detection and prevention of money laundering and financing of terrorism, which are taken during all operations of receiving, investing, exchanging, keeping or other disposal of money or other assets and other transactions. The law also provides for the development of guidelines for risk analysis in order to prevent money laundering and terrorist financing in sectors that are obliged to report to the FIJ.

# RISK SECTORS



As the most important sectors that have been assessed and in which a significant degree of vulnerability, and therefore risk, has been identified, the following stand out:

- banks
- real estate sector (construction and sale)
- organizers of games of chance.



- The banking sector continues to expand with the establishment of new banks, with an increasing number of products, especially electronic products and other electronic services, which ensure greater anonymity, which leaves the possibility of its misuse in all kinds of money laundering. The largest part of the money, which has been established as a basis for suspicion of money laundering, is introduced through the banking system. For this reason, the supervision of the banking sector, which is primarily carried out by the Central Bank of Montenegro, is unavoidable and crucial.
- In addition to banks, a significant risk sector is the real estate sector, including construction. It is a sector that has experienced intensive development in the last decade, and as such has generated a very large amount of funds, which is why it represents a suitable ground for money laundering and must be better controlled.
- In addition to the above, the sector of games of chance, especially casinos, stands out. In this sector, cash transactions are predominantly carried out, and in recent years, the organization of games of chance via the Internet have become increasingly common, which further complicates the process of controlling and identifying money flows and opens up new opportunities for using this sector for money laundering purposes.





- Risk carries the possibility of harmful consequences, the occurrence of which weakens the country's system, primarily economy, finances and security. Knowledge of risks, then the causes of their occurrence and determination of the consequences that arise in the event of the realization of threats, is a very important condition for a successful fight, which is achieved with appropriate action, plans and strategies.

- The national money laundering risk assessment is a systematic process of collecting and analyzing relevant data with the aim of assessing the state's exposure to money laundering risks.

- Its purpose is a detailed overview of the current situation in order to improve the system of preventing money laundering in the country, like effective engagement and coordination of available financial, technical and human resources in the fight against money laundering and the distribution and redirection of available resources from low risk to high risk areas.

- According to the National Risk Assessment, the general assessment is average regarding the degree of money laundering which has occurred with threats and vulnerabilities of the system as a whole as well as its individual segments.



# DETECTION AND PUNISHMENT



- The Special State Prosecutor's Office, based in Podgorica, is solely responsible for the prosecution of perpetrators of the criminal offense of money laundering, while money laundering cases are decided in court proceedings by the Specialized Department for Organized Crime, Corruption, Terrorism and War Crimes within the Higher court in Podgorica.
- The special state prosecutor can request control of the business of companies and people from administrative bodies in charge of money laundering prevention obtaining documentation, data and performing other actions within the competence of that company/person.
- The FIU (Financial Intelligence Sector) is obliged to forward the data to the Special State Prosecutor's Office within three days if it assesses that there is a reason to suspect that money, income or property was acquired by a criminal offense that is under the jurisdiction of the special state prosecution

- Banks are also obliged to submit data to the special prosecutor about the accounts and account balances of persons for whom there is reason to suspect that they have or have had income obtained through criminal acts under the jurisdiction of the prosecution, if such income is important for the investigation or is subject to temporary confiscation.



- If there is a reason to suspect that a certain person has income obtained from criminal acts in his bank accounts, at the request of the special prosecutor, the investigating judge can oblige the bank to monitor the payment transactions on the account and to regularly report to the special prosecutor about transactions on the account.  
Money laundering is detected through the joint action of these authorities.

# RECOMMENDATIONS

- In order to improve the system of prevention of money laundering and financing of terrorism and to meet international standards in this area, i.e. FATF Recommendation, in 2015, Montenegro prepared for the first time the NPR document for the period 2011-2014. and the Action Plan for Risk Reduction.



## 1. Improve the legislation and establish a publicly available register of real owners

- In accordance with FATF recommendations, it is necessary to establish special CDD as well as clear procedures when it comes to politically exposed persons, their close associates and their family members. Also, it is necessary to strengthen the system of targeted financial measures and sanctions, in accordance with the goals set in the Action Plan.



## 2. Establish a system for checking investments

- Montenegro must establish a functional system for checking foreign direct investments and improving protective measures for financial transactions coming from those countries. It is necessary to build instruments for additional control when opening companies by non-resident persons, especially if they come from countries outside the European Union.

### 3. Establish a national register of bank accounts

- One important step towards a more effective anti-money laundering framework, which will facilitate and speed up the collection of financial information

### 4. Strengthen the capacities of institutions responsible for preventing and detecting money laundering

### 5. Take the necessary steps and measures for the renewal of membership in the EGMONT group.

- Bearing in mind that due to the suspension of membership in EGMONT, access to key international data on suspicious transactions and the exchange of information with international partners and other units through the web secure platform is impossible, the procedures for adopting the necessary legal regulations should be accelerated and a request for membership renewal should be submitted as soon as possible in the EGMONT group.

### 6. Improve the national coordination mechanism for preventing money laundering

- The new national strategy for the prevention of money laundering should define more effective measures to improve coordination between institutions in charge of law enforcement.

## 7. Continue the development of mechanisms for building the independence and impartiality of Special Prosecutors

- Suspicions about the presence of political influence in the Special Prosecutor's Office and interference in the independent decision-making of prosecutors continuously pervade international reports.

it is necessary to strengthen the responsibility of prosecutors through the further development of mechanisms for evaluation and analysis of work, and adequate approach to cases of examination of disciplinary responsibility and eventual violations of the code of ethics.



# LITERATURE

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Thank you for your attention!

