



**Montenegro
GOVERNMENT OF MONTENEGRO**

NATIONAL MONEY LAUNDERING AND TERRORIST FINANCING RISK ASSESSMENT

WITH ACTION PLAN

INTRODUCTION

As a result of the work within the Inter-Institutional Team formed at the national level, which included 84 representatives from 25 institutions, with the support of the Council of Europe, the second National Money Laundering and Terrorist Financing Risk Assessment (hereinafter: "NRA") was prepared. The Inter-Institutional Team composed of eight working groups (including the terrorist financing risk assessment group) was coordinated by the Financial Intelligence Unit of Montenegro.

International standards, through revised recommendation number 1 of the FATF (Financial Action Task Force, hereinafter: "FATF"), define the obligation to prepare an NRA. The revised FATF recommendations were adopted in February 2012, and since then the obligation has been established for countries to carry out a risk assessment, which is a process of collecting a wide range of data, analysis, identifying threats and vulnerabilities, and assessing the risk that exists for parts of the system as well as for the system as a whole. In this way, countries are invited to identify, assess and understand the money laundering and terrorist financing risks. Undertaking the country's own assessment implies defining the methodology and method of preparation, including the determination of the coordinating body as well as all other entities participating in the project as part of the anti-money laundering and counter-terrorist financing system. The FATF revised recommendations have been transposed into the Law on the Prevention of Money Laundering and Terrorist Financing, which also sets forth the obligation to prepare a National Risk Assessment.

The NRA was prepared according to the World Bank methodology, based on data collected for the period 2014-2019, and reflects a comprehensive process of collecting and analyzing relevant data with the aim of assessing the level of exposure of individual sectors and the system as a whole to money laundering and terrorist financing, for the purpose of planned and efficient engagement of available financial, technical and human resources in the fight against money laundering and terrorist financing.

Therefore, the National Money Laundering and Terrorist Financing Risk Assessment represents a systematic process of collecting and analyzing relevant data with the aim of assessing the country's exposure to the risks of money laundering and terrorist financing. Its purpose is to provide a detailed overview of the current situation in order to improve the anti-money laundering and counter terrorist financing system in the country, in terms of effective engagement and coordination of available financial, technical and human resources in the fight against money laundering and terrorist financing, and allocation - redistribution of available resources from those areas where a lower risk is determined to areas of a higher risk.

The document consists of a risk assessment at the national level, a risk assessment of all sectors, an analysis of all relevant segments in the area of anti-money laundering, an assessment of threats and vulnerabilities, the overview of which is given in detail through presentations of individual categories - modules (total of 7 + 1 module for terrorist financing risk assessment) and the Action Plan proposing the measures to be taken in order to affect overcoming or reducing the established vulnerabilities, which would ultimately reduce the risk level.

After the analysis of the relevant data collected, this National Risk Assessment provides a general score – a medium level of risk of money laundering and a low level of risk of terrorist financing.

As stated, the general risk assessment was reached based on the assessments of threats and vulnerabilities, both of individual segments of the system, and of the system as a whole.

When it comes to threats, the analysis identified criminal offenses with a high level of risk: drug trafficking taking place at the international level, evasion of taxes and contributions, and loan sharking. In relation to the previous national risk assessment, another criminal offense¹ was identified as an offense with a high level of risk.

In relation to the assessments of the level of vulnerability of the entire system, it can be concluded that the same vulnerable areas as in the previous NRA have been identified for the most part, and that it is necessary to continuously work on normative organizational and technical improvements, improvement of cooperation between state authorities, and cooperation of state authorities with taxpayers, education of human resources and improvement of statistics and reporting system.

Since no segment of society is immune to the injection of dirty money (money originating from criminal activities), it was important to analyze the impact (vulnerability) by area/sector. The most important sectors that have been assessed and in which a significant degree of vulnerability and, thus, risk has been determined include banks, followed by the real estate sector (construction and sales), and the organizers of games of chance. The prepared typologies of money laundering also refer to the above stated.

According to data obtained from various competent authorities, and taking into account practical experience, the vulnerability of the banking sector was identified as one of the most important sectors. Namely, the banking sector continues to expand with the establishment of new banks, with an increasing number of products, in particular e-products and other e-services, which ensure greater anonymity, leaving significant possibility of their abuse for money laundering purposes. Practical examples, prosecuted cases and case studies clearly show that the largest part of the money for which there are grounds for suspicion of money laundering was and is being 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 indispensable and crucial.

In addition to banks, the real estate sector, including construction, stood out as a significant sector in terms of risk based on the analysis. It is a sector that has definitely experienced intensive development in the last decade, and as a rapidly developing sector that has generated a large amount of funds, it is a suitable ground for "money laundering" and as such must be better controlled.

In addition to the above, the sector of games of chance, in particular casinos, also stands out. This sector is characterized predominantly by cash transactions, and in recent years, the organization of games of chance via the Internet has become increasingly common, which further complicates the process of controlling and identifying cash flows, and opens up new opportunities for using this sector for money laundering purposes.

In addition to the sectors highlighted above, a detailed overview of identified weaknesses was given through the assessment of the risk of terrorist financing, with an assessment of threats and vulnerabilities and a presentation of possible abuses for the purposes of terrorist financing. The analysis of the current situation shows that Montenegro was not faced with terrorist financing in the previous period. However, the conclusion is that we should also be prepared for challenges in that area, given that it is a global problem that easily spills over into all countries

¹ Evasion of taxes and contributions

and that none is immune to potential cases of terrorism and terrorist financing. The document presents the counter-terrorist financing system, the legislative framework, institutions and their competences, as well as an analysis of vulnerabilities that are general and threats that are determined by international practice.

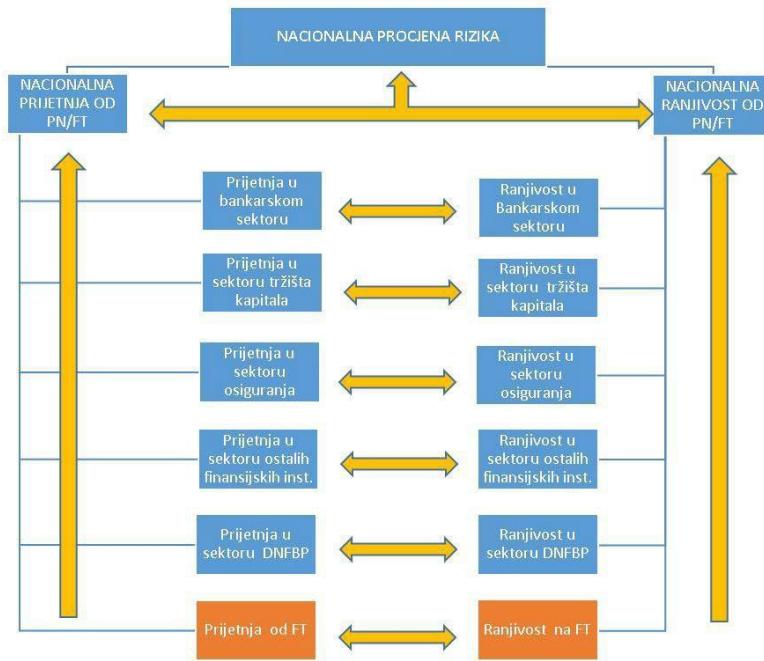
At the end of the document, an action plan accompanying the document is presented, with a proposal for measures and actions for competent authorities within the system of preventing and suppressing money laundering and terrorist financing. The stated measures are aimed at reducing or eliminating the weaknesses identified in the system vulnerability analysis, and the education of officers involved in the anti-money laundering and counter-terrorist financing system.

I RISK ASSESSMENT

COMPREHENSIVE ASSESSMENT OF THREATS AND VULNERABILITIES OF THE ANTI-MONEY LAUNDERING SYSTEM – RISK

The National Risk Assessment is the result of a series of activities aimed at collecting and analyzing data that indicate the existence of threats and vulnerabilities to money laundering, both in individual segments and in the system as a whole, and defining the overall level of risk at the national level.

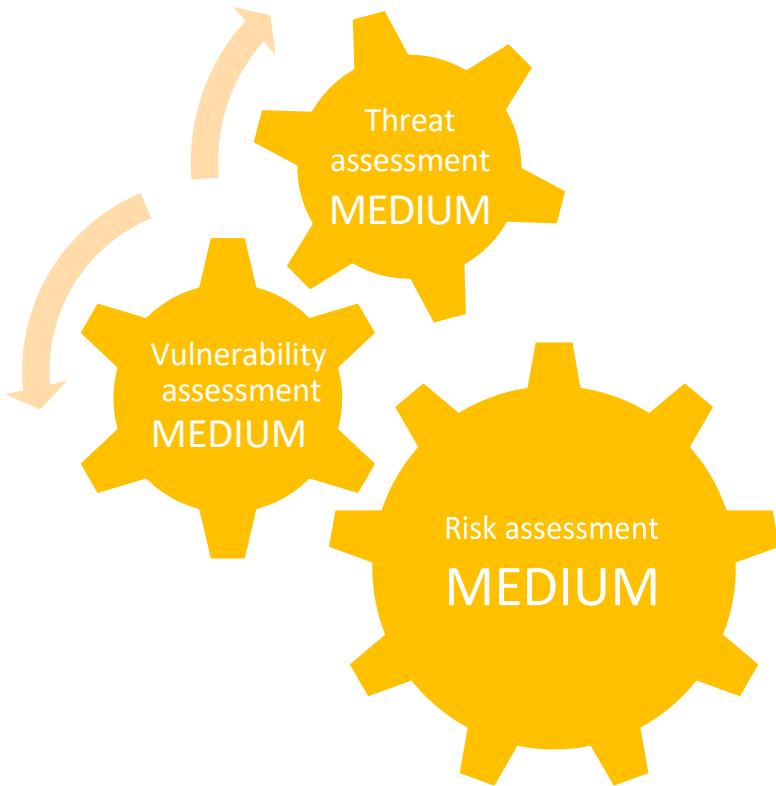
By determining vulnerabilities we identify system weaknesses that can be exploited in the event of a threat of money laundering and terrorist financing, which are influenced by numerous elements in the country, cumulatively leading to the possibility of abuses, i.e. the commission of criminal offences. At the same time, we determine the existence and level of threats (a person or group of people, object or activity with the potential to cause harm to the state, society, the economy) that could be realized, or that have already been established through the existence of typologies or methodologies of committing criminal offences, and finally, an analysis of the consequences in the event of the threats being realized. Consequences are the harm that money laundering or terrorist financing may cause to society and the country, and refer to the impact of criminal or terrorist activities that would lead to an event and that would affect financial systems and institutions, as well as society as a whole.



The risk carries the possibility of harmful consequences, the occurrence of which weakens the system in the country, primarily the economic, financial and security sectors. Knowing the risks, and the causes of their occurrence, and determining the consequences in the event of the threats being realized, is a very important condition for a successful fight, which is achieved with appropriate action plans and strategies. Finally, the National Risk Assessment provides the private sector with information that may be useful in the fulfilment of their obligations and in the risk assessment that they are required to undertake themselves.

The National Risk Assessment in Montenegro was prepared according to the World Bank methodology, the main goal of which is to use the developed modules to overcome the problems arising in the self-assessment, from the method and idea of making the assessment, to the determination of all areas and the data that are necessary for making the assessment.

Based on the analyses carried out, it may be concluded that the general level of threats in Montenegro is medium, and that the general assessment of the level of vulnerability is medium. Therefore, the final assessment of the risk of money laundering in Montenegro would be: medium level – M.



II RISK ANALYSIS

The Financial Intelligence Unit of Montenegro formally became operational in 2004 as the Administration for the Prevention of Money Laundering and Terrorist Financing (APMLTF), after it was established by the Decree on the Organization and Mode of Work of the State Administration as an independent body of the Administration carrying out the tasks set forth by the Law on the Prevention of Money Laundering and Terrorist Financing. APMLTF operated in this form until 31 December 2018, when it was reorganized, under the amended Decree on the Organization and Mode of Work of the State Administration, into the Department for Prevention of Money Laundering and Terrorist Financing within the Police Administration. With this change, FIU moved from an administrative model to a police model. The organizational change of the FIU was followed by the amendment to the Law on the Prevention of Money Laundering and Terrorist Financing from December 2019, in order to preserve operational independence. The duties of the FIU are related to the collection, analysis and submission to the competent authorities of data and information and documentation necessary for the detection and prosecution of criminal offenses of money laundering and terrorist financing, verification of transactions and persons for whom there is a reason to suspect that they originate from criminal activity or are in fact money laundering or terrorist financing, and other tasks assigned to it, above all monitoring and blocking of financial transactions. The FIU's work in the system of anti-money laundering and counter-terrorist financing imposes the obligation to perform in-depth and high-quality analyzes of all relevant data collected from taxpayers and from state authorities. After the analyzes have been carried out and the grounds for suspicion have been established, the FIU informs the competent authorities (first of all the State Prosecutor's Office, other organizational units of the Police

Administration, National Security Agency,...). In its work, the FIU uses numerous administrative and police databases, as well as databases of other state authorities.

The Law on the Prevention of Money Laundering and Terrorist Financing stipulates from the very beginning the obligation to prepare a risk analysis for all taxpayers, which is the basis for further work. The Law prescribes a list of reporting entities that are subject to the provisions of the Law. Bearing in mind the wide range of legally defined reporting entities that have the obligation to report cash transactions in the amount of €15,000 and more, to report all suspicious transactions (regardless of the amount or method of execution) or clients, and the obligation to implement measures to monitor the clients' business relationship, including monitoring the sources of funds under in the client's operations, and in particular the control of natural and legal entities that trade in goods, when performing occasional cash transactions in the amount of €10,000 and more (whether the transaction was performed as a single transaction or several related transactions), it may be concluded that FIU receives and processes a large set of data on a daily basis. If we add to that the possibility of requesting an additional set of data from the reporting entities, it is clear that the procedure for analyzing financial intelligence data is a complex process that requires specific knowledge in the field of financial forensics, good technological solutions and analytical tools.

The Financial Intelligence Unit is only part of the anti-money laundering system, which, as a police body, has significant resources, capabilities and powers. FIU is the initial link in the anti-money laundering system together with the reporting entities that, in most cases, submit initial financial intelligence information in the form of a report on a suspicious or cash transaction. Further activities in the phase of preliminary investigation, in cases where grounds for suspicion of money laundering are established, are carried out by other segments of the Police Administration together with the Financial Intelligence Unit, in coordination with the Special State Prosecutor's Office. Criminal prosecution in cases for the criminal offense of money laundering (Article 268 of the Criminal Code of Montenegro) is the responsibility of the Special State Prosecutor's Office.

At the very end of the entire system is the court, and a large part of the success and results in the fight against money laundering and terrorist financing depends on their expertise, professionalism and knowledge.

In addition to the above institutions that deal with the anti-money laundering and counter-terrorist financing, particularly important are the supervisory authorities, defined by the Law on the Prevention of Money Laundering and Terrorist Financing, especially in the area of prevention through ongoing control.

The national risk assessment level is calculated based on the sectoral risk assessment levels and is shown in the table below²:

| | | | | | | |
|--|---|--|--|--|--|--|
| | H | | | | | Drug trafficking at the international level Loan sharking Evasion of taxes and contributions |
|--|---|--|--|--|--|--|

² H – high risk; MH – medium-high risk; M – medium risk; ML – medium-low risk; L – low risk

| | | | | | | |
|-----------------|----|---|----------------------------------|---|---|---|
| THREATS | MH | | | | Designated non-financial businesses and professions | |
| | M | Corruption crimes Serious murders related to organized crime Drug trafficking at the national level | Banking sector Capital market | | | |
| | ML | Other financial institutions | | | | |
| | L | Property crimes Insurance sector | | | | |
| | | L | ML | M | MH | H |
| VULNERABILITIES | | | | | | |

An overview of the risk assessment in relation to recognized threats with characteristics and recommendations is given in the table below:

| Threats | Risk level | Characteristics of assessed risk | Recommendations |
|---|------------|---|---|
| Drug trafficking at the international level | high | Activity of organized criminal groups at the national and international levels Amounts of proceeds Introducing illicitly obtained assets into legal flows Using corruption | Planned approach to fight against these crimes; Strengthening the Police capacities (technical, personnel and professional); Strengthening cooperation (at national and international level) and data exchange; More efficient use of criminal intelligence data; More efficient use of financial intelligence data; Increased number of criminal reports; Conducting financial investigations for these criminal offenses and determining the existence of grounds for suspicion that the criminal offense of money laundering has been committed. |

| | | | |
|------------------------------------|------|---|--|
| Loan sharking | high | <p>Significant cash in circulation</p> <p>Connection with other criminal offences</p> <p>Using cash outside the legal and controlled system</p> <p>Introducing illicitly obtained assets into legal flows</p> <p>Few convictions</p> | <p>Planned approach to fight against these crimes;</p> <p>Strengthening the Police capacities (technical, personnel and professional);</p> <p>Strengthening cooperation (at national and international level) and data exchange;</p> <p>More efficient use of criminal intelligence data;</p> <p>More efficient use of financial intelligence data;</p> <p>Increased number of criminal reports;</p> <p>Conducting financial investigations for these criminal offenses and determining the existence of grounds for suspicion that the criminal offense of money laundering has been committed.</p> |
| Evasion of taxes and contributions | | Significant cash in circulation | Planned approach to fight against these crimes; |
| | high | <p>Connection with other criminal offences, primarily with crimes in the field of economic crime</p> <p>Using cash outside the legal and controlled system</p> <p>Introducing illicitly obtained assets into legal flows, predominantly through the banking sector</p> <p>Large amounts of proceeds</p> <p>Using legal entities and fictitious transactions between them</p> <p>Using off-shore companies</p> | <p>Strengthening the Police capacities (technical, personnel and professional);</p> <p>Strengthening cooperation (at national and international level) and data exchange;</p> <p>More efficient use of criminal intelligence data;</p> <p>More efficient use of financial intelligence data;</p> <p>Increased number of criminal reports;</p> <p>Conducting financial investigations for these criminal offenses and determining the existence of grounds for suspicion that the criminal offense of money laundering has been committed.</p> |
| Corruption crimes | | Connection with other criminal offences, primarily with crimes in the field of economic crime | <p>Planned approach to fight against these crimes;</p> <p>Strengthening the Police capacities (technical, personnel and professional);</p> |

| | | | |
|--|--------|--|--|
| | medium | <p>Using cash outside the legal and controlled system</p> <p>Introducing illicitly obtained assets into legal flows, predominantly through the banking sector</p> <p>Large amounts of proceeds</p> <p>Using legal entities and fictitious transactions between them</p> <p>Using off-shore companies</p> | <p>Strengthening cooperation and data exchange;</p> <p>More efficient use of criminal intelligence data;</p> <p>More efficient use of financial intelligence data;</p> <p>Increased number of criminal reports;</p> <p>Conducting financial investigations for these criminal offenses and determining the existence of grounds for suspicion that the criminal offense of money laundering has been committed.</p> |
| Serious murders related to organized crime | medium | <p>Activity of organized criminal groups at the national and international levels</p> <p>Large amounts of proceeds</p> <p>Introducing illicitly obtained assets into legal flows</p> | <p>Planned approach to fight against these crimes;</p> <p>Strengthening the Police capacities (technical, personnel and professional);</p> <p>Strengthening cooperation (at national and international level) and data exchange;</p> <p>More efficient use of criminal intelligence data;</p> <p>More efficient use of financial intelligence data;</p> <p>Increased number of criminal reports;</p> <p>Conducting financial investigations for these criminal offenses and determining the existence of grounds for suspicion that the criminal offense of money laundering has been committed.</p> |
| Drug trafficking at the national level | medium | <p>Activity of individuals and organized criminal groups at the national level</p> <p>Trafficking of large quantities of narcotic drugs</p> <p>Large amounts of proceeds</p> | <p>Planned approach to fight against these crimes;</p> <p>Strengthening the Police capacities (technical, personnel and professional);</p> <p>Strengthening cooperation and data exchange;</p> |

| | | | |
|---|-----|---|--|
| | | Introducing illicitly obtained assets into legal flows, primarily into movable and immovable property, and into legal economic activities | More efficient use of criminal intelligence data; More efficient use of financial intelligence data; Increased number of criminal reports; Conducting financial investigations for these criminal offenses and determining the existence of grounds for suspicion that the criminal offense of money laundering has been committed. |
| Property crimes | low | <p>Activity of individuals and organized criminal groups at the national level</p> <p>Individual crimes generate lower proceeds</p> <p>Using proceeds for daily living or for the purchase of movable property of lower value</p> <p>Sale of instrumentalities of crime for cash or compensation for narcotic drugs</p> | <p>Planned approach to fight against these crimes;</p> <p>Strengthening the Police capacities (technical, personnel and professional);</p> <p>Strengthening cooperation and data exchange;</p> <p>More efficient use of criminal intelligence data;</p> <p>More efficient use of financial intelligence data;</p> <p>Increased number of criminal reports;</p> <p>Conducting financial investigations for these criminal offenses and determining the existence of grounds for suspicion that the criminal offense of money laundering has been committed.</p> |
| Illegal migration and human trafficking | low | <p>Activity of individuals and organized criminal groups at the national and international levels</p> <p>Low value of proceeds generated for individual criminal offences</p> <p>Introducing illicitly obtained assets into legal flows, primarily into movable and immovable property</p> | <p>Planned approach to fight against these crimes;</p> <p>Strengthening the Police capacities (technical, personnel and professional);</p> <p>Strengthening cooperation (at national and international level) and data exchange;</p> <p>More efficient use of criminal intelligence data;</p> <p>More efficient use of financial intelligence data;</p> <p>Increased number of criminal reports;</p> |

| | | | |
|-------------------------------------|--------|---|---|
| | | | Conducting financial investigations for these criminal offenses and determining the existence of grounds for suspicion that the criminal offense of money laundering has been committed. |
| Vulnerability at the national level | medium | <p>Inadequate legal framework in certain areas</p> <p>Insufficient results in the fight against money laundering</p> <p>Inadequate technical capacities</p> <p>Inadequate knowledge</p> <p>Insufficient cooperation and connection between state authorities</p> <p>Poor statistics and use of available data</p> | <p>Improvement of the legal framework;</p> <p>Improvement of the strategic framework;</p> <p>Improving the capacity of law enforcement services;</p> <p>Improving results;</p> <p>Improvement of cooperation at the national and international level;</p> <p>Linking of databases and faster data exchange;</p> <p>Improvement of keeping statistics.</p> |

An overview of risk assessment in relation to recognized vulnerabilities by categories of reporting entities in the financial sector, with characteristics and recommendations, is given in the table below:

| Risk assessment by sector | Vulnerability / risk level | Characteristics of assessed risk | Recommendations |
|---------------------------|----------------------------|---|---|
| Banking sector | medium | <p>Wide range of products and services - the possibility of abuse</p> <p>High volume of transactions</p> <p>Largest number of customers</p> <p>Use of sophisticated information technologies susceptible to abuse</p> | <p>Ensure greater availability of independent and reliable sources of information at the country level, including information on beneficial ownership;</p> <p>Strengthening a risk-based approach;</p> <p>Strengthening the functioning of the system of internal controls and internal audit;</p> <p>Conduct more frequent education of bank employees;</p> <p>Ensure continuous work towards improving effectiveness of supervisory procedures and practices.</p> |

| | | | | |
|-------------------------------------|---|------------|--|---|
| Capital market | | Medium | <p>Legislation governing this area insufficiently comprehensive</p> <p>Convenient products and easily available and portable</p> <p>High potential for abuse</p> <p>Difficulty identifying real owners, off shore investors</p> <p>Insufficient number of law enforcement controls</p> | <p>Improve the level of knowledge of employees in institutions dealing with securities;</p> <p>Improve the effective internal compliance function (organization) with regulations related to the area of anti-money laundering in institutions dealing with securities;</p> <p>Improve systems for record keeping, monitoring and reporting of suspicious transactions;</p> <p>Take measures to better check and maintain the integrity of employees in institutions dealing with securities;</p> <p>Take measures to improve the availability and access to information on beneficial ownership;</p> <p>Take measures to improve the availability of independent sources of information.</p> |
| Insurance sector | | Low | <p>Small market, small range of products</p> | <p>Increased number of controls at reporting entities;</p> <p>Improvement of the training system;</p> <p>Improvement of the level of analysis of transactions and reporting of suspicious transactions.</p> |
| Other financial institutions | | Medium low | | |
| 1 | Regulated financial institutions | n/a | n/a | n/a |
| 2 | Investment and Development Fund | low | <p>Significant assets availability of redemption of claims (as a typology)</p> <p>Good regulation</p> | Quality risk analysis and client verification. |
| 3 | Microcredit financial institutions | Medium low | <p>Market size</p> <p>Large number of customers</p> <p>Use of cash</p> | <p>Increased number of controls and penalties for non-compliance;</p> <p>More training.</p> |

| | | | | |
|---|--|--------------------------|--|--|
| 4 | Payment institutions | Medium low | Small market, small range of products | Increased number of checks at reporting entities; Improving the training system; Improving the level of analysis of transactions and reporting of suspicious transactions. |
| 5 | Factoring companies | Medium low | Redemption of claims from banks Business is conducted through the banking system | Increased number of checks at reporting entities; Improving the training system; Improving the level of analysis of transactions and reporting of suspicious transactions. |
| 6 | Leasing service providers | Medium | The possibility of investing illicitly acquired money Insufficiently identified origin of the money paid Weaker supervision due to smaller transaction amounts | Increased number of checks at reporting entities; Improving the training system; Improving the level of analysis of transactions and reporting of suspicious transactions. |
| 7 | Inward and outward remittance service providers | Medium low vulnerability | Weaker supervision due to smaller transaction amounts Use of cash International transfers Origin of money not identified | Increased number of checks at reporting entities; Improving the training system; Improving the level of analysis of transactions and reporting of suspicious transactions. |
| 8 | Unregulated financial institutions | n/a | n/a | n/a |

An overview of the risk assessment in relation to recognized vulnerabilities by categories of reporting entities in the non-financial sector, with characteristics and recommendations, is given in the table below:

| Categories of reporting entities | | Level of vulnerabilities / risk assessment | Characteristics of assessed risk | Recommendations |
|--|--------------------------------------|--|--|--|
| Designated non-financial businesses and professions | | Medium high | | |
| 1 | Organizers of games of chance | Medium high | Sector size Number of high-risk customers | Improvement of the legal framework in the area of supervision; |

| | | | | |
|---|---|--------|---|--|
| | | | (non-residents) Use of cash | Increased number of checks at reporting entities; Improving the training system; Improving the level of analysis of transactions and reporting of suspicious transactions. |
| 2 | Persons dealing with the activity and transactions of real estate investment, sale and brokerage | High | Sector size Use of cash A large number of received suspicious transaction reports (STR) include the element of real estate sale | Improvement of the legal framework in the area of supervision; Increased number of checks at reporting entities; Improving the training system; Improving the level of analysis of transactions and reporting of suspicious transactions. |
| 3 | Persons dealing with asset management for third parties | Medium | Sector size Volume of transactions | Increased number of checks at reporting entities; Improving the training system; Improving the level of analysis of transactions and reporting of suspicious transactions. |
| 4 | Persons dealing with the activities and transactions of sale of precious metals and stones | Medium | Sector size Volume of transactions | Define the specific reporting entities that should be covered by the supervision under the LPMLTF. |

| | | | | |
|---|--|-------------|---|---|
| 5 | Lawyers | High | <p>Applicable regulations related to the practice of law, as well as the internal organization of the Bar Association, do not provide for inspectors to supervise the enforcement of the LPMLTF;</p> <p>The possibility of abusing their system for identification of suspicious transactions and the very business of their clients.</p> | <p>Improvement of the legal framework in the area of supervision;</p> <p>Increased number of checks at reporting entities;</p> <p>Improving the training system;</p> <p>Improving the level of analysis of transactions and reporting of suspicious transactions.</p> |
| 6 | Notaries | Medium | <p>Sector size</p> <p>Inadequate checks</p> | <p>Improvement of the legal framework in the area of supervision;</p> <p>Increased number of checks at reporting entities;</p> <p>Improving the training system;</p> <p>Improving the level of analysis of transactions and reporting of suspicious transactions.</p> |
| 7 | Accountants and auditors | Medium | <p>Volume of transactions</p> <p>Payment through invoices</p> | Continuous training |
| 8 | Motor vehicle retailers | Medium | <p>Small number of services paid by cash</p> <p>Insignificant number of high-risk customers</p> | Continuous training |
| 9 | Persons dealing with marketing and consulting activities related to business and other management | Medium high | <p>Sector size</p> <p>Use of cash</p> <p>Volume of transactions</p> | <p>Define only hotels and other accommodation as reporting entities;</p> <p>Increased supervision by other competent authorities.</p> |

III CONCLUSIONS ON WEAKNESSES AND RECOMMENDATIONS

1. Inadequate normative framework in certain areas

It is necessary to improve the legal framework in certain identified areas in order to create an optimal environment for the application of the standards of effective fight against money laundering.

2. Insufficient results in the fight against money laundering

It is necessary to undertake additional efforts in identifying criminal offenses that generate illicit proceeds, identifying assets that represent proceeds from criminal activity, and implementing appropriate investigative measures and actions in order to increase the number of identified and prosecuted criminal offenses of money laundering, and ultimately increase the number of final judgments and the amount of confiscated proceeds, either for criminal offenses of money laundering, or by conducting financial investigations.

3. Inadequate technical capacities

It is necessary to ensure the improvement of existing technical capacities and information systems, including the linking of available databases in order to create presumptions for optimal use and analysis of available databases using modern analytical tools.

4. Inadequate knowledge and training

It is necessary to provide continuous training and development of personnel directly involved in the anti-money laundering system, from the reporting entities' authorized persons, through supervisory authorities, investigative and prosecuting authorities, to judges as the last link in the chain. Since it is a criminal offense of money laundering that is developed using modern and new technologies and products, it is necessary to provide continuous training and education of all participants in the system. Also, it is necessary to focus special attention on raising awareness, both of those authorities that are directly involved in the implementation of the prevention and countering of money laundering and terrorist financing, as well as of the general public about the importance of this issue, and take measures aimed at providing technical, financial and other necessary resources for the realization of goals in this area.

5. Insufficient cooperation and connection between state authorities

Close and intensive cooperation of institutions involved in the fight against money laundering is a necessary condition for success. The role of coordinator in that procedure, according to the prosecutor's investigation, is played by the prosecutor, so it is important that he has a high level of knowledge in this area in order to be able to manage the actions of others as efficiently as possible, i.e. lead to more verdicts.

6. Poor statistics and use of available data

It is necessary to react to the identified poor organization in the area of statistics, which are maintained in different ways in relation to the same issues at different institutions, by introducing electronic databases, and common forms of statistics that would link the institutions, and in which each institution would enter its part. It is also necessary to connect and network the system to the greatest extent possible.

THREATS

A **threat**³ is a person or group of people, object or activity with the potential to cause harm to the state, society, the economy. In the money laundering context this includes criminals, terrorist groups and their facilitators, their funds, as well as past, present and future ML activities. Threat is described as one of the factors related to risk, and typically it serves as an essential starting point in developing an understanding of ML risk. For this reason, having an understanding of the environment in which predicate offences, or criminal activities, are committed, and in particular criminal offences generating the proceeds of crime is important in order to carry out an adequate ML risk assessment.

Within this module, an assessment of the threat of the criminal offense of money laundering that exists in Montenegro is carried out through the analysis of predicate criminal offenses and criminal proceedings for those offenses, the analysis of investigations initiated for the criminal offense of money laundering, and the analysis of whether the predicate criminal offense has been committed in the country or abroad, the analysis of cross-border threats, the existence of trends in risky sectors, as well as the analysis of the form of companies in the part in which these legal entities represent the risk of being used when concealing proceeds generated from a criminal offence.

Namely, as mentioned, the intensity of threats from the criminal offense of money laundering is influenced by internal and external factors. This refers first of all to emerging forms of crimes (criminal activities) that take place in an international framework, and have an impact on Montenegro and in the national framework (registered criminal offenses in Montenegro), and both directly or indirectly influence the occurrence of money laundering in Montenegro, as a way of legalizing proceeds generated through criminal activity.

External factors

Montenegro is located on the so-called “Balkan route” - the intersection of key smuggling channels that stretch from the Middle East to the European Union. One part of the so-called Balkan route passes through Montenegro. Drug trafficking is predominantly identified as one of the main elements of cross-border crime, while human trafficking and smuggling of migrants, as well as smuggling of excise goods, are significant criminal activities that generate proceeds. The importance of this route, as well as the intensity of its exploitation by organized criminal groups, is influenced by a number of external factors that Montenegro cannot significantly influence and are predominantly related to the ability of the surrounding countries, located on the route, to adequately counter this problem and security challenge. Driven by the desire to gain profit, organized criminal groups (hereinafter: “OCGs”) from Montenegro are the perpetrators of criminal activities for all those illegal routes that pass through the territory of Montenegro, and they often act as organizers of smuggling operations through the territories of other countries, including the countries of the European Union.

Internal factors

Active operations of 11 organized criminal groups have been registered in Montenegro. The structure of the largest number of organized criminal groups operating in the territory of Montenegro is characterized by a solid core, composed of individuals, connected by family relations or long-term friendships, with an arranged circle of permanent members around them, who have been actively involved in the implementation of criminal activities for many years.

³ Definition according to the standards of the Financial Action Task Force (FATF)

In the part that refers to the very structure of organized criminal groups, it can be concluded that in recent years, OCGs have started to apply actively, and to an increasing extent, the mode of recruitment of new members from the ranks of persons who are serving prison sentences. In the aforementioned way, the number of members of organized criminal groups, as well as potentially accessible persons who can be perpetrators of serious crimes, increases to a great extent.

OCGs in Montenegro have the capacity to commit all serious crimes, predominantly driven by profit. The most common forms of criminal activity are all types of smuggling (narcotic drugs, weapons, people – including human trafficking, excise and other goods), using the convenient geographical configuration of the borders of Montenegro, which is extremely unfavourable for adequate security and the use of sophisticated electronic surveillance measures due to predominantly unfavourable and mountainous area of border lines.

The aforementioned forms of crime, whether they are committed in Montenegro or abroad, generate proceeds that are introduced into legal channels through the criminal offense of money laundering, both in Montenegro and abroad.

Based on the Serious and Organized Crime Threat Assessment 2017 (hereinafter: "SOCTA")⁴, it was determined that the main threats come from the following criminal activities:

a. Smuggling and distribution of narcotic drugs

Smuggling and trade in narcotic drugs is the main criminal activity of organized criminal groups in Montenegro. This type of criminal activity is the source of a large number of other security challenges and is the driver of other criminal activities.

In relation to the geographical area of the implementation of criminal activities of smuggling and drug trafficking, we can still distinguish between two segments:

- Smuggling on a transcontinental level and distribution on the European market, where most of the activities take place outside the territory of Montenegro and
- Smuggling through the territory of Montenegro and distribution at the local level, where a certain part of the activity related to smuggling is carried out on the territory of Montenegro.

b. Evasion of taxes and contributions (economic crime)

In Montenegro, criminal offences in the field of economic crime are most often manifested through abuse of office, abuse of position in business operations, falsification of documents, fraud and evasion of taxes and contributions. According to the data of the Ministry of Finance, Montenegro loses about €100 million in taxes every year due to the gray economy. Tax evasion most often occurs in those branches of the economy that record rapid growth, and the areas of construction, tourism and trade are identified as particularly vulnerable areas for the emergence of the gray economy. A significant part of criminal offences of economic crime refers to criminal offences related to taxes, which is most often manifested through various forms of evasion of taxes and contributions.

⁴ SOCTA 2017, Serious and Organized Crime Risk Assessment in Montenegro (public version)

c. Loan sharking

Loan sharking in Montenegro is still a current problem and does not occur as an independent activity, but is connected with the commission of other criminal offences in the area of blood crimes with elements of violence, arson and explosive devices, threats, extortion, blackmail or kidnapping.

An aggravating circumstance for proving the criminal offense of loan sharking is the lack of willingness of injured persons to cooperate with law enforcement authorities, mainly because they are under constant threats and pressure from loan sharks or persons hired by loan sharks to commit violence.

Persons dealing with loan sharking are adaptable to changes in legislation and skilfully use legislative frameworks, so they resort to drawing up fictitious sales contracts or loan contracts, which they use as a guarantee for the return of money, within which they very often have the support of lawyers, notaries and bailiffs, as experts in the area of property - legal relations.

d. Serious crimes against life and body

The violence committed by organized criminal groups is increasingly becoming part of their strategic activities. Internal divisions and conflicts between organized criminal groups occurred as a result of the efforts of certain organized criminal groups and individuals to occupy a primary position in the criminal markets.

Organization, planned action before, during and after the commission of a criminal offense, as well as foreign elements are the basic characteristics of serious crimes committed by organized criminal groups.

e. Smuggling of excise goods

In Montenegro, as in the European Union and in the countries of the region, the problem of smuggling and illegal trade in excise goods, primarily cigarettes, is increasingly pronounced. It is estimated that our country loses between €15-20 million every year due to the gray market of cigarettes, which represents 30% of the value of the total legal market of tobacco products.

Smuggling of excise goods is a criminal activity that is mainly carried out by individuals and, to a lesser extent, by OCGs.

The significant expansion of cigarette smuggling is contributed by the large differences in the price of tobacco products in the countries of the region, as well as in relation to the countries of the European Union.

f. Illegal migration and human trafficking

The territory of Montenegro is not significantly affected by migratory flows. On the migration route, Montenegro retained the status of a transit country that it had before. However, there are registered individual cases of people smuggling as part of current migratory flows, while during the summer tourist season there is an increased risk of cases of human trafficking through the organization of prostitution.

In some international reports, in recent years, Montenegro has been recognized as a country of origin, transit and destination for men, women and children who were victims of human trafficking.⁵ The number of potential victims who have been identified as being at risk of becoming victims of illegal marriage and sexual

⁵ Report on human trafficking for Montenegro (State Department) <https://www.state.gov/j/tip/rls/tiprpt/countries/2018/282712.htm>

exploitation has increased. This particularly risky category for human trafficking consists of members of the RAE (Roma, Ashkali and Egyptian) population, mostly due to the established tradition of arranged marriages, both in the country and abroad.

Challenges related to the need to strengthen a proactive approach in the identification of victims were also recognized, in particular among illegal migrants, foreigners seeking international protection, child beggars, seasonal workers, especially during the tourist season. In addition, the existence of large tourist settlements in Montenegro and the influx of one million tourists per year represent potential factors attracting the development of human trafficking activities.⁶

g. Corruption crimes

OCGs are motivated to use corruption or exchange of other favours as part of their own strategy to facilitate the realization of their specific criminal activities or to gather information, which is mainly aimed at middle and low-level civil servants.

Corruption cannot be exclusively linked to state administration bodies – the above phenomenon is widespread in the private sector as well, through the business activities of bank employees, lawyers, bailiffs, and business entities.

Therefore, all listed criminal activities generate proceeds that are introduced into legal flows through the criminal offense of money laundering.

At the global level, the existence of organized criminal groups that are closely specialized in providing services for investing money acquired through criminal activities into legal flows has been registered. These criminal activities represent a special threat in relation to banking business, real estate market, capital market, luxury goods market, games of chance, insurance, investment construction, import-export business, tourism and hospitality industry.

Money laundering, as a specific criminal activity, is connected with almost all other criminal activities characterized by generating money. As such, this criminal activity enables the investment of criminal profits into legal flows.

Namely, in this way, OCGs introduce the profit from their primary criminal activities into legal channels and conceal its criminal origin, thereby completing their criminal activity. At the global level, the existence of organized criminal groups that are specialized in providing services of investing money acquired through criminal activities into legal flows is indisputable, with this activity being their primary criminal activity, and the basic characteristic of these groups is a very good knowledge of financial system and commodity and cash flows.

The way in which this criminal activity takes place varies depending on the level of expertise of the OCG members, the frequency and scope. The introduction of money acquired through criminal activities into legal cash flows is most often done through the financial or business sector, and through the purchase of luxury movable and immovable assets. From the aspect of carrying out this criminal activity as a particularly vulnerable area, i.e. an area characterized by a high level of risk, the following areas are identified: banking, real estate market, capital market, luxury goods market, games of chance, insurance, investment construction, import-export business, tourism and hospitality industry. Some of the mentioned areas are in fact identified as areas in which the OCGs from the territory of Montenegro invest money generated by criminal activities carried out abroad.

⁶ Strategy to Combat Human Trafficking 2019-2024, page 4

Crimes generating illegal proceeds

As for the effects of measures taken by state authorities to reduce the influence of the threat factor from the criminal offense of money laundering, they can best be viewed through the results of criminal proceedings for criminal offenses generating illegal proceeds.

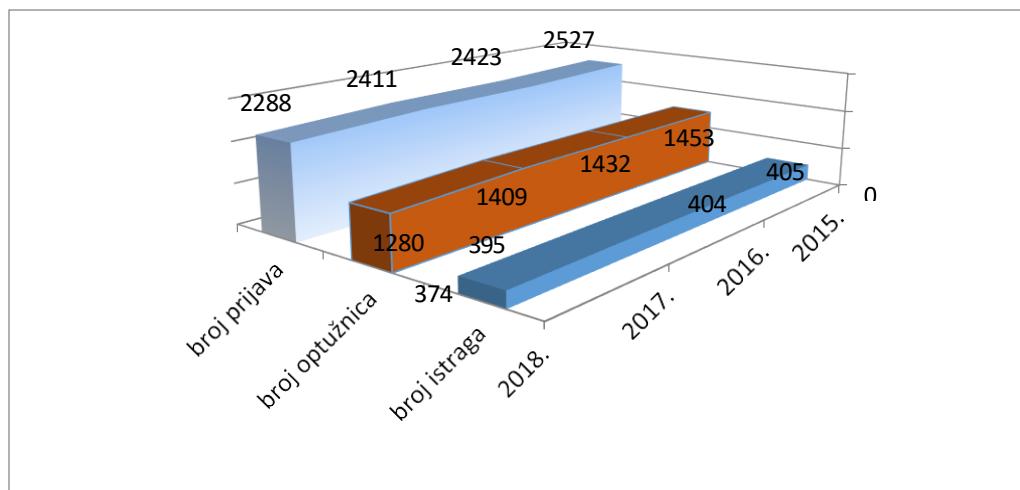
In order to have a clearer overview of all threats, it is necessary to show the status of criminality for certain criminal offences, i.e. the number of reported and prosecuted persons for certain predicate criminal offences. That is why the statistical data are combined into two groups, namely data for:

- criminal offenses under the jurisdiction of basic and high state prosecutor's offices and
- criminal offenses under the jurisdiction of the Special State Prosecutor's Office.

1. Statistical data of individual predicate criminal offenses under the jurisdiction of high and basic courts

The table shows statistical data on the number of reports, investigations and indictments for certain predicate criminal offenses (certain criminal offenses under the jurisdiction of basic and high courts) for the period 2015-2018:

| Number of criminal offences generating proceeds for the period 2015-2018 ⁷ | Number of reports | Number of investigations | Number of indictments |
|---|-------------------|--------------------------|-----------------------|
| TOTAL | 9649 | 1578 | 5574 |



⁷ Explanation of the table:

- number of reports – the number of persons against whom a criminal report has been filed for a specific criminal offense;
- number of investigations – the number of persons against whom an investigation has been ordered for a specific criminal offense;
- number of indictments – the number of persons against whom charges have been brought or an indictment has been filed for a specific criminal offense

The figures presented in the table and the graph indicate the number of persons against whom a criminal report has been filed, or an order to conduct an investigation has been issued, or charges, or direct charges, have been brought, or indictment has been filed. It is necessary to point out that, according to the Code of Criminal Procedure, it is not always necessary to issue an order to conduct an investigation before charges are brought because, if there is sufficient evidence and if the suspect has been questioned, direct charges may also be brought. In addition, for crimes punishable by imprisonment for up to 5 years, an order to conduct an investigation is not issued, in accordance with the Code of Criminal Procedure, but certain evidentiary actions are taken, the result of which indicates the existence of reasonable grounds for suspicion to initiation court proceedings, by filing an indictment. Therefore, the data shown in the number of investigations column represent only the number of persons in relation to whom an order to conduct an investigation was issued, in accordance with the Code of Criminal Procedure.

According to the above data, it is evident that a significant number of persons who have committed a large number of criminal offences that generate illegal proceeds have been registered and processed (evidence collected).

High-, medium-, and low-threat crimes for money laundering

In order to make the necessary analysis, from the aspect of money laundering, all criminal offenses are divided into criminal offenses of high, medium and low threat level for money laundering. The analysis is based on statistical data, as well as on the analysis of individual cases, individual observations of prosecutors, and the assessment of the Police Administration of the danger of serious and organized crime⁸. Therefore, an overview of criminal offenses in relation to the level of threat for money laundering can be presented as follows:



⁸ SOCTA 2017, Serious and Organized Crime Risk Assessment in Montenegro (public version)

1. Crimes with a high threat of money laundering

Analyzing these cases, we can see that the banking sector is still one of the most exposed to threats of money laundering, both because of its size and importance within the financial market and because of the volume, services and products it provides. In addition, in the majority of cases prosecuted so far, the activities undertaken with the aim of money laundering were carried out precisely through commercial banks. It is also evident from cases related to the criminal offense of money laundering, in which the predicate offense is tax and contribution evasion, that these transactions are carried out through banks.

Furthermore, practical examples indicate a significant threat of money laundering that also comes from criminal offences of loan sharking, in which fictitious contracts appear as a business model and money payments based on those contracts can be in cash or through accounts in commercial banks in Montenegro.

In addition, practical experiences in the fight against money laundering, as well as analyzed predicate crimes, show that the highest threats come from other countries, i.e. from illegal activities related to narcotics that take place there. This conclusion is derived not only from the analysis given within criminal offenses with a high threat of money laundering, but also by data collected by the Ministry of Justice of Montenegro, which speak of requests for international legal assistance in criminal matters related to the criminal offense of money laundering.

Drug trafficking at the international level

The international drug trafficking carried out by organized crime groups continues to be a major source of illicit proceeds that are further used for money laundering. According to the threat assessment of organized crime carried out by the Police Directorate at the end of 2017, 11 organized criminal groups were identified that are predominantly engaged in smuggling and distribution of narcotics internationally. However, although there is an evident decrease in the number of organized criminal groups compared to the previous period, there is a noticeable increase in the recruitment of new members, and therefore the number of members of organized criminal groups is also increasing. Drug trafficking is the most represented activity, and according to Europol's estimates, more than 1/3 of criminal groups are involved in activities related to the production, trafficking or distribution of various types of narcotic drugs.

Statistical data and analysis of cases show that around 80% of different narcotic drugs are seized in the border area between Montenegro and neighbouring countries, which indicates that Montenegro is a transit country for drug smuggling. Therefore, this is another indicator showing that the international trade in narcotics is a major threat that the money obtained from the sale of drugs is partially laundered in Montenegro. According to SOCTA, in previous years, the OCGs from Montenegro based their activities on the organization of cocaine transport, where the transport phase involved seafarers, agents of maritime companies, and a large number of younger people, whose main motive is to earn large sums of money. In addition, it is noticeable that OCGs cooperate with organized criminal groups from the region, which jointly distribute cocaine and other narcotic drugs to the countries of Western Europe. Also, numerous reports of international organizations confirm that Montenegro is a transit country when it comes to drug trafficking. This has the consequence of not only the flow of drugs through the territory of Montenegro, but certainly also the flow of money used to pay for drugs and the methods of its transportation and storage.

The 2016 Europol “Drug Markets” Report pointed out the following: three branches of the Balkan route start from Turkey and go to Western Europe: the southern branch passes through Greece, Albania and Italy, mostly by sea; the central branch passes through Bulgaria, North Macedonia, Serbia, Montenegro, Bosnia and Herzegovina, Croatia and Slovenia, mostly by land, and the northern branch goes from Bulgaria and Romania to Hungary, Austria, the Czech Republic, Poland and Germany.

In the European Commission Report – “COMMISSION STAFF WORKING DOCUMENT 2019” it is stated that Montenegro remains a place of entry of narcotics and a transit country for their further journey to the European market. Drug trafficking is by far the most significant and the most profitable criminal activity of local organized crime groups and is the driver of many other criminal activities such as murders, gang-related murders and arms trafficking. OCGs from Montenegro are active in the circulation of cannabis, heroin and cocaine, and have direct connections with criminal groups in South America, which gives them a dominant position in the supply of cocaine to Europe. They mostly operate outside of Montenegro, they also operate in EU countries, although there is local trafficking and consumption.

In addition, as a consequence of the conflict over the market, in the last 5 years there has been an evident conflict between members of two OCGs in Montenegro: “Škaljari” and “Kavači”. The members of these two OCGs are citizens of Montenegro and neighbouring countries. Namely, more than a decade ago, most of the drug smuggling in the region was controlled by the then united Kotor OCG, which was connected to cocaine suppliers in South America, as well as to the Italian mafia.⁹

The activities of the Montenegrin police and the police of the region and the European Union, as well as significant seizures of narcotics in European and world ports, clearly show the extent of narcotics smuggling on a global level by members of the Montenegrin OCGs.

Starting from the assumption made based on the estimates of international police organizations that only a small percentage of narcotics in the world is seized, and that a huge percentage of smuggled drugs end up on illegal markets, and bearing in mind the fact that based on the seizures of narcotics realized so far involving members of the Montenegrin OCGs the value of seized drugs amounted to several hundred million Euros, it is clear that the value of narcotics that end up on illegal markets is several billion Euros annually.

As the members of the OCGs from the territory of Montenegro are significant participants in some of the smuggling routes from South America to the countries of the European Union, we come to the conclusion that through this criminal activity they acquire multi-million profits, which they inject into legal flows through money laundering.

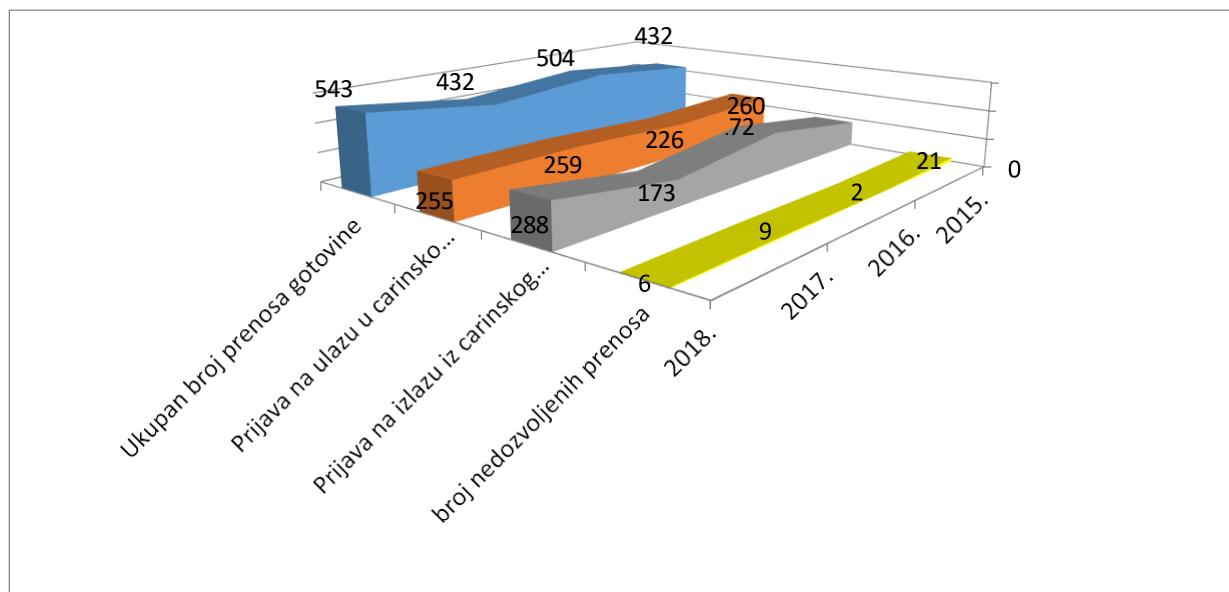
However, the problem in identifying the cash flows related to drug smuggling is the fact that OCGs use increasingly sophisticated methods of electronic payment, off shore destinations, fictitious companies, false identities, darknet and crypto currency.

Namely, there is an increasing number of narcotics dealers in the world operating through the darknet, which definitely affects the increase in narcotics trade in this way in Montenegro as well, so this represents, due to the nature of the criminal offence, a challenge in discovering the perpetrators of this criminal offence, and in tracking

⁹ Report of the Global Initiative against Transnational Organized Crime - Hotspots of Organized Crime in the Western Balkans, May 2019

from where the narcotic drug is coming. Also, with the drug trafficking, the challenge that has arisen is the payment of drugs in crypto-currencies, and due to the nature of these monetary transactions, it is very difficult and challenging to monitor the money flows that are realized in this way.

What presents a particular challenge is avoiding formal money transfer systems and using the physical transfer of cash across the border. The Law on the Prevention of Money Laundering and Terrorist Financing provides for the obligation to report any transfer of cash to the Customs Administration in the amount of €10,000 and more. The Customs Administration then has the obligation to report that person to the Financial Intelligence Unit. Analyzing the statistical data of the Customs Administration clearly shows that in the period from 2011 to 2013, the Customs Administration reported 577 money transfers, as well as 20 suspicious transactions in which it reported an undeclared amount of money, while in the period 2015-2018 there were 1,911 transfers¹⁰ recorded, and the number of undeclared transfers was 38, which is a significant increase in the number of transfers of cash across the border. As the methods of hidden money transfer are being more and more advanced (use of large denominations, payment of persons for money transfer), it can be stated that there is a risk of illegal transfer of cash.



Evasion of taxes and contributions

Taking into account the amount of damage to the budget, which is directly proportional to the illegal proceeds obtained by the perpetrators or persons connected with them, as well as the number of criminal reports and investigations for this criminal offense carried out in an organized manner, it is evident that this is a criminal offense with a high threat from the aspect of money laundering.

After analyzing the statistical data of the Special State Prosecutor's Office, it is evident that in the period 2015-2019, a significant number of reports were received for the criminal offense of tax and contribution evasion referred

¹⁰ 1,000 entering and 911 exiting Montenegro

to in Article 264 of the Criminal Code of Montenegro, related to money laundering referred to in Article 268 of the Criminal Code of Montenegro:

| Criminal offence (number of persons) | CRIMINAL REPORTS RECEIVED | | |
|---|------------------------------|-----------|-----------|
| | 2017 | 2018 | 2019 |
| Money laundering (Art. 268) | 5 | - | 9 |
| Money laundering (Art. 268) and creation of criminal organization (Art. 401a) | 23 | 78 | 15 |
| Money laundering (Art. 268) and falsification of an official document (Art. 414) | | | 1 |
| Money laundering (Art. 268), abuse of office (Art. 416) and bribery (Art. 424) | | | 2 |
| Money laundering (Art. 268), abuse of office (Art. 416) and creation of a criminal organization (Art. 401a) | | | 3 |
| Money laundering (Art. 268), tax and contribution evasion (Art. 264) and fraud (Art. 244) | | 7 | - |
| Money laundering (Art. 268), fraud in conduct of official duty (Art. 419) and creation of a criminal organization (Art. 401a) | | | 2 |
| Money laundering (Art. 268) and tax and contribution evasion (Art. 264) | | 1 | 2 |
| Money laundering (Art. 268), abuse of position in business activity (Art. 272) and creation of criminal | | | 2 |
| Money laundering (Art. 268), evasion of taxes and contributions (Art. 264) and creation of a criminal organization (Art. 401a) | | | 49 |
| Money laundering (Art. 268), abuse of office (Art. 416), abuse of authority in business operations (Art. 276) and abuse of position in business activity (Art. 272) | | 3 | - |
| Money laundering (Art. 268, tax and contribution evasion (Art. 264) and abuse of position in business activity (Art. | | | 1 |
| TOTAL (persons) | 28 | 89 | 86 |

The analysis of cases that were formed for the criminal offense of tax and contribution evasion referred to in Article 264 of the Criminal Code of Montenegro, where such criminal offense was committed in an organized manner, indicates that the typology of the execution of these criminal offenses is such that fictitious companies are established that issue false invoices indicating they performed certain transactions and services, which were not actually performed. Such false invoices are delivered to other companies, which later use them to determine the tax liability, which is significantly lower than the tax liability that would apply if there were no such false invoices.

Loan sharking

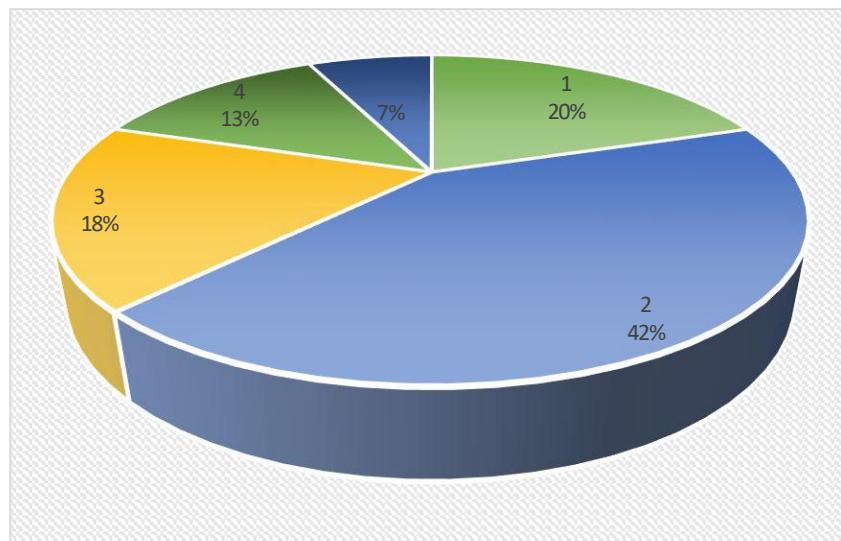
This criminal activity is still a current problem, and it is carried out latently, i.e. in a hidden manner, and is characterized by the lack of willingness of injured persons to cooperate with law enforcement authorities. Statistical data for the reporting period show a high dark figure, and that the number of registered criminal offenses does not reflect the real extent of this phenomenon. The perpetrators of this criminal activity are mostly persons of security

interest or entrepreneurs who have significant amounts of cash at their disposal, for whom the registered business activity serves as a cover, and who additionally strengthen their financial standing through this criminal activity. In some cases, it has been registered that members of OCGs engage in this criminal activity for their own interest, i.e. such activities of individual members cannot be treated as part of the strategic direction of the OCG. The most common interest rate ranges from 5 to 10% on a monthly basis, with possible variations depending on the borrowed amount and repayment terms, so the interest rate on a monthly basis can be significantly higher and ranges from 10 to 30% in cases characterized by a smaller amount of borrowed funds and a shorter repayment period. People who deal with loan sharking are adaptable to changes in legislation and skilfully use legislative frameworks, so they resort to drawing up fictitious sales contracts or loan contracts, which they use as a guarantee for the return of money, sometimes not in their own names but in the names of people close to them, which makes it difficult to identify the link between the person who deals with loan sharking and the person who borrows money. Persons dealing with loan sharking, within the conduct of the mentioned criminal activities, very often have "selected" lawyers and notaries who are ready not to report this type of business relationship as suspicious activities from the aspect of money laundering.

A comprehensive analysis of the data leads to the conclusion that the criminal offence of loan sharking poses a high threat of money laundering. Namely, the statistical data of the prosecutor's office show that in the period 2015-2019, a small number of persons were reported for this criminal offense, while the operational data of the police indicate that this criminal offense is still being committed, but it is difficult to prove and prosecute it.

Based on the results of the research carried out in the previous National Risk Assessment, which have not significantly changed in the meantime, the total amount of money that is lent at interest can be divided as follows:

1. 20% represents an amount up to €10,000,
2. 42% represents the amount from €10,000 to €50,000,
3. 18% represents the amount from €50,000 to €100,000,
4. 13% represents the amount from €100,000 to €500,000,
5. 7% represents an amount over €500,000.



Bearing in mind the above stated, it is evident that this criminal offense poses a threat of money laundering, in particular the part of the money that represents the profit that criminals make as interest on borrowed money.

2. Crimes with medium threat of money laundering

Criminal offense of unauthorized production, possession and distribution of narcotic drugs

The criminal offense of unauthorized production, possession and distribution of narcotic drugs referred to in Article 300 of the Criminal Code of Montenegro, committed as an independent offence or as an offence of criminal organizations on the territory of Montenegro, still represents a significant criminal activity of individuals and groups in Montenegro. In addition to being a source of income, this criminal activity is also the source of a large number of other security challenges and the driver of other criminal activities, including serious crimes against life and body, money laundering, corruption offences, and similar.

In the period covered by this analysis:

- criminal reports were filed against 677 persons,
- criminal investigations were conducted against 539 persons,
- 586 persons were indicted.

This information does not include the persons who committed this criminal offense as members of an OCG, which is specifically classified within criminal offenses with high threat of money laundering. The figures set out in this way alone cannot determine the risk that this criminal offense poses for money laundering, however, comparing it with a general view of the situation in Montenegro in relation to drug trafficking, we may conclude that this offense still poses a medium level of risk of money laundering.

The analysis of the cases formed for this criminal offense indicates that when it comes to the illegal narcotics market in Montenegro, smuggling and use of marijuana is the most prevalent, at the level of up to 70%. The supply and demand ratio is mostly even. Also, it is important to note that Montenegro borders Albania, which is the main producer of marijuana according to the findings of the Police Administration, and that a large amount of narcotic drugs comes from that country.

Bearing in mind the police assessment of the growing trend of marijuana users and its availability in Montenegro, as well as the previous data on prosecuted cases, there is no doubt that this criminal offense poses a medium level of risk of money laundering.

Tabular overview of seized narcotic drugs:

| Type of narcotic drug | 2015 | 2016 | 2017 | 2018 | 2019 |
|-----------------------|-----------|------------|------------|------------------------|------------|
| marihuana | 197.46 kg | 2783.53 kg | 3336.41 kg | 3t 203 kg 420.06 gr | 2290.60 kg |
| heroin | 4.63 kg | 33.38 kg | 17.92 kg | 1kg 782.423 gr | 23.31 kg |

| | | | | | |
|--------------------|-----------|-----------|-----------|------------------|---------------------|
| cocaine | 339.21 kg | 337.46 gr | 1.64 kg | 34 kg gr | 897.927 93.24 kg |
| ecstasy | | 24.37 gr | 17.57 gr | 207.05 kg | |
| hashish | 47.80 gr | 112.88 gr | 2.04 kg | 8kg 146.05 gr | 39.8 gr |
| amphetamine | | 121.87 gr | 33.345 gr | 216.2 gr | |
| estazolam | | | 2.024 gr | | |
| MDMA | | 14gr | | | |
| tramadol | 24.03 gr | | | | |

Criminal offense of aggravated murder committed in an organized manner

In recent years, Montenegro has been facing a pronounced problem of conflict between organized criminal groups, which has manifested through the execution of a large number of serious crimes against life and body. One of the main driving motives of organized crime is the generation of profits through illegal business, and the violence committed by organized criminal groups is clearly an integral part of their strategy. Namely, the efforts of certain organized criminal groups or individuals who played a prominent role in these groups to occupy leading positions in the criminal markets caused their restructuring, internal divisions and conflicts.

From the aspect of the operation of the mentioned OCGs, we must take into account the fact that they possess significant amounts of money, and that they are linked with a number of organized criminal groups from the countries of the region whose members are specialized in the commission of the most serious crimes, which provides enough elements to conclude that in order to protect themselves and their interests, they will undertake activities that may result in the commission of serious crimes. The commission of serious crimes against life and body is characterized by the participation of a large number of persons, who have very clearly divided roles in each of the individual stages of the realization of this criminal activity, and who act motivated by gaining profit after the job is done. The amount of proceeds obtained by committing these criminal offences varies, depending on the "value of the target" (victim), i.e. his/her position in criminal structures. We can, therefore, speak of significant sums of money acquired by committing these criminal offences, which are later introduced into legal channels through money laundering. Police operational data show that murders are also often paid for with narcotics.

By comparing statistical data for the analyzed period 2015-2019 with data from the period when the previous National Risk Assessment was made, it is observed that the number of perpetrators of the criminal offense of serious murder in an organized manner has increased. This is a consequence of the trafficking that takes place internationally and the "conflict" of OCGs over the distribution and takeover of the illegal narcotics market, which is directly proportional to the value of the illegal proceeds thus acquired.

The report of the Global Initiative stated that "The Balkans has a reputation for being a source of hitmen. Because of the legacy of war and the economic vulnerability of certain regions, there is a pool of young men – particularly from Bosnia, Croatia and Serbia – with access to weapons and explosives. Young men from the region have carried out professional assassinations, both within the region and in Central Europe. For example, hitmen have been used by both sides in the Kotor clan war. It is worth noting that a number of hitmen seem to come from Banja Luka as well as the border region between Bosnia and Herzegovina and Serbia. The towns of Burrel and Fushë-Krujë, in Albania, are often cited as a source of hitmen operating in that country".

By analyzing the committed criminal acts of aggravated murder, which are the consequences of the activities of organized criminal groups, and the illegal proceeds obtained by committing these criminal offences, it can be concluded that these criminal offences pose a medium risk of money laundering.

Criminal offences with elements of corruption

Organized criminal groups and individuals are motivated to use corruption or the exchange of other services as part of their own strategy to facilitate the implementation of their specific criminal activities or the collection of information, which is mainly directed at lower-level civil servants (who do not have the status of public officials), so that they, sometimes unaware of the full extent of the criminal activity that takes place in the background, by their actions or omissions, would directly facilitate certain activities of OCG members. Corruption by criminal groups and individuals is directed towards officials of the security services, the prosecution and the judiciary, as well as towards officials of local and state authorities who are responsible for the implementation of various forms of inspection control.

The problem of corruption is pronounced in those areas of business where legal business structures that are owned or controlled by OCG members and persons close to them are registered. This is particularly characteristic of the area of the Montenegrin coast, considering that OCG members are the owners of a significant number of business structures that operate in various areas of hospitality and service industries.

A special problem is the so-called high-level corruption, committed by persons who have the capacity of a public official. High-level corruption activities are characterized by the fact that they are mainly manifested through the abuse of office or trust with regard to the disposal of state property, i.e. by exceeding the limits of one's authority or failing to perform one's duty, which is followed by obtaining proceeds for oneself or another or by causing material damage.

The analysis of the statistical data of the Special State Prosecutor's Office, which was formed in 2015 with competence extended to all offences of high-level corruption, shows that corruption is prevalent in Montenegro, that a large number of persons have been reported, and prosecuted, and that illegal proceeds acquired through these criminal offences are extremely high and are expressed in millions.

According to Transparency International's research, the Corruption Perception Index was 41, ranking Montenegro at 67th place out of a total of 180 ranked countries. This result represents the perception of corruption in the public sector on a scale from 0 (highly corrupt) to 100 (very clean)¹¹.

According to the MONEYVAL Report, it was stated that corruption is a problem in Montenegro that needs to be suppressed¹².

Also, the European Commission stated in progress reports that there must be a more effective fight against corruption, i.e. that Montenegro must focus on the application of measures against corruption, especially high-level corruption.

¹¹ Taken from <http://www.transparency.org/cpi2014/results>

¹² MONEYVAL's 4th Round Mutual Evaluation Report on Montenegro

The analysis of data obtained from the Special State Prosecutor's Office showed that the number of prosecuted criminal offenses with elements of high-level corruption increased during the analyzed period. The figures show not only a large number of criminal reports, but also a large number of criminal investigations and charges, with a significant number of these criminal offences committed as part of criminal organizations. In most cases, the perpetrators of the crimes are high-ranking officials of local self-governments and municipalities.

By assessing the proceeds from corruption crimes, it can be concluded that these criminal offences pose a medium threat of money laundering.

3. Crimes with low threat of money laundering

Crimes against property

Criminal offenses with a low level of risk include primarily crimes against property, such as theft and aggravated theft, as well as other crimes against property. Although the number of reports, investigations and charges, and the number of verdicts for these criminal offenses is significantly higher than others, this in itself is not an indicator that these criminal offenses represent a threat of money laundering, bearing in mind the fact that by these criminal offenses generate far less proceeds in relation to criminal offenses from the high and medium risk category.

Analysis of the cases that were formed for these criminal offences shows that the perpetrators are mostly persons with poor financial status, and the objects of theft are products (tools, food products, household furniture, money, etc.), which they could later sell and provide basic conditions to sustain themselves. This conclusion is derived from the statistical data of the court, and on the basis of the items that were confiscated in the criminal proceedings.

Illegal migration and human trafficking

The majority of illegal migrants who came to the EU used the services of migrant smugglers at least at one point of their journey to the EU. Illegal migration has become a widespread and highly profitable activity of criminal groups in Europe, where the profits made in this way are comparable to the profits generated by drug smuggling on the European market. In this regard, the smuggling of migrants to and through the EU is becoming a growing criminal threat, which is characterized by a high level of demand and a low level of risk. Smuggling of migrants, as an international criminal activity, is carried out by a network of smugglers that includes organized criminal groups for whom this is not the only criminal activity, while in a significant number of cases different groups of individuals who have the ability to provide various types of services necessary for the successful implementation of the criminal activity are also involved. Smuggling activities are most often carried out by the joint provision of different types of services by different participants in this activity, given that it is not possible to provide a complete service to migrants individually, because the entire process of smuggling involves a series of activities that are carried out on the territories of different countries and include: transport of migrants, provision of documents, crossing the border, accommodation, linking migrants with local contacts at different points and, as the ultimate goal, finding jobs at the desired destination.

The Western Balkans, as a region surrounded by EU member states, is a transit area for migratory flows, which means that the countries of the Western Balkan route are not destination countries for illegal migrants. A record influx of migrants, primarily citizens of Syria and Afghanistan, was recorded in 2015. The structure of transiting persons also changed and there was an overlap between economic migrants and migrants from war-affected areas, which led to the emergence of the so-called of mixed migrations. The countries that are on the route of illegal migrants are most often Greece, Macedonia, Serbia, Hungary, Romania, Bulgaria, Albania and Kosovo, while due to its geographical position, Montenegro was less affected by this problem. Based on the decisions of the EU countries, the countries along the Western Balkans route also began to apply the measure of accepting migrants only from war-affected areas, which made their movement more difficult, so that during the reporting period they stayed longer in transit countries, but at the same time, we observe more intensive smuggling of economic migrants¹³.

In the period of 2015-2019, generally speaking, there was a growing trend in the number of migrants moving to the countries of the Western Europe. However, here we have to take into account the geographical position of Montenegro, that it is located in Southeast Europe, and that it has a very short border with the countries of the European Union, which are the focus of migrants. Namely, Montenegro borders only one country of the European Union, Croatia, and the length of the border is only 14 km, which is not attractive for migrants, whose ultimate goal is the countries of Western Europe. However, analysis of the practice through the cases formed in the prosecutor's office showed that a certain number of migrants used Montenegro as a transit country, mostly through air traffic. It turned out that they are individuals who use the airport in Podgorica as transit, and that they use forged documents to cross the border when boarding flights to some of the Western European cities. In all cases, forged documents were obtained outside of Montenegro, while the organization of the trip was also paid for and carried out outside the borders of Montenegro. All of this shows that, regardless of the growth trend of these criminal offences in the world, in Montenegro, the proceeds obtained from the execution of these criminal offences does not pose a threat of money laundering.

In order to confirm this conclusion, data was collected on the number of cases formed for the criminal offense of document falsification referred to in Article 412 of the Criminal Code of Montenegro, i.e. on the number of foreign persons against whom criminal proceedings were initiated for actions that constitute the falsification of identity cards, permanent residence permits, passports or visas.

| Year | 2015 | 2016 | 2017 | 2018 | 2019 |
|-------------------|------|------|------|------|------|
| Number of persons | 53 | 47 | 61 | 53 | 74 |

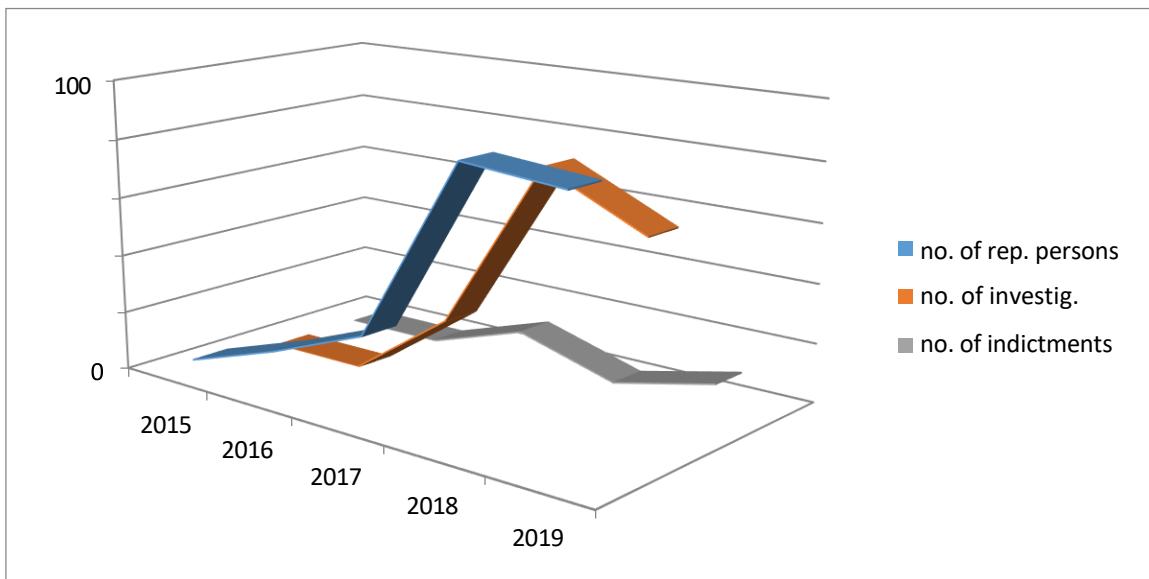
Impact of criminal offenses on the risk of money laundering

All the above criminal offences, whether they are from the category of high, medium or low risk of money laundering, are committed in order to use the acquired illegal proceeds, i.e. to introduce them into legal channels, concealing their real origin.

¹³ SOCTA 2017, Serious and Organized Crime Risk Assessment in Montenegro (public version)

Therefore, in order to adequately present the system of response to criminal offenses that generate illegal proceeds as a potential threat of the commission of criminal offenses of money laundering, it is necessary to analyze data on prosecuted cases for the criminal offense of money laundering.

- In 2015, 4 persons were reported for committing the crime of money laundering under Article 268 of the Criminal Code of Montenegro. Against 3 persons, reports were handed over to another prosecutor's office, while in relation to 1 person, the report remained pending at the end of the reporting period, so there were no investigations or indictments this year.
- In 2016, 15 persons were reported for committing the crime of money laundering under Article 268 of the Criminal Code of Montenegro, and together with the reports from the previous period, there were reports against a total of 16 people. Reports were filed against 9 persons by other state bodies, against 2 persons by NGOs, against 1 person by a legal entity and against 3 persons by natural persons. The reports against 10 persons were transferred to the jurisdiction of another prosecutor's office, while the reports against 6 persons remained pending at the end of the reporting period. In this year too, there were no investigations or indictments for this criminal offense.
- In 2017, criminal reports were filed with the Special State Prosecutor's Office for the criminal offense of money laundering against a total of 28 persons. 6 applications remained pending from the previous period, so that there were reports against 34 persons in the procedure. 28 reports were decided, which is 82.35% of reports for these criminal offences. In relation to 3 persons, the criminal reports were dismissed, orders to conduct investigations were issued for 24 persons, while 1 report was transferred to another prosecutor's office. The reports against 6 persons remained pending. In 2017, a total of 11 persons were charged with money laundering. All these persons were also charged with the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro. There were no pending indictments from earlier years. Compared to 2016, when there were 4 indictments, there was a 175% increase in indictments.
- In 2018, criminal reports were filed with the Special State Prosecutor's Office for the criminal offense of money laundering against a total of 89 persons. 6 reports remained pending from the previous period, so there were reports against 95 persons (in 2017 against 34 persons) in the procedure. 84 reports were decided, which is 88.42% of reports for these criminal offences. In relation to 1 person, the criminal report was dismissed, orders to conduct the investigation were issued for 81 persons, while 2 reports were handed over to another prosecutor's office. Reports against 11 persons remained pending. In 2018, 1 person was charged with money laundering. In addition to pending indictments from the earlier period against 11 persons, there were indictments against 12 persons in total that remained pending at the end of the reporting period.
- In 2019, 86 persons were reported for the criminal offense of money laundering. 11 applications remained pending from the previous period, so there were reports against 97 persons (in 2018 - against 95 persons; in 2017 against 34 persons) in the procedure. 72 reports for these crimes were decided. In relation to 2 persons, the criminal reports were dismissed, orders to conduct the investigation were issued in 3 cases against 65 persons, while 5 reports were transferred to the jurisdiction of other prosecutor's offices. Other reports against 25 persons remain pending. After the investigation, charges were brought against 9 persons. In addition to indictments pending from the previous period against 12 persons, there were indictments against 21 persons in total in the procedure.



Acting on the requests of the State Prosecutor's Office, the High Court conducted 4 criminal proceedings for the criminal offense of money laundering (Article 268 of the Criminal Code of Montenegro) against 16 persons. The criminal proceedings were legally terminated in 2 criminal cases against 2 natural persons and 1 legal entity by passing guilty verdicts on the basis of plea agreements:

- In case Ks br. 18/19, for the criminal offense of money laundering, the defendant S.F was found guilty and sentenced to a prison term of 3 months, and a fine of €5,000. Money obtained through criminal activity in the amount of €20,000 was confiscated from the defendant S.F.
- In case Ks. br. 22/19 against 2 persons, the defendant F.B was sentenced to a prison term of 5 months, and a fine of €3,000, for the criminal offense of tax and contribution evasion under Article 264 of the Criminal Code of Montenegro and the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, while the defendant legal entity "A", for the criminal offense of tax and contribution evasion under Article 264 of the Criminal Code of Montenegro, in connection with Article 5 of the Law on the Liability of Legal Entities for Criminal Offenses, and the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, was sentenced to a fine of €75,000, and ordered to pay the amount of €89,820 to the Tax Administration for the tax evasion.
- Proceedings are ongoing for the other 2 criminal cases that are pending before the court against 13 defendants.

In four cases, the court ordered temporary security measures (freezing of assets):

1. In case Kri-S. br. 4/19, against the defendant D.K and others, for the criminal offense of creating a criminal organization under Article 401a and the extended criminal offense of tax and contribution evasion under Article 264 and the extended criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, the court issued a decision imposing temporary security measures in relation to:
 - a. prohibition of disposal and use of immovable properties owned by 15 legal entities;

- b. prohibition of disposal and encumbrance of shares and other securities or participations in a company in 15 legal entities;
- c. prohibition of disposal and encumbrance of shares or participations in a company with registration of the prohibition in public records, relating to the change of participations in 3 companies.

2. In case Kri-S. br. 69/19, against 3 accused natural persons N.B, D.V, Z.V, and 3 legal persons, for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, fraud under Article 244 of the Criminal Code of Montenegro, forgery of a document under Article 412 of the Criminal Code of Montenegro and money laundering under Article 268 of the Criminal Code of Montenegro, the court issued a decision prohibiting the disposal of immovable properties.

3. In case Kri-S br. 4/19, against the defendant A.K, for the creation of a criminal organization under Article 401a, tax and contribution evasion under Article 264 of the Criminal Code of Montenegro and money laundering under Article 268 of the Criminal Code of Montenegro, the court issued a decision prohibiting the disposal of immovable properties in the territory of the municipality of Bar and Kotor.

4. In case Kri-S br. 66/19, against the defendant D.V and others, for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, fraud under Article 244 of the Criminal Code of Montenegro, forgery of a document under Article 412 of the Criminal Code of Montenegro, and money laundering under Article 268 of the Criminal Code of Montenegro, the court issued a decision prohibiting the disposal of immovable properties in the territory of the Municipality of Tivat.

In the process of providing international legal assistance, at the request of Switzerland, a temporary measure was issued prohibiting the disposal of funds in the amount of CHF 97,900 on the account of the owner T.K, with a commercial bank in Montenegro, on the account of the criminal offense of money laundering.

Confiscation of proceeds of crime

A significant indicator of the effectiveness of the system in the fight against money laundering and generally, confiscation of proceeds of criminal offences, i.e. criminal activity that generates illegal proceeds, are certainly also indicators of identifying and confiscating proceeds of crime.

Legislation in Montenegro fully regulates the possibility that proceeds acquired through criminal offences or criminal activity can be confiscated. Confiscation of proceeds in Montenegro is regulated by the Criminal Code of Montenegro, the Code of Criminal Procedure and the Law on Confiscation of Proceeds of Crime.

The Criminal Code of Montenegro prescribes that no one can keep illegal proceeds from a criminal offence. Therefore, their confiscation in criminal proceedings is mandatory. Bearing in mind that in some situations it is not possible to identify and confiscate illegal proceeds, the Criminal Code of Montenegro stipulates that if confiscation is not possible, the perpetrator will be required to pay the amount of money corresponding to the proceeds

obtained. Also, the proceeds will be confiscated from the person to whom it was transferred without compensation or from the person who knew or could and should have known that the proceeds were acquired through a criminal offense. Proceeds will also be confiscated if they were obtained for someone else.

Since certain deficiencies were observed regarding the definition of proceeds in the 4th round of evaluation by MONEYVAL, the Criminal Code of Montenegro was amended in order to fully harmonize the definition of proceeds with the requirements of international standards (Vienna and Palermo Conventions).

Proceeds are now defined by the Criminal Code of Montenegro as follows:

"Proceeds of a criminal offense means any proceeds generated through a criminal offense, directly or indirectly, consisting of any increase or prevention of reduction of property, which occurred as a result of the commission of a criminal offense, the property for which it was exchanged or with which it was intermingled or into which the proceeds obtained by a criminal offense were converted, as well as any other benefit derived from the proceeds generated by a criminal offense or the property for which the proceeds obtained by a criminal offense were exchanged or into which they were converted, whether they are located on or outside the territory of Montenegro, and any documents evidencing title over such property".

Confiscation of proceeds in cases where we have a request from the injured party is imposed only if the amount of proceeds exceeds the amount of the property legal claim. This is important to point out in order to better understand the statistical data on confiscated proceeds, which are provided in the annex to this report.

The Law on Confiscation of Proceeds from Crime entered into force at the end of 2015. This Law prescribes the possibility of initiating financial investigations in which evidence is collected about the assets and income of the suspect, or the defendant, and his legal successor, and for which assets the legal origin cannot be proven. In the past, it was possible to initiate financial investigations, but only for a limited number of criminal offences. This Law also eliminated those deficiencies.

In addition, a deficiency was noted in the previous National Risk Assessment that we did not have the prescribed possibility of confiscation of property without a criminal verdict (non conviction based confiscation). This deficiency was remedied by the adoption of the Law on Confiscation of Proceeds of Crime, as it also prescribed this possibility.

However, the data collected so far point out to its insufficient application.

In the implementation of the new Law on Confiscation of Proceeds of Crime, certain obstacles were observed that prevent the initiation of financial investigations with the aim of effectively confiscating the proceeds of crime, as well as the need for harmonization with FATF standards, and it was deemed necessary to amend of the law in order to remove certain doubts.

In this regard, after analyzing the comments of experts and the practical experience of the judiciary, it was found necessary to delete Article 11 paragraph 1 point 1 of the Law on Confiscation of Proceeds of Crime. This item stipulated that, as a necessary condition for initiating a financial investigation, the existence of grounds for suspicion that the owner's property is clearly disproportionate to his legitimate income was required. However, Article 8 paragraph 2 of this Law defines that the grounds for suspicion that the proceeds were acquired through

criminal activity is precisely the obvious disproportion between the property of the perpetrator of the criminal offense and his legitimate income. In this regard, the deletion of point 1 paragraph 1 of Article 11 was necessary, as it was deemed to be redundant and caused doubts. Bearing in mind the above, in July 2019, amendments to the Law on Confiscation of Proceeds of Crime were adopted, and these amendments eliminated the aforementioned shortcomings. The analysis of initiated financial investigations, which is given below in the report, indicates that so far financial investigations have been initiated to the greatest extent by the Special State Prosecutor's Office, while the number of these investigations in other prosecutor's offices is very limited. The reasons for such results can be found in the existing legal provisions, which were not adequate due to the conditions necessary to be met for the initiation of financial investigations. The amendments to the Law in 2019 created new legal provisions that will greatly facilitate the initiation of financial investigations.

Information on financial investigations conducted by the Special State Prosecutor's Office

2015

Financial investigations initiated in 2015

In 2015, the Special State Prosecutor's Office initiated two financial investigations against 37 persons, as follows:

1. Case Kti-S br. 3/15 formed against M.S. and others. The criminal investigation was initiated on 13 August 2015 against 14 persons, and then it was extended on 13 October 2015 against 3 persons and on 16 December 2015 against 1 person for criminal offenses of abuse of office under Article 416 of the Criminal Code of Montenegro and committed in an organized manner. The financial investigation was initiated on 30 December 2015 against 74 persons against whom criminal proceedings were initiated, as well as against persons related to them;
2. Case Kti-S br. 7/15 formed against M.D. The criminal investigation was initiated on 24 October 2015 against 18 persons for the criminal offenses of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro. The financial investigation was initiated on 15 February 2016 against 5 persons.

2016

Financial investigations initiated in 2016

In 2016, two financial investigations were initiated against 7 persons, as follows:

- against 5 persons for the criminal offense of creating a criminal organization under Article 401a and unauthorized production, possession and distribution of narcotic drugs under Article 300;

- a financial investigation is being conducted against 2 persons for the criminal offense of abuse of position in business activity under Article 272 of the Criminal Code of Montenegro.

From previous period, in the case "GREEN MILE", initiated for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and the criminal offense of unauthorized production, possession and distribution of narcotic drugs under Article 300 paragraph 1 of the Criminal Code of Montenegro, in the proceedings before the High Court, residential space of 53m² was permanently confiscated. Also, by the decision of the High Court of 11 November 2016, land of 3,063 m² total area was permanently confiscated.

2017

Financial investigations initiated in 2017

In 2017, financial investigations were initiated in 19 cases against a total of 116 individuals and 4 legal entities:

1. Case Kti-S br. 6/17 - criminal investigation was initiated against 2 persons for the criminal offenses of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and abuse of office under Article 416 paragraph 1 of the Criminal Code of Montenegro. The financial investigation was initiated on 26 June 2017 against 2 natural persons.
2. Case Kti-S br. 13/17 - criminal investigation was initiated against 16 persons for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and the extended criminal offense of money laundering under Article 268 in conjunction with Article 49 of the Criminal Code of Montenegro. A financial investigation was also initiated against all persons.
3. Case Kti-S br. 22/17 - criminal investigation against 2 persons for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and the extended criminal offense of money laundering under Article 268 in conjunction with Article 49 of the Criminal Code of Montenegro. Also, a financial investigation was initiated against these two persons.
4. Case Kti-S br. 26/17 formed against several persons for the criminal offense of creating a criminal organization under Article 401a paragraphs 1 and 2 in conjunction with paragraph 6 of the Criminal Code of Montenegro and the criminal offense of money laundering under Article 268 paragraphs 3 and 4 in conjunction with paragraph 1 of the Criminal Code of Montenegro. A financial investigation was initiated against 6 persons.
5. Case Kti-S br. 17/16 - criminal investigation was initiated against 12 persons for the extended criminal offense of abuse of position in business activity under Article 272 of the Criminal Code of Montenegro committed in an organized manner. A financial investigation was initiated against 13 persons.
6. Case Kti-S br. 10/17 - criminal investigation was initiated against 15 individuals and 1 legal entity, for the criminal offences of abuse of authority in economy under Article 276 of the Criminal Code of Montenegro

and abuse of office under Article 416 of the Criminal Code of Montenegro committed in an organized manner. A financial investigation was initiated against 5 persons.

7. Case Kti-S br. On 15/17 - criminal investigation was initiated against 18 persons for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and the criminal offense of unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro. A financial investigation was initiated against 10 persons.
8. Case Kti-S br. 16/17 - criminal investigation was initiated against 7 persons for the criminal offenses of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro. A financial investigation was initiated against 7 persons.
9. Case Kti-S br. 20/17 - criminal investigation is being conducted for the criminal offence of money laundering under Article 268 of the Criminal Code of Montenegro. A financial investigation was initiated against 2 persons.
10. Case Kti-S br. 21/17 - criminal investigation is being conducted for the criminal offense of unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro, committed in an organized manner. A financial investigation is being conducted against 1 person.
11. Case Kti-S br. 30/17 - criminal investigation is being conducted for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro. A financial investigation was initiated against 1 person.
12. Case Kti-S br. 4/17 - criminal investigation was initiated against 5 persons, for the criminal offenses of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro. The financial investigation was initiated on 16 June 2017 against 2 persons, and it was suspended on 31 July 2017.
13. Case Kti-S br. 13/16 - criminal investigation was initiated against 17 individuals and 1 legal entity for the criminal offenses of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, illegal possession of weapons and explosive substances under Article 403 of the Criminal Code of Montenegro, loan sharking under Article 252 of the Criminal Code of Montenegro, extortion under Article 250 of the Criminal Code of Montenegro, serious crime against general security under Article 338 of the Criminal Code of Montenegro in conjunction with Article 327 paragraph 1 of the Criminal Code of Montenegro, bribery under Article 424 of the Criminal Code of Montenegro, abuse of office under Article 416 of the Criminal Code of Montenegro and enabling the consumption of narcotic drugs under Article 301 of the Criminal Code of Montenegro. A financial investigation was initiated against 17 individuals and 1 legal entity.

14. Case Kti-S br. 9/17 - criminal investigation was initiated against 1 individual and 1 legal entity for the criminal offense of abuse of position in business activity under Article 272 paragraph 3 in conjunction with paragraph 1 of the Criminal Code of Montenegro. A financial investigation was initiated against 1 individual and 1 legal entity.
15. Case Kti-S br. 14/16 - criminal investigation was initiated against 2 individuals for the criminal offences of creating a criminal organization under Article 401a paragraph 2 in conjunction with paragraph 1 of the Criminal Code of Montenegro, aggravated murder under Article 144 points 1 and 4 of the Criminal Code of Montenegro and unauthorized production, possession and distribution of narcotic drugs under Article 300 paragraph 1 of the Criminal Code of Montenegro. A financial investigation was initiated against 2 persons;
16. Case Kti-S br. 14/17 - criminal investigation was initiated against 6 individual for the criminal offences of creating a criminal organization under Article 401a paragraph 2 in conjunction with paragraph 1 of the Criminal Code of Montenegro, aggravated attempted murder under Article 144 paragraph 1 point 1 in conjunction with Article 20 of the Criminal Code of Montenegro and illegal possession of weapons and explosive substances under Article 403 paragraph 2 of the Criminal Code of Montenegro. A financial investigation was initiated against 6 persons.
17. Case Kti-S br. 1/17 - criminal investigation was initiated against 5 individuals for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, the criminal offense of aggravated murder under Article 144 paragraph 1 point 8 in conjunction with Article 23 paragraph 2 of the Criminal Code of Montenegro, and the criminal offense of illegal possession of weapons and explosive substances under Article 403 paragraph 2 in conjunction with paragraph 1 of the Criminal Code of Montenegro. A financial investigation was initiated against 5 persons.
18. Case Kti-S br. 239/16 - criminal investigation was initiated against 1 individual for the criminal offense of participation in foreign armed formations under Article 449b paragraph 2 of the Criminal Code of Montenegro. A financial investigation was initiated against 1 person.
19. Case Kti-S br. 18/17 - criminal investigation was initiated against 18 individuals and 2 legal entities for the criminal offense of abuse of position in business activity under Article 272 of the Criminal Code of Montenegro. A financial investigation was initiated against 17 individuals and 2 legal entities.

Requests for permanent confiscation of property in 2017

1. On 14 September 2017, the Special State Prosecutor's Office submitted a request to the High Court in Podgorica for the permanent confiscation of proceeds from criminal activity from the convicted M.M. and his related persons, and in relation to the property that was registered to those persons and on which a temporary measure of prohibition, disposal and use by the investigating judge of the High Court in Podgorica was previously issued.

2. On 20 November 2017, the Special State Prosecutor's Office submitted a request to the High Court in Podgorica for the permanent confiscation of proceeds from criminal activity from the convicted S.M and his related persons – the holder R.K, and in relation to the property registered to those persons (property on which a temporary measure was imposed). The procedure for the aforementioned request before the High Court in Podgorica is ongoing.
3. In the criminal case for criminal offenses - creation of a criminal organization under Article 401a paragraph 2 in conjunction with paragraph 1 of the Criminal Code of Montenegro and the unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro, a request for permanent confiscation of property was filed with the High Court in Podgorica. In the proceedings before the court, residential space of 53 m² and land of 3,063 m² in total were permanently confiscated.
4. In the criminal case in which the defendants were finally convicted of having committed a criminal offense – attempted abuse of authority in economy under Article 276 of the Criminal Code of Montenegro (AMD Budva), a request was submitted to the High Court in Podgorica for the permanent confiscation of property, for a total of 11 residential units. The request was rejected as unfounded by the High Court in Podgorica on 20 April 2017, and the Appellate Court of Montenegro rejected the appeal of the Special State Prosecutor's Office against this decision and confirmed the decision of the High Court on 21 August 2017.

2018

Financial investigations initiated in 2018

In 2018, in order to preserve the proceeds of criminal activity and for the possible subsequent confiscation of those proceeds, the Special State Prosecutor's Office initiated financial investigations and submitted proposals to the High Court in Podgorica for the imposing of a temporary measure to ensure the prohibition of the disposal and use of immovable properties, as well as for temporary confiscation of movable properties (seizure) in 7 cases against 47 individuals and 10 legal entities:

1. Case Kti-S br. 23/17 - criminal investigation was initiated against 6 individual for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro. The financial investigation is against 6 natural persons.
2. Case Kti-S br. 1/18 - criminal investigation was initiated against 11 individuals for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro. A financial investigation was initiated against 11 individuals.
3. Case Kti-S br. 2/18 - criminal investigation was initiated against 9 individuals for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro. A financial investigation was initiated against 9 individuals.

4. Case Kti-S br. 6/18 - criminal investigation was initiated against 9 individuals and 5 legal persons for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and tax and contribution evasion under Article 264 of the Criminal Code of Montenegro. A financial investigation was initiated against 9 individuals and 5 legal entities.
5. Case Kti-S br. 27/17 - criminal investigation was initiated against 1 individual for the criminal offense of abuse of office under Article 416 of the Criminal Code of Montenegro. A financial investigation was initiated against 1 individual.
6. Case Kti-S br. 1/16 - criminal investigation was initiated against 17 individuals and 6 legal entities for the criminal offense of abuse of office under Article 416 of the Criminal Code of Montenegro in an organized manner and the extended criminal offense of fraud under Article 244 of the Criminal Code of Montenegro in an organized manner. A financial investigation was initiated against 10 individuals and 4 legal entities.
7. Case Ktr-S 127/18 formed following the notification of the Administration for the Prevention of Money Laundering and Terrorist Financing for the temporary suspension of the transaction of the legal entity "R. LTD M." I. Financial investigation was initiated on 26 November 2018 for 1 individual and 1 legal entity.

Requests for confiscation of property in 2018

In 2018, the Special State Prosecutor's Office had no requests for the permanent confiscation of proceeds of criminal activity.

2019

Financial investigations initiated in 2019

In 2019, financial investigations were initiated in **15 cases against 207 individuals and 152 legal entities**:

1. Case Kti-S br. 15/18 formed against M. P. and others – **22 individuals and 1 legal entity**. Criminal investigation initiated on 4 August 2018, and financial investigation on 23 May 2019, for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, smuggling under Article 265 of the Criminal Code of Montenegro, abuse of office under Article 416 of the Criminal Code of Montenegro, passive bribery under Article 423 of the Criminal Code of Montenegro, active bribery under Article 424 of the Criminal Code of Montenegro and falsification of a document under Article 412 of the Criminal Code of Montenegro.
2. Case Kti-S br. 9/18 formed against V. P. and others – **3 individuals and 1 legal entity**. Criminal investigation was initiated on 23 April 2018, and the financial investigation on 23 May 2019, for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro and smuggling under Article 265 of the Criminal Code of Montenegro.

3. Case Kti-S br. 5/18 formed against P. Ž. and others – **3 individuals**. The criminal investigation was initiated on 15 March 2018, and the financial investigation on 12 February 2019, for the criminal offense of abuse of authority in economy under Article 276 of the Criminal Code of Montenegro.
4. Case Kti-S br. 1/19 formed against K. D. and others – **27 individuals**. Criminal investigation was initiated on 25 January 2019, and the financial investigation on 25 January 2019, for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, money laundering under Article 268 of the Criminal Code of Montenegro, evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro and falsification of an official document under Article 414 of the Criminal Code of Montenegro.
5. Case Kti-S br. 9/19 formed against L. D. – **1 individual**. Criminal investigation was initiated on 17 May 2019, and the financial investigation on 17 May 2019, for the criminal offense of abuse of office under Article 416 of the Criminal Code of Montenegro.
6. Case Kti-S br. 8/19 formed against N. M. and others – **2 individuals**. Criminal investigation was initiated on 15 May 2019, and the financial investigation on 15 May 2019, for the criminal offense of abuse of position in business activity under Article 272 of the Criminal Code of Montenegro.
7. Case Kti-S br. 22/18 formed against D. Lj. and others - **79 individuals and 95 legal entities**. Criminal investigation was initiated on 14 January 2019, and the financial investigation on 14 January 2019, for the criminal offenses of criminal association under Article 401a of the Criminal Code of Montenegro, money laundering under Article 268 of the Criminal Code of Montenegro and evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro.
8. Case Kti-S br. 22/18 formed against L.J.D. - **36 individuals and 53 legal entities**. Criminal investigation initiated on 24 April 2019, and the financial investigation on 24 April 2019, for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, money laundering under Article 268 of the Criminal Code of Montenegro and evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro.
9. Case Kti-S br. 14/18 formed against J. A. and others - **10 individuals**. Criminal investigation was initiated on 13 July 2018, and the financial investigation on 28 May 2019, for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and terrorism under Article 447 of the Criminal Code of Montenegro.
10. Case Kti-S br. 10/19 formed against C. L. - **1 individual**. The criminal investigation was initiated on 24 May 2019, and the financial investigation on 29 July 2019, for the criminal offence of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro.
11. Case Kti-S br. 19/19 formed against N. D. and others - **9 individuals and 2 legal entities**. Criminal investigation was initiated on 2 September 2019, and the financial investigation on 27 November 2019 for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro,

smuggling under Article 265 of the Criminal Code of Montenegro and illegal possession of weapons and explosives under Article 403 of the Criminal Code of Montenegro.

12. Case Kti-S br. 21/19 formed against Đ. S. and others - **4 individuals**. Criminal investigation was initiated on 2 November 2019, and the financial investigation on 27. November 2019, for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, murder under Article 143 of the Criminal Code of Montenegro and illegal possession of weapons and explosive substances under Article 403 of the Criminal Code of Montenegro.
13. Case Kti-S br. 12/19 formed against P. M. and others - **5 individuals**. Criminal investigation was initiated on 17 June 2019, and the financial investigation on 27 November 2019 for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, aggravated murder under Article 144 of the Criminal Code of Montenegro and illegal possession of weapons and explosives under Article 403 of the Criminal Code of Montenegro.
14. Case Kti-S br. 18/19 formed against M. M. and others - **4 individuals**. Criminal investigation was initiated on 24 August 2019, and the financial investigation on 4 September 2019, for the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro.
15. Case Kti-S br. 16/19 formed against Đ. D. - **1 individual**. Criminal investigation was initiated on 22 August 2019, financial investigation on 7 October 2019, for the criminal offences of creating a criminal organization under Article 401a of the Criminal Code of Montenegro and unauthorized production, possession and distribution of narcotic drugs under Article 300 of the Criminal Code of Montenegro.

In addition to these financial investigations initiated in 2019, there were also 29 financial investigations against a total of **229 individuals and 12 legal entities** from previous years, namely: 1 investigation from 2015 against 74 individuals; 1 investigation from 2016 against 4 individuals; 24 financial investigations from 2017 against 132 individuals and 6 legal entities; 3 financial investigations from 2018 against 19 individuals and 6 legal entities.

Requests for confiscation of proceeds in 2019

In 2019, in order to preserve the proceeds of criminal activity and for the possible subsequent confiscation of those proceeds, the Special State Prosecutor's Office submitted proposals to the High Court in Podgorica for the imposing of a temporary security measure prohibiting the disposal and use of immovable property, as well as for the temporary confiscation of movable property (seizure) in **6 cases**. These proposals were accepted by the court and refer to:

- residential premises, hotels, business premises – 212,392 m²
- yard 500 m²
- basement 37 m²,
- garage 522 m²,
- land 121,434 m²,
- securities – amount of over 138,719,016 shares.

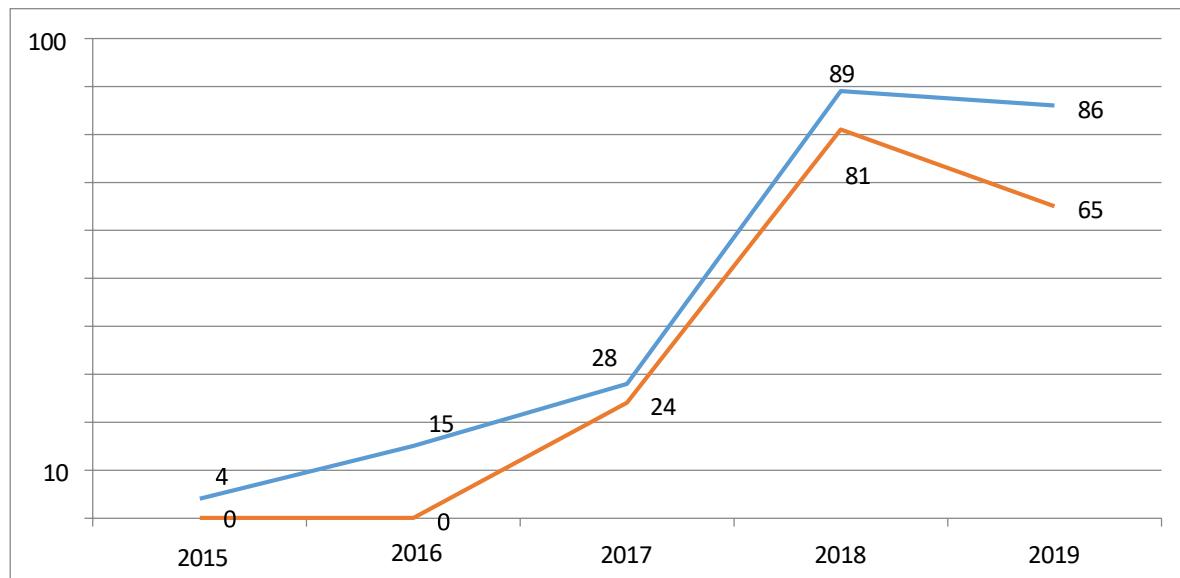
In the proceedings before the court, an apartment with an area of 193 m², whose value is approx. **EUR 300,000** was permanently confiscated.

In total, funds in the accounts of legal entities in the amount of EUR 3,536,492 and in the accounts of individuals in the amount of EUR 198,000 were temporarily blocked.

Based on the collected statistical data from the prosecutor's offices and the court, it can be concluded that in the period 2015-2019 the number of cases of money laundering investigations and financial investigations, as well as temporarily and permanently confiscated property increased.

When it comes to money laundering investigations, there is a significant increase in reported persons (individuals and legal entities) for the criminal offense of money laundering, as well as the number of investigations initiated by the competent prosecutor's office in those cases: a significant increase is particularly evident in the period 2018-2019 in relation to the period 2015-2017:

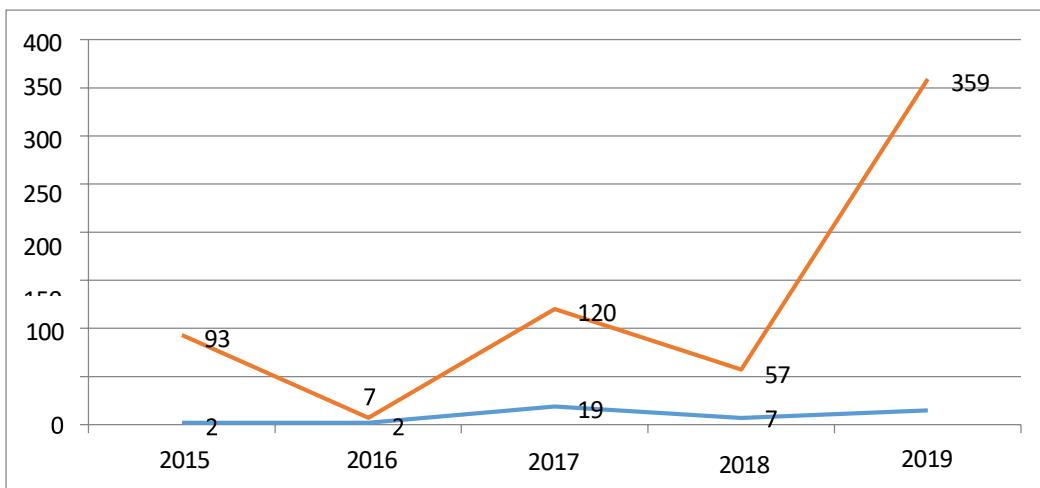
| Money laundering | 2015 | 2016 | 2017 | 2018 | 2019 |
|---|------|------|------|------|------|
| Number of money laundering investigations | 0 | 0 | 24 | 81 | 65 |
| Number of reported persons in money laundering cases | 4 | 15 | 28 | 89 | 86 |



However, it is certainly noticeable that there is significant room for an increase in the number of cases for the criminal offense of money laundering, bearing in mind the prosecuted criminal offenses that generate illegal proceeds, which represent a potential threat to be introduced into legal channels through money laundering.

When it comes to financial investigations, a significant increase in the number of persons subject to financial investigations is evident, especially in 2019.

| Financial investigations | 2015 | 2016 | 2017 | 2018 | 2019 |
|---|------|------|------|------|------|
| financial investigations initiated | 2 | 2 | 19 | 7 | 15 |
| number of persons in financial investigations | 93 | 7 | 120 | 57 | 359 |



Also very significant is the data on the blocking of funds on the accounts of individuals with commercial banks, which amounted to EUR 3.7 million in 2019, at the order of the prosecutor's office, while at the court's decision, at the request of a foreign judicial authority, the amount was about EUR 100,000.

However, it is noticeable that financial investigations are mostly conducted in the Special State Prosecutor's Office, while at the level of high prosecutor's offices this number is negligible. It is also noticeable that the number of requests for permanent confiscation of property is small compared to the number of initiated financial investigations, and one of the reasons may be that the criminal proceedings in those cases have not yet been legally concluded, which is one of the legal obstacles to submitting a request for permanent confiscation of property. Therefore, in the coming period, this indicator remains to be monitored in order to see if there are other challenges in the effective confiscation of property whose legal origin has not been proven.

Also, only one financial investigation is conducted at the level of basic state prosecutor's offices. The reason for this may be in the legal provisions, i.e. the limitation that existed until July 2019.

In addition, as one of the shortcomings, affecting significantly the performance of this and similar analyses, is the lack of assessment of temporarily confiscated property, i.e. its value expressed in money.

Collected statistical data show that so far there has been no confiscation of proceeds without a criminal verdict (non conviction based confiscation). However, the number of initiated criminal investigations for high-risk criminal offenses indicates that in the coming period this provision may also be applied, in particular since for these criminal offenses it is impossible to conduct criminal proceedings due to the death of the defendants (detailed analysis is given below).

MONEY LAUNDERING TYPOLOGY

The process of money laundering implies that the assets originating from criminal activities are introduced into the legal system, by placing them in a way that allows the fastest and easiest way to conceal the origin of the assets, their stratification and finally their final integration. In this regard, it was observed that the banking system was used the most, as it allows the investment of larger amounts of money, whereby numerous transactions (often fictitious) are used as a justification of the origin of the funds. Legal arrangements are often used for money laundering purposes, in the form of "front" companies that are really engaged in legal activities, and whose operations are used to inject "dirty money". In Montenegro, although to a lesser extent compared to the previous period, the use of cash is still significantly represented, which contributes to the aforementioned, so frequent deposits of cash in large amounts without fully substantiated origin of the funds were observed.

New trends and new typologies of money laundering and terrorist financing require constant improvement of national systems for combating money laundering and terrorist financing, as well as effective and efficient national, regional and international cooperation and data exchange in this area.

From the aspect of anti-money laundering, the formed typologies are the result of the application of certain indicators for identifying suspicious transactions and clients, i.e. their verification and confirmation in practice. An aggravating circumstance for the anti-money laundering system is that money laundering is a continuously evolving process, where new techniques and modalities of money laundering are constantly perfected, which makes this process even more complex, and therefore more complicated for detection, and especially difficult to prove the existence of this criminal offence.

It is known that based on past experience and the experiences of other countries, the following activities have been assessed as areas with a pronounced level of risk from the aspect of money laundering:

- *banking sector,*
- *real estate market,*
- *capital market,*
- *luxury goods market,*
- *games of chance,*
- *insurance,*
- *investment construction,*
- *import-export business,*
- *construction industry.*

When it comes to typologies in the banking sector, as the sector that represents the greatest risk for transforming and injecting dirty money into legal flows, transactions with offshore companies and destinations are pronounced, as well as countries known for strong protection of banking secrecy (tax havens).

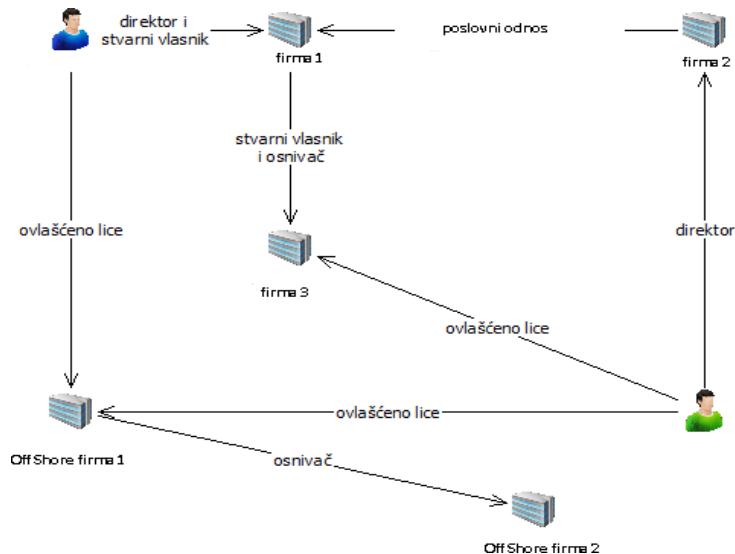
Also a specific problem faced by commercial banks is the growing trend of clients who have electronic banking and in which certain clients do not have a limit for money transfers, which can be realized outside of the bank's business hours. In specific cases, certain banks do not have software solutions with which they can control cash

flows after business hours, but they would be informed about the transaction in question on the first following business day.

- **Typology no. 1**

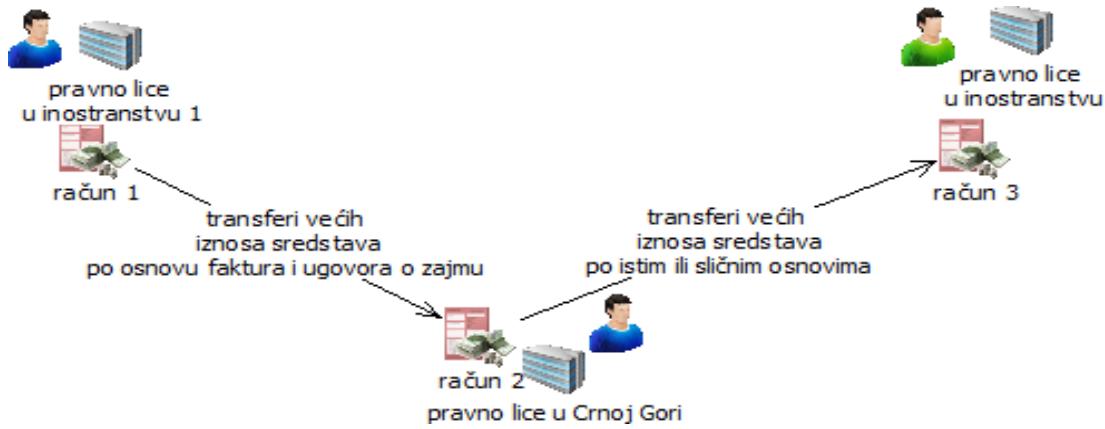
The activity of the persons listed in the diagram is financial brokerage in binary options trading. As it involves advanced technologies and the use of the internet for options trading, it leads to suspicion that the origin and flow of money is intended to be hidden in this way.

Namely, the funds generally arrive from the accounts of related companies from some of the offshore destinations, and are transferred further to the accounts of related persons (in so-called tax haven countries). These are large amounts of money that are kept for a short time in the accounts of the mentioned persons, and the origin of that money is difficult to prove.



- **Typology no. 2**

Frequent transfers of funds in total significant amounts by legal entities/individuals from abroad to accounts opened in Montenegro (own accounts or accounts of related legal entities/ individuals). Funds are transferred on different bases, such as invoices the accuracy of which cannot be fully verified by the reporting entities or based on loan agreements. The mentioned funds are further transferred to the accounts of legal entities/individuals opened abroad, on the same or similar grounds in relation to incoming transfers.



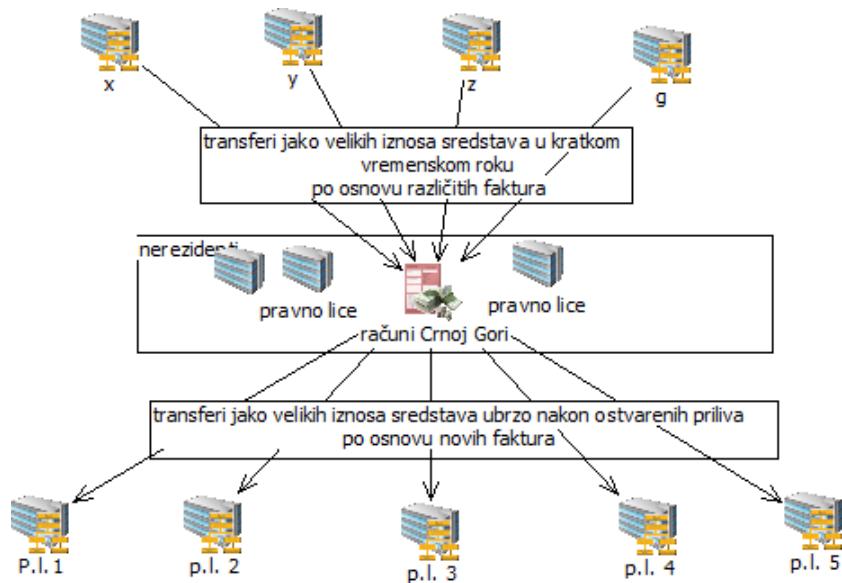
- **Typology no. 3**

Cash payments by several (related) persons in amounts that are often below the amount of €15,000.00 prescribed by the Law on PMLTF or slightly higher amounts without a clear basis, and such funds are transferred shortly after the payments to the accounts opened abroad of legal entities or individuals based on sales or loan contracts or invoices the authenticity of which is doubted.



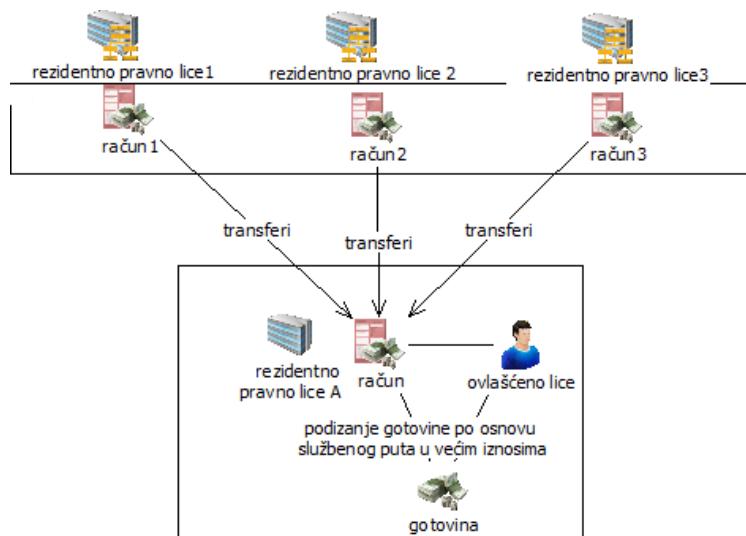
- **Typology no. 4**

Numerous non-resident legal entities realize very large turnovers on accounts in a relatively short period of time, whereby they realize inflows from numerous legal entities from different countries, based on specific invoices. The received funds are immediately transferred to the accounts of other legal entities opened abroad on the basis of other invoices. Frequent transfers of large and rounded amounts were observed, as well as the fact that transactions of inflow of funds were followed by rapid withdrawal of funds, i.e. the funds just pass through the account, and are transferred further to the accounts of other numerous legal entities that have opened accounts in a large number of countries.



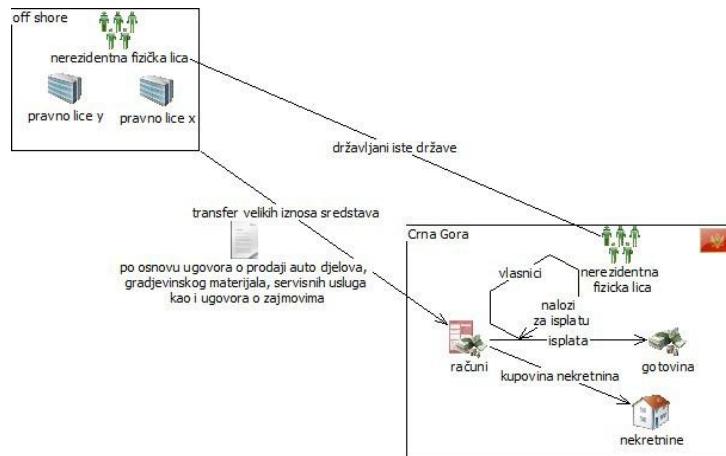
- **Typology no. 5**

A resident legal entity realizes significant inflows from several legal entities from the territory of Montenegro, on the basis of alleged provision of services. In this way, on the basis of fictitious business relationships, legal entities that make payments reduce their profits and fictitiously increase business expenses, thereby reducing the tax base, and transfer the obligation to pay value added tax to the company to which they pay the money. The authorized natural person of the aforementioned legal entity, which receives payments, withdraws a large part of the transferred funds in cash on the indicative basis of "business trip" or "material expenses", after which they enter into the liquidation procedure of the company without prior payment of obligations to the state for VAT and profit tax.



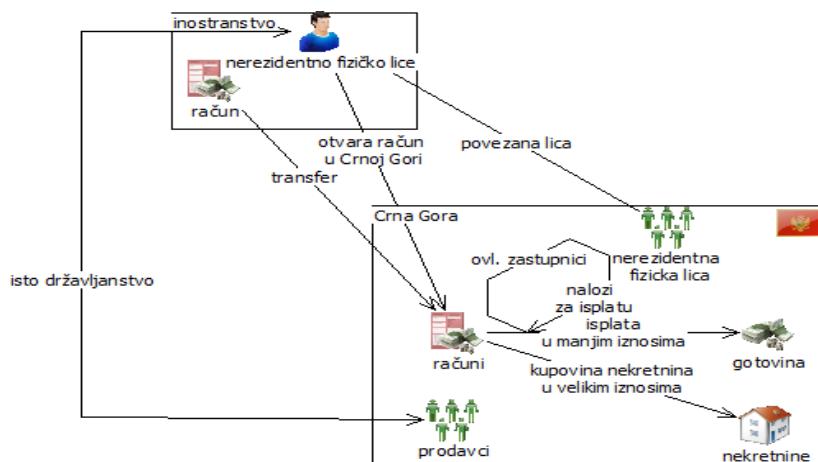
- **Typology no. 6**

Legal entities from abroad (registered in so-called tax haven countries) transfer funds to the accounts of non-resident natural persons in Montenegro on various grounds (under contracts for the sale of car parts, construction materials, services, as well as loan contracts). The recipients of the remitted funds state their intention that the bank pays them the funds in cash. A significant amount of money from the accounts of those companies was transferred to the accounts of several natural persons in Montenegro for the purchase of real estate and the granting of loans in the amount of millions. Based on oral agreements between the lender (the beneficial owner of the company) and the borrower, loan repayments are specified as repayment through real estate that the borrower has built on the Montenegrin coast. The persons who are the beneficial owners of offshore companies are nationals of the same country as the principals.



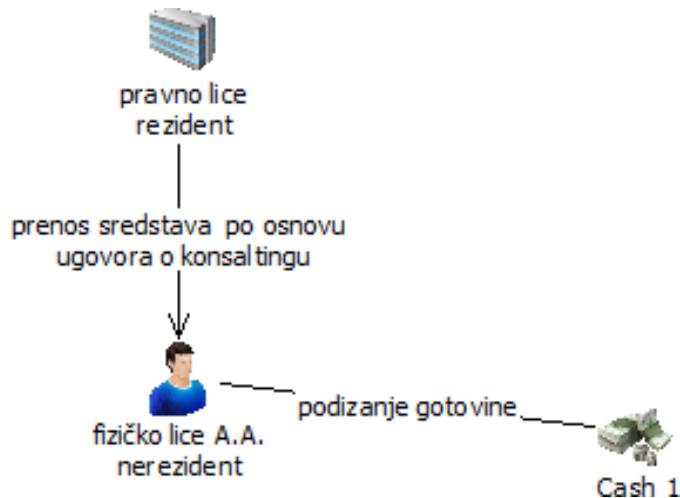
- **Typology no. 7**

A non-resident natural person from his country of domicile continuously transfers funds to his own account at a bank in Montenegro several times a month. The cumulative amount of transferred funds is several million Euros. Not long after receiving them, authorized representatives withdraw cash from the account in smaller amounts, without a clear justification. A non-resident natural person (principal) purchases real estate in Montenegro in a large amount, from several sellers who are nationals of the same country as the buyer. The origin of the transferred funds in Montenegro is unknown.



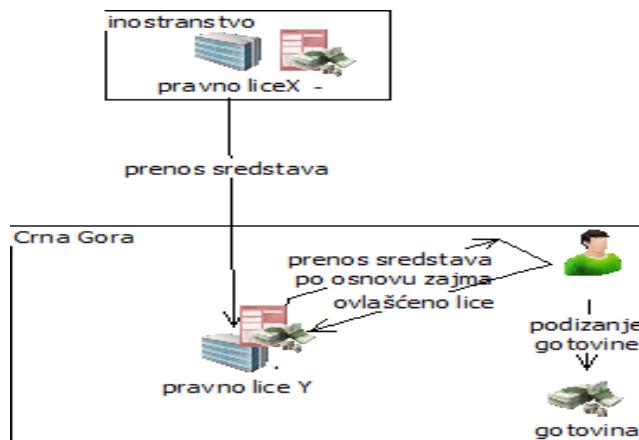
- **Typology no. 8**

A foreign natural person receives an inflow from a foreign legal entity, based on the “Consulting Agreement” and gives instructions to the bank to withdraw cash.



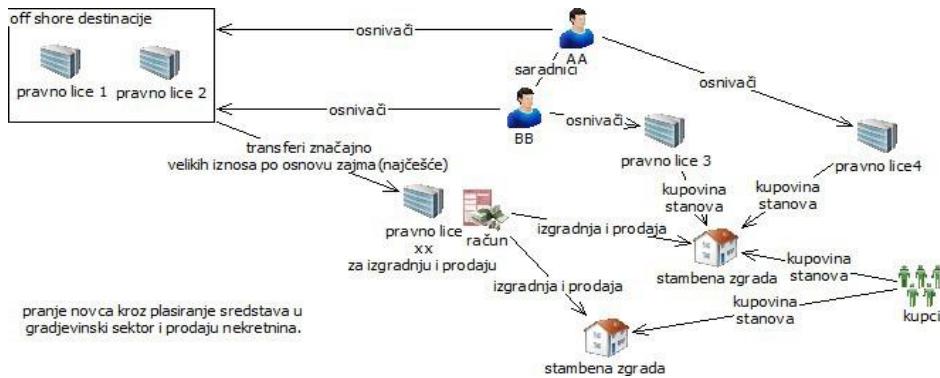
- **Typology no. 9**

A resident legal entity receives inflows from a foreign legal entity. In most cases, these funds are transferred to the accounts of natural persons on the basis of a “loan agreement”, some of which are directly connected to the resident legal entity (founders, authorized persons). The natural persons withdraw the received funds in cash.



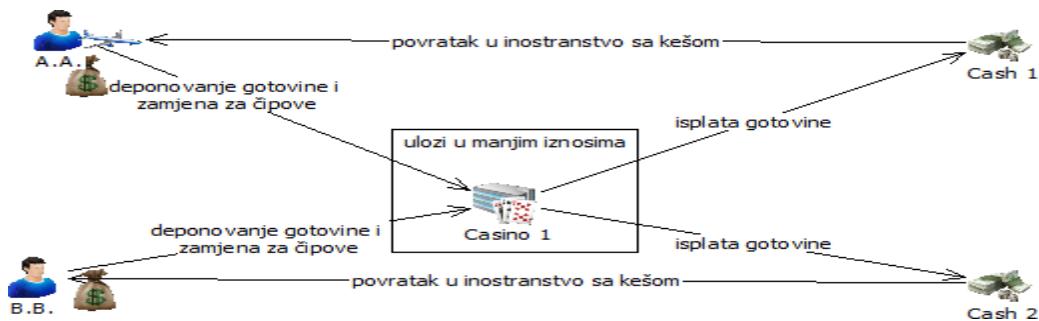
- **Typology no. 10**

Transfer of money from a legal entity registered in offshore destinations to the account of a legal entity established in Montenegro by a non-resident legal entity from an offshore destination. The transfer of funds is carried out on the basis of a loan, credit, or payment of the founding stake. The above legal entity concludes a contract on the purchase of real estate of great value with another legal entity that was established by a related legal entity from an offshore destination, (the link is a natural person who is the beneficial owner in both legal entities from an offshore destination). The price determined by the contract is many times higher than the actual one.



- **Typology no. 11**

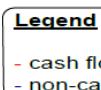
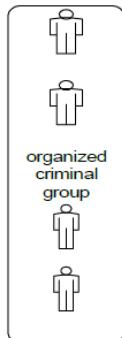
Natural persons, usually non-residents, come to Montenegro for gambling, bringing cash with them or withdrawing it from an account opened at a casino (if that casino offers such services) after making a transfer from an account opened abroad. After exchanging cash for chips, the mentioned persons play a certain game in the casino for smaller stakes and then (with smaller losses or gains) cash out the chips, whereby the casino's payslips serve as the source of funds that they will put into the legal financial system.



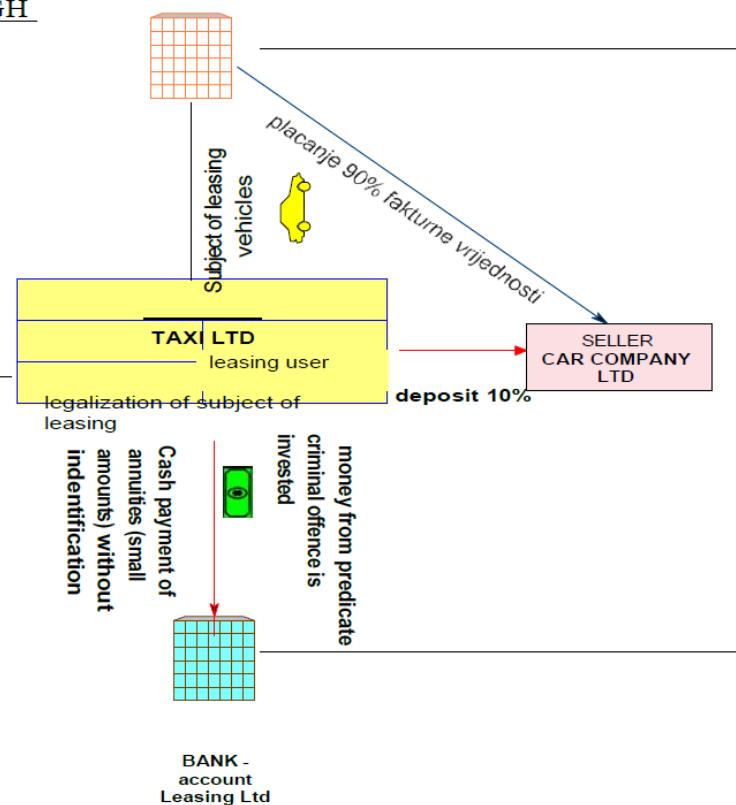
- **Typology no. 12**

The typology of money laundering through leasing companies in Montenegro is reflected in the investment of funds in smaller amounts, which are used to pay monthly annuities. In the total amount, these payments in a long period reach a significant amount of money on an annual basis. However, monthly payments do not attract much attention, because they can more easily be shown to come from legal income, and even the purchased property, which is usually of a higher value, gives the illusion of legality.

TYPOLOGY OF MONEY LAUNDERING THROUGH LEASING COMPANIES



LEASING LTD



In the course of its work in the previous period, the Financial Intelligence Unit also observed some of the following potential typologies of money laundering, which are the subject of analysis:

1. A natural person frequently deposits cash into his personal bank account in larger amounts, and as proof of the "origin of the money" he brings a large number of winning tickets from a sports betting shop made out to bearer, not to a name. Alleged statements about the origin of the money (from the betting shop) are certified by a notary. Through the checks, it was not possible to determine who the real winner is – the natural person in question or someone with whom he is connected from the mentioned sports betting shop. Also, the mentioned sports betting tickets are printed, i.e. paid on the same day. Deposited funds are used to purchase real estate.
2. Small and frequent inflows to a non-resident natural person are received at the account in the commercial bank, from the PayPal account. Inflows are realized through e-banking and the origin of the funds cannot be seen on PayPal accounts, i.e. PayPal is the link between the international and domestic accounts. The client declares that in his home country he was engaged in the sale of software and that the funds come from salary savings, that the transfers are frequent and fragmented because PayPal charges a higher commission for transfer amounts above €1,000. Checks confirm frequent small transfers from own accounts to payment card accounts, from where the PayPal account is topped up.

In addition, the financial intelligence unit observed some of the following techniques that point to the suspicion of the criminal offense of money laundering:

1. cash loans, which can be frequent and in smaller amounts, to a legal entity, mainly by the founder of the legal entity, which are then used for the regular business of the legal entity;
2. transfers of money abroad on the basis of a large number of invoices, which, for the most part, amount to slightly less than the amount legally subject to reporting to the FIU;
3. the client tries to deliver to the business bank the most orderly business documentation that accompanies the transaction (contracts, invoices, orders, etc.), so that the client does not raise suspicions with the bank about suspicious activities;
4. trading via banking platforms - online, where a large number of unidentified persons participate in the trade of various goods and pay money online, and where the same money is split and mostly further transferred to several foreign companies, for which no business connection with money sender can be identified;
5. withdrawing money through natural persons who have established companies in Montenegro, where other legal entities (which are considered to be the organizers of such illegal business) pay funds to companies whose founder is often a non-resident natural person, through fictitious legal transactions. Furthermore, the owner of the company to which the money was paid withdraws the entire amount in cash in smaller amounts, based on material costs and travel expenses.
6. the client makes frequent payments at the ATM to avoid the obligation to justify the origin of the money at the bank counter. When he wants to transfer the accumulated funds further for the purchase of real estate, the origin of the funds is justified by the invoices by which he received cash for his services in another country. The transfer of cash was not recorded across the state border.

However, in addition to legal entities where non-resident natural persons appear, the trend is that now more and more resident natural persons are involved who withdraw money through their companies for the benefit of other persons.

CONCLUSION

The process of drafting the NRA showed that the predicate criminal offences (criminal activity) that pose a high threat of money laundering are: drug trafficking at the international level, tax and contribution evasion, and loan sharking.

As for criminal offenses related to drug trafficking, Montenegro has identified that the largest number of these offenses are committed by our citizens abroad and for these activities they receive significant amounts of money, which pose a threat of being fully or partially invested in legal flows on the territory of Montenegro.

In relation to other predicate crimes with a high level of threat, the largest number of those crimes is related to tax and contribution evasion and were committed on the territory of Montenegro. Establishment of fictitious companies, and issuance of false invoices and cash withdrawals that are later reinvested by "pumping" into legal flows, is the business model of a certain number of companies that in this way influence the tax obligations of other legal entities to be lower, on the basis of which money is "taken out" in cash and further introduced into legal flows, concealing its illegal origin.

Illegal activities related to loan sharking take place on the territory of Montenegro and are manifested, among other things, through large amounts of money that individuals give to other individuals and legal entities on loan with the agreement of disproportionate proceeds. The problem with these criminal offences is the issue of the possibility of proving, which results in a small number of reported and prosecuted persons. However, operational data and police analyzes show that a significant amount of illegal money is acquired in this way, after which it is inserted into legal flows through money laundering.

Predicate criminal offences that pose a medium threat of money laundering are the unauthorized production, possession and distribution of narcotic drugs, when the offence is committed on the territory of Montenegro. These criminal offences are very common in Montenegro, and this is shown by the data on the amount of seized drugs in the period 2015-2019.

In the period after the drafting of the first NRA, there was a conflict between certain criminal groups that were involved in drug trafficking. As a result of these conflicts, we have seen more and more frequent murders of members of warring criminal organizations and groups, as well as members of their families and persons connected with them. For the execution of these murders, certain sums of money are paid, which then pose a threat of being laundered on the territory of Montenegro.

Also, criminal offenses with elements of corruption pose a medium threat of money laundering, because since 2015, when the Special State Prosecutor's Office was formed, there has been an increase in reports, investigations, indictments and final verdicts for these criminal offences, which generated high amounts of illegal proceeds according to the official data.

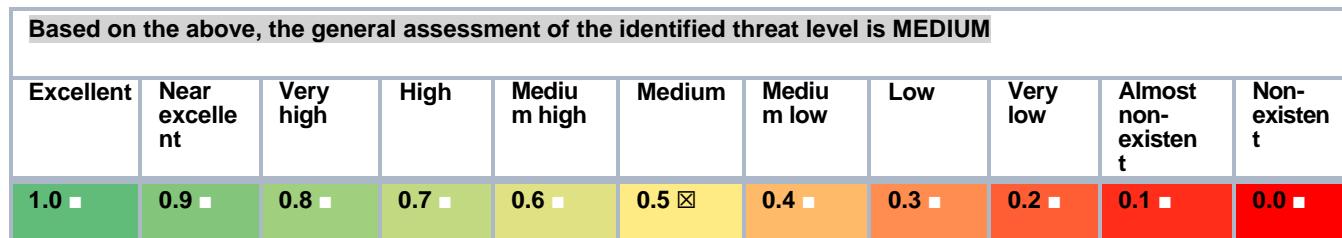
Predicate crimes that pose a low threat of money laundering are property crimes (theft, aggravated theft, robberies, etc.). Namely, looking at the statistical data for these crimes, it is clear that the number of perpetrators of these crimes is large, but by analyzing individual cases, it may be seen that the objects of these crimes are items, objects and money that are later used to satisfy personal needs.

Regarding illegal migration, the analysis showed that Montenegro was not affected by major migrant crises, and that there was a very small number of organized migrant smugglers. What appears to be the case is that a certain number of people, foreign nationals, tried to cross the border using falsified documents, for which it was determined through the procedure that they were obtained in those countries, and that the money for the organization of such migrations was given outside of Montenegro. All illegal crossings were individual cases, without evidence that any structures (business) and people were used during the execution of the offence.

In relation to the efficiency of the system in terms of prosecution for the criminal offense of money laundering, a small number of investigations, indictments and verdicts for the criminal offense of money laundering is evident. Out of the total number of persons prosecuted for the commission of the predicate and the criminal offense of money laundering, the largest part were members of OCGs, so it is clear that organized crime poses the greatest threat of money laundering.

Bearing in mind the analyses made, it appears that the sectors most exposed to threats of money laundering are the real estate sector and the banking sector. Namely, dirty money is mostly "laundered" through the purchase of real estate. In addition, the analysis of prosecuted cases showed that in all cases the banking sector was used for money laundering.

Based on the analyzed data from prosecuted cases for the criminal offense of money laundering, it clearly follows that, according to the form of organization, most of the “dirty money” passed through limited liability companies. The reason for this is the simplicity of the establishment of these companies, the small initial capital necessary for the establishment of the company, the absence of a register of real owners. The analysis of prosecuted cases indicates that small businesses are the most vulnerable and that the threat of money laundering is far greater for them than for other forms of organization.



SYSTEM VULNERABILITY TO MONEY LAUNDERING AT THE NATIONAL LEVEL

Montenegro started establishing an anti-money laundering system in 2004 with the adoption of the first Law on the Prevention of Money Laundering. Over the years, great efforts have been made to continuously upgrade and harmonize the legislative framework in this area with international standards, primarily by criminalizing money laundering in the Criminal Code and amendments to the Law on the Prevention of Money Laundering and Terrorist Financing, and relevant by-laws. The assessment of individual areas was made on the basis of the current situation and opinions of professionals involved in the anti-money laundering system, as well as the reports of MONEYVAL, the European Commission, and reports and analyzes made by the competent state authorities of Montenegro. The conclusion is that, in Montenegro, there is generally a very good normative framework and administrative capacities for its implementation.

The assessment of the level of national vulnerability to money laundering is MEDIUM.

Quality of anti-money laundering policies and strategies

When it comes to the quality of anti-money laundering policies and strategies, Montenegro has a comprehensive strategic framework. The government effectively and continuously implements the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing. The commitment of the government to this problem is also reflected in the fact that the supervision of the implementation of the measures defined by the Strategy is entrusted to the Bureau for operational coordination of the activities of intelligence and security sector bodies and relevant operational teams.

However, it would be very useful to periodically analyze the achieved results in terms of presenting the progress made. Such analyses would make it possible to determine in which areas additional progress is necessary, and changes to the measures set out in the Action Plan, i.e. revision thereof, could be made accordingly. Montenegro should systematically monitor and evaluate the effect of old strategies before adopting new ones, in accordance with the new rules on the drafting, writing, monitoring and evaluation of strategic planning documents, which have been applied since August 2018. New strategies should also strive for harmonization with the EU *acquis* and adoption of recommendations from relevant expert reports of member states. Also, the period of validity of some relevant strategies, such as the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing, expired in 2018 and was extended until 2019, and no new strategic documents have yet been adopted.

Based on all of the above, the quality of the anti-money laundering policy and strategy can be assessed as medium.

Recognizing money laundering and terrorist financing as one of the significant global security concerns of the 21st century, Montenegro has created an appropriate strategic framework for planned action in this area. In 2010, Montenegro drafted the first Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing, which covered the period 2010-2014. The second strategic document, which comprehensively presents the national policy of Montenegro in the prevention and suppression of terrorism, money laundering and

terrorist financing, covering the period 2015-2018, was drafted in May 2015, and together with the National Security Strategy, the Defence Strategy, the Strategy for the Fight against Corruption and Organized Crime, the Strategy for Small Arms and Light Weapons, a complete strategic framework was created that approaches this issue systematically.

The above strategies are based on the analysis of the situation and the projection of the development of international security integrations, the characteristics of contemporary challenges and threats in the areas of terrorism, anti-money laundering and terrorist financing, which is a prerequisite for determining strategic goals, and for planning future activities necessary to achieve the Strategy's vision. The analysis of the situation was carried out on the basis of: reports and recommendations of relevant institutions; analysis of statistical data from reports: on suspicious cash transactions, on criminal offences, on the status of criminality and its manifestations, on predicate criminal offences, etc. Also, the Strategy follows those goals and values that are defined in the United Nations Global Counter-Terrorism Strategy and the European Union (EU) Counter-Terrorism Strategy, as well as other basic anti-terrorist documents of the United Nations (UN), the European Union (EU), the North Atlantic Treaty Organization (NATO), the Organization for European Security and Cooperation (OSCE) and the Council of Europe (CoE). The validity of this strategy was extended until the end of 2019, while at the same time, based on the principles of previous strategies, work began on the development of a new four-year strategy that will cover the period 2020-2023 and the adoption of which is expected in 2020. By drafting this document, Montenegro intends to point out that the prevention and suppression of terrorism, money laundering and terrorist financing is not an issue that should be exclusively dealt with by the military, police and intelligence services, but rather an issue that should strengthen the culture of peaceful dialogue and inter-religious and inter-cultural tolerance.

As a concretization of strategic goals, Montenegro prepared an action plan for the implementation of the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing. The implementation of the Strategy and the Action Plan is carried out by the National Commission for the Implementation of the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing.

In May 2015, the Government adopted the Information on the future monitoring of the implementation of the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2015-2018, and the Action Plan 2015-2016, and tasked the Bureau for operational coordination of the activities of intelligence and security sector bodies to monitor the implementation of the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2015-2018, and the Action Plan 2015-2016.

In order to realize the above, the Bureau formed the National Interdepartmental Operational Team, which has 15 members:

- Head of the Operational Team
- Secretary of the Operational Team
- members:
 - Chief Special Prosecutor
 - President of the High Court in Podgorica;
 - representative of the Ministry of Justice;
 - representative of the MoI;
 - representative of the Ministry of Defense;
 - representative of the General Staff of the Army of Montenegro;
 - representative of the NSA;

- representative of the FIU;
- representative of the Directorate for the Protection of Secret Data;
- representative of the Tax Administration;
- representative of the Customs Administration;
- representative of the Police Administration;
- Commander of the Special Anti-Terrorist Unit

In order to implement the Strategy as effectively as possible, the National Interdepartmental Team formed an interdepartmental working group at the expert operational level consisting of 4 members – representatives of competent state authorities: representatives of the NSA, the Ministry of Defence, the Police Administration, the FIU.

In addition to the representatives of the aforementioned state authorities, the following entities indirectly participate in the work of the Operational Team: Bar Association, Agency for Insurance Supervision, Agency for Electronic Communications and Postal Services, Central Bank of Montenegro, Centre for Training in the Judiciary and State Prosecutor's Office, Commission for Securities, Ministry of Economy, Ministry of Sustainable Development and Tourism, Ministry of Transport and Maritime Affairs, Chamber of Notaries, Police Academy, Secretariat of the Judicial Council of Montenegro, and Directorate for Inspection Affairs.

Complying with the obligation of half-yearly reporting to the Government of Montenegro on the implementation of the Strategy, the Operational Team regularly prepared reports, in accordance with the Action Plans for the periods 2015-2016 and 2017-2018 (whose validity was extended to 2019), on the implementation of the current Strategy. The reports contain a detailed tabular overview of the implementation of measures in the six month period, and they are prepared on the basis of individual reports of state authorities identified as reporting entities.

At the regional level, in October 2018, Montenegro signed a joint action plan on the fight against terrorism in the Western Balkans, which defines specific steps for enhanced cooperation in the fight against terrorism, including money laundering and terrorist financing, and preventing radicalization in the next two years. Montenegro should now work on bilateral monitoring of priority activities.

When it comes to the issue of money laundering, SOCTA 2017 is certainly an extremely important document that provides a comprehensive assessment of threats in this area, which is a document created according to Europol's methodology, adequately defining the vulnerability of the system and the level of threats of serious and organized crime. The document was prepared by the National Interdepartmental Team, which included representatives of the Police Administration, the National Security Agency, the Customs Administration, the Supreme State Prosecutor's Office, the Special State Prosecutor's Office, the Tax Administration and the Financial Intelligence Unit.

This document identifies the threat of money laundering as one of the key threats to the security of Montenegro. Namely, the existence of organized criminal groups that are closely specialized in providing services of investing money acquired through criminal activities into legal flows has been registered at the global level.

In Montenegro, particularly "vulnerable" areas, i.e. areas characterized by high exposure to risk, are as follows: banking operations, real estate market, capital market, luxury goods market, games of chance, insurance, investment construction, import-export business, tourism and hospitality industry. Within the financial sector, the

banking system is the most vulnerable due to the large number of transactions, the large number of inward and outward cash payments, as well as the complexity of the execution of international transactions, while within the business sector that epithet belongs to the real estate market due to the possibility of buying land and constructed buildings for cash.

On the basis of this document, the police has drawn up and is drawing up annual plans focused on directing its capacities to the prevention of key security threats (among which is money laundering) and the suppression of these criminal offences using the system's repressive action.

In order to meet the relevant international standards in the area of AML/CTF - recommendations of the FATF, Montenegro started drafting the NRA. Namely, on the initiative of the former Directorate for the Prevention of Money Laundering and Terrorist Financing, in March 2014, a project was launched to draft the NRA in accordance with the World Bank methodology and with the technical support of the OSCE mission in Montenegro. In order to implement this comprehensive project, an inter-institutional team was formed, which included 53 representatives from 25 institutions. The working body had a main coordinator, a secretary and seven working groups with a subgroup for the assessment of the risk of terrorist financing, who prepared their reports based on the modules provided by the World Bank.

The final NRA document and the Action Plan with measures to reduce the level of identified risk were adopted by the Government of Montenegro on 17 December 2015. The Action Plan stipulates that the Directorate for the Prevention of Money Laundering and Terrorist Financing is in charge of coordinating, monitoring and consolidating reports on the activities of state administration bodies, state authorities and other competent institutions involved in the implementation of the mentioned project and the implementation of measures for the implementation of obligations under the Action Plan.

In February 2018, the Government of Montenegro adopted the Report on the implementation of measures from the Action Plan for the implementation of the National Risk Assessment for the period 2016-2017. The aforementioned Action Plan contains a total of 35 thematic groups of goals and associated measures necessary for their fulfilment, the realization of which is continuously monitored.

In addition to the competent state authorities, the Bar Association and the Notaries Association were involved as the owners of activities in the implementation of the measures from the Action Plan, which did not implement the mentioned measures within the scope of their competences.

Based on the above, the following areas and priorities aimed at improving the situation were identified:

- Montenegro should systematically monitor and evaluate the effect of old strategies before adopting new ones, in accordance with the new rules on drafting, writing, monitoring and evaluation of strategic planning documents, which have been applied since August 2018.
- New strategies should also strive for harmonization with the EU *acquis* and adoption of recommendations from relevant expert reports of member states.
- An analysis of all existing strategies should be done in order to avoid their inconsistency and negative overlaps.
- An analysis of the effects of previous action plans should be made.

- Special attention should be paid to the development and implementation of action plans that are key to the realization of recognized strategic priorities.
- The Strategy for the Prevention of Terrorism, Money Laundering and Terrorist Financing, for the period 2020-2023, with an appropriate action plan should be urgently adopted.

| Based on the above, the assessment of the status of the quality of anti-money laundering policies and strategies is MEDIUM | | | | | | | | | | |
|--|----------------|-----------|-------|-------------|--------|------------|-------|----------|---------------------|--------------|
| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent |
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ■ | 0.5 ☒ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

Effectiveness of the definition of the criminal offense of money laundering

With the continuous improvement of criminal legislation, the criminalization of Money Laundering in the legal system of Montenegro follows modern trends that strive to create the highest quality legal assumptions for the most effective response to the commission of this criminal offense, in accordance with the development of international law and the need to strengthen the mechanisms for preventing and sanctioning criminality in general. The criminal offense of money laundering is prescribed in Article 268 of the Criminal Code of Montenegro:

“Money laundering

Article 268

(1) Anyone who converts or transfers money or other property knowing that they are derived from criminal activity for the purpose of concealing or disguising the origin of the money or other property, or who acquires, possesses or uses money or other property knowing at the time of receipt that they are derived from criminal activity, or who conceals or misrepresents the facts on the nature, origin, place of deposit, movement, disposal or ownership of money or other property knowing they are derived from criminal activity shall be punished by a prison term from six months to five years.

(2) The punishment under paragraph 1 above shall apply to the principal of the offence under paragraph 1 above if he was at the same time the principal or the accomplice in the commission of the criminal offence by which the money or property referred to in paragraph 1 above was acquired.

(3) Where the amount of money or value of the property referred to in paragraphs 1 and 2 above exceed forty thousand euros, the perpetrator shall be punished by a prison term from one to ten years;

(4) Where the offences under paragraphs 1 and 2 above were committed by several persons who associated for the purpose of committing such offences, they shall be punished by prison term from three to twelve years.

(5) Anyone who commits the offence under paragraphs 1 and 2 above and could have known or should have known that the money or property was derived from criminal activity shall be punished by a prison term up to three years.

(6) The money and property referred to in paragraphs 1, 2 and 3 above shall be confiscated.

(7) Property, as referred to in this article, means title of any kind, regardless of whether it refers to goods of a tangible or intangible nature, movable or immovable items, securities and other documents evidencing property rights.”

Money laundering is related to the suppression of crime in general. Namely, this refers to the fact that money and other proceeds acquired through criminal activity are inserted into legal flows, thus creating the appearance of legality. As money laundering is a global problem, and especially due to the fact that an extremely small percentage of proceeds acquired through criminal activities that have been introduced into legal flows are identified, it is a trend to criminalize all actions that lead to the legalization of "dirty money and property" and, at the same time, to provide the law enforcement services with the appropriate legal prerequisites for the effective identification and prosecution of these criminal offences.

According to the Criminal Code of Montenegro, money laundering can be carried out in three ways:

- conversion or transfer of property,
- acquisition, possession or use of property,
- concealing or misrepresenting facts about assets.

For all of the above, it is necessary that it is property that originates from criminal activity, regardless of which specific criminal offense it is. It can be any criminal offense, the execution of which resulted in property that is the subject of the criminal offense of money laundering (the so-called predicate criminal offense), but it does not have to be individually determined beforehand.

Proceeds of a criminal offense are considered to be proceeds obtained by a criminal offense, directly or indirectly, which consists of any increase or prevention of reduction in property, which occurred as a result of the commission of a criminal offense, the property for which it was exchanged or with which it was intermingled or into which proceeds obtained by a criminal offense were converted, as well as any other benefit obtained from the proceeds obtained by a criminal offense or property for which the proceeds obtained by a criminal offense were exchanged or into which they were converted, whether it is located in or outside the territory of Montenegro, as well as all documents evidencing the title thereto.

In accordance with the recommendations made by MONEYVAL within the framework of the 4th round of evaluation of the anti-money laundering and terrorist financing system in Montenegro (in 2015), among other, regarding the incrimination of the criminal offense of money laundering, amendments were made to the 2017 Criminal Code of the Code of Montenegro¹⁴, by harmonizing it with, among other, FATF Recommendation I for the prevention of money laundering, and FATF Special Recommendation II regarding the financing of terrorism. Thus, in accordance with MONEYVAL Recommendation II, under Article 8 of the Law on Amendments to the Criminal Code of Montenegro¹⁵, the definition of proceeds of criminal offense was changed:

"(12) Proceeds of a criminal offense means any proceeds obtained through a criminal offense, directly or indirectly, consisting of any increase or prevention of reduction of property, which occurred as a result of the commission of a criminal offense, the property for which it was exchanged or with which it was intermingled or into which the proceeds of a criminal offense were converted, as well as any other benefit derived from the proceeds of a criminal offense or the property for which the proceeds of a criminal offense were exchanged or into which they were converted, whether they are located on or outside the territory of Montenegro, and any documents evidencing title over such property"

¹⁴ Law on Amendments to the Criminal Code of Montenegro (Official Gazette of Montenegro, no. 44/2017)

¹⁵ Official Gazette of Montenegro, no. 44/2017

Furthermore, in order to comply with the recommendations from the Report after the MONEYVAL's 4th round of evaluation, in Article 24 of the same Law, the criminal offense of money laundering was amended by supplementing the act of the criminal offense in order to punish the accomplice assisting the perpetrator of the criminal offense in avoiding his responsibility for the committed crime. Also, a definition of property is given for the purposes of enforcement of Article 268 of the Criminal Code of Montenegro. In terms of the aforementioned article, property means title of any kind, regardless of whether it refers to tangible or intangible assets, movable or immovable property, securities and other documents evidencing title to property.

The criminal sanctions prescribed for the criminal offense of money laundering are proportionate and dissuasive, and this can be determined by comparing the range of criminal sanctions prescribed for this criminal offense and for other criminal offences. This range of sanctions is: from six months to five years in prison for money laundering and independent money laundering; from three to twelve years for money laundering by several persons who associated for the purpose of committing the criminal offense; from one to ten years in prison if the amount of money or the value of property exceeds forty thousand Euros; a prison sentence of up to three years for anyone who commits the criminal offense of money laundering and could have known and should have known that the money or property was derived from criminal activity; (provisions of Article 268 – Money Laundering from the Criminal Code of Montenegro, Official Gazette of Montenegro, number: 49/18).

In 2007, Montenegro introduced the criminal liability of legal entities into its legislative framework, thus providing for legal possibility that legal entities may be liable for the criminal offense of money laundering. Criminal sanctions for the said criminal offense are dissuasive and proportionate. All related criminal offences are criminalized in the criminal legislation of Montenegro, i.e. in the general part of the Criminal Code of Montenegro. Accordingly, the Law on Liability of Legal Entities for Criminal Offenses defines in Article 13 that a legal entity may be fined and terminated as a legal entity. The amount of the fine is defined in Article 15, while Article 22 defines the penalty of termination of the legal entity.

The articles of the Criminal Code of Montenegro in the general part are applicable to all criminal offenses and this is clearly defined in Article 141 of the Criminal Code of Montenegro: *“Provisions of the general part of this Code shall be applicable to all criminal offenses laid down by this Code or other law.”*

However, by analyzing the practical application of the criminal offense of money laundering as an independent criminal offense, we have seen certain shortcomings, the causes of which may be in the inadequate application of existing legal provisions. This problem was also recognized in the Report of the European Commission experts in the process of accession of Montenegro to the EU, where it was emphasized that: *“there is a lack of understanding or, at least, too strict an interpretation of the concept of money laundering, specifically in relation to the predicate crime in the Montenegrin judiciary”*.

Accordingly, it is necessary to give priority to further training for representatives of the police, prosecution and judiciary in the field of identifying and prosecuting persons for money laundering as an independent criminal offense.

| Based on the above, the assessment of the effectiveness of the definition of the criminal offense of money laundering is VERY HIGH | | | | | | | | | | |
|---|----------------|-----------|------|-------------|--------|------------|-----|----------|---------------------|--------------|
| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent |
| | | | | | | | | | | |



Comprehensiveness of the law on confiscation of proceeds

The legislative framework that regulates the temporary and permanent confiscation of proceeds of criminal activity is quite well established in Montenegro. This is also confirmed by the MONEYVAL analysis of the Sixth Report on the compliance of the AMLTF system (29 June 2018), stating that, taking everything into account, the deficiencies identified in relation to FATF Recommendation 3 – Confiscation of proceeds and preventive measures have mostly been eliminated.

Since 2015, continuous work has been done to improve the legislative framework in the area of confiscation of proceeds. In this sense, amendments were made to the Criminal Code of Montenegro, which prescribes the grounds, conditions and method of confiscation of proceeds, while the Code of Criminal Procedure has been amended in the part of procedural actions in confiscation of proceeds. The Law on Confiscation of Proceeds of Crime, which was adopted on 5 October 2015 (Official Gazette of Montenegro No. 58/15, 47/19), regulates the conditions for confiscation of proceeds of criminal activity, the confiscation procedure and other important issues for the confiscation of proceeds, as well as the management of confiscated proceeds of criminal activity and confiscated proceeds obtained through a criminal offense, instrumentalities of criminal offense and instrumentalities temporarily confiscated in criminal and misdemeanour proceedings and property given as bail. Also, in this Law, one chapter regulates financial investigations and international cooperation.

CRIMINAL CODE OF MONTENEGRO – Pursuant to the provisions of the Criminal Code of Montenegro, “no person may retain the proceeds obtained by an unlawful act defined by law as a criminal offense”, and the proceeds “shall be confiscated, under the conditions provided by this code and court decision”. With the amendments made to the Criminal Code of Montenegro in 2017 under Article 268, which criminalizes money laundering, it was amended in the part of mandatory confiscation of property obtained through money laundering (6) and the introduction of definition (7) which stipulates that property, as referred to in this article, means title of any kind, whether it refers to tangible or intangible assets, movable or immovable property, securities and other documents evidencing title. As already stated, the Criminal Code prescribes the grounds for the confiscation of proceeds, i.e. that no one can keep the proceeds obtained through a criminal offence, and that the proceeds will be confiscated under the conditions provided by the Criminal Code and the court decision. In addition, the conditions and method of confiscation of proceeds are prescribed. Money, valuables and any other proceeds obtained by a criminal offense will be confiscated from the perpetrator, and if confiscation is not possible, the perpetrator will be required to pay a sum of money corresponding to the proceeds obtained.

The **LAW ON PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING** provides for temporary measures of blocking monetary transactions for up to 72 hours. Namely, according to Article 61, *“The Financial Intelligence Unit may require, by written order, the reporting entity to suspend the transaction for a maximum of 72 hours, if it evaluates that there are reasons for suspicion of money laundering and related predicate offences or terrorist financing, and is required, without delay, to notify competent authorities in order to take measures from their own competence”*.

The Financial Intelligence Unit can continuously monitor the customer's financial operations, under Article 63, which stipulates that "The Financial Intelligence Unit may, in writing, request from the reporting entity an ongoing monitoring of customer's financial operations, in relation to which there are reasons for suspicion of money laundering and related predicate offences or terrorist financing, or other person, for whom it may be concluded that he/she has cooperated or participated in transactions or businesses activities for which there are reasons for suspicion of money laundering and related predicate offences or terrorism financing, and shall determine deadline within which the reporting entity is required to inform the Financial Intelligence Unit and provide the required data." With the powers prescribed under Article 55a, which refer to "the reception, gathering, keeping, analysing and delivering data, notifications, information and documentation and delivery of the results of its strategic and operational analyses of the suspicious transactions to the competent authorities and foreign financial intelligence units aimed at prevention and detection of money laundering and terrorist financing", the Financial Intelligence Unit has a significant role in conducting financial investigations and temporarily confiscating proceeds acquired through criminal activity.

The CRIMINAL PROCEDURE CODE defines in detail under Article 85 the procedure for temporary confiscation of instrumentalities and proceeds. The procedure for determining the proceeds obtained by a criminal offense is covered by the Code of Criminal Procedure, where it is defined under Article 478¹⁶ that "*(1) The proceeds obtained as a result of the commission of a criminal offense shall be established as such in the investigatory proceedings, preliminary proceedings and at the trial by virtue of office; (2) In the course of the investigatory proceedings, preliminary proceedings and at the trial, the court and other authorities shall obtain evidence and investigate circumstances that are relevant to the establishment of proceeds of crime.*"

The LAW ON CONFISCATION OF PROCEEDS OF CRIME regulates the conditions for the confiscation of proceeds obtained through criminal activity, the confiscation procedure and other matters of importance for the confiscation of these proceeds, as well as the management of confiscated proceeds obtained through criminal activity and confiscated proceeds obtained through criminal offence (hereinafter: "confiscated proceeds"), objects of a criminal offense and objects temporarily confiscated in criminal and misdemeanour proceedings and assets given as sureties.

The conditions and method of confiscation of proceeds are also prescribed, stating that proceeds can be confiscated from the perpetrator of a criminal offense for which there is reasonable suspicion that they were obtained through criminal activity, and the perpetrator does not make it likely that their origin is legal (extended confiscation) and if he is legally convicted of a criminal offense prescribed by the Criminal Code of Montenegro.¹⁷

¹⁶ Criminal Procedure Code – procedure of confiscating proceeds of crime

¹⁷ 1) kidnapping under Article 164;
2) criminal offenses against sexual freedom under Articles 206, 208, 209, 210, 211, 211a and 211b;
3) criminal offenses against property under Articles 240, 241, 242, 243, 244, 244a, 249, 250, 251 and 252;
4) criminal offenses against payment transactions and economic operations under Articles 258, 259, 260, 261, 262, 263, 264, 265, 268, 270, 272, 273, 274, 276, 276a, 276b, 281 and 281a;
5) unauthorized production, possession and distribution of narcotic drugs under Article 300;
6) criminal offenses against the environment and spatial planning under Articles 303, 305 and 307;
7) criminal offenses against the security of computer data under Articles 350, 352, 353 and 354;
8) criminal offenses against public law and order under Articles 401, 401a, 402, 404 and 405;
9) criminal offenses against legal procedures under Articles 412, 413 and 414;
10) criminal offences against official duty under Articles 416, 419, 420, 422, 422a, 423 and 424;
11) criminal offences against humanity and other values protected by international law under Articles 444, 445, 446, 447, 447a, 447b, 447c, 447d, 449, 449a and 449b

Proceeds will be confiscated from the legal predecessor, legal successor and family members of the perpetrator, as well as from third parties. If the proceeds were obtained for another person through criminal activity, those proceeds will be confiscated. However, if confiscation is not possible, other property corresponding to the value of the proceeds obtained through criminal activity will be confiscated.

The law defines temporary security measures and temporary confiscation of movable property, in particular in Article 19 where the following types of temporary security measures and confiscation of movable property are defined:

"In order to preserve proceeds of criminal activity and for possible subsequent confiscation of those proceeds, the state prosecutor may propose the imposing of a temporary security measure (freezing of property), as follows:

- 1) *prohibition of disposal and use of immovable property, with recording of the prohibition in the cadastre of immovable property;*
- 2) order to the bank to withhold payment of the monetary amount for which a temporary security measure is imposed;
- 3) prohibition of disposing of a claim from a contractual relationship;
- 4) prohibition of disposal and encumbrance of shares or participations in a company, with registration of the prohibition in public records;
- 5) prohibition of using or disposing of rights based on shares and participations in a company and other securities;
- 6) introduction of temporary administration in the company.

In order to preserve the proceeds of criminal activity and to allow the permanent confiscation of those proceeds, the court may order the temporary confiscation of movable property (seizure), upon the proposal of the state prosecutor."

In addition, this law defines the rights of bona fide third parties in Article 49 and the settlement of claims of bona fide third parties in Article 50.

What is evident is that despite the increased number of financial investigations from year to year, and the amount of temporarily and permanently confiscated property originating from criminal activity, the value of the confiscated property is still low compared to the proceeds identified by prosecuted criminal offences. Active monitoring of assets with the use of modern and proactive techniques, such as the monitoring of bank accounts, but also other "classical" methods are a key element of the successful process of identifying proceeds obtained through criminal offences and criminal activity.

Accordingly, it is necessary to analyze the effectiveness of the application of the existing legal provisions that define the procedures for the confiscation of proceeds obtained through criminal offences and the procedures for the extended confiscation of proceeds obtained through criminal activity, with a proposal for measures to eliminate possible practical obstacles in the timely initiation and comprehensive conducting of the procedure for determining the proceeds obtained through criminal offence and conducting financial investigations in all cases of identifying proceeds that are disproportionate to legal income.

Based on the above, the assessment of the comprehensiveness of the law on confiscation of proceeds is VERY HIGH

| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent |
|-----------|----------------|-----------|-------|-------------|--------|------------|-------|----------|---------------------|--------------|
| 1.0 | 0.9 ■ | 0.8 ✕ | 0.7 ■ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

Quality of information collection and processing by the Financial Intelligence Unit

The former Administration for the Prevention of Money Laundering and Terrorist Financing was organized as an administrative-type financial intelligence unit within the Ministry of Finance as of 2003. In December 2018, the Government of Montenegro adopted the Decree on the Organization and Mode of Work of the State Administration on 31 December 2018 and in accordance with its competences, the Financial Intelligence Unit - FIU (former APMLTF) became an organizational unit of the Police Administration and functions as the Department for Prevention of Money Laundering and Terrorist Financing.

With this organizational change, it is expected that the growth trend in the number of financial-intelligence reports to the prosecutor's office will increase, once the optimal models for the functioning of the DPMLTF are established (which are primarily reflected in the provision of IT prerequisites, the acquisition of analytical tools, the training of existing officers and the recruitment of missing expert staff), which should ultimately result in a greater number of criminal proceedings and convictions for the criminal offense of money laundering, as well as permanent confiscation of property. The measurability of these results definitely requires a certain period of time due to the complexity of money laundering investigations and time frames that include the average duration of investigatory and criminal proceedings, so that real quantitative and qualitative results can only be expected in 2021.

Taking into account the identified results and capacities of the FIU, as well as the identified shortcomings, the quality of information collection and processing of the financial intelligence unit can be rated as medium high.

However, it is important to emphasize that as a result of organizational changes in the structure and position of the FIU of Montenegro, the FIU lost its membership in the EGMONT network in May 2019, and as a result, the possibility of using the EGMONT secure communication network for the exchange of operational and financial intelligence data, which had a significant impact on the FIU's capacities in performing the tasks provided for by law, primarily in the quality of information collection from international partner services.

In order to overcome the current situation, the FIU undertook a number of activities, i.e. creation of preconditions for renewal of membership in the EGMONT group, and in December 2019, amendments to the Law on Prevention of Money Laundering and Terrorist Financing entered into force, the main goal of which was to preserve the operational independence of the FIU within the larger system – the Police Administration.

Thus, the amendments to the law introduced a special chapter "Tasks, powers and methods of work of the Financial Intelligence Unit", defining precisely through:

- Independence and autonomy in performing tasks and exercising authority;
- Method of selecting the head of the Financial Intelligence Unit;

- Establishment of an employment relationship and conditions for employment of FIU officers;
- Disposing of the budget of the Financial Intelligence Unit;
- Powers of the Financial Intelligence Unit;

the operational independence of the FIU, which in addition to defining the subject of the Law, indicating clearly that it is a Lex Specialis in relation to the Law on Internal Affairs and clearly defining that the powers under this Law may only be exercised by the FIU officers. In this way, the preconditions were created for Montenegro to reapply for membership in the EGMONT GROUP, which was done in December 2019 and the re-admission process is ongoing.

Until re-admission to membership in EGMONT, the FIU undertook a series of activities to mitigate the consequences of the inability to use Egmont's ESW network for international data exchange, primarily through the signing of MoUs, which would define the international exchange of financial intelligence data on a bilateral level.

Thus, bilateral Memoranda of Understanding were signed with the following foreign FIUs:

- FIU of Serbia,
- FIU of Kosovo,
- FIU of North Macedonia,
- FIU of Slovenia,
- FIU of Cyprus,
- FIU of Azerbaijan
- The use of the Interpol channel was agreed with the FIU B&H,
- The use of the liaison officer and Interpol channels was agreed with the United Kingdom.

Comparative statistical indicators in international financial-intelligence cooperation show a declining trend in cooperation due to the impossibility of using Egmont's secure communication channel. However, the urgent measures taken to mitigate these negative effects (through the signing of MoUs and finding alternative communication channels) certainly yielded results, and the comparative statistics of international cooperation in 2018/2019 does not show extremely negative effects:

| Year | Requests for information sent to foreign FIUs | Responses received from foreign FIUs | Requests for information received from foreign FIUs | Responses sent to foreign FIUs | Notifications received from foreign FIUs |
|------|---|--------------------------------------|---|--------------------------------|--|
| 2018 | 215 | 208 | 43 | 31 | - |
| 2019 | 35 | 61 | 43 | 6 | 26 |

The most significant decline in cooperation was in the number of requests from the Montenegrin FIU to foreign FIUs. This significant statistical drop is partially compensated by using the resources of international police cooperation, where for a large number of cases, as it was impossible to obtain data through ESW (where in most of those cases, those requests would be aimed at obtaining information on whether certain legal entities or natural persons pass through police/court records due to committed crimes), the resources of the organizational unit for international police cooperation were used, through which information was requested from foreign police for open cases in the FIU and the persons who appear in them, whether these persons were registered in their records on any basis, and in case of positive response, additional information would be obtained.

Thus, in 2019, through the organizational unit of the Police Administration for international police cooperation, cooperation with foreign police services was achieved as follows:

| Year | Requests sent to Interpol and Europol | Requests sent to liaison officers | Requests received from Interpol and Europol | Total |
|------|---------------------------------------|-----------------------------------|---|-------|
| 2019 | 104 | 13 | 74 | 191 |

In this way, significant data was obtained from foreign police services, which had a significant impact on the quality of the financial intelligence reports prepared by the FIU, and significantly compensated for the negative effects of the inability to use the EGMONT secure communication network.

The quality, collection and processing of data in the Financial Intelligence Unit was significantly positively affected by the change in the FIU model and the inclusion of the Financial Intelligence Unit in the organizational structure of the Police Administration. Namely, as the Department for the Prevention of Money Laundering and Terrorist Financing, in addition to the powers defined by the Law on the Prevention of Money Laundering and Terrorist Financing, the FIU is now also given police powers, primarily for the purpose of exercising the powers from the CPC, which define the possibility that in investigatory proceedings, if there are grounds for suspecting that a criminal offense has been committed which is prosecuted ex officio, the necessary measures may be taken to discover and secure traces of the criminal offense and items that can serve as evidence, and to collect all information that could be useful for a successful conduct of criminal proceedings.

Furthermore, the amendments to the Law on the Prevention of Money Laundering and Terrorist Financing, which were based on MONEYVAL's recommendations after the 4th round of evaluation of the AML/CFT system of Montenegro, supplemented and clarified the definitions of terrorism financing, terrorist act, terrorist and terrorist organization; as well as the definition of a financial institution; virtual currencies; distribution channel, anonymous electronic money, cash, information about the customer's activity, trust or company service providers. The provisions of the Law related to the application of CDD measures (measures to determine and verify the customer's identity, monitoring of business relationship and control of customer's transactions) were also amended, the establishment of a register of beneficial owners was defined and the obligation introduced for the Tax Administration to keep a register of beneficial owners, the obligation was introduced to apply CDD measures in relation to customers from high-risk third countries, the obligations of lawyers and notaries were extended.

In addition to the above changes, Article 41 (Reporting obligation) was also amended so as to prescribe the obligation for the reporting entity to provide the FIU, without delay, with the information prescribed by this Law (Article 79). In addition, the obligation was introduced for reporting entities to submit to the FIU, without delay, the information referred to in Article 79 of this Law in relation to assets known or suspected to be the proceeds of criminal activity or to be related to terrorist financing.

In this way, the range of information and data that FIU receives from reporting entities has been significantly improved, which ultimately provide a significantly better basis for better financial intelligence work and better financial intelligence reports as a result of that work.

The key segment of quality collection and processing of financial-intelligence information is certainly the organizational structure of the FIU and the way in which information is collected, stored and processed.

The Department for the Prevention of Money Laundering and Terrorist Financing (FIU) is organizationally set up as one of the 8 departments of the Police Administration, headed by the head of the FIU, who is also the Deputy Director of the Police Administration. Therefore, it is evident that the FIU is highly placed in the hierarchy of the Police Administration and on the same level as other departments (Department for the Fight against Organized Crime, Criminal Police Department, etc.). This fact is very significant when it is necessary to use other resources of the Police Administration to take actions and obtain information at the request of the FIU, which therefore guarantees the obligation of other organizational units to act according to all requests of the FIU.

Within the Department (FIU), according to the current rulebook on the organization and systematization of jobs in the Police Administration, 2 departments are envisaged:

- Department for Processing Suspicious Transactions and Analytical Work and
- Department for Intelligence and Information Exchange.

This type of organization of the FIU provides the basis for quality data collection and processing, in particular due to the fact that the tasks (suspicious transactions and analytics) are now integrated.

However, this organizational structure has certain disadvantages, as follows:

- Strategic and operational analysis tasks are not separated;
- In the framework of international cooperation, the tasks of information systems, general and administrative tasks and legal affairs are combined, which in itself does not give the possibility of integrating the unit and simple management of these tasks due to their diversity;
- Prevention tasks are not clearly identified;
- The tasks related to the protection and maintenance of the information system of the FIU, which is physically separated from the information system of the Police Administration according to the LAMLTF, and as such requires permanent maintenance, are not identified separately;
- Separate tasks related to the protection of personal data, data confidentiality, which is a key segment in the processing of sensitive financial data, are not adequately identified.

When it comes to the current information system, the FIU has two linked systems: for communication with reporting entities and for the needs of the FIU (management and work with cases). For the purposes of communication with reporting entities, the FIU has a database that refers to suspicious transactions and cash transactions in the amount of over €15,000 collected from reporting entities. This system allows data validation, with appropriate security and speed of data exchange with reporting entities. In this way, all reporting entities are allowed to use the electronic system for reporting and exchanging documents and data with the FIU. The internal part of the FIU's IT system provides support for work processes in the Department that can now be carried out in electronic form. In addition, activities related to the analysis, opening and management of cases, exchange of data and documentation within the FIU were improved. The system also gives the option of transferring documents from paper to electronic form and using them in work processes.

However, with the change of the FIU model from an administrative to a police model, certain systemic deficiencies were observed in the application solution for case management, which affect the quality of analytical work. Namely, the existing application solution for case management does not allow the grouping of data and information around entities (potential “owners” of criminal offences), but is based much more on office operations, which significantly complicates analytical work and the linking of different cases (received from different authorities in different time periods) into one whole, in order to be viewed as a whole in relation to a specific entity that is the subject of processing. That is why the improvement of this application solution is necessary in the future period, in order to create the preconditions for even better analytical work of the FIU officers.

As a prerequisite for the quality collection of data necessary for the performance of FIU's work, a key segment is timely and direct access to the databases of other authorities. With the transition of the FIU to the Police Administration, direct and unhindered electronic access was obtained to all police databases (databases of registered criminals, border databases, search databases, databases of all security events, system for exchange of operational information) databases of the MoI (database of citizens, registered vehicles and weapons) and databases of the Ministry of Justice (criminal records). Direct electronic access to the databases of the Real Estate Administration (registry of real estate) and the Central Bank (register of bank account holders) was also obtained, and activities are underway to link them with the databases of the Customs Administration and other state authorities. Immediate and direct access to these databases significantly contributes to the quality of collected information, which has a direct positive effect on the quality of the FIU's work. However, further activities should certainly be undertaken to establish the information prerequisites for direct connection with the databases of all state authorities the FIU cooperates with in the implementation of the LAMLTF.

In this view, an inter-agency agreement on crime prevention was signed in 2017, which allows law enforcement agencies to use a secure communication channel with key state institutions, which allows mutual access to databases. The agreement will need to be revised to take into account the new institutional arrangement, which would include the Real Estate Administration (National Cadastre) and the Central Bank. In this way, instead of the current system of separate access to these databases, the FIU would have a single portal for access to all databases. In this regard, special attention should be paid to the interoperability of available databases in order to check all databases with a single query. The quality of the collected information and the quality of the analytical reports that the FIU produces by exercising its powers should ultimately have a direct effect on the number of initiated criminal proceedings and the number of verdicts for criminal offenses of money laundering, predicate crimes, or terrorist financing, initiated on the basis of the initial FIU report.

Based on analysis of the statistics of the number of suspicious transactions submitted to the FIU, the number of open cases at the FIU, and the number of financial intelligence reports submitted to the prosecutor's offices, a large discrepancy between the number of input data and the number of results (number of indictments) based on FIU data is evident, as shown in the table below:

| Year | Number of open cases (MLTF) | Type of reporting (suspicious transaction/ cash transaction) | Forwarded to competent authorities | Investigation / criminal prosecution – information from prosecutor's office |
|------|-----------------------------|--|------------------------------------|---|
| | | | | |

| | Opened by FIU ¹⁸ | STRs ¹⁹ (ML/TF) | CTRs ²⁰ (ML/TF) | Number of cases forwarded to law enforcement bodies | % of forwarded notifications in relation cases opened by FIU | Number of cases formed based on notifications/ information obtained from FIU | Number of cases in relation to which pre-investigation actions were carried out and no grounds for suspicion of money laundering were found | Number of cases where pre-investigation actions are ongoing | Number of investigations | Number of indictments |
|-------------|-----------------------------|----------------------------|----------------------------|---|--|--|---|---|---|-----------------------|
| 2015 | 295 | 202 | 44 | 35 ²¹ | 17.03 % (of 295 cases opened by FIU) | 25 | 3 | 21 | 1- investigation refers to the criminal offence of tax evasion 265 CC | - |
| 2016 | 216 | 231 | 16 | 74 ²² | 34.25% (of 216 cases opened by FIU) | 26 | 4 | 21 | - | - |
| 2017 | 316 | 263 | 12 | 116 ²³ | 36.07% (of 316 cases opened by FIU) | 41 | 2 | 36 | - | - |
| 2018 | 374 | 261 | 22 | 107 ²⁴ | 28.6% (of 374 cases opened by FIU) | 30 | 6 | 23 | 1 | - |
| 2019 | 400 | 264 | 24 | 143 ²⁵ | 35.75% (of 400 cases opened by FIU) | 9 | 9 | 9 | - | - |

From the above table, it is evident that there is an insufficient number of prosecuted cases, i.e. the number of initiated criminal proceedings, i.e. the completion of court proceedings, with convictions for criminal offenses of money laundering/terrorist financing, based on the initiatives of the FIU. Criminal offenses of money laundering and terrorist financing are under the jurisdiction of the Special State Prosecutor's Office. However, the Special State Prosecutor's Office, in addition to the aforementioned criminal offenses (money laundering), also has the following criminal offenses under its jurisdiction (Article 3 of the Law on the Special State Prosecutor's Office):

- 1) *organized crime, regardless of the prescribed penalty;*
- 2) *high-level corruption:*

¹⁸ The figures on bold indicate cases opened by the FIU on the basis of reported suspicious transactions - STRs or cash transactions - CTRs, while figures in brackets indicate cases opened by the FIU on the basis of requests from competent state authorities (e.g. requests by the prosecutor's offices/police to carry out an analysis of a certain bank account that was identified during the investigation or in connection with which there are reasons to suspect that the criminal offense of AML/CFT or some other criminal offense was committed) and foreign FIUs. Cases opened at the initiative of foreign FIUs are not included in the statistics of cases referred to competent state authorities.

¹⁹ These figures indicate cases opened at the initiative of the FIU on the basis of STRs submitted by the reporting entities and competent state authorities (e.g. Customs Administration).

²⁰ These figures indicate the cases opened at the initiative of the FIU on the basis of reports on cash transactions – CTRs.

²¹ 21- SSPO, 6 – Police Administration, 2 - NSA, 10 – Tax Administration

²² 31- Supreme State Prosecutor's Office, 7 Police Administration, 27 NSA, 9 Tax Administration

²³ 63- Supreme State Prosecutor's Office, 14 Police Administration, 23 NSA, 15 Tax Administration, 1 Administration for Inspection Affairs

²⁴ 46- Supreme State Prosecutor's Office, 35 Police Administration, 12 NSA, 8 Tax Administration, 1 Administration for Inspection Affairs

²⁵ 11- Supreme State Prosecutor's Office, 124 other organization units of the Police Administration, 5 NSA, 1 Tax Administration, 1 Customs Administration, 1 Administration for Inspection Affairs

a) if the public official committed the following criminal offences:

- abuse of office,
- fraud in the conduct of official duty,
- trading in influence,
- incitement to trading in influence,
- passive bribery,
- active bribery.

b) if financial proceeds exceeding the amount of forty thousand Euros were obtained by committing the following criminal offences:

- abuse of position in business operations,
- abuse of authority in the economy;

3) money laundering;

4) terrorism;

5) war crimes;

6) violations of electoral rights prescribed in Chapter Sixteen of the Criminal Code of Montenegro.

And the number of special state prosecutors (11 prosecutors and 2 delegated state prosecutors) is not sufficient to adequately process such a large volume of criminal offenses, which implies quality representation of indictments and prosecution of the accused before the competent courts.

That is why it is necessary that the Financial Intelligence Unit, in cooperation with other organizational units dealing with investigations of criminal offenses of money laundering (Department for the Fight against Organized Crime and Corruption) make their maximum effort, so that the analytical report is completed and gives a clearer picture of the grounds for suspicion that a criminal offense has been committed. Such a report ultimately facilitates the further action of the competent prosecutor's office, because it reduces the number of additional investigative actions (primarily in the part of gathering the necessary evidence) that the prosecution needs to undertake, which reduces the time of the prosecutor's actions, understanding the complexity of the case and making it easier to take further steps in terms of conducting the investigation or submission of indictments.

Furthermore, in the previous work of the FIU's administrative model, despite relatively good statistics, the quality of the information that was forwarded to the competent prosecutor's office was not at a level where the prosecutor could clearly identify the directions in which further actions should be taken in order to collect evidence for possible criminal offenses of money laundering, nor were the analytical reports completed using all the available resources given to the FIU by law, and the reports largely remained at the level of insufficiently completed analytical reports, without the necessary conclusions in the form of financial intelligence assumptions that would provide possible directions for the prosecutor's further work in determining the existence of grounds for suspicion as to whether a criminal offense has been committed.

That is why, recognizing the need for the FIU to significantly improve the quality of its financial intelligence work, and to become more concretely involved in the investigatory phase through direct cooperation and continuous support to the organizational units of the Police Administration that deal with investigations of criminal offenses of money laundering, which would ultimately give better quality of the "finished products" to the prosecutor's offices, by amending the Regulation on the Organization of State Administration, which entered into force on 31 December 2018, the Government of Montenegro made a decision to change the model of the FIU, and to change it from an administrative to a police model.

The goal that was sought to be achieved with this new organizational positioning of the FIU is to raise the quality of financial intelligence work, more efficient and comprehensive use of the powers defined by the Law on the Prevention of Money Laundering and Terrorist Financing, and the effective combination of these powers with the resources of the police (primarily direct access and use of police databases and police resources), which should ultimately lead to an increase in the quality of financial intelligence reports that are sent to the State Prosecutor's Office, and this is directly proportional to the reduction of additional measures and actions that the prosecutor's office should take afterwards so that in cases initiated by the FIU, there would be grounds for suspicion that the crime of money laundering, predicate crimes, or financing of terrorism had been committed.

The transition of the FIU from an administrative to a police body and organizational structure within the Police Administration has already produced results and justified the decision of the Government of Montenegro in that direction. Namely, in the period since it has been operationally functioning as part of the police (**since July 2019**, when all the prerequisites for the smooth operation of the new FIU model were created), by using the allocated resources and the powers provided by law more efficiently, the DAMLTF as FIU has opened a total of 334 new cases. The aforementioned cases were opened on the basis of: reported suspicious transactions, on the initiative of other state authorities, on the basis of the Department's analysis, as well as on the basis of requests received from foreign financial intelligence units.

The structure of the open cases is as follows:

| REPORTING ENTITIES/ STATE AUTHORITIES/ FINANCIAL INTELLIGENCE UNITS | OPEN CASES |
|---|------------|
| REPORTING ENTITIES - TOTAL | 219 |
| Banks | 188 |
| Capital market (leasing) | 1 |
| Financial service providers (Montenegrotrasfers) | 17 |
| Professional activities: attorneys, notaries etc... | 13 |
| STATE AUTHORITIES - TOTAL | 68 |
| State Prosecutor's Office | 2 |
| Other organization units in the Police Administration | 52 |
| National Security Agency | 3 |
| Administration for Inspection Affairs | |
| Customs Administration | 5 |
| Other state authorities | 6 |
| DAMLTF - TOTAL | 47 |
| Division for analysis and suspicious transactions | 15 |
| Foreign financial intelligence units – total | 24 |
| Initiative of DAMLTF | 8 |
| TOTAL | 334 |

As stated in the table, the largest number of cases was opened based on the receipt of reports on suspicious transactions by the reporting entities - 219, then based on requests received from other state authorities - 68, based on requests or information received from foreign financial intelligence units - 24 new cases, and based on the processing of cash transactions - 23 new cases.

Compared to 2018, when 374 cases were opened during the year, there is an evident trend of growth in the number of cases, where 334 cases were opened in just 6 months, which means that, observed on a monthly basis, during 2019 there was an increase in the number of opened cases of 79% compared to the average monthly number of cases in 2018.

Also, there is a significant increase in opened cases based on data from banks - 188 cases in just 6 months, while 202 cases were opened in 2018 during the whole year, which means that on a monthly basis there was an increase in the number of reported suspicious transactions of 86% (in 2018, an average of 17 suspicious transactions were received per month, while in 2019, an average of 32 suspicious transactions were received per month).

For the first time in 2019, notaries appeared as legally required to report suspicious transactions, and in the period July-November we had 13 reports of suspicious transactions by notaries, while in 2018 there were no reports of suspicious transactions, which is a great improvement in cooperation with this category of reporting entities.

Receiving and processing cash transactions:

In the period July-December 2019, DAMLTF received a total of 20,192 cash transactions - reports from reporting entities (banks), of which 19 transactions were identified as suspicious and are now being handled, which is an indicator of the efficient analytical work of DAMLTF officers, who identified 19 suspicious operations and transactions from cash transactions (where the banks reporting entities did not identify suspicious operations), and started cases on them.

Receiving and processing suspicious transactions:

In the period July - December 2019, notification of 219 suspicious transactions was received from reporting entities. Compared to 2018, when 231 suspicious transaction notifications were received for the entire year, it is evident that during 2019, on a monthly basis, there was an increase in the number of suspicious transactions received by 90% (in 2018, 19 suspicious transactions were received from reporting entities on average per month, while in 2019, an average of 37 suspicious transactions were received on a monthly basis).

This information speaks in favour of the justification of the reorganization of the former Administration and the introduction of the FIU police model within the Police Administration, which reaffirmed the obligation of reporting entities with regard to reporting under the Law on the Prevention of Money Laundering and Terrorist Financing, and more consistent application of indicators of suspicious transactions, and re-established trust and partnership between DAMLTF and reporting entities, which directly resulted in an increase in the number of suspicious transactions.

Based on the received suspicious transaction reports and cash transaction reports, as well as information from other state authorities, and in particular the proactive work of the DAMLTF, the key role and purpose of the existence of the DAMLTF was achieved, which is the blocking and suspension of transactions for which there are indications that they constitute money laundering.

Temporarily suspended transactions – blocked transactions and continuous monitoring in the period July - December 2019:

| | |
|--|-----------------------------|
| Orders of temporary suspension of transactions | Jul – December 2019 |
| NUMBER OF ORDERS ISSUED TO BANKS | 6 orders (Blocked accounts) |
| VALUE OF BLOCKED ACCOUNTS IN EUR | EUR 6,838,810 |

| | |
|---|-----------------------------------|
| Orders of continuous monitoring of accounts | Jul – December 2019 |
| NUMBER OF ORDERS ISSUED TO BANKS | 23 orders (Continuous monitoring) |
| VALUE OF BLOCKED TRANSACTIONS IN EUR | EUR 19,732,378 |

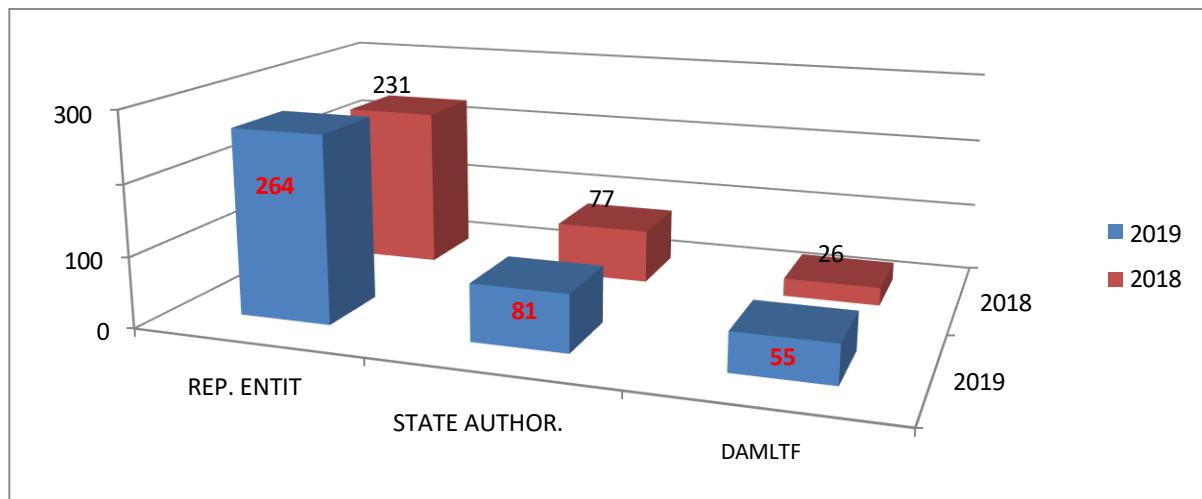
The aforementioned 23 cases of continuous monitoring of money circulation through accounts are related to open cases in the financial intelligence unit, based on suspicious transactions and on the operational work of the Department. Also, the mentioned 6 orders – blocked accounts are related to specific cases/activities that are carried out by the Department in cooperation with the competent prosecutor's office.

It can be seen from the above report that in 6 months (July - December) 29 orders were issued (6 blocked accounts and 23 continuous monitoring), while in 2018 a total of 22 orders were issued, which means that there was an increase in the number of activities of the Department in terms of exercise of authorizations in relation to the bank accounts of legal and natural persons compared to 2018 by 32%. Furthermore, it is important to emphasize that in relation to 2018, when all blocked funds in the amount of about EUR 8,000,000 were released to clients after 72 hours (due to the lack of evidence that would indicate grounds for suspicion that money laundering had been committed), blocking of 6 accounts carried out by DAMLTF in the period July-December 2019, in the total amount of EUR 6,838,810 were confirmed by the prosecutor's office and a temporary measure was adopted prohibiting the disposal of those funds for a period of up to 6 months or the end of the proceedings. These data speak in favour of the fact that the quality of the financial intelligence reports that followed the blocking of funds for 72 hours was at a high level and provided enough material for the competent prosecutor's office to immediately establish the existence of grounds for suspicion that the blocked money originates from money laundering or some other predicate criminal offense and to immediately take further measures in accordance with their powers, and that funds for which there were no elements (grounds of suspicion) for further action by the prosecutor's office were not blocked unnecessarily. Also, in the period July - December 2019, order was issued for the continuous monitoring of 29 accounts of individuals and legal entities. The circulation of money in the accounts that are monitored was around EUR 19,732,378. During the period of continuous monitoring of accounts, parallel financial intelligence analyses and checks are carried out in order to verify indications of the possible existence of the criminal offense of money laundering and terrorist financing.

By comparing the obtained statistical results of the FIU in 2019 compared to 2018, progress is also noticeable despite the fact that in the first half of 2019, due to the reorganization procedure, the FIU functioned with limited capacities:

| REPORTING ENTITIES/ STATE AUTHORITIES/ FINANCIAL INTELLIGENCE UNITS/DAMLTF | 2019 OPENED CASES | 2018 OPENED CASES |
|--|-------------------------|-------------------------|
| REPORTING ENTITIES - TOTAL | 264 | 231 |
| Banks | 228 | 202 |
| Capital market (CDA, Stock market) | 2 | 1 |

| | | |
|--|------------|------------|
| Financial service providers (Montenegrotrasfers, Capital transfers, Post) | 19 | 28 |
| Professional activities: attorneys, notaries etc... | 12 | 0 |
| Other reporting entities | 3 | |
| STATE AUTHORITIES - TOTAL | 81 | 77 |
| State Prosecutor's Office | 3 | 18 |
| Other organization units in the Police Administration | 55 | 39 |
| National Security Agency | 4 | 10 |
| Tax Administration | 1 | 0 |
| Customs Administration | 10 | 9 |
| Administration for Inspection Affairs | 2 | 1 |
| Other state authorities (CB of Montenegro, Capital Market Commission..) | 6 | 0 |
| DAMLTF - TOTAL | 55 | 26 |
| Department for Analysis and Suspicious Transactions – initiative of DAMLTF | 24 | 26 |
| Foreign financial intelligence units - total | 31 | 40 |
| TOTAL | 400 | 374 |



Based on the above, the following areas and priorities aimed at improving the situation were identified:

- Reorganization of the FIU in order to clearly define tasks in accordance with the police model and the new system of organization and positioning;
- Development of FIU standard operating procedures for case management;
- Improving the track record achieved in identifying and prosecuting the criminal offenses of Money Laundering/Terrorist Financing, and related criminal offenses, through proactive and immediate cooperation with the competent prosecutor's office in all stages of the procedure;
- Analysis of by-laws with the aim of more effective application of the LAMLTF by reporting entities;
- Improvement of professional capacities and analytical skills of FIU officers;
- Improving the spatial capacities of FIU from the aspect of data security;
- Improvement of IT capacities of FIU (improvement of equipment and software solutions for adequate reception and management of data and cases);

- Improvement of modern analytical tools used by FIU;
- Linking with all national and international databases for comprehensive verification in the financial-intelligence analysis procedures;
- Improvement of international cooperation through readmission to membership in EGMONT;
- Analysis of international and EU regulations in the area of money laundering prevention and development of activity plans for incorporation (with special reference to the so-called EU directive V) into national legislation and operational procedures.

| Based on the above, the assessment of the quality of the collection and processing of information by the Financial Intelligence Unit is MEDIUM-HIGH | | | | | | | | | | |
|---|----------------|-----------|-------|-------------|--------|------------|-------|----------|---------------------|--------------|
| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent |
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ☒ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

Capacities and resources for investigating financial crimes (including confiscation of assets)

What was recognized in the European Commission's expert reports is that in most cases, financial investigations (aimed at identifying assets) were conducted too late, and in very few cases these financial investigations were conducted in parallel with criminal investigations. In the preliminary investigation phase, there were not enough parallel financial and criminal investigations that would prove the elements of criminal offences - financial proceeds - property obtained by committing criminal offences or criminal activity. This limits the possibilities for timely detection and confiscation of illegal proceeds. Financial investigations should be conducted even before the initiation of criminal proceedings in order to collect evidence of the commission of those criminal offences. Because of this approach to financial investigations, the value of discovered proceeds obtained through criminal activity is very low.

In order to overcome the problem of the low level of achieved results in financial investigations and confiscation of proceeds, active monitoring of assets is a prerequisite for a successful investigation. In this regard, the greater use of modern and proactive techniques, such as the monitoring of bank accounts (for which the FIU has the authority), and their combination with other classic methods such as house searches (to find documents) and electronic communication, is key.

Therefore, a financial investigation should be conducted in any case where there is suspicion regarding assets whose origin cannot be substantiated by legal income.

In the part of identifying proceeds obtained through criminal activity and conducting financial investigations, the FIU should certainly play a significant role in providing appropriate data. The transition from the administrative to the police model of the FIU contributes to a better quality of financial intelligence reports that are submitted to the competent prosecutor's office, which provides better prerequisites for the initiation of both criminal and financial

investigations. By linking financial intelligence data with available police data, reports on suspicious transactions are a prerequisite for initiating a greater number of investigations and at the same time better support for initiated financial investigations in accordance with Article 11 of the Law on Extended Confiscation of Proceeds from Crimes, which serve the purpose of monitoring criminal proceeds that may be subject to extended confiscation.

In terms of the organizational structure, based on the new organization of the Police Administration in accordance with the Government Decree on the Organization and Mode of Work of the State Administration, in April 2019, the Rulebook on the Organization and Systematization of Police Administration Jobs was adopted, with which the police carried out a complete restructuring that led to creation of 8 departments managed by deputy directors. The departments that play a key role in the fight against money laundering are:

1. Department for the Fight against Organized Crime and Corruption, which is strictly responsible for the fight against serious and organized crime and high-level corruption. The Department includes 5 different units and, among others, the Special Police Division, while the other divisions are for the prevention of serious crimes, for the fight against drug smuggling, the witness protection unit and the division for special operational support.
2. Department for the Fight against Organized Crime and Corruption, in accordance with its mandate and specialization in certain areas of crime, focuses on investigations that are under the competence of the High State Prosecutor's Office (serious crimes) and the Special State Prosecutor's Office. From the aspect of practicality and functionality, the establishment of this Department coincides with the provisions of Article 26 of the Law on Special State Prosecutor's Office, where the Special State Prosecutor's Office can now count on the support of the entire Department, and not only on officers from the SPD. Therefore, within the DFOCC, there are two organizational units (SPD and Department for Combating Serious Crime, which includes the Economic Crime Group) responsible for investigations of more serious forms of financial crime, economic organized crime and financial investigations.
3. Criminal Police Department - within which there is a Division for the Suppression of Economic Crime included through systematization, which, together with the organizational units for the suppression of economic crime in the security centres, jointly deals with investigations and the fight against financial crime.
4. Department for the Prevention of Money Laundering and Terrorist Financing (FIU), which, as part of its powers, deals with identifying and prosecuting money laundering crimes and predicate crimes (including financial crimes), as well as identifying proceeds that are the subject of investigations in connection of the criminal offense of money laundering (financial investigations).

The State Prosecutor's Office, together with the police, is the most important body in the field of criminal proceedings and prosecution of financial crimes, as well as conducting financial investigations. For these purposes, cooperation with other authorities (Tax Administration, Customs Administration, and other competent authorities) is of key importance.

Key cooperation between the police and the prosecutor's office is achieved through the preliminary investigation phase, which is led by the prosecutor. Preliminary investigation is regulated by Chapter XVII of the CPC. Regarding the provisions of Article 254 and 255 of the CPC, there is an obligation for all officials to report criminal offences *ex officio*, including natural persons and legal entities that have been given certain public authorizations, as well

as professionals in certain fields. Pursuant to Article 270 of the CPC, the Police - on the basis of the collected information - submits a criminal report and delivers it to the State Prosecutor's Office. During the investigation, the Police - in accordance with Article 257 of the CPC - if they evaluate that there are grounds for suspecting that a criminal offense has been committed ex-officio, must inform the State Prosecutor and take the necessary measures either on their own initiative or based on the State Prosecutor's request.

With the entry into force of the Law on the Special Public Prosecutor's Office in 2015 (Official Gazette of Montenegro, no. 10/2015 and 53/2016), the Special State Prosecutor's Office for the territory of Montenegro was formed in the State Prosecutor's Office as a unique and independent body. This prosecutor's office undertakes all actions within its jurisdiction before the Special Department of the High Court in Podgorica. The seat of the Special State Prosecutor's Office is in Podgorica, and it is managed by the Chief Special Prosecutor. The Special State Prosecutor's Office is, in accordance with the Law on Special State Prosecutor's Office, Article 3, paragraph 1, responsible for prosecuting perpetrators of criminal offenses, namely:

- 1) *organized crime, regardless of the prescribed penalty;*
- 2) *high-level corruption:*
 - a) *if the public official has committed the following criminal offences: abuse of office, fraud in the conduct of official duty, trading in influence, incitement to trading in influence, passive bribery, active bribery.*
 - b) *if proceeds exceeding the amount of forty thousand Euros were obtained by committing the following criminal offences: abuse of position in business operations and abuse of authority in the economy:*
- 3) *money laundering;*
- 4) *terrorism and*
- 5) *war crimes*
- 6) *violations of electoral rights prescribed in Chapter Sixteen of the Criminal Code of Montenegro*

In addition, the Law on the Special State Prosecutor's Office in Article 26 prescribes that police tasks in connection with the above criminal offenses are performed by police officers who work in a special organizational unit of the administration body responsible for police affairs regarding their work with the Special State Prosecutor's Office. The head of the Special Police Division is appointed by the director of the Police Administration with the consent of the Chief Special Prosecutor. In addition, the head and police officers of the Special Police Division are required to act according to the orders of the Chief Special Prosecutor or special prosecutors. The Chief Special Prosecutor may form a special investigation team for dealing with a particularly complex case, which, in addition to the special prosecutor, can also include police officers from the Police Division, investigators and civil servants from other competent authorities.

The head of the investigation team is the special prosecutor, on whose orders and under whose supervision the members of the investigation team act.

In accordance with the Law on the Special Public Prosecutor's Office and the Law on Confiscation of Proceeds from Crime (Official Gazette of Montenegro, No. 58/2015 and 47/2019), a financial investigation is initiated by order of the State Prosecutor's Office if there is: 1) grounds for suspicion that proceeds were obtained by criminal activity; and 2) grounds for suspicion that a criminal offense under Article 2, paragraph 1 of this Law was committed. The order referred to in paragraph 1 of this article specifies the person against whom the financial investigation is being conducted. In the course of the financial investigation, data and evidence are collected about the property, legal income and living expenses of the owner, which the state prosecutor needs to file a request for permanent confiscation of proceeds. At the request of the state prosecutor, the investigating judge can order the

bank or other financial institution to submit the data necessary for the disclosure and identification of the proceeds obtained through criminal activity. The financial investigation is managed by the State Prosecutor.

By issuing an order or by directly leading a financial investigation, the State Prosecutor guides the actions of the police, military police, administration authorities responsible for tax, customs and anti-money laundering and terrorist financing, as well as other authorities in the performance of the tasks for which they are responsible, with the aim of revealing the proceeds obtained through criminal activity, i.e. proving that the proceeds were obtained through criminal activity.

The police, on their own initiative or by order of the state prosecutor, undertake measures and actions to detect and identify proceeds obtained through criminal activity. State bodies, state administration bodies, local self-government bodies, legal entities exercising public powers and other entities are required to submit to the police, without delay, the requested data necessary for the detection and identification of proceeds obtained through criminal activity.

For the purposes of a financial investigation, the state prosecutor may, ex officio or at the proposal of the police, military police, administrative authorities responsible for tax, customs and anti-money laundering and terrorist financing, as well as other competent authorities, form a financial investigation team. In addition to the state prosecutor, the financial investigation team may also include civil servants employed in the aforementioned bodies. The financial investigation team is required to prepare a written report and submit it, together with the collected data and evidence, to the state prosecutor, within the deadline set by the state prosecutor.

Financial investigation is conducted in accordance with the Criminal Procedure Code and the Law on Confiscation of Proceeds of Crime.

For the purposes of the financial investigation, evidence obtained in criminal proceedings for criminal offenses defined in Article 2 of the Law on Confiscation of Proceeds of Crime may be used. Evidence collected in a financial investigation in accordance with the Code of Criminal Procedure and the Law on Confiscation of Proceeds of Crime may be used in criminal proceedings.

If the data and evidence obtained in the course of the financial investigation indicate that there is a reason to suspect that the proceeds obtained through criminal activity have been transferred to another person who is not included in the order to conduct the investigation, the state prosecutor will issue an order that the financial investigation be expanded and conducted against that person as well.

The State Prosecutor completes the financial investigation when he determines that the state of affairs is sufficiently clarified to submit a request for the permanent confiscation of proceeds or for the suspension of the financial investigation. The state prosecutor will suspend the financial investigation by order if, during the financial investigation or after its completion, he determines that there are no conditions for submitting a request for permanent confiscation of proceeds.

The procedure for confiscation of proceeds obtained through criminal activity can be conducted before, during and after the completion of the criminal proceedings. Confiscation of proceeds obtained through criminal activity is considered temporary confiscation of those proceeds (temporary security measures and temporary confiscation

of movable property) or permanent confiscation of those proceeds. The procedure of confiscation of proceeds obtained through criminal activity is carried out in accordance with this Law and the Code of Criminal Procedure.

The court decides on confiscation of proceeds obtained through criminal activity. The tasks of detecting proceeds obtained through criminal activity are carried out by the state prosecutor's office and the administrative body responsible for police affairs (hereinafter: "the police"). Management of confiscated proceeds, objects of criminal offenses and objects temporarily confiscated in criminal and misdemeanour proceedings and property given as surety is carried out by the administrative body responsible for the management of state property (hereinafter: "competent authority").

One of the important segments in identifying assets obtained through criminal activity through international police cooperation is the establishment of the Asset Recovery Office (ARO) and participation in the informal Asset Recovery Network (CARIN). Namely, in 2019, within the Criminal Police Department, Division for International Operational Police Cooperation INTERPOL-Europol-SIENA, the ARO (Asset Recovery Office) was established as a national focal point. Establishing a focal point for ARO within the Police Administration proved to be a good decision. The work of the ARO focal point within the group that operates 24/7 points to the efficiency of operations and the possibility of providing urgent responses to requests, in accordance with the Swedish initiative. In this view, and in order to act more efficiently, the procedure of processing user accounts for the officers of the competent Division for access to the databases of the Central Bank and the Real Estate Administration is in the final stage. Also, the procedure of accessing the databases of the Customs Administration and the Tax Administration has started.

Since the establishment of the ARO within the Police Administration of Montenegro until the end of 2019, 37 requests for verification of 137 individuals and 23 legal entities were received from foreign competent authorities through the INTERPOL and SIENA channels, as well as the CARIN informal network, which is an increase of 270% compared to in 2018. 103 requests for verification of 217 individuals and 80 legal entities were forwarded by national competent authorities through INTERPOL and SIENA channels, which is a 103-fold increase compared to 2018.

According to the analysis made, we can say that there are high-quality institutional mechanisms in Montenegro for adequately confronting the problem of financial crime and conducting financial investigations in order to confiscate proceeds of criminal activity. There is also an appropriate organizational structure within the Police Administration and the State Prosecutor's Office, with appropriate human resources to adequately conduct financial crime investigations and financial investigations and identify proceeds of criminal activity. The legal prerequisites for effective work of the police and prosecutors in this area are in place. However, a small number of cases that resulted in the confiscation of proceeds of criminal activity is evident, and the absence of parallel conduct of criminal and financial investigations in the early stages of the investigation – at the police level – is also evident.

Taking into account the above, the following measures aimed at improving the situation were identified:

- Improving the track record in terms of confiscation of proceeds of criminal activity;
- Analysis of the situation and defining of internal procedures at the police level in the implementation of activities to identify and determine the amount and form of proceeds of criminal offences or criminal activity;
- Establishing centralized track records of temporary and permanent confiscation and detailed monitoring of results;

- Strengthening international cooperation in identifying, securing and confiscating the proceeds of crime, as well as in the field of effective enforcement of court decisions abroad (ARO).

| Based on the above, the assessment of the status of capacities and resources for investigation of financial crimes (including confiscation of proceeds) is MEDIUM HIGH | | | | | | | | | | |
|--|----------------|-----------|-------|-------------|--------|------------|-------|----------|---------------------|--------------|
| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent |
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ☒ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.6 Integrity and independence of financial crime investigation authorities (including confiscation of assets)

When it comes to the authorities dealing with financial crime investigations, including asset confiscation, the key authorities certainly include: the Police, the State Prosecutor's Office and the Court. The independence of these bodies and their powers are defined by the laws regulating this area, in particular: the Code of Criminal Procedure, the Law on the State Prosecutor's Office, the Law on the Special State Prosecutor's Office, the Law on Courts, the Law on the Prevention of Corruption, the Law on the Prevention of Money Laundering and Terrorist Financing, the Law on Confiscation of Proceeds of Crime, the Law on Internal Affairs.

Therefore, there is a solid legal framework for the independence of the authorities involved in the performance of tasks in this area, and an effective system of integrity plans. However, on the other hand, there is still an insufficiently high level of conducted financial investigations and confiscated proceeds of criminal activity. It is a fact that, according to the assessments stated in the integrity plans, officers dealing with financial crime investigations (prosecutors, officers of the Police Administration, Financial Intelligence Unit and other authorities involved in the prevention of money laundering and terrorist financing) are exposed to a high risk of corruption. Consequently, it is necessary to continue taking measures to reduce these risks, and to continuously invest efforts to strengthen and maintain the level of integrity, independence and autonomy in the work of officers dealing with financial crime investigations. It is certainly necessary to improve the financial status and income of officials dealing with these tasks.

Since 1 January 2016, with the entry into force of the Law on the Prevention of Corruption, the monitoring of the adoption and implementation of integrity plans is carried out by the Agency for the Prevention of Corruption. Pursuant to the Law on Prevention of Corruption, the authorities were required to adopt an integrity plan by 31 March 2016 and submit it to the Agency.

The integrity plan is an internal anti-corruption document that contains a set of measures of a legal and practical nature to prevent and eliminate opportunities for the emergence and development of various forms of corrupt and unethical behaviour within the authority in general, individual organizational units and individual positions, created as a result of the self-assessment of the authorities' exposure to risks of emergence and development of corruption, illegal lobbying and conflicts of interest, as well as exposure to ethically and professionally unacceptable actions.

Authorities are required to prepare an integrity plan based on the Rules for the Preparation and Implementation of an Integrity Plan and make it available to the public by publishing it on their website or in another appropriate way.

The integrity plan was adopted by all courts, all prosecutor's offices, the Police Administration (within the integrity plan of the Ministry of the Interior), the Property Administration, the Ministry of Foreign Affairs and the Ministry of Justice. All the aforementioned bodies authorities adopt and submit to the Agency by April 15 of the current year a report on the implementation of the integrity plan for the previous year. Based on integrity plans and reports on their implementation, the Agency prepares annual reports on the adoption and implementation of integrity plans, which are an integral part of the Agency's annual report.

Authorities are required to assess the efficiency and effectiveness of the integrity plan every other year. In order to improve the existing and create new integrity plans, the Agency created a Questionnaire for assessing the efficiency and effectiveness of the integrity plan, and submitted it to the authorities. The results of the analysis of the submitted questionnaires are presented in under special chapters of the mentioned report, which refer to ten systems of government bodies.

The integrity plan with a comprehensive and proactive approach, systematic assessment of vulnerability to risks, acceptance and implementation of adequate measures allows public officials and employees in government bodies to accept and implement full responsibility for their integrity in a controlled manner in order to further improve and strengthen measures for more effective prevention and suppression of corruption and other illegal and unethical phenomena. The mentioned report contains recommendations for improving integrity plans, given at the sectoral level, and the Agency also provides individual recommendations for improving integrity plans.

The integrity plan of the Property Administration in relation to the Department for Management of Temporarily Confiscated Property envisages a medium probability of the occurrence of corruption or other forms of violation of integrity with a "moderate" consequence (risk of medium intensity).

The Law on Confiscation of Proceeds of Crime (2015 and 2019) regulates the conditions for confiscation of proceeds of criminal activity, the confiscation procedure and other matters of importance for the confiscation of these proceeds, as well as the management of confiscated proceeds of criminal activity and confiscated proceeds of a criminal offense, objects of a criminal offense and objects temporarily confiscated in criminal and misdemeanour proceedings and property given as a surety.

This Law, in Article 4, defines that the procedure for confiscation of proceeds of criminal activity may be conducted before, during and after the completion of criminal proceedings.

Confiscation of proceeds of criminal activity includes temporary confiscation of the proceeds (temporary security measures and temporary confiscation of movable property) or permanent confiscation of the proceeds. The procedure for confiscation of proceeds of criminal activity is carried out in accordance with this Law and the Code of Criminal Procedure.

In accordance with the provisions of Article 5 of this Law, the court decides on confiscation of proceeds of criminal activity.

The competent authorities that perform the tasks of detecting proceeds of criminal activity are the State Prosecutor's Office and the Police.

Management of confiscated proceeds, objects of criminal offenses and objects temporarily confiscated in criminal and misdemeanour proceedings and property given as a surety is performed by the administrative body responsible for the management of state property (Property Administration through the Department for Management of Temporarily Confiscated Property).

The competence of the State Prosecutor's Office and the Court is determined according to the competence for conducting the proceedings for the criminal offense referred to in Article 2 paragraph 1 of this Law. The authorities listed in this article of the Law are required to act urgently.

The independence and autonomy of the competent state bodies – the State Prosecutor's Office and the Court, which are involved in the procedure of confiscation of property, are defined by the relevant laws. Any kind of influence on the decisions of these authorities would constitute a violation of the law. In addition, the Law on Confiscation of Proceeds of Crime precisely defines the procedures of each authority.

Articles 8, 9 and 10 of the Law on Confiscation of Proceeds of Crime define the confiscation of proceeds of criminal activity from the perpetrator, from members of the perpetrator's family, and the confiscation of proceeds without a judgment. Namely, Article 8 defines that the proceeds of criminal activity may be confiscated from the perpetrator (under Article 2, paragraph 1 of the Law), if they were generated in the period before and/or after the commission of the criminal offense referred to in the same Article of this Law until the judgment becomes final, when the court determines that there is a temporal connection between the time in which the proceeds were generated and other circumstances of the specific case that justify the confiscation of the proceeds.

In order to prove that the perpetrator has committed a specific criminal offense and thereby generated specific proceeds, a financial investigation is initiated. In accordance with Article 11 of the Law on Confiscation of Proceeds of Crime, a financial investigation may be initiated by order of the State Prosecutor if there is: reasonable suspicion that the proceeds were generated through criminal activity; and grounds for suspicion that a criminal offense has been committed under Article 2 paragraph 1 of this Law. The order to initiate a financial investigation specifies the person against whom the financial investigation is being conducted.

According to the identified situation, in order to strengthen the capacities, it is necessary to:

- Organize training sessions for officers of the authorities dealing with investigations of financial crime, money laundering and financial investigations, in order to preserve integrity and independence in work;
- Improve the track record in financial investigations, money laundering and confiscation of proceeds of criminal activity;
- Take measures to reduce the exposure of officers of the authorities dealing with investigations of financial crime, money laundering and financial investigations to the risk of corruption;
- Improve the financial status of officers of the authorities dealing with investigations of financial crime, money laundering and financial investigations;

Based on the above, the assessment of the status of integrity and independence of the financial crime investigation authorities (including confiscation of proceeds) is MEDIUM HIGH

| | | | | | | | | | | |
|-----------|----------------|-----------|------|-------------|--------|------------|-----|----------|---------------------|--------------|
| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent |
|-----------|----------------|-----------|------|-------------|--------|------------|-----|----------|---------------------|--------------|



Capacities and resources for prosecuting financial crimes (including confiscation of proceeds)

Montenegro has the necessary legislative, organizational and personnel resources to prosecute financial crimes, including confiscation of proceeds. However, in addition to that, it is certainly necessary to further strengthen the resources and capacities of financial crime investigators.

Based on Article 152 paragraph 2 of the Law on the State Prosecutor's Office (Official Gazette of Montenegro, no. 11/15, 42/15, 80/17 and 10/18), with the approval of the Government of Montenegro, the Chief Special Prosecutor adopted the Rulebook on the Internal Organization and Systematization of the Special State Prosecutor's Office on 23 March 2017. Pursuant to Article 5 of this Rulebook, tasks within the competences of the Special State Prosecutor's Office are performed by the Chief Special Prosecutor and ten special prosecutors, as well as 37 officers assigned to positions of civil servants and state employees. The number of special prosecutors was increased by the Decision on the Number of State Prosecutors (Official Gazette of Montenegro, no. 21/2015 and 13/2018) specifying that, in addition to the Chief Special Prosecutor, 12 special prosecutors should perform the prosecutorial function in the Special State Prosecutor's Office.

Supervision of the work of state prosecutor's offices was carried out through internal supervision mechanisms, in accordance with the Law on the State Prosecutor's Office and the Supervision Plan. The Prosecutorial Council, in the regular appraisal procedure, determines the performance appraisals for state prosecutors and heads of state prosecutor's offices on an annual basis.

The provisions of Article 24 of the Law on the Special State Prosecutor's Office stipulate that the Prosecutorial Council may, at the request of the Chief Special Prosecutor, refer a state prosecutor to the Special State Prosecutor's Office for a certain period of time in order to carry out tasks of an urgent nature or an increased workload, and that the referral is made with written approval of the state prosecutor. Also, it is prescribed that the Prosecutorial Council may, at the request of the Chief Special Prosecutor, refer a state prosecutor to the Special State Prosecutor's Office for a certain period of time in order to act in a specific case.

With the adoption of the Law on Amendments to the Law on the Special State Prosecutor's Office (Official Gazette of Montenegro, No. 53/16), the competences of the Special State Prosecutor's Office were extended for the prosecution of the perpetrators of the violation of electoral rights, prescribed in the Criminal Code of Montenegro, which led to an increased workload in the Special State Prosecutor's Office, due to the increase in the competences of the Special State Prosecutor's Office for additional criminal offenses. For this reason, in order to adequately respond to the needs, prosecutors from other state prosecutor's offices are referred to the Special State Prosecutor's Office:

| Year | number of prosecutors and the name of the prosecutor's office from which the prosecutor was referred to the Special State Prosecutor's Office | reason for referral |
|------|---|---------------------|
|------|---|---------------------|

| | | |
|-------------|--|--|
| 2016 | 1 state prosecutor in the Supreme State Prosecutor's Office 16 state prosecutors from basic and high state prosecutor's offices to the Special State Prosecutor's Office until 12 January 2017 | to perform tasks of an urgent nature and due to the increased workload and the prosecution of perpetrators of criminal offenses of violation of electoral rights |
| 2017 | 1 state prosecutor from the Supreme State Prosecutor's Office | to perform tasks of an urgent nature and due to the increased workload throughout 2017 |
| | 3 state prosecutors from the High and Basic State Prosecutor's Offices in Podgorica | to act in cases for the criminal offenses against electoral rights, throughout 2017 |
| 2018 | 2 state prosecutors - 1 state prosecutor from the Supreme State Prosecutor's Office throughout 2018 and 1 state prosecutor from the High State Prosecutor's Office in Podgorica from 18 April 2018 | to perform tasks of an urgent nature or due to increased workload, with the written approval of the state prosecutor, i.e. to handle specific cases. |
| 2019 | 3 state prosecutors - one state prosecutor from the Supreme State Prosecutor's Office throughout 2019, one state prosecutor from the High State Prosecutor's Office in Podgorica until 28 June 2019 and one state prosecutor from the Basic State Prosecutor's Office in Podgorica from 1 November 2019. | to perform work of an urgent nature or due to an increased workload |

Based on analysis of the work of the Special State Prosecutor's Office, it is evident that the workload has increased from year to year, which can most easily be seen through the trend of the increase in the number of criminal reports, reported persons, investigations and indictments:

In 2015, for the criminal offense of money laundering, reports were submitted to the Special Prosecutor's Office against a total of 4 persons. The reports against 3 persons were handed over to another prosecutor's office, while the report against 1 person remained unresolved at the end of the reporting period. In the Special Prosecutor's Office, there was an open investigation against 6 persons from an earlier period, which was suspended in relation to all 6 persons.

In 2016, for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, reports were submitted to the prosecutor's office against a total of 15 persons, and together with the reports from the earlier period, there were reports against a total of 16 persons. Reports were filed against 9 persons by other state authorities, against 2 persons by NGOs, against 1 person by a legal entity and against 3 persons by natural persons. The reports against 10 persons were transferred to the jurisdiction of another prosecutor's office, while the reports against 6 persons remained unresolved at the end of the reporting period.

The Special State Prosecutor's Office had pending indictments from an earlier period against 4 persons for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro. These indictments were resolved through three acquittals and one rejection verdict. In the mentioned period, the prosecutor's office filed 3 appeals for other reasons, which were rejected as unfounded.

In 2017, 28 persons were reported for criminal offenses of money laundering.

- for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, a report was received against 5 persons,

- and for the same offense in conjunction with the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro, against 23 persons.

From the previous period, 6 reports remained unresolved, so there were reports against 34 persons pending (in 2016, against 16 persons).

28 reports were resolved, which is 82.35% of reports for these criminal offences. In relation to 3 persons, the criminal reports were dismissed, orders to conduct investigations were issued for 24 persons, while 1 report was transferred to another prosecutor's office. Reports against 6 persons remained unresolved or 17.65% reports pending.

In 2017, a total of 11 persons were charged with money laundering. All these persons were also charged with the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro. There were no pending charges from earlier years. Compared to 2016, when there were 4 indictments, there was a 175% increase in indictments.

The court did not decide on the indictments in the reporting period, so the indictments against 11 persons remained open at the end of the year.

In 2018, 89 persons were reported for criminal offenses of money laundering.

- for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro in conjunction with the criminal offense of creation of a criminal organization under Article 401a of the Criminal Code of Montenegro, reports were received against 78 persons;
- for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro and fraud under Article 244 of the Criminal Code of Montenegro, reports were received against 7 persons;
- for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, abuse of office under Article 416 of the Criminal Code of Montenegro, abuse of authority in business operations under Article 276 of the Criminal Code of Montenegro and abuse of position in business activity under Article 272 of the Criminal Code of Montenegro, reports were received against 3 persons, and
- for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, falsification of an official document under Article 414 of the Criminal Code of Montenegro, evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro, a report was received against 1 person.

From the previous period, 6 applications remained unresolved, so there were reports against 95 persons pending (in 2017 against 34 persons).

84 reports were resolved, which is 88.42% of reports for these criminal offences. In relation to 1 person, the criminal report was resolved by dismissal, orders to conduct investigation were issued for 81 persons, while 2 reports were transferred to the jurisdiction of another prosecutor's office. Reports against 11 persons remained unresolved, or 11.58% reports pending.

In 2018, 1 person was charged with money laundering. In addition to unresolved indictments from the earlier period against 11 persons, there were indictments pending against 12 persons in total that remained unresolved at the end of the reporting period.

In 2019, 86 persons were reported for criminal offenses of money laundering. Reports were filed against:

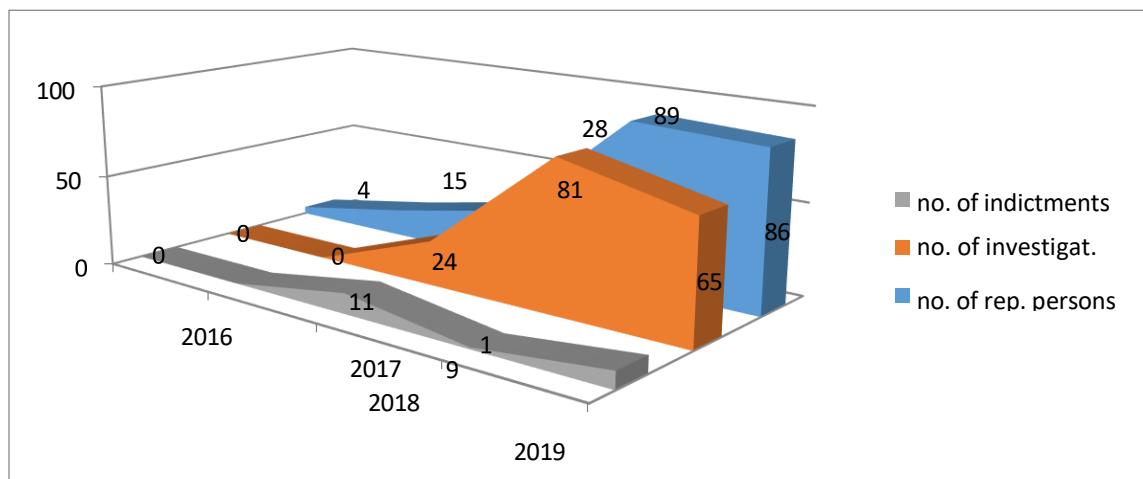
- 9 persons for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro;
- 15 persons for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro in conjunction with the criminal offense of creating a criminal organization under Article 401a of the Criminal Code of Montenegro;
- 2 persons for the criminal offenses of money laundering under Article 268 of the Criminal Code of Montenegro and evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro;
- 49 persons for the criminal offenses of money laundering under Article 268 of the Criminal Code of Montenegro, evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro and creation of a criminal organization under Article 401a of the Criminal Code of Montenegro;
- 1 person for the criminal offenses of money laundering under Article 268 of the Criminal Code of Montenegro and falsification of an official document under Article 414 of the Criminal Code of Montenegro;
- 2 persons for the criminal offenses of money laundering under Article 268 of the Criminal Code of Montenegro, abuse of office under Article 416 of the Criminal Code of Montenegro and active bribery under Article 424 of the Criminal Code of Montenegro;
- 3 persons for the criminal offenses of money laundering under Article 268 of the Criminal Code of Montenegro, abuse of office under Article 416 of the Criminal Code of Montenegro and creation of a criminal organization under Article 401a of the Criminal Code of Montenegro;
- 2 persons for the criminal offenses of money laundering under Article 268 of the Criminal Code of Montenegro, abuse of position in business activity under Article 272 of the Criminal Code of Montenegro and creation of a criminal organization under Article 401a of the Criminal Code of Montenegro;
- 2 persons for the criminal offenses of money laundering under Article 268 of the Criminal Code of Montenegro, fraud in the conduct of official duty under Article 419 of the Criminal Code of Montenegro and creation of a criminal organization under Article 401a of the Criminal Code of Montenegro;
- 1 person for the criminal offenses of money laundering under Article 268 of the Criminal Code of Montenegro, evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro and abuse of position in business activity under Article 272 of the Criminal Code of Montenegro.

From the previous period, 11 reports remained unresolved, so that there were reports against 97 persons pending (in 2018 - against 95 persons; in 2017 - against 34 persons).

72 reports or 74.23% of reports for these criminal offences were resolved. In relation to 2 persons, the criminal reports were resolved by dismissal, orders to conduct investigations were issued in 3 cases against 65 persons, while 5 reports were transferred to the jurisdiction of other prosecutor's offices. Reports against 25 persons remained unresolved, or 25.77% of complaints pending.

In 2019, 9 persons were accused of money laundering (in 2018 - 1 person). In addition to unresolved indictments from the earlier period against 12 persons, there were indictments against 21 persons pending in total.

Ruling on the charges, the court handed down 2 convictions to prison terms, against 1 person for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro and against 1 person for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro and evasion of taxes and contributions under Article 264 of the Criminal Code of Montenegro. At the end of the reporting period, 19 indictments remained unresolved.



In 2019, work was continued on the implementation of measures from the Action Plan of the ICT Strategy 2016-2020, relating both to the improvement of the Information System of the State Prosecutor's Office, and to the improvement of certain operating processes, information security and transparency of the State Prosecutor's Office and the Prosecutorial Council.

When it comes to improving the information system of the State Prosecutor's Office (Case Manager System), another 40 user licenses for the IBM Case Manager System, three licenses for the IBM I2 Analytics system for the needs of the Special State Prosecutor's Office, and a system for safe storage of analytical and forensic data were procured, as well as one-year maintenance and upgrading of the Information System of the State Prosecutor's Office. As part of the upgrading of the information system, and in accordance with the Agreement on the Improvement of Cooperation in Crime Prevention, web services for accessing and exchanging data with the Ministry of Internal Affairs for records of weapons, state border crossings and criminal offenses were developed and implemented. Linking and exchanging data with authorities and institutions is a continuous process, and the system will be improved in that direction in the future as well.

One of the goals of the ICT Strategy is the improvement of judicial institutions in terms of equipping them with videoconferencing systems for hearings through video links. The procurement carried out in 2018 started the introduction of videoconferencing systems in the Montenegrin judiciary, and the installation of videoconferencing systems was carried out in five state prosecutor's offices, the Supreme State Prosecutor's Office of Montenegro, high state prosecutor's offices in Podgorica and Bijelo Polje, and basic state prosecutor's offices in Podgorica and Kotor. A modern, technologically advanced single web portal has been created for all judicial authorities, the Ministry of Justice, courts, the prosecutors' organization and the Institute for the Enforcement of Criminal Sanctions. The sub-portal for the State Prosecutor's Office and the Prosecutorial Council contains individual

websites for all state prosecutor's offices and the Prosecutorial Council, which will significantly increase the level of publicity, transparency and accessibility of the prosecutors' organization to citizens and the public in general.

All judicial authorities are faced with the problem of classification and storage of archival material, which requires a large space, as well as considerable financial resources for adequate equipment. In accordance with the Strategy of ICT in the judiciary for the period 2016-2020, a project was initiated in 2018 to introduce an appropriate information system, which will adequately support the use of electronic documents in everyday practice. By introducing electronic archiving, judicial authorities will greatly facilitate the process of archiving and storing cases after their completion, which will result in a digitized and archived complete electronic file of cases.

Planned measures under the ICT Strategy 2016-2020 Action Plan for 2019 were realized, among other, through the procurement and installation of new server equipment, the setup of a new judicial web portal, the replacement of a number of outdated computer equipment and equipment for audio-visual recording of hearings. Regarding the urgent addressing of the missing office space for the work of the State Prosecutor's Office, in accordance with the conclusion of the Government of Montenegro, and with the aim of building new facilities for the needs of the State Prosecutor's Office and the Ministry of Justice, the State Prosecutor's Office was given construction land for use in Podgorica. The capital budget for 2019-2020 included a plan for the preparation of technical documentation for the new building of the State Prosecutor's Office, which will house the Supreme State Prosecutor's Office, the Special State Prosecutor's Office, the High State Prosecutor's Office in Podgorica, the Basic State Prosecutor's Office in Podgorica and the Secretariat of the Prosecutorial Council. The terms of reference for the preparation of technical documentation of the newly planned facility for the needs of the State Prosecutor's Office in Podgorica has been completed. The building will fully provide the missing spatial capacities for the needs of the mentioned users.

Accordingly, the following areas and priorities aimed at improving the situation were identified:

- Creating an analysis of capacities and resources for conducting financial investigations, money laundering and confiscation of proceeds (organizational, personnel, informational);
- Implementation of planned training sessions for prosecutors for financial investigations, money laundering investigations and confiscation of proceeds.

| Based on the above, the assessment of the status of capacity and resources for prosecuting financial crimes (including confiscation of proceeds) is MEDIUM | | | | | | | | | | | |
|--|----------------|-----------|-------|-------------|--------|------------|-------|----------|---------------------|--------------|--|
| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent | |
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ■ | 0.5 ☒ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ | |

Integrity and independence of financial crime prosecution authorities (including confiscation of proceeds)

The Law on the State Prosecutor's Office (Official Gazette of Montenegro, No. 11/15, 42/15, 80/17 and 10/18), in Article 2, defines that the State Prosecutor's Office carries out the tasks of prosecuting perpetrators of criminal offenses prosecuted ex officio and misdemeanours, as well as other tasks prescribed by law. Also, the State

Prosecutor's Office performs its function on the basis of the Constitution, laws and ratified international agreements. In addition, this Law stipulates that the tasks of the State Prosecutor's Office may not be carried out under anyone's influence and no one may influence the State Prosecutor's Office in the performance of its tasks. According to Article 11 of this Law, the Supreme State Prosecutor's Office, Special State Prosecutor's Office, High State Prosecutor's Offices and Basic State Prosecutor's Offices are established within the State Prosecutor's Office. In order to improve the work of the prosecutor's office, the law on the Special State Prosecutor's Office was adopted in February 2015 (Official Gazette of Montenegro, no. 10/2015 and 53/2016), which regulates the organization and competences of the Special State Prosecutor's Office, the conditions and procedure for the election of the Chief Special Prosecutor and special prosecutors and the relationship with other state authorities and state administration bodies, as well as other issues of importance for the work of the Special State Prosecutor's Office.

The aforementioned Law stipulates that the Special State Prosecutor's Office is responsible for prosecuting perpetrators of criminal offences of: 1) organized crime, regardless of the amount of the prescribed penalty; 2) high-level of corruption: a) if the public official committed the following criminal offences: - abuse of office, - fraud in the conduct of official duty, trading in influence, - incitement to trading in influence, - passive bribery, - active bribery. b) if proceeds exceeding the amount of forty thousand Euros were generated by committing the following criminal offences: - abuse of position in business operations, - abuse of authority in business operations; 3) money laundering; 4) terrorism; 5) war crimes; 6) violations of electoral rights prescribed in Chapter Sixteen of the Criminal Code of Montenegro.

The Supreme State Prosecutor's Office supervises the work of the Special State Prosecutor's Office, the High State Prosecutor's Office and the Basic State Prosecutor's Office. Supervision over the work of state prosecutor's offices is carried out by directly inspecting the work of each state prosecutor's office and taking other appropriate measures for the efficient and lawful work of the state prosecutor's offices. Supervision is carried out in accordance with the supervision plan adopted by the Supreme State Prosecutor.

The mechanisms of external supervision and control of the work of the State Prosecutor's Office are implemented in accordance with the law, while fully preserving the integrity and independence of the State Prosecutor's Office in the system of division of powers. Anyone can submit a complaint and petition against the work of the State Prosecutor's Office. There are special boxes for complaints and petitions in every State Prosecutor's Office, and they can also be submitted via e-mail.

The relations and cooperation of the State Prosecutor's Office with the courts, other state authorities, and in particular with the Police, are laid down by the Law on the State Prosecutor's Office and the Code of Criminal Procedure.

The relationship with the Parliament of Montenegro is regulated by the provisions of Articles 41 and 147 of the Law on the State Prosecutor's Office. Namely, the Prosecutorial Council submits the annual report on the work of the State Prosecutor's Office to the Parliament, no later than by 31 March of the current year for the previous year, for discussion, and the report is presented in the Parliament of Montenegro by the Supreme State Prosecutor, who is also the president of the Prosecutorial Council.

At the request of the Parliament of Montenegro and the competent working body, the Supreme State Prosecutor and the Chief Special Prosecutor submit special or periodic reports on their work and participate in the work of the

sessions of the Parliament of Montenegro and the competent working bodies regarding the discussion of those reports.

The second form of external supervision is carried out by the Ministry of Justice of Montenegro exclusively in the part of the prosecution administration through inspection control carried out by the judicial inspector.

The aforementioned legal provision ensured the institutional independence of the Supreme State Prosecutor's Office and the Special State Prosecutor's Office. Also, the Law on the State Prosecutor's Office stipulates that the Conference of State Prosecutors (composed of all heads of state prosecutor's offices and state prosecutors) adopts the State Prosecutors' Code of Ethics. The State Prosecutors' Code of Ethics sets forth the principles and rules of conduct of heads of state prosecutor's offices and state prosecutors, which they are required to adhere to in order to preserve and further strengthen the dignity and reputation of the state prosecutor and the State Prosecutor's Office as a unique and independent body.

In 2016, the State Prosecutors' Code of Ethics Commission worked on two cases. In one case, it was determined that the state prosecutor's behaviour was not in accordance with the State Prosecutors' Code of Ethics, while in another case, it was determined that the state prosecutors' behaviour did not violate the principles and rules of the Code. In 2017, two initiatives were submitted to the said Commission. For one initiative, the Commission made a decision stating that the state prosecutor did not violate the State Prosecutors' Code of Ethics, while no decision was made in the other case by the end of the reporting period, and it is pending before the Code of Ethics Commission. In 2018, this Commission handled four initiatives to determine whether the behaviour of state prosecutors is in accordance with the State Prosecutors' Code of Ethics. For three initiatives, the State Prosecutors' Code of Ethics Commission made a decision stating that the state prosecutors did not violate the State Prosecutors' Code of Ethics, while in one case a decision was not made by the end of the reporting period, and it is pending before the Code of Ethics Commission.

In 2019, one state prosecutor, on the basis of a decision taken in 2018, was temporarily removed from the prosecutor's office, until the end of the criminal proceedings against the prosecutor for the criminal offense under Article 252 paragraph 4 in conjunction with paragraph 2 of the Criminal Code of Montenegro.

The website of the State Prosecutor's Office includes information about the Code of Ethics Commission, so that citizens can contact the members of the Commission in the event of a violation of the Code of Ethics by state prosecutors.

All state prosecutor's offices, the Prosecutorial Council and the Secretariat of the Prosecutorial Council adopted an Integrity Plan, which contains measures to prevent and eliminate opportunities for corruption and ensure citizens' trust in their work.

Special attention is paid to the continued cooperation of the Prosecutorial Council and the State Prosecutor's Office with the Centre for Training in the Judiciary and the State Prosecutor's Offices. State prosecutors are members of the Centre's Management Board and Program Council.

The transparency of the work of the Prosecutorial Council and the State Prosecutor's Office is presented in the section on publicity of work and free access to information.

The quality, efficiency and economy of the prosecutor's investigation is evaluated through the duration of the previous criminal proceedings under the jurisdiction of the State Prosecutor's Office, the degree of confirmed indictments based on the results of the investigation and the result of the main trial according to the type of verdict.

In January 2018, the Prosecutorial Council appointed a disciplinary prosecutor, who conducts an investigation based on the submitted proposal for determining disciplinary responsibility and represents the indictment in the procedure for determining disciplinary responsibility. The Disciplinary Council, which conducts the procedure for determining the disciplinary responsibility of state prosecutors for minor and serious disciplinary offenses based on the indictment of the disciplinary prosecutor, was formed at the session of the Prosecutorial Council held in May 2018, after the appointment of members of the Prosecutorial Council from the ranks of distinguished lawyers. The Prosecutorial Council carries out the procedure of determining disciplinary responsibility for the most serious disciplinary violations, based on the indictment of the disciplinary prosecutor.

In 2018, the Disciplinary Council handled four cases to determine the disciplinary responsibility of state prosecutors. In three cases, the Disciplinary Council determined the responsibility of three state prosecutors, i.e. heads, for a serious disciplinary offense under Article 108 paragraph 3 point 8 of the Law on the State Prosecutor's Office - failure to provide data on assets and income in accordance with the regulations governing the prevention of conflicts of interest, and imposed a disciplinary sanction - a fine in the amount of 20% of the salary for a period of three months. In one case, the Disciplinary Council rejected the proposal for determining disciplinary responsibility.

In October 2018, the Prosecutorial Council made a decision to temporarily remove one state prosecutor from the prosecutor's office, until the end of the criminal proceedings against the prosecutor for the criminal offense under Article 252 paragraph 4 in conjunction with paragraph 2 of the Criminal Code of Montenegro.

In 2019, based on the decision taken in 2018, one state prosecutor was temporarily removed from the prosecutor's office, until the end of the criminal proceedings against the prosecutor for the criminal offense under Article 252 paragraph 4 in conjunction with paragraph 2 of the Criminal Code of Montenegro.

On the website of the State Prosecutor's Office, in addition to the State Prosecutors' Code of Ethics, work reports and guidelines for the application of the Code of Ethics, there is contact information about the State Prosecutors' Code of Ethics Commission, so that citizens can contact the Commission in the event of a violation of the Code of Ethics by state prosecutors. Also, in order to achieve easier and faster contact, there is an e-mail address of the State Prosecutors' Code of Ethics Commission.

According to the identified situation, in order to strengthen capacities, it is necessary to:

- Organize training sessions for prosecutors and judges dealing with investigations of financial crime, money laundering and financial investigations, in order to preserve integrity and independence in their work;
- Take measures to reduce the exposure of prosecutors and judges dealing with investigations of financial crime, money laundering and financial investigations to the risk of corruption.

Based on the above, the assessment of the status of integrity and independence of the authorities for prosecuting financial crimes (including confiscation of proceeds) is MEDIUM

| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent |
|-----------|----------------|-----------|-------|-------------|--------|------------|-------|----------|---------------------|--------------|
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ■ | 0.5 ☒ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

Capacities and resources for court proceedings (including confiscation of proceeds)

The principles of the organization of the judiciary in Montenegro are regulated by the Constitution of Montenegro and special legal regulations on the organization of the judicial system. The Constitution of Montenegro prescribes a general division of power according to which the judicial power belongs to the courts, the legislative to the Parliament, and the executive to the Government of Montenegro.

The Law on Courts (Official Gazette of Montenegro, No. 11/2015) regulates the establishment, organization and jurisdiction of courts, the organization of the work of courts and judicial administration, and other matters of importance for the orderly and timely functioning of courts.

A particularly significant organizational novelty, which appeared as a consequence of the enactment of the Law on Courts in 2015, and which refers to the structure of the court for the relevant criminal offenses (criminal offenses of money laundering), was the centralization of jurisdiction for criminal offenses of organized crime, corruption, war crimes and terrorism to a special department in the High Court in Podgorica. Until the enactment of the above-mentioned Law, in addition to the High Court in Podgorica, the High Court in Bijelo Polje was competent for the mentioned criminal offences. In this regard, the Law on Courts, under Article 16 paragraph 2, stipulates that the High Court in Podgorica, independently of the rules on local jurisdiction, judges in criminal proceedings (among other things) and for the criminal offense of money laundering, and paragraph 3 of the same article stipulates that a special department be established in the High Court in Podgorica for the trial of criminal offenses specified in paragraph 2 of that article (and thus also for the criminal offense of money laundering). Until the enactment of the above-mentioned Law, in addition to the High Court in Podgorica, the High Court in Bijelo Polje was competent for the mentioned criminal offences. On the basis of the above legal provision, a special department was formed in the High Court in Podgorica, which, in addition to other offenses under Article 16 paragraph 2, is also competent to handle cases for criminal offenses of money laundering.

The above legal provision resulted in more efficient conduct of criminal proceedings for the most serious crimes, and in this connection also for money laundering offences, and allowed the specialization of acting judges.

When it comes to capacities and resources for court proceedings, it must be noted that eight judges of the High Court in Podgorica are assigned to the Specialized Department of the High Court in Podgorica, in accordance with the annual work schedule of judges, civil servants and state employees of the High Court in Podgorica for 2019.

To be elected as a judge of the High Court, and thus be assigned to the said department, the person must have the appropriate work experience. In this regard, we emphasize that according to the Law on Courts, a person who has been working as a judge, or state prosecutor, for at least eight years may be elected as a judge of the High Court (and thus as a judge of the special department). However, some judges who are currently assigned to the said department have far more work experience, i.e. more than 20 years of experience.

Certainly, and with the aim of achieving better work results, judges acting in money laundering cases go through adequate training, which is organized in Montenegro by the Centre for Training in the Judiciary and the State Prosecutor's Offices, as an independent organization with the status of a legal entity. In this regard, during the examination period from 2015 to 2018, the Centre for Training in the Judiciary and the State Prosecutor's Offices organized 15 seminars - workshops (i.e. 29 days of training) on the topic of money laundering, financial investigations, property confiscation procedures and international financial investigations. A total of 52 judges and 25 court advisors attended the aforementioned trainings.

In addition to the above, the issue of the capacities and resources of the court for the criminal offenses in question also includes the issue of finances. Consequently, it is also stipulated under Article 18 of the Law on Salaries of Employees in the Public Sector that employees who work on specific jobs in cases of organized crime, corruption, money laundering, terrorism and war crimes are entitled to a special allowance.

The aforementioned legal provision clearly indicates that the jobs in question are recognized by the legislator as extremely difficult, which is why persons covering such jobs are granted the right to a special allowance. In this regard, the right to a special allowance is also exercised by judges competent to act in money laundering cases, as well as court officials who participate in the work.

Finally, concerning the issue of the capacity and resources of the judiciary for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, we point out that in the period from 2015 to 2018, before the High Courts of Montenegro (until the entry into force of the Law on Courts from 2015 and the High Court in Bijelo Polje was competent for the above-mentioned criminal offense) there were 4 cases pending, against 18 persons. In three cases, the defendants were acquitted, while one case is still pending. In the period from 1 January 2019 until 31 December 2019, 4 criminal proceedings were conducted for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro, against 16 persons. The criminal proceedings were closed in 2 criminal cases, against 2 natural persons and one legal entity, with the passing of guilty verdicts based on plea agreements.

In one case, for the criminal offense of money laundering under Article 268 paragraph 1 of the Criminal Code of Montenegro, the defendant was found guilty and sentenced to a prison sentence of 3 months, and at the same time it was determined that this sentence will be carried out in the premises where the defendant lives, and imposed a fine in the amount of €5,000, as a secondary penalty. On the basis of Article 268 paragraph 6 of the Criminal Code of Montenegro, the court confiscated money generated from criminal activity, in the amount of €20,000, from the defendant.

In the second case, against two persons, for the criminal offense of tax and contribution evasion under Article 264 paragraph 3 in conjunction with paragraph 1 of the Criminal Code of Montenegro and the criminal offense of money laundering under Article 268 paragraph 3 in conjunction with paragraphs 1 and 2 of the Criminal Code of Montenegro, the accused natural person was found guilty and sentenced to a single sentence of imprisonment for 5 months and at the same time it was determined that this sentence will be carried out in residential premises, and a fine was imposed in the amount of €3,000, while the accused legal entity, for the criminal offense of tax and contribution evasion under Article 264 paragraph 3 in conjunction with paragraph 1 of the Criminal Code of Montenegro in conjunction with Article 5 of the Law on Liability of Legal Entities for Criminal Offenses and the criminal offence of money laundering under Article 268 paragraph 3 in conjunction with paragraphs 1 and 2 of the Criminal Code of Montenegro in conjunction with Article 5 of the Law on Liability of Legal Entities, was sentenced to a single fine in the amount of €75,000.

On the basis of Article 239 and Article 301 paragraph 1 point 2 of the Code of Criminal Procedure, for the criminal offense of tax and contribution evasion, under Article 264 paragraph 3 in conjunction with paragraph 1 of the Criminal Code of Montenegro in conjunction with Article 5 of the Law on Liability of Legal Entities for Criminal Offenses, the accused legal entity is required to pay to the Tax Administration the amount of €89,820 for the compensation claim. In accordance with Article 301 paragraph 3 in conjunction with Article 272 paragraph 1 point 3 of the Code of Criminal Procedure, the accused legal entity is also required to pay sums of €3,000 each to the account of the PI Resource Centre for Education and Training "1. jun" Podgorica.

Trials against 13 defendants in 2 criminal cases are ongoing before the High Court in Podgorica. In relation to the above, we believe that the capacities and resources of the judiciary had no influence on the acquittal decisions, but that they were based on the facts and evidence established at the main trial before the competent court. Also, it is important to emphasize here that the number of cases before the court does not depend on the capacities and resources of the court, but on the actions of the prosecution, i.e. on the number of indictments.

In this period, there were seven cases in which temporary security measures were imposed for the criminal offense of money laundering under Article 268 of the Criminal Code of Montenegro. Temporary security measures in those cases related to the prohibition of disposal of immovable property, the prohibition of disposal of money, as well as the temporary confiscation of movable property. In 2019, according to the obtained data, temporary security measures (freezing of assets) were imposed in four cases. Temporary security measures related to the prohibition of disposal and use of immovable properties, prohibition of disposal and encumbrance of shares or participations in a company with the entry of the prohibition in public records and prohibition of the use or disposal of rights based on shares and participations in a company and other securities, relating to the ownership of securities, shares and participations in companies of legal entities. Also, in the period from 1 January 2019 until 31 December 2019, in the procedure of providing international legal assistance in criminal matters, the High Court in Podgorica acted on the request of the competent authority of the requesting state in one case, and issued a decision, by which, at the request of Switzerland, a temporary measure was imposed - prohibition of disposal of funds in the amount of 97,749.42 Euros and 127.60 Swiss francs, on the owner's account, with a bank in Podgorica, for the criminal offense of money laundering under Article 305 of the Swiss Code (which is an offense under domestic law - money laundering under Article 268 of the Criminal Code of Montenegro).

Accordingly, the capacities and resources of the judiciary did not have an impact on the small number of property confiscation cases that end up before the court, and on the number of orders for temporary or permanent confiscation of proceeds. Namely, the aforementioned security measures were imposed on the basis of the established facts, and their number certainly depends on the quality of the evidence presented before the court (submitted by the prosecution or the person against whom the proceedings are being conducted). In that regard, the competent state prosecutor's office is authorized to initiate proceedings for confiscation (temporary or permanent) of proceeds, and the quantity, i.e. the number of cases that end up before the court, ultimately depends on their actions, and the court makes decisions on confiscation of proceeds based on evidence and facts determined in the proceedings.

The issue of the capacities and resources of the court for the criminal offenses in question also includes appropriate training and specialization of the acting judges.

In Montenegro, in judicial authorities, training is carried out within the Centre for Training in the Judiciary and the State Prosecutor's Offices, which has existed as an independent organization with the status of a legal entity since

the entry into force of the Law on the Centre for Training in the Judiciary and the State Prosecutor's Offices on 17 October 2015.

All judicial authorities are faced with the problem of classification and storing of archival material, which requires large space, and considerable financial resources for adequate equipment. By introducing electronic archiving, the process of archiving and storing cases after their completion will be greatly facilitated for the judicial authorities, which will result in a digitized and archived complete electronic file of cases. In accordance with the Strategy of ICT in the Judiciary for the period 2016-2020, a project was initiated in 2018 to introduce a new court information system, which will adequately support the use of electronic documents in daily practice.

It follows from the above that there is an adequate structural organization of the court for cases related to the criminal offense of money laundering, and the capacities and resources for court proceedings (including confiscation of proceeds) may be assessed as very high.

However, there is certainly room for improvement through:

- Improvement of spatial and IT capacities of courts;
- Training of judges for financial investigations and criminal offenses of money laundering;
- Before appointing a judge in the Special Department of the High Court entrusted with cases of high corruption, organized crime and money laundering, there should be mandatory specialized training in the field of economics;
- Provision of preconditions for archiving court documents.

| Based on the above, the assessment of the status of capacities and resources for court proceedings (including confiscation of proceeds) is VERY HIGH | | | | | | | | | | |
|--|----------------|-----------|-------|-------------|--------|------------|-------|----------|---------------------|--------------|
| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent |
| 1.0 ■ | 0.9 ■ | 0.8 ☒ | 0.7 ■ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

Integrity and independence of judges (including confiscation of proceeds)

By improving the legislative framework and establishing mechanisms to protect independence and autonomy, and to control the work of judges, their integrity has been brought to an extremely high level. Integrity and independence of acting judges is primarily based on the Constitution of Montenegro, as the highest legal act. Namely, the provision of Article 118 of the Constitution of Montenegro prescribes that the court is autonomous and independent, that the court rules on the basis of the Constitution, laws and ratified and published international treaties, and that the establishment of urgent and extraordinary courts is prohibited. It is precisely from the mentioned Constitutional provisions that two basic and universal principles of the judiciary are derived, namely its autonomy and its independence, as key elements of the rule of law. These two principles represent the basic postulates on which the integrity and independence of judges in the judicial system of Montenegro rest. The independence of the courts is ensured by establishing courts and prescribing their jurisdiction by law, and by the independent disposal of the funds provided by law for their work. Accordingly, the Law on Courts (Official Gazette of Montenegro, No. 11/2015) regulates the establishment, organization and jurisdiction of courts, the organization

of the work of courts and judicial administration, and other matters of importance for the orderly and timely functioning of the courts.

While the principle of the autonomy of the courts indirectly affects the integrity and independence of judges, the principle of independence is the foundation of that integrity and independence. Namely, the principle of judicial independence applies equally to both the court and the acting judge against the unauthorized and unlawful influence of authorities, other entities and persons.

In line with the above stated, various tools - mechanisms aimed at protecting the integrity and independence of judges - are foreseen. Above all, the independence of judges is ensured by the publicity of the trial, the permanence of the judge's office, the functional immunity enjoyed by the judge, as well as the method of election of judges.

In connection with the above, it is important to point out that the independence and autonomy of the courts and acting judges is ensured by the Judicial Council, which elects and dismisses judges, court presidents, as well as the president of the Supreme Court of Montenegro, determines the termination of the judicial office, proposes to the Government the amount of funds for work of the courts and decides on other matters of importance for the work of the courts. In this way, the influence of other authorities on the judiciary in Montenegro, and therefore on acting judges, is prevented.

In relation to the issue of integrity and independence of judges in Montenegro, it is important to point out that the courts in Montenegro are required to adopt an Integrity Plan, and prepare a Report on the implementation of that plan for the previous calendar year. Integrity plans are aimed at identifying possible risky areas and risky workplaces, as well as determining the types of risks that may harm the integrity of the competent court, and thus the judicial authorities in Montenegro.

The purpose of integrity plans is also to create conditions for potential risks to be recognized and eliminated in time, that is, for their effects, if they occur, to be eliminated in such a way that they do not cause damage to the reputation and operations of the court itself. Finally, the application of integrity plans and the principles contained in them should contribute to the further development of an impartial, professional, ethically strong and transparent judiciary. Integrity plans specify workplaces that are subject to risk, and indicate the basic risks to which these workplaces are exposed, existing control measures, as well as the method of responding to risk, and a description and evaluation of the implementation of measures against potential risk.

Regarding the issue of integrity, it is important to emphasize that in the period from 2016 (when the courts adopted the integrity plan) to 2018, there were no reports of corrupt and unlawful actions of judges and other employees.

The integrity of judges is also indirectly protected through the transparency of their, since all court decisions are published on the website "www.sudovi.me", in accordance with Article 12 of the Law on Free Access to Information.

One of the measures aimed at protecting the integrity of judges, which is also an integral part of the Integrity Plan, is the appointment of a person in charge of keeping records of gifts, as well as regular control of records of received gifts.

The integrity of judges and their independence are also ensured through the Judicial Information System, through which the acting judge is assigned a case using the “random case assignment” method. The legal basis for the aforementioned procedure is derived from the provisions of Article 34 of the Law on Courts (Official Gazette of Montenegro, No. 11/2015), which prescribes that cases are assigned, without delay, according to the annual work schedule, using the method of random cases assignment. One of the objectives of the aforementioned legal measure is certainly to reduce the risk of influence on the actions of judges in their work on cases.

The integrity of judges and their independence are also ensured through the Judges' Code of Ethics Commission. Namely, Article 11 of the Law on Courts stipulates that the Judges' Code of Ethics Commission has a president and two members, that the president is elected from among members of the Judicial Council who are not judges, that one member is elected by the extended session of the Supreme Court from among judges, and that the second member is the president of the Association of Judges of Montenegro. On the basis of the said Commission, each party is given the opportunity to address that Commission in order to give an opinion on whether certain behaviour of judges is in accordance with the Judges' Code of Ethics. The aforementioned legal option is certainly aimed at protecting the integrity of the judiciary.

Furthermore, and in connection with the question whether in the examination period (from 2015 to 2018) there were proceedings in which “powerful members of society” and “high-profile criminals” appeared as defendants, and the question of whether proceedings were initiated and completed objectively and professionally, we state the following:

In the said period, we can single out one case in which a person appears as the defendant, who could be said to belong to a group with the designation – “powerful member of society”. That case is still in progress.

In relation to the remaining cases - proceedings, existing in the said period, we state that we are not able to evaluate the mentioned persons, that is, to determine whether they belong to the group – “high-profile criminals”. This is because of the fact that the judiciary does not have the tools and mechanisms to carry out that assessment, as that is the responsibility of the National Security Agency and the Police Administration.

In addition, in the mentioned period (2015-2019), there were seven cases before the court in which measures for the temporary confiscation of proceeds were imposed. Analyzing them, we found that there were no proceedings conducted against persons who could be said to belong to the group of “powerful members of society”. In relation to the question whether there were proceedings that affected “high-profile criminals”, we point out that we are not in position to make such assessment. This is because of the fact that we do not have adequate mechanisms and tools for such assessment, as it was already explained previously.

Accordingly, although the state of integrity and independence of judges was assessed as very high, room for further improvement can be seen through:

- Strengthening the capacity of the judicial system when making decisions on complex cases without unjustified delay and with sufficient knowledge;
- Within the Judicial Council, increasing proactive action in the detection and timely processing of disciplinary violations;
- Establishing a mechanism for reporting pressure or attempted influence in ongoing cases.

Based on the above, the assessment of the status of integrity and independence of judges (including confiscation of proceeds) is NEAR EXCELLENT

| Excellent | Near excellent | Very high | High | Medium high | Medium | Medium low | Low | Very low | Almost non-existent | Non-existent |
|-----------|----------------|-----------|-------|-------------|--------|------------|-------|----------|---------------------|--------------|
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.11 Quality of border control mechanisms

Valid regulations and international standards state that the system for preventing money laundering and financing of terrorism is not within the jurisdiction of only one institution or state authority but is a system in which the roles of each participant are legally defined, as well as their interaction and cooperation. The customs authority is just one link in the chain in the system of suppression of money laundering and terrorism financing, which only in interactive cooperation with other competent authorities and the financial intelligence unit can fully contribute to prevention of Montenegro's financial system being used for money laundering and financing of terrorism.

Jurisdiction and treatment of the customs authority in controlling the physical entry of means of payment into Montenegro and the transfer of means of payment from Montenegro is regulated by:

1. the Law on Customs Service (Official Gazette of Montenegro, no. 3/16);
2. the Law on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette of Montenegro, no. 44/18, 73/19), and the Rulebook on the terms and manner of submitting data on cash transactions of at least EUR 15,000 and suspicious transactions and the Rulebook on Indicators for recognising suspicious clients and transactions that were adopted based on the mentioned Law;
3. Law on Foreign Current and Capital Operations, and the Rulebook on more detailed records of physical input and transfer of means of payment across the state border and the Decision on the amount of cash that may be brought in or out of Montenegro without declaring.

In order to prepare for Montenegro's accession to the EU and the Schengen area, the Government of Montenegro has adopted the Integrated Border Management Strategy (IBM) 2014-2018 and the Framework Action Plan for implementation of the IBM Strategy in accordance with the EU IBM Concept.

Montenegro's Integrated Border Management Strategy follows the EU IBM concept and is based on a four-tier access control model (four control filters).

The concept of integrated border management is a generally accepted model for managing the EU border, as an important element of preserving the internal security of the Member States, especially in preventing and detecting illegal migrations and other forms of cross-border crime and is a set of operational measures by which the Member States provide a more efficient border

management system.

The concept of integrated border management consists of the following segments:

- border controls (verification and supervision), as defined in the Schengen Borders Code, including the relevant risk analysis and crime intelligence;
- detection and investigation of cross-border crime in coordination with all competent law enforcement authorities;
- four-tier access control model;
- measures in third countries;
- cooperation with neighboring countries;
- border control;
- control measures within the area of free movement, including return;
- Inter-agency cooperation for border management (police, customs, inspection services) and international cooperation;
- coordination of activities of the Member States and institutions and other EU bodies.

As for illegal migration, Montenegro, for the most part of illegal migrants, is mainly just a transit country for migrants who travel to other countries of destination, through the so-called Western Balkan route. Bearing in mind that the eastern border line, to a greater extent, is stretching across mountain ranges and less populated areas, detection of illegal migrants implies adequate equipment for the border police at the prevention and detection of this kind of cross-border crime.

Also, an evident phenomenon, which Montenegro is facing in recent years, with a constantly growing trend, is the number of asylum seekers. Croatian accession to the European Union and the common external border represent another reason for the increased number of asylum seekers in Montenegro.

In addition to these migration flows, it should be emphasized that the so-called Balkan route is still present and used for traffic in illicit drugs, stolen vehicles and weapons, which is a challenge for all bodies involved in the management of border.

Smuggling of excise and other goods presents an additional challenge, not only for customs, but also for other authorities that have the responsibility in combating cross-border crime.

State border surveillance is a key element of border control and a very important segment of the scope of work of the Border Police. Having regard to the configuration of the terrain (*mountain ranges, rivers, roads that intersect the border*), the routes of illegal migrants and cross-border crime in the green and blue border, heightened surveillance of vulnerable routes suitable for illegal crossing of the border is continuously being implemented in order to develop technical solutions for permanent supervision of future external border.

The Border Control Law created legal preconditions for establishing an efficient and complete system of border protection and control in accordance with EU standards and the Schengen Code, which will ensure adequate control of movement and residence of foreign nationals, the rapid flow of people and goods at Montenegro's borders, while preventing all forms of cross-border crime and terrorism.

The conditions in which state border supervision will be conducted depend on several factors, primarily geographical, climate related and infrastructural, and in order to implement adequate

tactics to supervise the state border, there must exist human resources and equipment that provide the necessary mobility and communication.

State border supervision is carried out by stationary or mobile units that perform their duties by patrolling or locating places that are or are considered sensitive. The Law on Border Control stipulates that supervision of the state border, in addition to border checks, is a basic area of border police activities and is carried out on land, sea and inland waters, in accordance with risk analysis and threat assessment, under which a police officer takes appropriate measures and actions and exercises the authority to prevent cross-border crime, illegal migration, threats to the security of the state border and to deter persons from avoiding checks at border crossings. This implies measures, actions and authorities undertaken along the state border, between border crossings and at border crossings outside established working hours.

In addition to the legal regulations in the field of border police work, the primary document defining the methods of work and functioning of state border supervision in Montenegro is the State Border Supervision Strategy, and its main goal is to ensure the effective operation of border police and other services that have jurisdiction at the state border in order to preserve the national security and security of the European Union, especially in terms of suppressing illegal migration and cross-border crime. The Strategy of State Border Supervision is a concept of tactical supervision that implies a set of different methods that enable the best security of a particular border area – patrol areas, i.e. especially important and sensitive places. Such a concept also stipulates that border supervision must be tailored to the results of risk analysis while respecting the situational awareness and ability to react, i.e. overview of the situation.

Based on all of the above, the results of the rating, as well as the results achieved in the previous period, it can be concluded that in certain regions there are real risks that are primarily related to trafficking of narcotics, trafficking of excise goods, trafficking of goods of wide purpose (trade goods), less frequent human trafficking and arms trafficking, money, whose public forms have so far not been recorded in the supervision of the state border. Statistics indicate that about 80% of the various narcotic drugs are seized in the border part between Montenegro and neighbouring countries, indicating that we are still a transit country for drug trafficking. Given the situation in tobacco and tobacco products on the Montenegrin market, interest has been recognised to boost the activities of all relevant institutions in Montenegro in order to reduce the illegal trade of these products as much as possible. The most smuggling cases are registered at the most frequency border crossings, open spaces, and retail stores. Sanctioning smuggling involves confiscating contraband, issuing misdemeanor orders and sentencing, and in certain cases, when there are legal requirements filing of criminal charges.

Political and humanitarian crises in third countries in the previous period have resulted in the displacement of large numbers of people seeking international protection in the European Union.

Bearing in mind that the Montenegrin border will be the future external border of the European Union, the route of illegal migrants could be redirected to both land and marine part of the border.

The intensity of migration and the national structure of migrants passing through Montenegro during the period 2014-2017 are changing continuously. The opening of the Balkan route has led to a dramatic reduction in the number of illegal migrants since 2015, as Montenegro's territory is bypassed by major migration flows. On the migration path, Montenegro retained the transit country status it had before.

Statistics on cross-border money smuggling (cases of undeclared transport of money, precious

metals, and precious stones across the state border)

- During 2015 - 21 case of suspected illegal transport of money across the state border, with EUR 4,145 temporarily confiscated;
- During 2016 – 2 cases of suspected illegal transport of money across the state border, with EUR 28,470 temporarily confiscated;
- During 2017 - 9 cases of suspected illegal transport of money across the state border, with EUR 148,150, USD 20,000 and CHF 18,000 temporarily confiscated;
- During 2018 - 6 cases of suspected illegal transport of money across the state border, with EUR 153,500 temporarily confiscated and 8 cases of undeclared transport of precious metals;
- During 2019 - 11 cases of suspected illegal transport of money across the state border, with EUR 259,123, RUR 75,000 and GBP 22,980 temporarily confiscated;

Given the above threats, it is necessary to strengthen:

- interconnections and cooperation of all state bodies with responsibility at sea, Border Police, Navy, Customs, Maritime Safety Directorate and Port Authority²⁶;
- establishing an information platform for mutual data sharing and access to databases for anti-money laundering purposes;
- continuous implementation of training of customs officers in order to learn about modern money laundering typology;
- more efficient cooperation between customs and financial intelligence units in order to learn about risk analysis and improvement of indicators of suspicious transactions;
- Effective application of the Schengen Action Plan;
- Effective application of the Integrated Border Management Strategy.

Given the above, rating of the quality of border control mechanisms is **VERY HIGH**

| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
|-----------|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| 1.0 ■ | 0.9 ■ | 0.8 ☒ | 0.7 ■ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.12 Comprehensiveness of the customs system in terms of money and similar instruments

The Customs Administration continuously implements activities focused on improving the System for prevention of money laundering and financing of terrorism. In this regard, the Customs Administration, pursuant to FATF's recommendations, has made harmonisation, changes to customs regulations in terms of strengthening the powers of customs officers. Pursuant to the above, a new Law on Customs Service was enacted on 15.01.2016, which prescribes new authorities of customs officers.

Jurisdiction and treatment of the customs authority in controlling the physical entry of means of payment into Montenegro and the transfer of payment funds from Montenegro is regulated by: the Law on Customs Service; Law on prevention of money laundering and financing of terrorism and the Rulebook on the terms and manner of submitting data on cash transactions of at least

²⁶ Integrated Border Management Strategy 2014-2018

EUR 15,000 and suspicious transactions and the Rulebook on Indicators for recognising suspicious clients and transactions that were adopted based on the mentioned Law; the Law on Foreign Current and Capital Affairs and the Rulebook on more detailed records of physical entry and transfer of means of payment across the state border and the Decision on the amount of cash that may be brought in or out of Montenegro without declaring.

The Law on Customs Service, in Article 6, paragraph 2, item 7 and Article 11, paragraph 1, item 14, stipulates that within the customs service, the Customs Administration shall inspect the entry and exit of means of payment across the state border in accordance with the regulations on prevention of money laundering and financing of terrorism, and prevents and detects violations of regulations in this area. Pursuant to these jurisdictions, Article 44 of the Law gives the authorised customs officer the authority to seize domestic or foreign means of payment while conducting supervision, on which he is obliged to issue a certificate.

The Law on Prevention of Money Laundering and Financing of Terrorism, in Article 74, stipulates the obligation of the customs authority to provide the administration body in charge of preventing money laundering and financing of terrorism, i.e. the Administration for Prevention of Money Laundering, to provide data or enable electronic access on each cross border transport of money, checks, bearer securities, precious metals and precious stones, in the value or amount of 10,000€ or more, not later than within 3 days from the day of transporting. Moreover, pursuant to this Article, the customs authority is obliged to act in the same manner with regard to the transport or attempt of transport of money, checks, securities, precious metals and precious stones in the value or amount lower than 10,000€, if in relation to that transport or attempt of transport there are reasons for suspicion of money laundering or terrorist financing. The Rulebook on the terms and manner of submitting data on cash transactions of at least EUR 15,000 and suspicious transactions prescribed a form for submitting this data to the FIU on official duty.

Pursuant to the above regulations, the customs authority is authorized to:

- receive and verify the declaration of cash (Article 10 of the Law on Foreign Current and Capital Operations);
- review the documentation and verify the authenticity and veracity of documents (Art. 26 of the Law on Customs Service);
- check the identity of the person (Article 28 of the Law on Customs Service);
- search the person, his luggage and transportation (Art. 34 and 40 of the Law on Customs Service);
- temporarily confiscate cash (Article 44 of the Law on Customs Service);
- file a request for initiating misdemeanour proceeding to the Misdemeanor court (Art. 144 and 153 of the Law on Misdemeanors, Article 15 of the Law on Foreign Current and Capital Operations);
- give notices to the competent state prosecutor;
- record and process all relevant information (Article 82 of the Law on Prevention of Money Laundering and Financing of Terrorism);
- provide access to data on transport of means of payment across the state border, to the FIU (Article 74 of the Law on the Prevention of Money Laundering and Financing of Terrorism);
- use recorded data for risk analysis purposes.

Failure to declare cash in the amount of EUR 10,000 euros or more, i.e. its countervalue in other currencies or other means of payment, is punishable in accordance with the Law on Foreign Current and Capital Operations. This offence (Article 15 of this law) carries a fine of between EUR

2,500 and EUR 16,500 for a legal entity, for the responsible person in a legal entity, the amount of EUR 550 to EUR 2,000 for a physical person, and the amount of EUR 300 to EUR 6,000 for an entrepreneur. Providing incomplete and inaccurate information in the declaration, is also considered non-declaration of cash, so the customs officer shall act in accordance with the Instruction in case of non-declaration of cash, namely:

- temporarily confiscate the amount of undeclared cash;
- issue a certificate of temporarily confiscated cash;
- file a request for initiating misdemeanor proceeding to the competent misdemeanor court;
- pay temporarily confiscated cash into the account of the Central Bank of Montenegro.

In cases of detection of non-declaration of cash, the customs officer will:

- temporarily confiscate the entire amount of undeclared cash (including the amount that the traveller is not normally obliged to contribute) and leave the traveler only a symbolic amount of money sufficient for the purposes of the trip;
- issue a certificate of temporarily confiscated cash (Annex 1 of the Instruction);
- immediately request for initiating a misdemeanor proceeding to the competent misdemeanor court (in accordance with Article 152 of the Law on Misdemeanors);
- pay temporarily confiscated cash into the account of the Central Bank of Montenegro.

The Customs Administration, by applying its authorities prescribed by law, recorded the following declarations of transport of money, precious metals, and precious stones

- During 2015 – 342 declarations on the transport of money across the state border, of which there were 260 declarations at entry into the Montenegrin customs area and 172 applications upon exiting the Montenegrin customs area;
- During 2016 – 504 declarations on the transport of money across the state border, of which there were 226 declarations at entry into the Montenegrin customs area and 278 declarations upon exiting the Montenegrin customs area;
- During 2017 – 432 declarations on the transport of money across the state border, of which there were 259 declarations at entry into the Montenegrin customs area and 173 applications upon exiting the Montenegrin customs area;
- During 2018 – 543 declarations on the transport of money across the state border, of which there were 255 declarations at entry into the Montenegrin customs area and 288 upon exiting the Montenegrin customs area;
- During 2019 – 816 declarations on the transport of money across the state border, of which there were 445 declarations at entry into the Montenegrin customs area and 371 declarations upon exiting the Montenegrin customs area.

Application of the authorities prescribed by the law also revealed transports of undeclared money:

- During 2015 - 21 case of suspected illegal transport of money across the state border, with EUR 4,145 temporarily confiscated;
- During 2016 - 2 cases of suspected illegal transport of money across the state border, with EUR 28,470 temporarily confiscated;
- During 2017 - 9 cases of suspected illegal transport of money across the state border, with EUR 148,150, USD 20,000 and CHF 18,000 temporarily confiscated;
- During 2018 - 6 cases of suspected illegal transport of money across the state border, with EUR 153,500 temporarily confiscated and 8 cases of undeclared transport of precious metals;
- During 2019 - 11 cases of suspected illegal transport of money across the state border, with EUR 259,123, RUR 75,000 and GBP 22,980 temporarily confiscated.

When it comes to the electronic money transfer project (wire transfer), a money transfer

application has been installed in 2018. Moreover, the Montenegrin Customs Administration introduced an electronic risk management system in 2007. The risk analysis system is fully integrated into the organizational structure, customs procedures, and customs information system. During customs clearance, the customs officer receives information from the Risk Analysis with a risk description and instructions on what to do. Depending on the level of risk, the message occurs in red, yellow, and green channels. The risk analysis system is automated. There is a special SAT application, which creates risk profiles with all the necessary data (Risk Description, Intervention Instruction, Risk Level, Review Rate, Activation Period, Declaration Type, Customs Procedure, Customs Outpost, Random Controls, etc).

Furthermore, there is an integrated RMR (Risk Management Registry) database in which data on all stages of risk analysis (receipt of information, logs, analysis, risk profile creation, statuses, evaluations, searches) is entered. All customs administration organizational units have access to the RUR database and can directly enter proposals for risk profiles from their jurisdiction (e.g. customs value profiles, tariff profiles, prohibition profiles and restrictions, etc.), and can then monitor and evaluate the efficiency of risk profiles for updating through reports. The RUR base has the ability to produce reports and conduct searches according to the preset parameters (according to data on persons, vehicles, and goods);

Indicators of money laundering in passenger and goods transport of the World Customs Organization were integrated into the Instructions for Local Risk Analysis of the Customs Administration of Montenegro from the month of September 2015,.

1. Indicators of money laundering scams

- suspicious passenger,
- route: travel to/from a sensitive country or a well-known money laundering center,
- a ticket paid in cash and purchased at the last minute,
- recently issued and/or an old passport,
- questionable credibility of passengers and reasons for their trip,
- there's a record of suspicious activity,
- modification of the itinerary: early/later departure or return,
- frequent trips in the region for a short time – professional courier,
- new wardrobe, not fully matching the passenger,
- approaching the checkpoint at the last minute,
- the address of the passenger's stay is not in accordance with the financial arrangement,
- a person represents a business, but he/she doesn't seem to have any experience in it,
- a person is known to have a criminal history or is in contact with such persons.

2. Turnover of goods

- cash for high-value orders,
- prices of goods far above the market value,
- goods shipments for no apparent reason,
- payments by cession - third party,
- route or circulation of goods without economic logic,
- address of the importer is difficult to verify or does not exist,
- many transactions with a country where it is hard to verify information and transactions.

The Customs Administration has developed four new functionalities in the SEED application, one involving recording of the transfer of means of payment across borders. The project for developing new functionalities through the SEED system, which enables systematic and automatic electronic

exchange of data with neighbouring customs administrations, began in July 2016 and was completed in July 2018.

The new functionality of electronic recording of transfer of over-the-limit means of payment was released in October 2018. From October 2018, all competent organization units have started electronically recording and entering data on the transfer of means of payment across the border to the new module through the SEED application according to user instructions. Moreover, data on temporarily confiscated money are recorded through the specified module.

Pursuant to the above mentioned, in order to improve the situation, it is necessary to:

- further improve the information system from the point of view of risk analysis in order to prevent money laundering;
- strengthen co-operation among authorities with a special emphasis on cooperation with the financial and intelligence unit;
- conduct training in part recognizing suspicious behaviour at border crossings from the point of view of money laundering.

| Based on the above, rating of comprehensiveness of the customs system in terms of money and similar instruments is HIGH | | | | | | | | | | |
|---|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ☒ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.13 Effectiveness of customs control mechanisms in terms of money and similar instruments

The Customs Administration applies all mechanisms for efficient and effective enforcement of control mechanisms regarding money laundering.

In relation to sanctions applied for violations of the obligation to declare money, it is punishable in accordance with the Law on Foreign Current and Capital Operations. For this offence (Article 15 of this Law) a pecuniary fine in the amount of EUR 2,500 to EUR 16,500 is imposed on a legal entity, EUR 550 to EUR 2,000 on a responsible person in the legal entity and EUR 300 to EUR 6,000 on an entrepreneur.

The Customs Administration is an executive body, i.e. it does not have jurisdiction to adopt regulations in the field of application of criminal provisions in the legal matter in question.

In a number of cases initiated by the Customs Administration, the money temporarily confiscated was returned to the owner after the completion of the misdemeanor proceedings and after the checks were carried out, i.e. the consent of the authority in charge of preventing money laundering and financing terrorism.

- Statistics on sanctions taken against persons who failed to declare transport of money

- During 2015 - 21 misdemeanor charges – a case of suspected illegal transport of money across the state border, with EUR 4,145 temporarily confiscated;
- During 2016 - 2 misdemeanor charges - a case of suspected illegal transport of money across the state border, with EUR 28,470 temporarily confiscated;
- During 2017 - 9 misdemeanor charges - cases of suspected illegal transport of money across the state border, with EUR 148,150, USD 20,000 and CHF 18,000 temporarily

confiscated;

- During 2018 - 6 misdemeanor charges - cases of suspected illegal transport of money across the state border, with EUR 153,500 temporarily confiscated and 11 misdemeanor charges relating to 8 cases of undeclared transport of precious metals;
- During 2019 - 11 cases of suspected illegal transport of money across the state border, with EUR 259,123, RUR 75,000 and GBP 22,980 temporarily confiscated.

- Statistics on cases of smuggling large amounts of money and amounts revealed

- During 2015 - 21 case of suspected illegal transport of money across the state border, with 4,145 temporarily confiscated;
- During 2016 - 2 cases of suspected illegal transport of money across the state border, with EUR 28,470 temporarily confiscated;
- During 2017 - 9 cases of suspected illegal transport of money across the state border, with EUR 148,150, USD 20,000 and CHF 18,000 temporarily confiscated;
- During 2018 - 6 cases of suspected illegal transport of money across the state border, with EUR 153,500 temporarily confiscated;
- During 2019 - 11 cases of suspected illegal transport of money across the state border, with EUR 259,123, RUR 75,000 and GBP 22,980 temporarily confiscated;

- Statistics on sanctions taken against money-smuggling persons (and similar instruments)

- During 2015 - 21 misdemeanor charges - a case of suspected illegal transport of money across the state border, with EUR 4,145 temporarily confiscated;
- During 2016 - 2 misdemeanor charges - a case of suspected illegal transport of money across the state border, with EUR 28,470 temporarily confiscated;
- During 2017 - 9 misdemeanor charges - cases of suspected illegal transport of money across the state border, with EUR 148,150,00, USD 20,000 and CHF 18,000 temporarily confiscated;
- During 2018 - 6 misdemeanor charges - cases of suspected illegal transport of money across the state border, with EUR 153,500 temporarily confiscated and 11 misdemeanor charges relating to 8 cases of undeclared transport of precious metals;
- During 2019 - 11 cases of suspected illegal transport of money across the state border, with EUR 259,123, RUR 75,000 and GBP 22,980 British pounds temporarily confiscated.

What is missing, however, is the existence of an appropriate analysis that, based on a series of parameters, shows the dark number and level of use of border crossings for illegal (undeclared) transport of money, goods, and valuables for money laundering purposes. This analysis should be part of the risk analysis or part of a strategic analysis of threat from serious and organised crime (SOCTA). In any case, this analysis should be a rapper whether statistics on declared and confiscated (undeclared) assets at border crossings have been reduced and to what extent they have prevented committing money laundering offences in this way. This analysis must be based on regional and global analyses, with a special focus on comparative analyses of customs services of the countries with which Montenegro borders.

Based on the above mentioned, rating of effectiveness of customs control mechanisms in terms of money and similar instruments is VERY HIGH

| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
|-----------|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| 1.0 ■ | 0.9 ■ | 0.8 ☒ | 0.7 ■ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.14. Effectiveness of domestic cooperation

Cooperation between competent state authorities involved in the system for preventing money laundering and financing of terrorism is regulated by the relevant legal framework, as well as cooperation agreements that further enhance it.

The Law on Prevention of Money Laundering and Financing of Terrorism defines how to exchange or collect data from other competent authorities, forward data on suspicious transactions and other crimes, as well as the obligation of other authorities to send feedback. It also defines obligations of competent state authorities in part of the delivery of data if they establish suspicions of money laundering or financing of terrorism during realization of activities within their jurisdiction.

In addition, the Criminal Procedure Code in Article 271, paragraph 3 defines the obligation of state authorities to collect the requested data at the request of the prosecutor. Provisions of the Criminal Procedure Code define the manner of conduct of criminal proceedings, and provisions governing the relationship between the prosecution and the court with other state authorities.

The Law on the Special State Prosecutor's Office defines the possibility that the Chief Special Prosecutor may form a special investigative team for handling of particularly complex cases, which, besides special prosecutor, may also comprise police officers from the Police Department, investigators, and civil servants from another competent authority (Article 30). In addition, it is stipulated that when, in carrying out the tasks falling within his/her jurisdiction, the special prosecutor deems it necessary he/she may request from administrative authorities responsible for tax affairs, customs affairs, affairs involving money laundering and terrorist financing and inspection affairs as well as from the other state administrative authorities to control operations of a legal or physical entity, obtain certain documents, data and to take other actions falling within their mandate, in accordance with the regulations governing the mandate of these authorities.

The issue of cooperation between courts and other state authorities is regulated by the Law on Courts and the Court's Rules of Procedure.

Inter-institutional cooperation is continuously taking place through participation of competent state authorities in implementing measures and activities under the Strategy of the Government of Montenegro for the Prevention and Suppression of Terrorism, Money Laundering and Terrorism Financing. Supervision of implementation of the Strategy and measures from the relevant two-year action plans is carried out by the Bureau for Operational Coordination of Activities of the Intelligence and Security Sector Authorities.

Moreover, in order to improve the efficiency of work of law enforcement bodies and suppression of organized crime through improvement of their inter-institutional cooperation, in accordance with recommendations of the action plans for negotiation chapters 23 and 24, from July 2017, the Ministry of Justice, the Supreme Court, the Ministry of Internal Affairs, the Police Administration, the Financial Intelligence Unit, the Tax Administration, the Customs Administration and the Supreme State Prosecutor's Office are implementing an agreement for improving cooperation in the area of crime suppression (entered into force on 16 October 2017). The agreement concerns the establishment of a secure electronic communication network for mutual access to databases and the exchange of information between law enforcement authorities, including the Supreme State Prosecutor's Office, in accordance with the Law on Personal Data Protection. According to the provisions of the above-mentioned agreement, the institutions have appointed a contact person in charge of data sharing. However, since all of the above institutions do not meet the technical criteria for establishing a secure electronic network, activities are under way to improve

their IT systems as a precondition for practical use of the agreement. Moreover, this agreement does not cover all institutions that manage databases relevant to the fight against money laundering.

Based on the analysis of the situation, it is evident that the conduct of the authorities in cases of recognition of sophisticated forms of money laundering, especially money laundering as a standalone criminal offence, affects the quality of cooperation in investigations, which ultimately affects the results – prosecution and the number of convictions for money laundering offences, and the value of confiscated property based on those convictions. Namely, it is evident that the percentage of money laundering offences is low relative to the number of prosecuted offences that generate property benefits.

Accordingly, the following areas and priorities aimed at improving the situation have been identified:

- organizing practical trainings for all authorities involved in investigations of money laundering, from scouting to forfeiture of property benefits in order to uniquely access money laundering problems and confiscate property acquired by criminal activity;
- establishing IT prerequisites for all authorities to access each other's data sharing according to the signed agreement;
- increase the track record in terms of prosecuting money laundering offences;
- drafting operational procedures that would elaborate the procedures of parallel conduct of criminal and financial investigations, as well as the manner of cooperation between authorities in investigations of money laundering offences.

Based on the above, rating of effectiveness of domestic cooperation is HIGH

| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
|-----------|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ☒ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.15 Effectiveness of International Cooperation

Montenegro has a comprehensive legislative framework in place regarding cooperation at the international level in connection with crimes related to organised crime, money laundering and related predicate criminal acts, investigations and prosecution of financial crimes and the seizure of property acquired by criminal activity. The competent state authorities involved in the AML/FT system in Montenegro are effectively achieving international cooperation with foreign partner services in order to improve the communication channels and exchange data necessary for prosecuting criminal offences of money laundering and related predicate crimes.

In relation to the criminal offence of money laundering, the exchange of financial intelligence with foreign financial intelligence services takes place in accordance with the provisions of the Law on Preventing Money Laundering and Financing of Terrorism. This Law defines ways of exchange of data, self-initiative delivery of data to a foreign FIU, conditions for exchange of requests for temporary suspension of a suspicious transaction.

According to the change of the FIU model and transition from administrative to police model, the FIU of Montenegro has been prevented from accessing EGMONT secure network since May 2019, as there have been changes in the way the Directorate for the Prevention of Money Laundering and Financing of Terrorism (DPMFT) works, i.e. its integration into the Police Department where it continued to work as the Department for the Prevention of Money Laundering and Financing of Terrorism.

Moreover, supervisory bodies defined in the Law on the Prevention of Money Laundering and Financing of Terrorism have the authority to exchange data with foreign partner organisations and institutions in accordance with legislation defining their scope of competencies.

The Central Bank of Montenegro, through the provisions of the Law on the Central Bank of Montenegro, can establish international cooperation with other central banks, international financial institutions, and organizations whose areas of activities are related to achieving the objectives and performing the functions of the Central Bank. In addition, the Law on Financial Leasing, Factoring, Receivables Purchase, Micro-Lending and Credit-Warranty Activities in Article 144 defines the exchange of information between the Central Bank and competent state authorities of foreign states. Provisions of the Law on Capital Markets define cooperation of the Capital Market Commission with the EU Member States, conditions for handling data exchange, concluding an agreement on cooperation with competent authorities of third countries, as well as cooperation and exchange of information with ESMA - European Supervisory Authority for Securities and Capital Markets (Article 41-45).

A very important cooperation aimed at fighting money laundering and financing terrorism, among other things, is international police cooperation. International police cooperation is done through INTERPOL (Interpol's secure channel of communication I-24/7), Europol (Europol's SIENA), SELEC (Selec's secure channel of communication, network of domestic and foreign liaison officers and police attaches, as well as through other international organisations and initiatives formed on the basis of bilateral and multilateral agreements).

Thanks to this cooperation, the Police Administration can exchange information about persons in cases where there are grounds for suspected money laundering offences. In addition to sharing information with other foreign partner services, the Police Department can thus query international databases (INTERPOL, Europol) and submit data for entry into analytical files (Europol). In order to combat money laundering, the Police Administration is a member of Europol's AP SUSTRANS analytical project, which is intended for verification and analysis of intelligence and other data as part of investigations into money laundering offences. It should also be mentioned that there is *ad hoc* exchange of information at the bilateral level with foreign police liaison officers in money laundering investigations.

Therefore, it is possible through international police cooperation to exchange information, access to foreign databases, gather evidence and organize and carry out joint police activities aimed at preventing the commission of criminal acts, identifying, and depriving the freedom of perpetrators, and monitoring the transfer of criminal cases (including property benefits), as well as the application of special investigative measures, and forensic techniques.

A key contact point for international police cooperation is the Department for International Operational Police Cooperation of INTERPOL-Europol-SIRENE, which is a contact point for all forms of international operational police cooperation, which provides access to all available international police databases. This Department is also an ARO contact point for international cooperation in conducting financial investigations.

When it comes to judicial cooperation, Montenegro is a signatory to a number of multilateral conventions in the area of providing international legal assistance in criminal matters²⁷, as well as a series of bilateral agreements with the countries of the region²⁸, with which it has the most frequency of judicial cooperation or expects an increased level of cooperation. In addition, bilateral agreements have been signed with Serbia, Croatia, Macedonia and Bosnia and Herzegovina, ensuring the possibility of extradition of their citizens. It is common for these agreements that own citizens can be extradited only for criminal acts of organized crime, corruption, and money laundering, for the conduct of criminal proceedings punishable by imprisonment of four years or more, or for execution of a sentence of at least two years in prison for the above-mentioned crimes.

At the Ministry of Justice of Montenegro, as the central body for providing international legal assistance, as of 1 January 2015, the electronic record system of international legal aid cases - LURIS document management system is in use. This system enables electronic logging and monitoring of international legal aid cases in civil and criminal matters, immediate control of processed cases and control of the retention of cases by processors from the moment of the final document by the responsible person, with verification of outbound documents. Moreover, LURIS enables statistical reporting by type of legal aid, criminal offence, requesting country, competent authority for treatment, as well as other parameters needed to closely monitor the process and procedure of providing legal aid and efficiency in treatment of officials in the Ministry of Justice. The LURIS system has a special utility value in reporting of fulfilling Montenegro's international obligations, as it processes and automatically updates the entry of each document, thus enabling credible statistics in the field of international legal aid, which are ready to be subject to information in international communication at all times.

Since 2016, a special type of report has been introduced in LURIS, which relates exclusively to money laundering, and for the purposes of regular reporting to the MONEYVAL committee, and it is possible to obtain statistics in relation to the freezing and confiscation of assets.

During 2015, contact points were established in Montenegro for cooperation with the European Judicial Network in Criminal Matters (EJN), while in June 2017 Cooperation agreement between Montenegro and the European Judicial Cooperation Unit - EUROJUST entered into force. The agreement was signed on 3 May 2016 in Brussels. It defines the scope of cooperation, determines the competent authorities for its implementation, mechanisms, and institutes for mutual cooperation such as the appointment of a state prosecutor, i.e. liaison magistrate with EUROJUST, contact persons, information exchange modalities with a special focus on the issue of privacy and protection of personal data and data security, as well as this body's relationship with competent authorities of other countries.

²⁷ Convention of the Council of Europe on laundering, search, seizure and confiscation of the proceeds from crime (CETS 198)- Warsaw Convention, United Nations Convention Against Transnational Organised Crime and Supplementary Protocols – Palermo Convention, Convention on laundering, search, seizure and confiscation of the proceeds from crime (made in Strasbourg), European Convention on Mutual Assistance in Criminal Matters (1959, CETS) No.30 with additional protocol (ETS. No.99) and other additional protocols (CETS 182), European Convention on Extradition (ETS). No.24 with two additional protocols (ETS. No.86 and ETS.No. 98), European Convention on the Transfer of Convicted Persons (ETS). No.112 with additional protocol (ETS. No.167), as well as the Convention of the Council of Europe on laundering, search, seizure and confiscation of the proceeds from crime and on financing of terrorism (CETS). No.198), European Convention on the Suppression of Terrorism (CETS No.090), Protocol on Amendments to the European Convention on the Suppression of Terrorism (CETS No. 190), Convention of the Council of Europe on the Prevention of Terrorism (CETS No. 196).

²⁸ Serbia, Bosnia and Herzegovina, Croatia, Italy, Macedonia

Achieving cooperation with EJN and EUROJUST further enhanced capacities for urgent treatment in international legal aid cases, as well as direct cooperation with representatives of central bodies and judicial bodies of other states, while ratification of the Additional Protocol with the Convention of the Council of Europe on the Prevention of Terrorism expanded the multilateral basis for cooperation in this area.

International legal assistance in criminal matters (and thus international cooperation) involves several cases involving different state authorities, both domestic and foreign, who are directed at each other in the fight against criminality. International legal assistance in criminal matters is provided on the basis of multilateral and bilateral agreements, and in case international contracts do not exist or these contracts do not regulate certain issues, domestic legislation is applied.

The Law on Mutual Legal Assistance in Criminal Matters defines the conditions and procedures of providing international legal assistance in criminal matters in case there is no international agreement between Montenegro and a foreign state.

International legal assistance in criminal matters includes: extradition of the accused and sentenced persons, transfer of sentenced persons, transfer and assuming of criminal prosecution, enforcement of foreign criminal verdicts, delivery of documents, written materials and other cases relating to criminal proceedings in a foreign state, as well as the undertaking of certain procedural actions, such as: hearing of the accused, witnesses and experts, search of premises and persons, temporary seizure of items, exchanges from penal records.

The Supreme State Prosecutor's Office has become a member of the International Association of Prosecutors (IAP), which is the world's only association of prosecutors dedicated to establishing and improving the professional work and ethics of prosecutors around the world; promoting the rule of law; impartiality of prosecutors; respect for human rights and improving international cooperation in the fight against crime. Within the association, the State Prosecutor's Office has contact persons for: legal issues, international legal aid, cybercrime, human trafficking, crimes against humanity and societies protected by international law, as well as terrorism. A representative of the State Prosecutor's Office is a member of the working group for drafting the opinions of the Consultative Council of European Prosecutors (CCPE). The Supreme State Prosecutor's Office of Montenegro has a representative in the European Judicial Network (EJN). In December 2018, the Supreme State Prosecutor's Office became part of the Union of General Prosecutors of the Mediterranean.

During 2017, the Cooperation Agreement between Montenegro and the European Unit for Judicial Cooperation - EUROJUST was signed and entered into force. Under the agreement, Montenegro appointed a state prosecutor for liaison with EUROJUST, as well as a correspondent for terrorism issues. The State Prosecutor's Office continued to apply the Cooperation Agreement between Montenegro and EUROJUST. The Liaison Prosecutor for EUROJUST also performed work commitments regarding cooperation with EUROJUST in the established office of Montenegro in EUROJUST, enabling immediate communication with representatives of national members in EUROJUST, as well as representatives of third countries. This type of cooperation and work on specific cases, as well as the exchange of information on issues challenging the judicial bodies of EU member states, is of paramount importance.

Namely, the role of liaison prosecutor is, among other things, participation in the work of the Eurojust Collegium.

The importance of the State Prosecutor's Office's cooperation with EUROJUST is reflected in the results shown through statistics, as well as the structure of the cases formed, whether it is the requests of Montenegrin prosecutors towards EUROJUST or the requests of the national members of EUROJUST towards the Liaison Prosecutor with EUROJUST.

As for international customs cooperation, Montenegro is a member of the World Customs Organization and the World Trade Organization and the contractual party to numerous international conventions, including: Customs Convention on the International Transport of Goods under Cover of TIR Carnets; Convention on the Harmonization of Frontier Controls of Goods; Convention on the Harmonized Commodity Description and Coding System; Convention on the Simplification and Harmonization of Customs Procedures - Revised Kyoto Convention and Convention on Temporary Imports.

In addition, in the area of international customs cooperation, Montenegro is a signatory to 30 bilateral agreements on mutual assistance and cooperation in customs issues with other countries, 12 of which are agreements with EU Member States. Bearing in mind the importance of international cooperation between customs services in controlling trade flows and in the fight against customs abuses and illegal activities, the Government of Montenegro has signed agreements on mutual administrative assistance and cooperation in customs issues with: Croatia, Albania, Iran, Slovenia, Moldova, Ukraine, Kosovo, Serbia, Macedonia, Turkey, and Azerbaijan.

International customs cooperation with EU Member States is also achieved in accordance with Protocol 6 of the Stabilisation and Association Agreement between the European communities and their Member States, on the one hand, and the Republic of Montenegro, on the other hand (the Protocol on Mutual Administrative Assistance in Customs Matters). Cooperation is also achieved within the framework of the Central European Free Trade Agreement – CEFTA 2006, in accordance with Annex 5 on mutual administrative cooperation in customs issues.

The Customs Administration intensively cooperates and exchanges information with partner services as well as international organizations and institutions (OLAF, INTERPOL, Europol, SELEC, etc.). Information is regularly updated, and database searches are conducted: WCO CEN, Regional Exchange (SELEC, SEED system), Balkan-info, Container-comm (WCO CEN), Archeo, etc.

As of December 2017, a communication link to the AFIS system (OLAF Anti Fraud Information System) has been established in the Customs Administration.

Pursuant to the identified factual situation, it is necessary to undertake activities on:

- return of financial intelligence unit to EGMONT;
- strengthening international financial-intelligence cooperation regarding money laundering investigations;
- more intensive use of international police cooperation in money laundering investigations and financial investigations;
- more intensive use of databases of international police organizations;
- more intensive use of Europol's analytical tools.

Based on the above, rating of effectiveness of international cooperation is CLOSE TO EXCELLENT

| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
|-----------|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| 1.0 ■ | 0.9 ✕ | 0.8 ■ | 0.7 ■ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.16. Availability of independent audit

Bearing in mind that the criteria relating to the obligation of audit are in line with EUROPEAN Union directives relating to the audit of financial statements, that audit reports are publicly available on the Website of the Tax Administration (Article 32 of the Law on Audit), that the audit is carried out by the application of international audit standards and the Code of Ethics for professional accountants, and that there is supervision of the i.e. authorized auditors, based on the criteria for evaluation and information collected, the appropriate value for this variable is very high.

The Law on Accounting defines reporting entities (micro, small, medium and large legal entities, as well as small, medium and large groups of parent and related legal entities), business books, list of assets and liabilities, safeguarding business books, financial statements (financial statements, management reports, non-financial statements, statements on application of corporate management codes, classification of reporting entities (companies, NGOs and part of a foreign company), financial reporting standards and the obligation to apply financial reporting standards for all reporting entities of the Law, responsibility for compiling and publishing financial statements and management reports, and operations for assessing the value of assets of a legal entity and entrepreneur.

The legislation in this section complies with the relevant EU directives. The audit is carried out according to international audit standards (IAS), which have been declared by the International Auditing and Assurance Standards Board (IAASB), as bodies of the International Federation of Accountants (IFAC).

In Montenegro, supervision over the work of authorized auditors, i.e. audit companies is conducted by the Ministry of Finance. In accordance with Article 44 of the Law on Audit, the authorized official person, who conducts the control of work, has the obligation and authority to specifically control whether the audit company, i.e. the authorized auditor:

- audited in accordance with this law, International Audit Standards, and rules of the audit profession;
- meets the requirements of independence;
- has quantity and quality of engaged resources in accordance with audit standards;
- meets the requirements for issuing licenses for auditing, i.e. obtaining a license;
- respects the ethical requirements laid down in the Code of Ethics for Professional Accountants; and
- controls how audit service fees are calculated.

The Ministry of Finance compiles a report on the checks performed, which it publishes on its website.

In accordance with the Law on Audit (Article 8, Article 9) and international audit standards, the authorized auditor, i.e. the audit company must be independent of the subject subject of the audit, and the authorized auditor is obliged to act in accordance with the Code of Ethics for Professional Accountants (Article 7).

Also, the regulations require that there are adequate internal audit procedures in the work of independent auditors, i.e. audit companies, which guarantee consistent quality of audit and compliance with audit independence requirements (Law on Audit, International Audit Standards and in particular the International Quality Control Standard 1).

Audit companies and authorized auditors are obliged to make the appointment of an authorized auditor or chief audit partner at the latest every seven years from the beginning of the audit of financial statements with the same legal entity.

Pursuant to Article 8 of the Law on Audit:

"Authorized auditors and audit companies apply the principles of professional ethics in accordance with the Code of Ethics for Professional Accountants.

The authorized auditor and audit company are obliged to consider the possibility of misrepresentation of facts or the existence of irregularities, including fraud or error, regardless of whether the previous experience of an authorized auditor or audit company indicates the sincerity and integrity of the entity being audited and responsible persons in that entity (professional skepticism).

The authorized auditor and audit company are obliged to act in accordance with paragraph 2 of this article, especially in relation to management decisions regarding fair value of property, property impairment, asset management and future cash flows relevant for entity's ability to operate regularly.

The authorized auditor, i.e. the audit company must be independent of the entity being audited and must not:

- 1) *participate in the decision-making of the entity being audited at least during the period of audit, i.e. during the period to which the financial statements subject to the audit relate;*
- 2) *be in conflict of interest and is obliged to take measures not to affect its independence with the network, managers, other auditors, employees, and other persons providing services to or being supervised by an authorized auditor or audit company, as well as persons directly or indirectly connected to an authorized auditor or audit company through supervision;*
- 3) *conduct an audit if there is a possibility that it will be subject to its own audit, benefit, influence, kinship relationships or intimidation arising from financial, personal, business relations, employment relations or other relationships between an authorized auditor, audit company, its network and persons in a position to influence the result of the audit, and an entity being audited, for which reasons an objective, reasonable and informed third party, taking into account the backstops applied, would conclude that independence of the authorized auditor or audit company is endangered.*

The authorized auditor, audit company, chief audit partner, their employees and the person providing the services or being supervised by an authorized auditor or audit company and is directly

involved in audit activities and audit related persons shall not exercise material and other benefits and be involved in a transaction in connection with the financial instrument issued by, guaranteed, or otherwise supported by the entity being audited.

An authorized auditor or audit company is obliged to list all threats to its independence in the audit report, as well as the safeguard mechanisms it has implemented to address these threats.

If during the audit there is a purchase, merger or acquisition of the audited entity, the authorized auditor or audit company shall be obliged to check their interests or relations with the legal heir of the audited entity, including additional services that may affect its independence or ability to conduct an audit after that purchase, merger, or acquisition.

In the case of paragraph 7 of this Article, the authorized auditor or audit company shall undertake measures and/or protective mechanisms for resolving interests or relationships that may affect the independence and objectivity of conducting the audit within three months at the latest.

The owners or shareholders of the audit company as well as members of the governing body or supervisory authority of that audit company or the affiliated audit company must not interfere with the implementation of the audit in a manner that calls into question the independence and objectivity of the authorized auditor conducting the audit on behalf of the audit company."

In accordance with Article 8 of the Law on Audit, the audit company, i.e., authorized auditors are obliged to submit a transparency report to the Audit Council by 31 March.

The transparency report shall, in particular, contain:

- form of a company and ownership structure of the audit company, i.e. the authorized auditor;
- description of the network and its legal and organizational arrangement, if the audit company belongs to the network;
- description of the management structure of the audit company;
- description of the internal quality control system of the audit company and the statement of the governing body on its efficiency;
- the date on which the last work inspection was carried out;
- the list of entities under Article 29 of this Law, for which the audit company and the authorized auditor conducted an audit during the previous financial year;
- statement on the independence of work of the audit company, i.e. an authorized auditor, which in particular contains an overview of internal controls ensuring independence;
- statement on the policy of the audit company on continuous professional education;
- financial information and data on total income from auditing and revenue from additional services, which are not related to the audit;
- parameters for determining the earnings of the main audit partners.

The person authorized to represent the audit company, i.e. the authorized auditor signs the transparency report.

Pursuant to Article 29 of the Law on Audit, "The Audit is mandatory for: 1) subjects of public interest; 2) medium legal entities; 3) parent legal entities, which together with dependent legal

entities meet the requirements for classification into a group of medium legal entities; 4) parent legal entities, which together with dependent legal entities meet the requirements for classification into a group of large legal entities; 5) investment companies; 6) hedge funds; 7) investment fund management companies; 8) pension funds; 9) voluntary investment fund management; and 10) other collective investment schemes.

Subjects of public interest, pursuant to Article 29 of the Law on Audit are: 1) legal entities that emit securities and other financial instruments traded on the regulated market; 2) banks and other financial institutions; 3) insurance companies; and 4) legal entities classified into the category of large legal entities in accordance with the Law on Accounting. The criteria relating to the mandatory audit are in line with EU directives relating to the review of financial statements.

| Based on the above, rating of availability of an independent audit is VERY HIGH | | | | | | | | | | |
|--|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
| 1.0 ■ | 0.9 ■ | 0.8 ☒ | 0.7 ■ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.17. Level of financial integrity

Although Montenegro has a comprehensive legal framework and established mechanisms for controlling the execution of tax obligations and the manner of operations of business entities, the growth of reports of competent state bodies against legal entities and responsible persons in legal entities has been noted. Accordingly, it concludes that control of business operation and level of integrity with legal entities should be improved and therefore the average rating is given for this variable.

The Tax System of Montenegro includes: personal income tax, corporate profit tax, value added tax, special taxes – excise (for oil and petroleum derivatives, tobacco products, alcohol, soft drink, beer, coffee, cars and other motor vehicles, ships and planes, luxury products), tax on insurance premiums from automobile liability and premiums of late insurance of passenger vehicles, property sales tax, gaming tax and fees for organizing games of chance, municipal/city taxes as income of local and municipal self-governments.

The Law on Income Tax of Natural Persons defines that the taxpayer is obliged to submit an annual tax return to the competent tax authority for calculating and paying income tax expenditures of natural persons at the end of the fiscal year. Avoidance of double taxation for a resident taxpayer who generates income outside of Montenegro and pays an income tax in another country is granted a tax credit in the amount equal to the tax paid in such country.

The obligation to pay taxes on profits of legal entities was introduced by the Law on Income Tax of Legal Entities and bylaws for the implementation of this law. Taxpayer – A taxpayer of the profit tax is a resident, i.e. non-resident legal entity which carries out a for-profit activity, as well as a limited partnership. The object of taxation of a resident legal entity is the profit that the resident realizes in Montenegro and outside of Montenegro. The object of taxation of a non-resident legal entity the profit that the non-resident realizes in Montenegro.

The VAT system is governed by the Law on Value Added Tax. A taxpayer is obliged to provide in his accounting all data needed for proper and timely calculation and payment of VAT. A taxpayer is obliged to notify the tax authority of the beginning, change and termination of the activity for which it is obliged to calculate and pay VAT. Therefore, the taxpayer is obliged to register to pay VAT. The VAT taxpayer registry is managed by the Tax Authority, and registration is performed by the Tax Authority on the basis of registration application.

The excise system is regulated by the Excise Law. Excise duty arises at a time when excise products are produced in Montenegro and excise products are imported to Montenegro. The excise taxpayer is the manufacturer or importer of excise products.

Real estate taxation is governed by the Law on Property Tax. This law imposes a tax on real estate: land, buildings, residential and business units of buildings and other buildings located on the territory of Montenegro, which are not exempt from taxation by this Law.

The Law on Insurance Premium Tax introduces the obligation to calculate and pay taxes on the premiums of mandatory insurance against automobile liability and taxes on the premiums of casco motor vehicle insurance in the territory of Montenegro.

In order to improve realization of collection of tax obligations, the Government of Montenegro has issued a Decree on the conditions and criteria for publishing the list of tax debtors, the so-called BlackList of Taxpayers. The Tax Administration continuously takes all legally prescribed measures against all taxpayers who are on the lists, including the measure of proposing bankruptcy, all in an effort not to allow the growth of tax debt, which has resulted in a reduction in tax debt in 2019 among the 47 taxpayers on the first list, i.e. 24 taxpayers on the second list, as well as in reduction of the total debt of taxpayers on the second list in the amount of EUR 3 million compared to the previously published lists. In accordance with the mentioned Decree, the lists are published on the Tax Administration website.

The Chamber of Commerce of Montenegro represents and realizes the common interests of its members, i.e. the entire Montenegrin economy. Accordingly, the Law on the Chamber of Commerce of Montenegro (Official Gazette of Montenegro, No. 001/18 dated 4 January 2018) regulates the status, objectives, jobs, and organization of the Chamber of Commerce of Montenegro, as well as cooperation with state authorities and institutions and other issues relevant for work of this authority. According to the provisions of this Law, the Chamber of Commerce is an institutional partner to the Government of Montenegro, cooperating with the Parliament of Montenegro, state administration bodies and local self-government. In addition, it cooperates with other organisations and institutions in building an economic system, proposing development and ongoing economic policies, and resolving other issues of importance to the economy.

The Law on Chamber of Commerce stipulates that the Court of Honour is formed in the Chamber of Commerce, which decides in the proceedings against members of the Chamber of Commerce for violating the rules of good business conduct.

By its act, the Chamber of Commerce regulates the organisation, composition, procedure, mode of operation, measures imposed by the Court of Honour and other matters of importance for the work of the Court of Honor.

In December 2018, the Assembly of the Chamber of Commerce of Montenegro issued a new

Rulebook on the Court of Honor at the Chamber of Commerce of Montenegro, which improves the work of this body.

Namely, the Court of Honor determines responsibility and imposes measures for violation of business morality and good business practices, in accordance with the Law on the Chamber of Commerce of Montenegro and other regulations. The Court of Honour is competent to determine and infringe on the good business practices and business morality that make up part of a foreign company.

Due to violations of good business practices and business morality, the following measures may be imposed: a reprimand, a public reprimand with announcement on the Chamber's Board of Directors and a public reprimand with publication in the newspaper "Glasnik" and on the Chamber's website.

As a separate segment of financial integrity analysis, the number of legal entities prosecuted for criminal offences was considered:²⁹

| Year | Number of reported persons | | Total reports (including reports from previous years) | | Verdicts/penalties against legal entities | | | | | Verdicts/penalties against responsible natural persons | | | | | | | | |
|--------------------|----------------------------|-----------------|---|---------------------|---|-------------|------------|-----------|------------------------|--|-----------------|-----------------|-----------|-----------------------------|------------|-----------|------------------------|------------------|
| | Legal entities | Natural persons | Against legal entities | Against responsible | Pecuniary fines | Conditional | liberating | rejecting | discontinued procedure | pending indicmen | Prison sentence | Pecuniary fines | Probation | Work in the public interest | liberating | rejecting | Discontinued procedure | pending indicmen |
| 2015 | 184 | 129 | 288 | 129 | 8 | 9 | 8 | 2 | - | | 1 | 8 | 9 | 1 | 8 | 2 | - | - |
| 2016 | 97 | 95 | 195 | 192 | 1 | 11 | 5 | 3 | 2 | 36 | 1 | - | 9 | - | 5 | 3 | 2 | 46 |
| 2017 | 161 | - | 257 | - | 8 | 8 | 1 | 2 | 2 | 37 | 2 | - | 12 | - | 3 | 1 | 1 | 28 |
| 2018 ³⁰ | 288 | - | 396 | - | 4 | 8 | 2 | 2 | 1 | 39 | 3 | 2 | 8 | - | 3 | - | - | 32 |
| 2019 | 164 | 170 | 379 | 243 | 3 | 14 | 5 | 4 | 2 | 33 | 7 | - | 12 | - | 4 | - | - | 29 |

²⁹ Data retrieved from the Work Report of the Prosecutorial Council and the State Prosecutor's Office for 2015, 2016, 2017, 2018 and 2019

³⁰ In 2018, in two cases an agreement on the admission of guilt was concluded, in one case a conditional conviction was issued, and in the other case the court did not make a decision in the reporting year.

Based on the above mentioned, rating of the level of financial integrity is MEDIUM

| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
|-----------|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ■ | 0.5 ☒ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.18. Effectiveness of implementation of tax laws

Montenegro's tax system is based on the principle of self-taxation, which implies voluntary calculation and payment of taxes, as well as the filing of tax returns by taxpayers, within the deadlines and in the manner prescribed by tax laws.

The Law on Tax Administration regulates the rights and obligations of tax authority and taxpayers in the process of registering taxpayers and determining, collecting, and controlling taxes and other duties.

The Tax Administration in the process of inspection supervision controls the accuracy of the tax returns submitted, i.e. determining undeclared tax liabilities, through submissions, by taxpayers. Also, in the process of inspection supervision, control of calculation and payment of tax liabilities in all tax forms (corporate profit tax, personal income tax and contributions for compulsory social insurance, value added tax etc.).

Law on Tax Administration, Law on Profit Tax of Legal Persons, Law on Value Added Tax, Law on Income Tax of Natural Persons, Law on Contributions for Compulsory Social Insurance, Law on Sales of Real Estate, Law on Sales of Used Motor Vehicles, Naval Facilities and Drones, and other tax regulations stipulate sanctions for non-compliance with prescribed obligations by taxpayers.

In order to achieve as much scope and quality as possible in the implementation of inspection procedures, the constant and priority task of the tax inspection is to develop business discipline and build the correct attitude towards tax obligations. Selection of taxpayers to be controlled is made with the aim of "covering" high-risk taxpayers. A significant role in selecting which taxpayers to control is primarily the database of taxpayers formed by the Tax Administration, then information obtained from other state authorities, as well as information obtained through the exchange of data with foreign state administrations, as well as information obtained from citizens.

The general plan of inspection controls defines the goals that will be achieved through inspection supervision, i.e. coverage of taxpayers by inspection supervision. The general plan is based on the existing organisation of the Tax Administration, and it also seeks to ensure impartiality in the selection of taxpayers for control, which would contribute to distributing the tax burden to as many taxpayers as possible and in accordance with the economic opportunities of each taxpayer. This implies that the selection of taxpayers for control is carried out on multiple levels, both by all sectors of the Tax Administration and by a number of employees within the branch units. The main purpose of enacting the General Plan of Inspection Controls is rational and economical management of the resources of the tax authority, primarily personnel and material, in order to achieve the best results.

Inspection supervision and the procedure for verifying and establishing facts relevant for taxation of taxpayers and other persons, for the fiscal year, are the basic activities of the inspection.

Supervisions are carried out in a synchronised manner and cover reporting entities that have a significant volume of mutual transactions and activities that have been assessed to be located in the risky business zone.

In the process of inspection supervision of taxpayers, in the period 2015-2019, tax inspectors determined the following:

- In the period 01.01 - 31.12.2015, the tax inspection carried out a total of: 14,329 inspection supervisions, of which: complete controls - 2,358 and partial controls - 11,971. In the process of inspection supervision, a correction was made on the basis of taxes, contributions and other duties totalling EUR 64,537,085;
- In the period 01.01 - 31.12.2016, the tax inspection carried out a total of: 17,558 inspection supervisions, of which: complete controls - 2,291 and partial controls - 15,267. In the procedure of inspection supervision, a correction was made on the basis of taxes, contributions and other duties totalling EUR 89,663,405;
- In the period 01.01 - 31.12.2017, the tax inspection carried out a total of: 20,533 inspection supervisions, of which: complete controls – 2,438 and partial controls - 18,095. In the process of inspection supervision, a correction was made on the basis of taxes, contributions and other duties totalling EUR 60,805,029. The total correction determined refers to incorrect reporting or non-reporting of taxpayers through submissions or non-submissions of tax returns by taxpayers;
- In the period 01.01 - 31.12.2018, the tax inspection carried out a total of: 23,157 inspection supervisions, of which: complete controls – 2,600 and partial controls - 20,557. In the process of inspection supervision, a correction was made on the basis of taxes, contributions and other duties totalling EUR 48,849,827;
- In the period 01.01 - 31.12.2019, the tax inspection carried out a total of: 27,200 inspection supervisions, of which: complete control - 2,646 and partial controls - 24,554. In the process of inspection supervision, a correction was made on the basis of taxes and contributions and other duties totaling EUR 67,996,433,16. Financial effects based on the determined corrections amount to EUR 41,383,725.

The total correction is the amount that the tax inspectors in the inspection supervision procedure corrected or amended tax returns previously filed by taxpayers or determined amounts that taxpayers did not report through tax returns. Please note, full control includes control of the validity of calculation, reporting and payment of taxes and other fees for a period for which the outdated rights to determine tax liability have not been established, and partial control includes controls on a certain type of tax.

Due to non-compliance with the obligations prescribed by tax laws (failure to record turnover through the tax register, inaccurate disclosure of tax liabilities through filed tax returns, i.e. non-disclosure of taxpayers, etc.), tax inspectors in the process of inspection supervision of taxpayers have issued administrative measures (they have submitted to the competent courts requests for initiating misdemeanor proceedings, i.e. imposed pecuniary fines by issuing misdemeanor orders).

| Year | Number of misdemeanor orders issued | Number of requests submitted for initiation of misdemeanor proceedings | Imposed pecuniary fines in the amount of | Pecuniary fines charged in the amount of |
|------|-------------------------------------|--|--|--|
| 2015 | 344 | 1.868 | EUR 2.144.067 | EUR 401.365 |
| 2016 | 691 | 1.275 | EUR 1.585.107 | EUR 465.718 |
| 2017 | 745 | 1029 | EUR 1.974.092,00 | - |
| 2018 | 823 | 2.817 | EUR 1.088.153,00 | EUR 454.435,00 |
| 2019 | 875 | 1.870 | EUR 1.257.633,00 | EUR 614.692,61 |

The Tax Administration publishes financial statements on this authority's portal (balance sheet and balance of success, calculation of depreciation, cash flows, capital changes) that taxpayers are obliged to submit with annual income tax returns of legal entities, i.e. income taxes of natural persons. Work plans as well as work reports are also being published.

The Decree on the conditions and criteria for publishing the list of tax debtors (Official Gazette of Montenegro, No. 56/12) prescribes the obligation of the tax authority to quarterly publish a list of 100 tax debtors with the highest tax debt according to the Tax Administration's records, which the tax liabilities have not been settled for a period longer than 12 months in continuity. The list contains data on taxpayers' debt based on value added tax, income tax, concessions, and property sales tax.

The Tax Authority is obliged to publish quarterly a list of 50 tax debtors who do not settle liabilities on the basis of taxes and contributions from and on personal income for a period longer than six months in continuity.

The lists are published within 15 days after the end of the quarter on the tax authority's website.

In contrast to the "Blacklist", the Ministry of Finance and the Tax Administration of Montenegro published the so-called "Whitelist" – a list of taxpayers who have showed the highest degree of fiscal discipline.

The criteria for selection of taxpayers for the Whitelist included the neatness of tax calculation and filing, regularity of settling tax obligations, and no significant irregularities found in the inspection supervision procedures, which would indicate any form of irregular business. The publication of the Whitelist is another step in encouraging taxpayers to comply with tax regulations and to cooperate with the Tax Administration, because positive treatment can only be given by neat taxpayers who regularly settle their obligations, contributing to the realization of budget revenues, as well as improving the business and investment environment in Montenegro.

The Tax Administration delivers, in accordance with the provisions of Article 16 of the Law on Tax Administration, at the request of other state and judicial authorities, all data on taxpayers, considered as "tax secret". Data that does not constitute a tax secret is submitted on request and in accordance with the provisions of the Law on Free Access to Information.

Preventing corruption, consolidating legality, preventing conflicts of interest, respecting international standards, strengthening ethical behavior, and preserving the reputation and trust in the work of the Tax Administration through the inspection supervision procedure is one of the basic goals. In order to prevent corruption, the Code of Ethics was adopted, and the TA Integrity Plan was adopted.

The Tax Administration, in order to educate and improve the knowledge of tax inspectors,

regularly organize training for them on topics that require training.

During 2017 and 2018, the Tax Administration has sent initiatives to the Ministry of Finance and the Ministry of Economy for amendments to a series of legal and bylaw acts³¹ in order to improve the tax system in Montenegro.

Statistics on the number of cases in which sanctions were imposed for improper tax returns, improper financial statements, and violations of the code of conduct, etc. were provided in a table:

Overview of incorrect and improper tax returns by age

| Reporting period | Number of complete controls | Number of partial Controls | Total number of controls | Total Correction |
|------------------|-----------------------------|----------------------------|--------------------------|-------------------|
| 2015 | 2.358 | 11.971 | 14.329 | EUR 64.537.085 |
| 2016 | 2.291 | 15.267 | 17.558 | EUR 89.704.882 |
| 2017 | 2.438 | 18.095 | 20.533 | EUR 60.805.029 |
| 2018 | 2.600 | 20.557 | 23.157 | EUR 48.849.821 |
| 2019 | 2.646 | 24.554 | 27.200 | EUR 41.383.725,28 |

The total corrections, made by year, are the amount that tax inspectors in the inspection supervision procedure have adjusted (amended tax returns previously filed by the taxpayer or determined amounts that taxpayers did not report through tax returns). Correction amounts are expressed in euros. Please note, complete control includes control of the validity of calculation, reporting and payment of taxes and other duties for the period for which the outdated right to

³¹

- Proposal for amending the Law on Income Tax of Natural Persons,
- Proposal for amending the Tax Register Decree,
- Proposal for adopting the Rulebook on the manner of selling taxpayer assets with the rationale,
- Proposal for drafting the Rulebook on the manner of determining determining the initial value of the seceded real estate of the taxpayer,
- Proposal for amending the Tax Administration Law,
- Proposal for amending the Law on Value Added Tax,
- Proposal for amending the Law on Income Tax of Legal Persons,
- Proposal for amending the Rulebook on the Application of the Law on Value Added Tax,
- Initiative for adopting the Rulebook on Tax Accounting,
- Initiative for adopting the Rulebook on implementation of internal supervision and internal control,
- Initiatives for adopting the Transfer Pricing Decree,
- Proposal for amending the Law on Business Entities,
- Proposal for amending the Tax Administration Law,
- Initiative for amending the Law on Foreigners,
- Initiative for amending of Article 73 of the Rulebook on the Application of the Law on Value Added Tax,
- Proposals for amending the Draft Law on Amendments to the Law on Inspection Supervision,
- Comments and suggestions on the Draft Law on Business Entities,
- Proposal for amending of Article 5 of the Law on Prevention of Illegal Business has been sent to the Ministry of Justice to monitor transactions in the accounts of lawyers and other persons not covered by the law.
- Initiative for amending the Law on Income Tax of Natural Persons,
- Initiative for amending the Law on Tax Administration,
- Initiative for adopting the Decree on Deferred Payment

determine tax liability has not occurred, and partial control include controls on a certain type of tax and for a certain period, as well as checks on general tax registration, payments of purchases, logging of turnover, report of employees etc.

Based on the statistics shown, the number of economic entities that are in violation, imposed pecuniary fines and the reduced amount of calculated tax, and given the dark number of undiscovered tax evasions, there is certainly room for improvement of the efficiency and effectiveness of implementing tax measures. Moreover, what is recognized as a deficiency from the aspect of money laundering is the fact that certain categories of legal entities pursuant to the Law on Value Added Tax and the Law on Income Tax of Legal Persons are exempt from the system of taxation, thus indirectly exempting them from the obligation to conduct accounting that in cases of reports of suspicious transactions (or cash transactions), served as an obligation to conduct business documentation and therefore as a basis for proving the origin of money or other means. For this reason, the existing VAT Law and the Law on Income Tax of Legal Persons need to be amended to enable efficient monitoring of suspicious and cash transactions.

| Based on the above mentioned, rating of effectiveness of implementation of tax laws is MEDIUM HIGH | | | | | | | | | | |
|--|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ☒ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.19. Level of formalization of the economy

In accordance with the Programme of Work of the Government of Montenegro, activities are being carried out to suppress the grey economy, with an emphasis on suppressing the informal economy and strengthening fiscal discipline and eliminating unfair competition, as well as raising awareness of the importance of legal business.

Measures to suppress the grey economy are within the jurisdiction of different state authorities and one of the conditions for their successful implementation is a coordinated procedure between the competent authorities. It is estimated that in previous years, the necessary level of coordination has not been achieved for the effective suppression of illegal activities. The basic problem is that an adequate model has not been established to address irregularities, because in many cases they can be removed through joint management measures. Results from previous years show that the measures taken were most often aimed at detecting violations and imposing misdemeanor sentences, which is not enough to reduce and eliminate the grey economy.

Furthermore, the Government has formed a Commission for the Suppression of Grey Economy, chaired by the Deputy Prime Minister for Economic Policy and Financial System and Minister of Agriculture and Rural Development, and the members are representatives of the Ministry of Finance, Police Department (Sector of Criminal Police, Border Police Department, Department of General Competencies Police), Customs Administration, Administration for Inspection Affairs, Advisor to the Deputy Prime Minister for Economic Policy and Financial System – as secretary.

Accordingly, steps must be taken towards calculating the level of formalisation of the economy, as well as the continuation of activities to suppress the grey economy, which also poses a form of tax evasion and a potential risk to money laundering.

| Based on the above, rating of the level of formalization of the economy is LOW | | | | | | | | | | |
|---|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ☒ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.20. Availability of reliable identification infrastructure

The Ministry of Interior has a single, centralized, database containing information on the following documents issued: travel documents, personal IDs, driver's licenses, permits for permanent residence of a foreigner, temporary residence permits of a foreigner, documents for a foreigner who has applied for international protection, personal documents for an asylum seeker, personal documents for a foreigner under subsidiary protection, travel documents for an asylum seeker and travel documents for a foreigner under subsidiary protection protection, travel documents for stateless face. The aforementioned database is suitable and available for the purpose of verifying identification documents.

In accordance with the Law on Identity Card, the Ministry keeps records of issued ID cards, data entered into the ID form, on the submitted requests for issuance of identity cards, data from requests, documentation attached to the request and fingerprint of two fingers, termination of ID validity, reasons and date of termination of validity, on prohibitions on the use of ID cards to cross the state border, the reasons and termination of the prohibition, duration of the ban and the authorities who submitted the request, as well as the drafted identity forms (hereinafter: records). The log is an electronically managed database.

Moreover, according to the provisions of this law, the Ministry ensures the protection of personal data from accidental or unauthorized loss, access, change or distribution, and is kept ten years after the expiration date of the ID card.

Data from the records, in addition to fingerprints and signatures, can be used by the Ministry for the performance of activities within its scope of work and the Police in the performance of legally established tasks.

State authorities, local government bodies and other bodies and organisations can use data from records, except biometric data, to perform tasks within their jurisdiction, if they are authorized by law to use that data.

These authorities are obliged to provide data protection that they use from accidental or unauthorized access, use, processing and forwarding, in accordance with the law.

Through a web service, the Ministry of Interior offers access to the database of citizens to all state authorities with legal authority to access the data. This creates an effective basis for comprehensive identification of Montenegrin citizens.

When it comes to foreign citizens, the INTERPOL Police Administration has access to a unique global database of stolen/lost/invalid administrative and travel documents. However, to access this database by other authorities, a corresponding agreement with Interpol is required, enabling that it can be automatically checked in all cases to verify that the identification document of a foreigner who has been identified with it is valid, or contained in Interpol's database.

The provisions of the Law on Business Entities and the Law on Free Access to Information are fully applied, together with the protection of personal data (public identification number; addresses of natural persons, etc.) – the applicant physically receives a copy of the requested documentation; online search – last excerpt with company and person data (with personal data protected).

In 2019, the number of persons reported for criminal offences of illegal traffic increased by 43.12% (in 2018 there were 364 persons reported, in 2017 there were 320 persons reported, in 2016 there were 350 persons reported, in 2015 there were 285 persons reported, and in 2014 there were 274 persons reported). According to certain criminal offences and reported persons, for a criminal offence of falsifying identity documents there were 339 persons reported (in 2018 there were 313 persons, in 2017 there were 250 persons, in 2016 there were 264 persons, in 2015 there were 238 persons, and in 2014 there were 221 persons), for a criminal offence special cases of falsifying identity document there were 7 persons reported (in 2018 there were 8 persons, in 2017 there were 2 persons, in 2016 there were 9 persons, in 2015 there were 6 persons, and in 2014 there were 10 persons), for a criminal offence of falsifying the official document there were 125 persons reported (in 2018 there were 14 persons, in 2017 there were 28 persons, in 2016 there were 47 persons, in 2015 there were 23 persons, and in 2014 there were 32 persons), for a criminal offence of soliciting verification of false content there were 169 persons (in 2018 there were 29 persons, in 2017 there were 40 persons, in 2016 there were 30 persons, in 2015 there were 18 persons, and in 2014 there were 11 persons).

Despite an extremely good system and facial identification infrastructure, there is certainly room for further improvement, especially given the modern trends of doing business through electronic identification and without the physical presence of the client, bearing in mind that in this way the risk of identity abuse is much more significant, and the potential vulnerability of the system is greater, it is required to:

- amend the Law on the Prevention of Money Laundering and Financing of Terrorism regarding electronic identification of clients and practical implementation of electronic identification through certificates;
- strengthen the availability and use of the Identification System;
- expand the Interpol's foreign identification services to the private sector with regard to anti-money laundering;
- use modern methodologies for comparing facial biometric data for identification purposes.

Based on the above, rating of availability of reliable identification infrastructure is HIGH

| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
|-----------|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ☒ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ■ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

1.21. Availability of third-party information sources

In Montenegro, all companies defined by the Law on Business Entities are obliged to register in the Central Registry of Business Entities. The provisions on registration regulate: the procedure by which legal and natural persons performing economic activities register the necessary documents and data determined by this Law; procedure of submitting the documentation required for registration; purpose and legal importance of registration; rights and obligations of CRBE when registering.

Registration in the CRBE is performed by the Tax Administration on the basis of the registration application with which the documentation determined by this Law is attached. Data and documentation supplied by the CRBE are conducted in a unique information database and access to the CRBE database can be done six hours a day every working day. At the time intended for insight, each person can view, rewrite, or copy a statement from the registry and documentation submitted to the CRBE. Insight into the CRBE data can also be done through electronic means of communication, including the website.

Access to the Central Registry database is restricted in accordance with the Law on Personal Data Protection, which prevents access to legal person identification data.

According to the Law on the Prevention of Money Laundering and Financing of Terrorism:

- The Tax Administration is obliged to keep a register of actual owners which must be publicly available in part
- The Anti-Corruption Agency (hereinafter referred to as the ACA) is obliged to keep a register of politically exposed persons. The ACA now maintains a register of public officials that does not fully match the register of politically exposed persons.

In accordance with the Law on NGOs, (Official Gazette of Montenegro, no. 39/11) based on which the data registered in the Registry of NGOs are public, data on NGOs registered on the territory of Montenegro are publicly available on the website of the Ministry of Public Administration³².

Moreover, a database of the Real Estate Administration established in accordance with the Law on State Surveying and Cadaster of Immovable Property is publicly available. In the real estate cadastre, the following data is written in:

- 1) For a natural person:
 - last name, single parent's name and first name;
 - unique identification number;
 - address and residence.
- 2) For a legal entity:
 - company or name;
 - registered headquarters or business unit (the address at which the person is receiving written consignment);
 - the registration number entered in the business register.

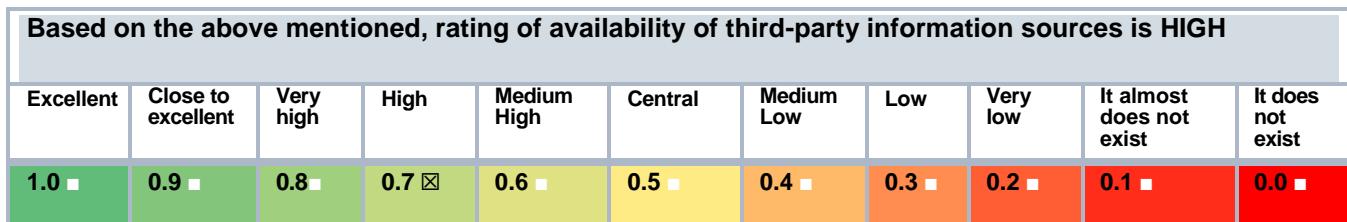
The Real Estate Administration, in accordance with the Law, is obliged to enable state administration authorities, local self-government bodies, legal persons performing public interest activities and notaries access the geodetic - cadastral information system and the retrieval of data from that system, for the purposes of performing activities within their jurisdiction. In order to implement the law as quickly as possible, the Real Estate Administration is implementing an

³² <http://www.dokumenta.me/nvo/>

upgrade of the cadastral information system that will enable all users to review cadastral records data quickly and efficiently.

The new system provided online access to cadastral records in real time through web browsers, through the e-Cadastre web application.

Accordingly, there are good legal grounds for keeping publicly available records that significantly help reduce the risk of money laundering. However, certain legal solutions must be supplemented and complied with the directives of the European Union (Law on the Prevention of Money Laundering in the part of keeping the register of beneficial owners, the Register of Bank Accounts in the part of keeping records of bank accounts of non-resident persons). Technical preconditions should also be made for networking of state authorities that use the above data (especially authorities in accordance with the Law on the Prevention of Money Laundering and Financing of Terrorism), as well as the formation of individual databases that according to the law should be kept.



1.22. Availability and access to beneficial ownership information

The register of actual owners has not yet been established. However, it must be noted that progress has been made by adopting the legislative framework³³, as well as the activities undertaken to provide technical conditions for establishing the registry. Namely, under the Law on the Prevention of Money Laundering and Financing of Terrorism, the Legal Registry has been adopted, and activities are under way to establish and link databases, in order to establish the Registry within one year of the adoption of the Rulebook.

The Law clearly stipulates that reporting entities are obliged, before establishing a business relationship and executing a transaction, to determine the actual owner for all clients, regardless of the manner of their organization, which includes both the limited partnership and the partnership company.

In addition, it is defined to establish the registry of actual owners as an electronic database in which accurate data on the actual owners is stored to ensure transparency of ownership structures and to implement measures to prevent money laundering and terrorism financing. Establishing a register of actual owners will enable reporting entities access to relevant data for the purpose of taking measures to identify and verify the identity of the client, as well as to supervisory authorities, courts, prosecutors, and other authorities.

On the basis of the Law on the Prevention of Money Laundering and Financing of Terrorism, a Rulebook was adopted on the manner of keeping the register of beneficial owners, collection, entries, and deadlines for entering and updating of the data kept in the register and the manner

³³ Law on the Prevention of Money Laundering and Financing of Terrorism

of accessing this data. This Rulebook regulates the manner the register of beneficial owners is kept, collection, entries, and deadlines for entering and updating data and the manner of accessing data from the register. In accordance with the Law and this Rulebook, the responsible persons of legal entities are obliged to provide the Registry with information on:

1) company or legal entity:

- name, address, registered office, registered number, identification number, registration date and date of deleting the business organization for legal entities registered in CRBE;
- name, address, registered office, tax identification number, registration date and date of deleting persons from Article 21a Paragraph 4 from the tax register for subjects registered in the tax register;

2) beneficial owner:

- personal name, resident or temporary address, birth date, tax identification number, nationality, ownership interest or other type of control, registration date and date of deleting the beneficial owner from the Register

Since the applicable law does not fully comply with European Union standards in this area, activities are under way to harmonise the Law on the Prevention of Money Laundering and Financing of Terrorism with the Fifth EU Directive and FATF recommendations regarding provisions related to the registry of actual owners.

Pursuant to the above, the following areas and priorities are identified

- Amendment to the Law on the Prevention of Money Laundering and Financing of Terrorism,
- Establishing a register of beneficial owners.

| Based on the above, rating of availability and access to beneficial ownership information is LOW | | | | | | | | | | |
|--|--------------------|-----------|-------|-------------|---------|------------|-------|----------|--------------------------|-------------------|
| Excellent | Close to excellent | Very high | High | Medium High | Central | Medium Low | Low | Very low | It almost does not exist | It does not exist |
| 1.0 ■ | 0.9 ■ | 0.8 ■ | 0.7 ■ | 0.6 ■ | 0.5 ■ | 0.4 ■ | 0.3 ☒ | 0.2 ■ | 0.1 ■ | 0.0 ■ |

VULNERABILITY OF THE BANKING SECTOR TO THE RISK OF MONEY LAUNDERING

In Montenegro, the banking sector consists of 15 banks, operating with a limited business network of 207 organisational units and 443 ATMs and representing the largest part of the financial system. The overview of banks in Montenegro is as follows:

1. CRNOGORSKA KOMERCIJALNA BANKA AD PODGORICA, MEMBER OF OTP GROUP

Address: Moskovska street nn, Podgorica

2. HIPOTEKARNA BANK AD PODGORICA

Address: Josip Broz Tito street 67, Podgorica

3. PODGORIČKA BANK AD PODGORICA, MEMBER OF OTP GROUP

Address: Blvd Revolucije 17, Podgorica

4. INVEST BANK MONTENEGRO AD PODGORICA³⁴

Address: Blvd Svetog Petra Cetinjskog 115, Podgorica

5. PRVA BANK OF MONTENEGRO, AD PODGORICA, WAS FOUNDED IN 1901

Address: Blvd Svetog Petra Cetinjskog 141, Podgorica

6. ERSTE BANK AD PODGORICA

Address: Arsenija Boljevića street 2A, Podgorica

7. ATLAS BANK AD PODGORICA³⁵

Address: Vaka Đurovića street nn, Podgorica

8. NLB MONTENEGROBANK AD PODGORICA

Address: Stanka Dragojevića street 46, Podgorica

9. KOMERCIJALNA BANKA AD PODGORICA

Address: Cetinjska street 11, Podgorica

10. ADDIKO BANK AD PODGORICA

Address: Blvd Sv. Petra Cetinjskog 143, Podgorica

11. UNIVERSAL CAPITAL BANK AD PODGORICA

Address: Stanka Dragojevića street nn, Podgorica

³⁴ In bankruptcy

³⁵ On December 2018, an interim administration was introduced at Atlas Bank and Invest Bank Montenegro. In 2013, bankruptcy was introduced at Invest Bank Montenegro, while on 05 April 2019 bankruptcy was introduced at Atlas Bank. As of 2017, these two non-systemic banks are under the Central Bank's supervision measures due to unsatisfactory levels of capital adequacy. During 2018, Atlas Bank's liquid position and adequacy has deteriorated significantly, as a result of two events: compulsory collections on the basis of warranty (pursuant to the Court of Appeal ruling) in the amount of EUR 15.2 million and the blockade of 63 million euros in depositors' deposits by the Special State Prosecutor's Office, on suspicion of money laundering and tax evasion and contributions. Based on the results of the 2018 direct audit, which showed an unsatisfactory state in these banks, an interim administration was introduced at the end of the same year and bankruptcy was introduced in early 2019. The Central Bank succeeded in its intention not to have these intervention spill over into the wider banking sector. It can be determined that these events had no effect on the financial sector, which during 2019 was at a historic maximum when it came to all relevant statistical indicators. Nevertheless, these events stressed the need for stronger banking supervision and additional improvements in bank control in the area of credit risk and money laundering. To that end, the Directorate for the Prevention of Money Laundering and Financing of Terrorism and Protection of Financial Services Users was established at the beginning of 2019. The aim of this organizational change is to strengthen the capacity of supervision, improve procedures for off-site and on-site supervision in banks and tools based on risk assessment in part to prevent money laundering. Supervision within the Central Bank has been further strengthened by the establishment of a Committee on Bank Supervision, which aims to gather all supervision expertise and look at all supervisory decisions, including issues related to prevention of money laundering and financing of terrorism, and to clearly define responsibilities.

12. LOVCEN BANK AD PODGORICA

Address: George Washington Boulevard 56, Podgorica

13. NOVA BANK AD PODGORICA

Address: Marka Miljanova street 46, Podgorica

14. ZAPAD BANK AD PODGORICA

Address: Moskovska street 2b, Podgorica

15. ZIRAAT BANK Montenegro AD Podgorica

Address: Sloboda Street 84, Podgorica

The basic parameters of the banking system are: total bank assets in the amount of 4,406.8 million euros, total deposits in the amount of 3,459 million euros, total bank capital in the amount of 513 million euros, on an aggregate basis on 31 December 2018.

The capital of the banks largely comes from foreign sources. Foreign capital participation in banks is 84%, domestic capital refers to 14%, while the share of state capital is 2%. Of the total number of banks operating in Montenegro, four have parent banks in EU countries. The total number of employees in the banking sector at the end of 2018 is 100,000. In 2014, there were 2,497 persons. Observed in relation to the one-year comparable period, the number of employees has grown by 37 persons.

The regulatory framework in the field of prevention of money laundering and financing of terrorism related to the banking sector in Montenegro includes Law on Banks, Law on the Prevention of Money Laundering and Financing of Terrorism, Law on Payment Transactions, Law on Foreign Current and Capital Operations, Law on the Prevention of Illegal Business and Law on Business Entities.

Based on these laws, the competent authorities have adopted a number of bylaws, whereby it is important to highlight the Guidelines for Risk Analysis with Banks in order to prevent money laundering and financing of terrorism from 2010 adopted by the Central Bank of Montenegro. This document was published in April 2019. In 2015, it was replaced by innovative Guidelines for risk analysis and risk factors for prevention of money laundering and financing of terrorism in reporting entities supervised by the Central Bank of Montenegro.

During 2018, the Central Bank of Montenegro adopted a set of regulations in order to ensure financial stability, as well as the application of Basel III standards, within its regulatory competencies in the area of control of banks' operations.

In addition, the Central Bank has continued to reform the regulatory framework, in which existing regulations are harmonised with the new European Union legal and international standards in the area of financial services.

In order to harmonise with the regulatory framework governing the work of institutions dealing with financial leasing, factoring, buyout of receivables, micro-lending and credit-guarantee affairs, the Central Bank Council adopted a new Decision on the Credit Registry in June 2018. This decision is also prepared to improve the Credit Registry by providing additional, individual, and aggregate data from the Credit Registry that will become available to clients.

In December 2018, the Council of the Central Bank adopted a Decision on amendments to the Decision on minimum standards for credit risk management in banks, which, in accordance with the relevant guidelines of the European Banking Agency (EBA), improves the current solutions in the area concerning the valuation of collateral in the process of classifying assets and extracting

provisions for potential credit losses in banks, treatment of restructured loans in the classification, as well as the Decision on amendments to the decision on minimum standards for credit risk management, which also treats the classification and status of restructured loans, all with the aim of complying with international banking standards.

A number of activities related to drafting of the Law on credit institutions have been implemented. In the period April - November 2018, six expert missions for drafting regulations were implemented, which will bring the regulatory framework in line with EU Directive 2013/36 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, as well as EU Regulation No. 575/2013 on prudential requirements for credit institutions and investment firms, through which Basel Capital and Liquidity Standards (Basel III) are implemented in the EU.

Within the framework of compliance activities with EU regulations, in Montenegro in December 2019 the following acts were adopted: the Law on Credit Institutions, the Law on Resolution of Credit Institutions and the Law on Amendments to the Law on Bankruptcy and Liquidation of Banks. Their adoption, implemented in accordance with Montenegro's EU Accession Program 2019-2020, was harmonized with EU directives 2013/36 (so-called CRD) and 2014/49 (so-called DGSD) and improved the existing framework for monitoring the operations of credit institutions and timely intervention in a credit institution that has a problem.

Banks are reporting entities under the Law on the Prevention of Money Laundering and Financing of Terrorism, with a wide range of obligations in the process of managing the risk of money laundering and financing of terrorism, which crucially include: risk identification and risk assessment; establishing policies, controls and procedures and taking actions to reduce the risk of money laundering and financing of terrorism; determining and verifying the identity of clients, including determining the actual owner, authorized person and representative of the client; business relationship tracking and client transaction control; delivery of information, data and documentation to the competent governing body; analyses of the risks of money laundering and financing of terrorism, as well as the continuous training and education of employees, all in order to reduce the possibility of their misuse for the purpose of money laundering and financing of terrorism.

Banks, as the largest part of the financial system in Montenegro, play an important role in the system of preventing money laundering and financing of terrorism with an established and highly developed system for managing the risk of money laundering and financing of terrorism, including a developed "compliance" function.

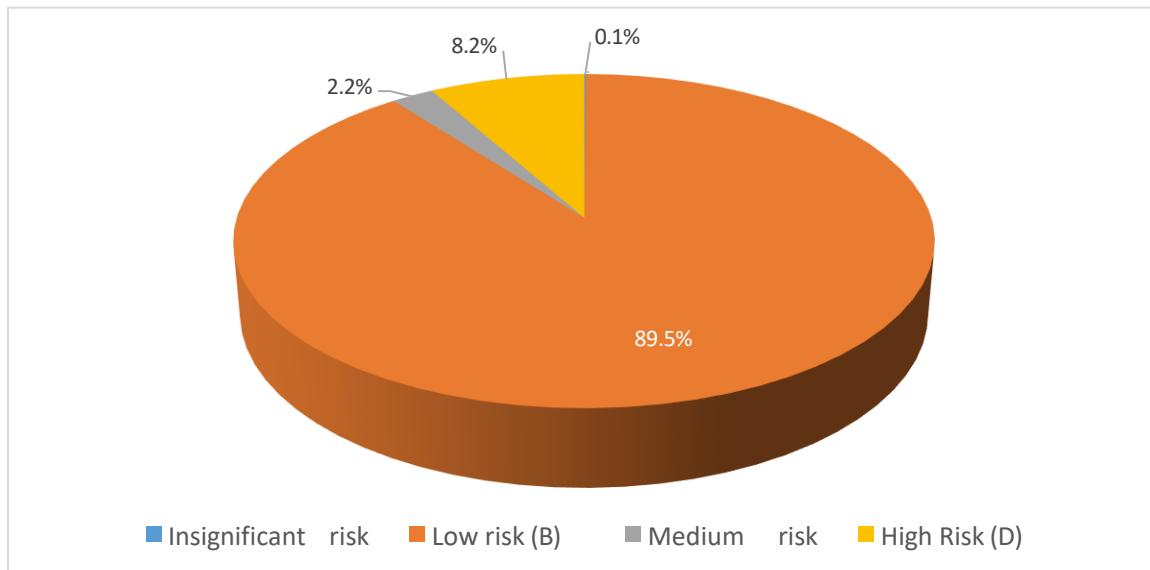
Developed system for managing the risk of money laundering and financing of terrorism in banks includes, among other things, the possession of tools for recognizing suspicious clients and transactions, noting that out of 15 banks, 10 banks have the latest tools for identifying suspicious clients and transactions. Additionally, the two banks are in the process of concluding a contract to purchase specialized programs for detecting and recognizing suspicious clients and transactions.

All banks have adopted internal acts based on risk analysis guidelines with banks to prevent money laundering and financing of terrorism established by the Central Bank, which define the criteria for classifying clients, business relationships, transactions, products, and distribution channels according to the level of risk.

Based on the prescribed criteria, all banks classified clients according to the level of risk and

defined the dynamics of their monitoring. Banks classified clients³⁶ in four risk categories: insignificant risk (A), low risk (B), medium risk (C) and high risk (D), as shown in Graphics Number 1.

Structure of clients according to risk level (31 December 2018)



The structure of clients in the banking sector according to the level of risk show that banks classified 0.1% of clients in category A (insignificant risk), 2.2% of clients in category B (low risk), 8.2% of clients in category C (medium risk) and 8.2% of clients in category D (high risk).

In the high-risk category, banks classify clients to whom, under the Law on the Protection of Money Laundering and Financing of Terrorism, a detailed client verification, business relationship monitoring, and transaction controls are applied; clients in which it found significant deviations in operations without a clear economic or legal rationale, as well as other cases according to the bank's assessment.

Depending on the risk profile of the client, banks are obliged to apply one of the following verification and monitoring measures to clients: simplified measures, standard measures, standard measures with increased caution and detailed measures of verification, monitoring of the business relationship and control of client transactions.

³⁶ Data Source: Banks in Montenegro

VULNERABILITY OF THE BANKING SECTOR

The analysis of vulnerability of the banking sector to money laundering includes key factors attached to the entry variables that are broken down into two subtypes:

- variables of control mechanisms for prevention of money laundering and
- specific control mechanisms by product, as well as their relationship with each other.

The impact of money laundering on the level of vulnerability of the banking sector is associated with many factors, some of which have a direct and others indirect impact on the level of vulnerability of the banking sector and the impact of the perpetrator often depends on the existence or non-existence of other factors.

The overall rating of vulnerability of the banking sector in Montenegro to money laundering is **0.46** (medium risk), with the vulnerability numerically expressed for the purposes of this rating from 0.00 to 1.00³⁷.

The banking sector is vulnerable to illegal activities of money laundering, first of all because of its size and representation within the entire financial sector, due to the large number of products and services they provide to clients, as well as the large number of clients and transaction that banks perform for their clients.

The Law on the Prevention of Money Laundering and Financing of Terrorism stipulates an obligation for banks to report on each cash transaction in the amount of at least EUR 15,000, without delay, and not later than three working days from the date of the transaction. Statistics relating to the total amount of reported cash transactions made through banks (depositing and withdrawing cash) in the amounts shown below indicate a large amount of cash circulating through the banking system, through which money deriving from criminal activities could be inserted.

Cash transactions reported by banks, amounting to EUR 15,000 or more

Table 1³⁸

| Year | Number of transactions | Transaction amount (in 000 eur) |
|--------------|------------------------|---------------------------------|
| 2015 | 33.733 | 1.039.186 |
| 2016 | 32.192 | 1.029.820 |
| 2017 | 31.405 | 999.958 |
| 2018 | 31.443 | 1.084.796 |
| Total | 128.773 | 4.153.762 |

During this period, the total number of reports of suspicious activities (transactions, operations, or behavior of clients) submitted by banks to the Directorate for the Prevention of Money Laundering and Financing of Terrorism, as well as the number of cases prosecuted by this law enforcement body, is shown in Table 2.

³⁷ Source: World Bank module for calculating vulnerabilities in the banking sector

³⁸ Source: Police Department Statistics - Directorate for the Prevention of Money Laundering and Financing of Terrorism

Suspicious client activity reported by banks

Table 2³⁹

| | 2015 | 2016 | 2017 | 2018 |
|--|------|------|------|------|
| Number of suspicious activity reports | 170 | 206 | 229 | 228 |
| Number of cases processed by the Management Board | 15 | 10 | 32 | 33 |

Therefore, the banking system in Montenegro continues to be characterised by significant cash flow, as well as a relatively low number of reports of suspicious activities. This points to the sector's increased vulnerability to money laundering since criminal activities most often generate cash to be integrated into legal flows.

On the other hand, the banking sector is largely regulated and controlled, thus significantly reducing vulnerability.

Banks have adopted internal acts, established "compliance" functions for this area, defined reporting lines and carry out ongoing training of employees in charge of anti-money laundering activities.

Banks management checks the functioning of internal control systems and internal audits in the implementation of regulations in the field of anti-money laundering.

Additional factors that have positively affected the reduction of vulnerabilities in the banking sector are as follows:

- in Montenegro, euro currency is in use, which conditions the smaller volume of exchange operations performed only by banks, where strict procedures for checking and tracking clients are applied;
- There is no legal limit on cash payments in Montenegro, allowing and encouraging the free flow of money outside banking channels.

Banks must permanently apply prudential measures and actions in order to minimize the exposure of vulnerabilities to money laundering and financing of terrorism, since individual clients can try to conceal the identity and origin of their funds and thus bring illegally acquired money into legal banking flows.

Although banks represent the most organized sector in Montenegro when it comes to the prevention of money laundering and financing of terrorism, on the occasion of cash being used less and less, banks are still sensitive to the possibility of their misuse from the criminal structures by concealing the actual owners through complicated ownership structures, as well as through the increasing use of new technologies in payment operations (electronic banking, card printing, etc.).

Therefore, it is important to improve procedures in banks, conduct permanent training of employees in banks in order to enable them to re-identify and detect cases related to suspected money laundering or financing of terrorism, as well as mandatory implementation of internal controls and audits for this area.

³⁹ Source: Police Department Statistics - Directorate for the Prevention of Money Laundering and Financing of Terrorism

I. GENERAL ANTI-MONEY LAUNDERING CONTROL MECHANISMS

The general anti-money laundering control mechanisms on the basis of which the ratings have been determined consist of the following elements:

1) Comprehensiveness of the legal framework in the field of anti-money laundering

This variable determines whether Montenegro has comprehensive laws and bylaws regulating measures and actions to prevent money laundering, as well as supervision of law enforcement in the banking sector.

When evaluating it, adequacy of the law and bylaws in the field of banking operations and the field of preventing the prevention of money was considered and their compliance with the relevant international standards - FATF recommendations (40) and the Bazel principles of effective banking supervision.

The rating of **0.80** shows a very high level of compliance of regulations in the field of anti-money laundering with international standards in this field.

The basis for this rating is explained by the following criteria:

1.1. Are adequate laws and bylaws in effect in Montenegro, and are laws and regulations to a great extend aligned with international standards in the area of preventing money laundering

This rating was made on the basis of the level of regulatory compliance with international standards in the field of prevention of money laundering and financing of terrorism, with particular reference to the following:

- measures for determining and verifying client's identity, monitoring the business relationship and control of risk-based client transactions, including verification of actual ownership of clients who are natural persons/legal entities/legal arrangements;
- record keeping;
- conducting a detailed client analysis for clients who are politically exposed persons (PEP) and coming from high-risk countries;
- detailed client analysis in the case of correspondent banking, new technologies and electronic money transfer;
- reliance on client analysis conducted by third parties;
- reporting suspicious transactions;
- prohibition of disclosure of data and confidentiality;
- prohibition of providing services that enable concealment of a client's identity;
- prohibition of doing business with quasi-banks;
- internal controls of foreign affiliates and subsidiaries;
- regulation and supervision of financial institutions and
- supervision powers.

The Law on the Prevention of Money Laundering and Financing of Terrorism stipulates that measures and actions to prevent money laundering must be implemented using a risk-based approach, which implies an approach in which competent authorities and reporting entities determine, assess, and understand the risks of money laundering and financing of terrorism to which the subjects of the assessment are exposed, and measures to prevent money laundering that are proportionate to these risks.

The legal framework that banks are obliged to implement in the area of the prevention of money laundering includes the following regulations:

- Law on the Prevention of Money Laundering and Financing of Terrorism;
- Rulebook on Indicators for identifying suspicious clients and transactions;

- Rulebook on guidelines for preparation of analysis and risk factors to prevent money laundering and financing of terrorism;
- Rulebook on the manner of work of compliance officer, conducting internal audits, store and protect data, keeping records and training of employees;
- Rulebook on the terms and manner of submitting data on cash transactions of at least EUR 15,000 and suspicious transactions and
- Rulebook on the content and type of data on the payer that accompanies the electronic transfer of money.

All of these regulations are implemented in practice, confirming the findings of immediate controls in banks conducted by the Central Bank.

1.2. *The laws and regulations are at great extent aligned with the Basic Basel principles for effective banking supervision: 1, 2, 3, 4, 5, 9, 11, 13, 25, 26 and 29*

The basis for making this rating is the level of compliance with the Basic Basel Principles of effective banking supervision.

The new regulation stipulates additional compliance with international recommendations and standards, in terms of compliance with Basel III standards, and this is especially true for banks.

In addition to the above, the rating of comprehensiveness of the legal framework relies heavily on consultations with representatives of the banking sector, who generally assessed this variable highly. However, during bank controls, in some cases, certain irregularities were found as a result of inadequate interpretation of the provisions of the law, which was considered when forming the final rating.

2) Effectiveness of supervisory procedures and practices

This variable evaluates effectiveness of procedures and supervision practices in the field of anti-money laundering in the banking sector.

The score of **0.60** shows a medium-high level of quality of supervision over the work of banks in terms of preventing money laundering, which contributes to reducing vulnerability to money laundering in the banking sector. Nevertheless, an additional number of employees who are trained in anti-money laundering supervision activities are needed, as well as development of additional tools for carrying out direct and indirect controls of banks.

In addition to the above mentioned, the experience and opinion of the supervisory authority was considered for making a rating, which is based on the findings of direct controls of management of risk to money laundering and financing of terrorism in the banks.

The basis for this rating is explained by the following criteria:

2.1. *Supervisory authority is clearly defined in the laws and regulations and has appropriate authorities to exercise compliance control in the field of anti-money laundering*

The Law on the Prevention of Money Laundering and Financing of Terrorism (Article 4) stipulates reporting entities which are obliged to take measures and actions to prevent money laundering and financing of terrorism.

Based on the provisions of the Law on the Prevention of Money Laundering and Financing of Terrorism (Article 94), the Central Bank shall conduct supervision over implementation of this Law in relation to banks and other credit institutions and branches of foreign banks; financial institutions that perform sale and purchase of claims, financial leasing, provision of safe deposit boxes; d) factoring, issuance of guarantees and other assurances, crediting and credit mediation,

exchange services; payment service providers and institutions dealing with electronic money seated in Montenegro; as well as legal persons, business organizations and natural persons engaged in activity or affairs of issuance and management of virtual currencies, including the services of exchanging virtual currencies into conventional currencies and vice versa.

2.2. Supervisory authority when conducting comprehensive supervisory activities (including policies, procedures, and supervisory manuals)

The Central Bank conducts supervision over implementation of the Law on Prevention of Money Laundering and Financing of Terrorism, as well as other regulations in the area of preventing money laundering and financing of terrorism based on procedures adopted by the Central Bank Council and which are an integral part of the On-Site Control Manual.

The Law on the Prevention of Money Laundering and Financing of Terrorism (Article 94) stipulates that the supervisory bodies defined by this article are obliged to inform the management body on the activities of supervision they plan to carry out, if necessary, to coordinate and harmonize their activities in performing supervision over the implementation of this Law.

After the control carried out, the Control Report is prepared and submitted to the bank, to which the bank has the legal right to submit comments. With the expiry of the deadlines for submitting comments, the report is considered final, and measures are prepared if irregularities are found.

In addition, the Central Bank submits reports on bank control to the competent governing body under the Cooperation Agreement after the completed control.

2.3. Supervisory authority understands well and estimates the risks of money laundering within the sector

Implementation of controls in banks is carried out on the basis of the annual control plan, which is prepared on the basis of the rating of exposure to the risk of money laundering for each bank individually, applying the principle that each bank is controlled once a year, exceptionally once every two years.

However, although this rating is based on quantitative data obtained by central bank controllers for the duration of the controls, there is still no separate off-site function within the Directorate for Supervision in the Area of Money Laundering and Terrorism Financing and Protection of Financial Services Users, which would enable updating the risk profile of banks based on annual questionnaires. The way of obtaining and analyzing this data will be part of the innovative Manual for Control in the Area of Money Laundering and Terrorism Financing, which is implemented under the Twining Project and is expected to be adopted in the first half of 2020.

2.4. There are enough employees who are trained to carry out supervision in the field of anti-money laundering

During the observed period covered by this report, within the Central Bank Sector for Control there was a special organizational unit - Department for Control of Compliance with Regulations, which competence is to control the compliance of banks' operations with regulations in the area of money laundering and terrorism financing. This department systematized 4 job positions and employed 4 persons (Head of Department and 3 Senior Controllers), who graduated from universities in the fields of law and economy.

Key jobs of employees in the Department for Control of Compliance with Regulations are:

- participation in drafting the Law on the Prevention of Money Laundering and Financing of Terrorism;
- participation in drafting bylaws;

- drafting bylaws under the jurisdiction of the Central Bank;
- direct control of banks;
- indirect controls of banks;
- participation in developing a list of indicators for recognizing suspicious clients and transactions and
- cooperation with domestic and international authorities related to the area of money laundering and terrorism financing.

In February 2019, the Central Bank issued a Rulebook on Amendments to the Rulebook on Internal Organization of Central Bank Operations, which organizationally established a new Directorate for Supervision in the field of money laundering and financing of terrorism and protection of financial services users. Within this directorate, the Service for Supervision in the Area of Money Laundering and Financing of Terrorism was formed, which functionally replaced the Department for Control of Compliance with Regulations.

The jobs performed in this service are as follows: exercising supervision over the implementation of the Law on the Prevention of Money Laundering and Financing of Terrorism and Regulations enacted under this Law; development of supervision strategies for the assessment subjects of indirect and direct supervision of entities under the supervision of the Central Bank; preparation of the report upon completion of the audit and preparation of the proposal of acts that impose measures on the subjects of supervision; preparation of proposals of misdemeanor orders, i.e. requests for initiation of misdemeanor proceedings within the part of the Service's jurisdiction; preparation and participation in drafting of regulations, procedures and directions for the purposes of conducting supervision in the area of preventing money laundering and financing of terrorism.

Within the Service for Supervision in the Area of Money Laundering and Terrorism Financing, 6 and 4 job positions were systematized. However, given that in addition to controlling banks, the Service is obliged to supervise a significant number of other reporting entities (16 institutions), it can be noted that there is an objective need to increase the number of controllers in this area.

2.5. Provides employees with the necessary skills and training to carry out supervision in the field of anti-money laundering

Employees conducting supervision in the field of money laundering prevention are participants in seminars, courses and workshops organized by the Association of Banks of Montenegro and the Financial Intelligence Unit. In addition, employees are participants in various seminars and workshops organized abroad.

Employees are fully familiar with the generally accepted international standards in the field of anti-money laundering and have the necessary skills to carry out their work.

2.6. Supervisory authority provides employees with the necessary resources to conduct supervision in the area of anti-money laundering (such as technical capacities, budgets, and tools)

Employees who carry out supervision in the field of anti-money laundering have adequate technical equipment, whether they are conducting on-site or off-site control of banks. Nevertheless, there is room to develop additional supervision tools in this area, which will be part of the innovated Control Manual in the field of anti-money laundering and terrorism financing.

2.7. Implements comprehensive and risk-based supervision in both planned controls and targeted emergency controls

The Central Bank is conducting supervision over the implementation of the Law on the Prevention of Money Laundering and Financing of Terrorism by applying risk-based approaches. Further

improvement of the risk-based approach is planned through the adoption of a new Manual for Control in the Area of Prevention of Money Laundering and Financing of Terrorism, which is expected to be adopted in 2020.

Bank controls can be direct and indirect, regular, and extraordinary, as well as targeted and comprehensive. Regular control of banks is carried out on the basis of the Annual Control Plan. In addition, the Central Bank conducts targeted bank controls at the initiative of other state authorities (Financial Intelligence Unit, State Prosecutor's Office, etc.). The procedure of direct control is performed on the basis of control procedures that are an integral part of the valid Bank Control Manual.

Direct control of banks checks and evaluates their level of application of the provisions of the Law on the Prevention of Money Laundering and Financing of Terrorism, bylaws, and internal acts of banks.

Statistics on the number of direct controls of banks in the field of anti-money laundering and financing of terrorism and measures imposed on banks by the Central Bank of Montenegro (2015-2018) are as follows:

| Number of direct bank controls | | | | | | | | | | | |
|--------------------------------|----------|---------------|-------|----------|---------------|-------|----------|---------------|-------|----------|---------------|
| 2015 | | | 2016 | | | 2017 | | | 2018 | | |
| Total | Targeted | Comprehensive | Total | Targeted | Comprehensive | Total | Targeted | Comprehensive | Total | Targeted | Comprehensive |
| 17 | 10 | 7 | 10 | 2 | 8 | 10 | 3 | 7 | 10 | 2 | 8 |

| Number of banks with identified irregularities | | | | Number of banks to which measures have been imposed due to identified irregularities | | | | Amount of fines in euros | | | |
|--|------|------|------|--|------|------|------|--------------------------|------|------|------|
| 2015 | 2016 | 2017 | 2018 | 2015 | 2016 | 2017 | 2018 | 2015 | 2016 | 2017 | 2018 |
| 8 | 2 | 4 | 4 | - | - | - | 3 | - | - | - | - |

Control checks: manner of organization and managing the risk of money laundering and financial terrorism; adoption and implementation of internal acts from this area; ensuring regular internal control of fulfilling obligations of the Law on the Prevention of Money Laundering and Financing of Terrorism; control of implementation of measures applied at the moment of establishing the business relationship with the clients; monitoring business relationships with clients; control of transactions; submitting data and documents to the Financial Intelligence Unit; organizing professional education and training of employees; management and data retention; implementation of indicators for identifying suspicious transactions, etc.

2.8. *Supervisory authority in the field of anti-money laundering systematically records the findings of the controls it uses when determining policies*

Reports on controlling the operations of banks in the area of preventing money laundering and financing of terrorism are prepared in a systematic way and findings of that controls are used in determining policies in this area, as well as in planning controls.

Findings of on-site and off-site control are recorded separately for each bank, and a view of the total number of controlled banks and cases in which irregularities have been identified is shown in the Table:

Findings of bank controls in the field of prevention of money laundering - Table⁴⁰

| | 2015 | 2016 | 2017 | 2018 | 2019 |
|---|------|------|------|------|------|
| Number of bank controls | 17 | 11 | 10 | 10 | 10 |
| Banks where irregularities have been found | 11 | 4 | 4 | 7 | 8 |

2.9. During the implementation of on-the-spot controls at the bank, controllers must have a high level of integrity and represent a moral position that has a significant impact on the management and employees of banks in order to have a positive impact on patterns of behaviour

The Central Bank adopted the Integrity Plan of the Central Bank of Montenegro, No. 12-196-2/2016 of 30.03.2016, in accordance with the Law on the Prevention of Corruption.

The Integrity Plan is an anti-corruption instrument aimed at improving the integrity of the institution and eliminating opportunities for creation and development of various forms of corrupt and unethical behavior. The Central Bank's Integrity Plan contains a set of measures of a legal and practical nature that prevent and eliminate opportunities for creation and development of corrupt behaviour.

The Integrity Plan identified areas of work, work processes and job positions vulnerable to risks for the emergence and development of corruption and other forms of acting that could impair the integrity of the Central Bank. Also, the Integrity Plan, based on the rating of vulnerability to identified risks, defined measures to raise the central bank's integrity level.

The stated law (Article 76) and the Rulebook for Drafting and Implementing the Integrity Plan establish the obligation to evaluate the efficiency and effectiveness of the integrity plan at the two-year level, considering the results of implementation of measures on risk reduction and, in this regard, the need to check the correctness of established areas of work, work processes and job positions subject to or vulnerable to corrupt activities. In addition, all employees of the Central Bank have signed the Code of Ethics.

Employees who carry out direct control, in case of determining violation anti-money laundering regulations of a bank, point to direct executors at the bank to these deficiencies. Upon completion of the direct control, a final meeting is organized at the bank, attended by representatives of the bank's top management and the controllers who conducted the audit, discussing weaknesses related to risk management, established irregularities, and manners for resolving these irregularities.

In addition, annual meetings held in organization of the FIU, i.e. the Directorate for the Prevention of Money Laundering and Financing of Terrorism, had a major influence on banks in the previous period, where it is being discussed about the determined deficiencies from direct and indirect controls, as well as strengthening the system for preventing money laundering and financing of terrorism.

2.10. Supervisory authority may demonstrate that supervisory authorities are exercised in an effective and unbiased manner

During the implementation of on-the-spot checks at banks, Central Bank controllers are obliged to respect the highest professional and moral standards, as required by the Law on the Central

⁴⁰ Source: Central Bank of Montenegro

Bank of Montenegro, the Law on Banks, the Central Bank Employee Integrity Plan, and the Code of Ethics of Employees at the Central Bank.

Pursuant to Article 4.3 of the Code of Ethics of the Central Bank of Montenegro, all employees are obliged to notify the employer of members of the immediate family who are employed by the legal person he controls or with whom the Central Bank cooperates. The employee must not allow his personal interest to influence the lawful, objective, and impartial conduct of the work, and must inform the superior of any conflict of interest. This is especially true for central bank controllers, who perform their obligations in an effective and impartial manner during bank controls.

1. Availability of administrative sanctions

This variable assesses whether there is a range of effective, proportionate, and deterrent sanctions applicable to physical and legal persons in cases of non-compliance with anti-money laundering laws and regulations.

This variable also evaluates whether measures are being taken to impose misdemeanor sanctions against banks or individuals who are management members or bank employees in case of non-compliance with regulations in this area.

A rating of **0.70** shows that criminal measures are adequately prescribed for misdemeanors for violations of anti-money laundering regulations.

The basis for this rating is explained by the following criteria:

1.1. Appropriate administrative penalties have been put in place for non-compliance with anti-money laundering obligations

The Law on the Prevention of Money Laundering and Financing of Terrorism stipulates penalty provisions for legal entities (banks) and responsible persons (in banks) for violating the provisions of this law ranging from EUR 2,000 to EUR 20,000 for legal entities, and for responsible persons in the legal entity ranging from EUR 400 to EUR 2,000.

In addition, the penalty provisions of the Law on the Prevention of Money Laundering and Terrorist Financing (Article 99, 100, 101, 102 and 103) stipulate that a prohibition on carrying out business activities may be imposed to a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be imposed to the responsible person in the legal person or natural person for up to six months.

1.2. Administrative sanctions are sufficient to have a positive impact on the behavior of management and bank employees (such as pecuniary fines, administrative measures, termination of employment contracts with employed persons with a critical relation towards the conduct of the bank and revocation of the bank's license)

The Law on Banks stipulates that if the bank acts contrary to the legal provisions, the bank acts in contradiction with the legal provisions. The same law prescribes the types of measures the Central Bank takes if it determines irregularities in the bank's operations, whereby it may take one of the following measures:

- warn the bank in writing;
- a written agreement with the bank that will oblige the bank to eliminate identified business irregularities;
- adopt a decision imposing one or more of the measures laid down in this Law, and
- revoke the license.

When the Central Bank takes measures towards the bank in the form of a decision, pursuant to Article 118 of the Law on Banks, at the same time the decision determines the monetary amount that the bank is obliged to pay to the Deposit Protection Fund in the name of supplementary protection of depositors from the consequences of possible opening of bankruptcy proceedings, i.e. liquidation proceedings against the bank, as this amount may be determined in the amount of 0.1% to 1% of its own.

The prescribed amount of money for violations is high enough to affect bank employees positively to comply with anti-money laundering regulations.

Senior management and employees of banks are familiar with the misdemeanor provisions laid down in the Law on the Prevention of Money Laundering and Financing of Terrorism, as well as with the practice of the supervisory authority, i.e. the Central Bank, regarding the filing of requests for initiation of misdemeanor proceedings before the competent court in cases where banks do not comply with the regulations in the field of anti-money laundering.

1.3. Management and bank employees are aware that due to non-compliance with anti-money laundering obligations could be subject to sanctions

Management in banks, as well as employees, are very familiar with the provisions of the Banking Law on the basis of which the Central Bank can impose measures due to non-compliance of the bank's operations with anti-money laundering regulations, and in the final revocation of the license to operate the bank.

Supervisory practice shows that the Central Bank has filed requests for initiating misdemeanor proceedings against banks with the competent court, as well as against responsible persons in banks that in some cases were chief executives, and in some cases compliance officers for the prevention of money laundering and financing of terrorism. Statistics of initiated misdemeanor proceedings and measures imposed on banks is shown in the Table:

Misdemeanor proceedings and measures initiated by the Central Bank - Table⁴¹

| | 2015 | 2016 | 2017 | 2018 | 2019 |
|-----------------------------------|------|------|------|------|------|
| Number of misdemeanour procedures | 0 | 0 | 0 | 2 | 1 |
| Number of measures imposed | 0 | 0 | 0 | 2 | 3 |

2. Availability and enforcement of criminal sanctions

This variable assesses whether there is a range of effective, proportionate, and deterrent criminal sanctions in the country that are applied in case of non-compliance with anti-money laundering regulations.

The rating of **0.70** shows that criminal measures are adequately prescribed for money laundering offences. The basis for this rating is explained by the following criteria:

2.1. Appropriate criminal sanctions have been put in place for non-compliance with anti-money laundering obligations

The Criminal Code of Montenegro prescribes a criminal offence of money laundering in Article 268, which states:

⁴¹ Source: Central Bank of Montenegro

"(1) Anyone who performs conversion or transfer of money or other property knowing that they have been obtained by criminal activity, with the intention to conceal or fraudulently represent the origin of money or other property, or whoever acquires, keeps or uses money or other property knowing at the moment of receipt that they derive from a criminal offence, or whoever conceals or fraudulently represents facts on the nature, origin, place of depositing, movements, disposal of or ownership over money or other property knowing that they were obtained through a criminal offence, shall be punished by an imprisonment sentence for a term of six months to five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on the perpetrator of the offence referred to in paragraph 1 of this Article if s/he is at the same time the perpetrator or an accomplice in a criminal offence used to acquire the money or the assets referred to in paragraph 1 of this Article, or who assists the perpetrator in avoiding his responsibility for the act, or for the same purpose takes action to conceal the origin of the money or property from paragraph 1 of this article.

(3) If the amount of money or value of property referred to in paras. 1 and 2 of this Article exceed the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence of one to ten years.

(4) Where an offence referred to in paras. 1 and 2 of this Article was committed by several persons who were associated to commit such offences, they shall be punished by an imprisonment sentence of three to twelve years.

(5) Whoever commits an offence referred in paras. 1 and 2 of this Article and could have and was obliged to be aware that the money or the property constitute revenue acquired through criminal activity, shall be punished by an imprisonment sentence not exceeding three years.

(6) Money and property referred to in paras. 1, 2 and 3 of this Article shall be seized.

(7) The property, in the sense of this article, implies property rights of any kind, regardless of whether they relate to goods of material or intangible nature, movable or immovable items, securities and other documents proving property rights.

2.2. Employees in the banking sector believe the criminal sanctions regime is sufficiently severe to positively influence individual patterns of their behaviour

The prescribed punitive measures are strict enough to positively affect bank employees in order to deter the execution of crimes related to money laundering.

A Questionnaire for the purposes of drafting a National Assessment of Money Laundering Risk in Montenegro has been forwarded to all banks in Montenegro, which contains, among other things, the question: "How do bank employees assess the criminal sanctions regime for non-compliance with the prescribed anti-money laundering obligations, including sanctions for predicate serious and intentional acts (or those carried out due to ignorance of the law) that can accompany acts of money laundering?". Banks answered this question as follows: 7 banks gave a "great" rating (1.00), 2 banks "very high" (0.80), 2 banks "high" (0.70), 2 banks "medium high" (0.60) and 1 bank "low" (0.30).

Based on the responses of the banks in the Questionnaire for drafting the National Assessment of Money Laundering Risk, and the experience of the Central Bank as supervisors, we note that bank employees are aware of the severity of the prescribed penalties in case of non-compliance with the obligations prescribed in the field of anti-money laundering and terrorist financing.

2.3. There is a record of convictions, initiated proceedings and actions taken by law enforcement authorities with regard to non-compliance with anti-money laundering obligations

Statistics submitted by the banks, within the Questionnaire for drafting the National Assessment of Money Laundering Risk in Montenegro, show that four individuals were convicted of the crime of "abuse of power in the economy" for the period 2015-2018. The total number of employees at the end of 2018 was 2,497.

3. Availability and effectiveness of input control mechanisms

This variable assesses the availability and effectiveness of inbound control mechanisms, including licensing, registration, and other forms of business authorisation.

The rating of **0.80** shows that the input control mechanisms in the banking sector are at a very high level.

The basis for this rating is explained by the following criteria:

3.1. *The Licensing Authority is clearly defined in the laws and regulations*

The Law on the Central Bank of Montenegro stipulates that the Central Bank regulates, among other things, operation of credit institutions, issues licenses and approvals for the work of credit institutions, and controls credit institutions, in accordance with the law. In addition, the Law on Banks prescribes the procedure for issuing a license to operate banks.

In the part of corporate governance, provisions defining the bank's bodies are prescribed: shareholders' assembly, board of directors, requirements for the appointment of board members, approval of the election of members of the board of directors, board of directors' obligations, responsibility of the board of directors, executive directors, their obligations, and responsibilities.

The Law on Banks and bylaws are the framework of corporate governance in banks, through provisions relating to:

- organizational structure and management of the bank;
- responsibilities and obligations of the board of directors, audit committee, chief executive directors and executive directors;
- internal control and internal audit mechanisms;
- function of monitoring the compliance of the bank's operations with the regulations;
- risk management and
- transparency of operations.

The Law on Banks also contains detailed provisions on the competencies of the Board of Directors, the Audit Committee, the Chief Executive Director, and the Executive Directors. Under the Law on Banks (Articles 30, 31, 32 and 36) a member of the Board of Directors, the Chief Executive Director or Executive Director may be a person (with prior approval from the Central Bank) who has a higher education, recognized personal reputation and professional qualifications, professional ability, and experience to manage the bank, while applying the rules of safe and cautious operations. More detailed requirements for the selection of a member of the Board of Directors, chief executive director or executive director are prescribed by the Decision on more detailed requirements that must be met by a member of the bank's board of directors. In addition to the above, the Law on Banks prescribes requirements for acquiring qualified participation in the bank.

Furthermore, the Central Bank has issued a Decision on documentation attached to the requests for approval from the Law on Banks, which prescribes documentation attached to the Central Bank's requests for approval from the Law on Banks, and approvals for:

- 1) acquisition or increase of qualified participation in the bank (Article 9);
- 2) concluding shareholder's agreement (Article 19);
- 3) performing tasks which are not determined in the decision on granting a licence for a bank (Article

25);

- 4) election of a member of the Board of Directors (Article 32);
- 5) election of executive director of the bank (Article 37);
- 6) establishment of dependent legal entities and parts of the bank abroad (Article 42);
- 7) the use of external rating agencies and institutions (Article 60);
- 8) engagement of persons outside the bank for conducting internal audit activities (Article 74);
- 9) conduct undesirable concentration at banking market (Article 77);
- 10) payment of dividends above a certain level (Member 83);
- 11) selection of auditors or audit companies (Article 95);
- 12) exclusion from consolidated financial reports of data on a subordinate member of the banking group (Article 134), and
- 13) establishment of a foreign bank representative office (Article 147).

Within the Department for Bank Control in the Central Bank, the Directorate for Regulation, Licensing, Approvals and Measures towards Banks has been established, which has adequate resources that are sufficiently trained and highly qualified in order to carry out obligations related to drafting of regulations, licensing, and implementation of measures towards banks. Statistics of issued and rejected bank licensing applications by the Central Bank are shown in the table

Central Bank licensing statistics - Table⁴²

| | 2015 | 2016 | 2017 | 2018 |
|---|------|------|------|------|
| Issued licenses | 2 | 1 | 0 | 0 |
| Applications rejected due to discrepancies with AML control mechanisms | 0 | 0 | 0 | 0 |

4. Integrity of bank employees

This variable assesses whether bank employees act with integrity, or whether they are eligible to carry out work at the bank.

The **0.70** rating shows a high level of integrity of bank employees. The basis for this rating is explained by the following criteria:

4.1. Banks generally consider their employees non-corrupt individuals and safe in terms of no connection with criminals

The rating for this criterion is based on the responses of the banks obtained to the following question: "How do you evaluate the Bank's employee integrity verification program?" Out of 14 banks, 2 banks responded "excellent" (1.00), 3 banks responded "almost excellent" (0.9), 3 banks responded "very high" (0.8), 2 banks responded "high" (0.7), 3 banks responded "medium high" (0.6), while 1 bank replied "non-existent" (0.0).

4.2. There is a low rate of cases of integrity violations (e.g. theft, fraud) that involves bank employees

The integrity of bank employees is at a high level, considering the fact that a total of 62 disciplinary proceedings were conducted in 14 banks in four years for violations of business procedures (the total number of employees at the end of 2018 was 2,497). In this regard, the statistics for four years are shown in the Table:

⁴² Source: Central Bank of Montenegro

Breach of integrity of banking sector employees - Table⁴³

| | 2015 | 2016 | 2017 | 2018 |
|------------------------------------|------|------|------|------|
| Number of disciplinary proceedings | 8 | 11 | 24 | 19 |

4.3. There are appropriate mechanisms in place to protect bank employees from negative consequences that would result from the reporting of suspicious transactions or other anti-money laundering procedures

Pursuant to the Law on the Prevention of Money Laundering and Financing of Terrorism (Article 65), the FIU, when notifying the competent authority, may not provide data on the reporting entity and the employee of the reporting entity who disclosed the data, unless there is probable cause that the reporting entity or employee has committed a criminal offence of money laundering or financing of terrorism, or if the data is necessary to establish the facts in the criminal proceedings.

The Law on the Prevention of Money Laundering and Financing of Terrorism (Article 88) also stipulates a prohibition on disclosure of data, stating the following:

- (1) Reporting entities, lawyers, notaries and their employees, members of the administrative, supervisory or other managing bodies, or other persons, to whom data from Article 79 of this Law are available or have been available, must not reveal to a client or third person the following:
 - 1) that data, information or documentation on the client or the transaction from Article 41 Paragraphs 2 - 5, Article 51 Paragraph 1, Article 58 Paragraphs 1, 2 and 3, Article 59 Paragraphs 1 and 2 of this Law, have been forwarded to the financial intelligence unit;
 - 2) that the financial intelligence unit on the basis of Article 61 of this Law, has temporarily suspended transaction or, instructed the reporting entity in relation to the suspension;
 - 3) that the financial intelligence unit on the basis of Article 63 of this Law demanded regular monitoring of client's business;
 - 4) that investigation is initiated or could be initiated against a client or third party due to money laundering or terrorist financing;
- (2) An attempt to retort a client from engaging into an illegal activity shall not be deemed as disclosure in the sense of Paragraph 1 of this Article.
- (3) Information on data from Paragraph 1 of this Article, reports on suspicious transactions, as well as all other data, information and documentation collected by the financial intelligence unit in accordance with this Law shall be designated the appropriate degree of confidentiality and must not be made available to third parties.
- (4) The financial intelligence unit is not obliged to confirm or deny the existence of a confidential data.
- (5) The decision on removing the status of confidentiality from Paragraph 3 of this Article shall be made by the authorised person from the financial intelligence unit in accordance with the law regulating data confidentiality.
- (6) Prohibition of giving information from Paragraph 1 of this Article shall not be applied on:
 - 1) data, information and documentation, that are, in accordance with this Law obtained and kept by reporting entity, and that are necessary for establishing facts in criminal proceedings, and if the submitting of such data in written form is required or ordered by the competent court;
 - 2) data from Item 1 of this Paragraph, if it is requested by supervision body from Article 94 of this Law for the implementation of this Law.

5. Knowledge of anti-money laundering by employees

⁴³ Source: Banks in Montenegro

This variable assesses whether bank employees understand their obligations related to taking on anti-money laundering measures and actions.

The score of **0.70** shows a high level of knowledge of bank employees regarding the anti-money laundering area.

The basis for this rating is explained by the following criteria:

5.1. *Bank employees have knowledge if there are appropriate training programs in place and materials for AML for bank employees*

The Law on Preventing Money Laundering and Financing of Terrorism stipulates that a compliance officer prepares programs of professional training and improvement of the employees at reporting entities (banks) in the area of detecting and preventing money laundering and terrorist financing

During the checks carried out by banks, the Central Bank found that banks adopted programs of professional training and improvement of employees for anti-money laundering and terrorist financing activities.

Training of employees is carried out on workshops attended by all employees covered by the Programme for Enforcement of Measures and Actions for the Prevention of Money Laundering and Financing of Terrorism. Banks keep records of conducted trainings and test results and provide records to the central bank's controllers.

5.2. *Bank employees have knowledge if training programs are designed to ensure that all employees who need training are indeed trained*

Under the Law on the Prevention of Money Laundering and Financing of Terrorism (Article 47), the bank is obliged to provide regular professional training and improvement of employees who perform the tasks of detecting and preventing money laundering.

In addition, Article 12 of the Rulebook on the manner of operation of compliance officer, the manner of conducting internal audit, retention and protection of data, the manner of record keeping, and training of employees prescribes the following:

“Reporting entities provide professional training for employees who perform the tasks of detecting and preventing money laundering and financing of terrorism.

The professional training in paragraph 1 of this Article consists of various training in the field of detection and prevention of money laundering and terrorism financing, which include the following topics:

- practical application of regulations governing the obligations of reporting entities;
- program, policies, and procedures provided and implemented by the reporting entity;
- the risk of money laundering and terrorism financing and risks to reporting entities and personal responsibilities of employees;
- opportunities and weaknesses of reporting entities in preventing money laundering and terrorism financing;
- introduction to new forms of money laundering and terrorism financing;
- identifying suspicious transactions through a list of indicators;
- system of internal control and
- internal audit system.

All data and information on the training of bank employees related to the area of money laundering is available to central bank controllers during on-site controls. Statistics on the number of trainings

and the number of trained employees is shown in the Table:

Training of employees in the field of money laundering and terrorism financing - Table⁴⁴

| | 2015 | 2016 | 2017 | 2018 |
|---|------|------|------|------|
| Number of trainings | 112 | 129 | 122 | 141 |
| Number of employees who have received training | 1091 | 1094 | 1217 | 1160 |

During on-site controls at banks, related to the implementation of regulations in the field of money laundering, central bank controllers conduct interviews with bank employees who are in charge of client relations, i.e. controllers check the level of knowledge of the counter employees, directors in charge of deposit and payment operations, credit sector, as well as representatives of other organizational units included in the Program for preventing money laundering and financing of terrorism in the bank.

Based on the experience of the controls, the Central Bank assesses that while compliance officers for money laundering detection and prevention activities are generally well aware of all obligations in this area, there is still an objective need to improve the knowledge of other employees of the banks.

5.3. *Bank employees regularly receive the most up-to-date information about money laundering schemes and typology*

The typology of money laundering in Montenegro does not exist as a formal document, however the Financial Intelligence Unit has special departments on typology and money laundering schemes in its Annual Labour Reports, including the banking sector. The FUI's annual work reports are published on the authority's website.

In addition, good practices related to money laundering typologies in the banking sector are largely based on reports of suspicious transactions and clients, as well as other information and data which the persons in charge of detecting and preventing money laundering possess.

Within the Association of Banks of Montenegro there is a committee for preventing money laundering and financing of terrorism consisting of representatives of all banks, i.e. compliance officers for the prevention of money laundering and financing of terrorism from banks. This committee holds meetings to discuss, among other things, the types of money laundering that bank employees in charge of implementing measures and actions to prevent money laundering are confronted with. Significant knowledge of this issue is obtained by compliance officers from banks at seminars and workshops they attend at home and abroad.

6. Effectiveness of the compliance function (organization)

This variable assesses whether banks have an effective and independent "compliance" function in place that is comprehensive and risk-based for the anti-money laundering area.

The rating of **0.70** shows a high level of compliance of the "compliance" function with the applicable regulations.

The basis for this rating is explained by the following criteria:

⁴⁴ Source: Banks in Montenegro

6.1. *The banking sector has internal compliance programs that are proportionate to the level of risk, considering factors such as the volume and nature of the products on offer, client profiles, transaction patterns and cross-border nature of transactions*

The applicable Law on the Prevention of Money Laundering and Financing of Terrorism (Article 7b) stipulates that the taxpayer (bank) is obliged to establish effective policies, controls and procedures that are proportional to the scope of its activities, and the business activity, size, and type of the client it deals with, as well as the type of product

This applies to the following policies, controls, and procedures:

- 1) adoption of internal policies and procedures related to: - risk management models; - establishing and verifying the identity of the client, monitoring of business relationships and the control of the transactions; - submission of data to the financial intelligence unit in accordance with the Law; - protection and preservation of the data and record keeping; - internal control in the area of detection and prevention of money laundering and terrorist financing; - security checks of employees in accordance with the law that regulates data confidentiality;
- 2) establishment of an independent audit department or nomination of a person for the review of the internal policies, controls and procedures from Item 1 of this Paragraph, if the reporting entity is a large legal person in accordance with the law regulating auditing;

In addition, the same article specified that large banks are obliged to appoint one of the members of the board of directors or other governing body that is responsible for the realisation of the tasks in the field of prevention of money laundering and terrorism financing.

6.2. *All banks have compliance programs that meet international standards*

All banks in Montenegro have adopted comprehensive programs, policies, procedures, defining client identification procedures, determining the actual owner, monitoring of business relationship and transaction control, restrictions, and prohibitions on doing business with clients, special forms of client verification and monitoring, prohibition of data disclosure, storage, and protection of data, as well as training and improvement of employees.

It is also important to note that all banks have acts to analyze the risk of money laundering and terrorism financing that define the criteria for client risk analysis, business relationship, transaction, or product in order to prevent the use of its services or products for money laundering purposes.

In addition, the verification of internal acts by banks established a generally high level of compliance of these documents with regulations in the field of anti-money laundering and terrorist financing, with only a small number of irregularities.

6.3. *Banks carry out internal and/or external anti-money laundering audits*

Under Article 48 of the Law on the Prevention of Money Laundering and Terrorism Financing, banks are obliged to provide regular internal control and revision of the implementation of the program for preventing money laundering and terrorist financing. In addition, the Ministry of Finance has issued a Rulebook on the manner of operation of compliance officer, the manner of conducting internal audit, retention and protection of data, the manner of record keeping and training of employees.

During the on-site controls of banks, an internal control and internal audit are checked, i.e. supervisors check whether internal control and internal audit audited the compliance of the bank's operations with regulations in the field of anti-money laundering and terrorist financing regulations.

An insight into internal audit reports and internal audits at banks found that auditors noted irregularities in the implementation of regulations in the area of prevention of money laundering and

terrorism financing and made recommendations with set deadlines for resolving them. Established irregularities in the banks noted by internal control and internal audit in their character were minor irregularities and did not significantly affect the rating of vulnerabilities in the banking sector. Central Bank controllers during on-site bank controls check whether the recommendations of internal control and internal audits in banks have been implemented.

7. Effectiveness of tracking and reporting suspicious activity

This variable assesses whether banks have the right systems to record, track and report suspicious transactions, to support their anti-money laundering policies and procedures.

The **0.70** rating shows that there is a high level of compliance with the obligations of monitoring, collecting data and keeping records in banks. The basis for this rating is explained by the following criteria:

7.1. *Banks have information systems that enable and facilitate monitoring transactions of clients in relation to their risk profiles*

The Law on the Prevention of Money Laundering and Financing of Terrorism (Article 78) stipulates the obligation to keep records of data records on clients, business relationships, accounts, and transactions (carried out in the country and with foreign countries) under Article 9 of this Law. In addition, Article 91 of this Law stipulates the obligation for the bank to store data and supporting documentation for at least ten years after the termination of business relationship, executed transaction or access to the safe deposit box.

Information obtained in the bank control process shows that banks have advanced information systems that facilitate the monitoring of business relationships with clients, as well as control of client transactions according to their risk profile. Tracking client transactions in banks has been greatly facilitated because they have classified all clients according to a risk profile.

7.2. *Transaction records are available in a format that facilitates screening and monitoring in the field of anti-money laundering*

Based on the experience of the controls, it was found that all banks have records of clients and transactions. The largest number of banks have IT tools that make records available in a format that facilitates anti-money laundering monitoring and supervision.

In terms of monitoring clients' business activities and controlling transactions, supervisors have identified certain irregularities in the view of records at certain banks and made recommendations to make changes to the information system that will enable monitoring in accordance with the law.

7.3. *The systems help banks and employees identify and report suspicious and unusual transactions*

Based on answers received from banks to the Questionnaire for the purposes of drafting the National Risk Assessment, of all banks operating in Montenegro, 10 banks have automated systems that help bank employees identify and recognize suspicious and unusual transactions. Also, in 2019, 2 banks will provide special automated programs for recognizing and detecting suspicious clients and transactions based on already signed contracts with companies that are competent in this area.

In addition to data on the number of reported suspicious client activities, it is important to have insight into statistics on the type of clients for which banks reported suspicious activity during the observed period. In this sense, the largest number of reports sent to the Financial Intelligence Unit referred to non-resident individuals. This corresponds with the supervisory findings in the banks, which found that employees frequently have problems determining the origin of non-resident clients' assets. This indicates the presence of a higher level of risk from non-resident individuals, to which almost 40% of all bank reports relate.

Classification of persons in reports of suspicious activities - Table⁴⁵

| Year | Natural persons residents | Non-residents | Legal entities – residents | Non-residents - legal entities |
|------|---------------------------|---------------|----------------------------|--------------------------------|
| 2015 | 60 | 143 | 60 | 34 |
| 2016 | 82 | 110 | 69 | 44 |
| 2017 | 95 | 142 | 97 | 40 |
| 2018 | 79 | 145 | 86 | 69 |
| 2019 | 80 | 102 | 85 | 38 |

8. Level of market pressure that affects meeting of standards in the field of anti-money laundering

This variable assesses whether (and to what extent) banks as market entities are pressuring the management structures of the banks to have an effective compliance structure in terms of anti-money laundering, as well as whether they adhere to standards regarding the prevention of money laundering. It shows whether there are pressures on banks coming from the commercial partners, such as correspondent banks.

The rating of **0.80** shows a very high level of market influence on meeting anti-money laundering standards.

The basis for this rating is explained by the following criteria:

8.1. Banks have cross-border correspondent relationships that they consider important and require them to comply with international AML standards for a satisfactory duration of those relationships

Banks operating in Montenegro conduct payment operations with foreign countries through correspondent banks, mainly from European Union member states. Banks from EU countries require the fulfilment of international standards in the field of correspondent banking in order to establish or resume business relations with a bank from Montenegro. When establishing a correspondent relationship with a bank or other credit institution that has a registered office outside the European Union or outside the countries from the list of countries that apply international standards in the area of preventing money laundering and terrorist financing that are on the level of EU standards or higher, a reporting entity shall obtain the data, information and documents prescribed by Article 31 of the Law on the Prevention of Money Laundering and Terrorism Financing. This applies to information and license data, description of procedures related to prevention of money laundering, supervision statement, etc.

When establishing a business relationship with a foreign bank (regardless of which country it is based in), the bank obtains a "statement" by the bank that it does not operate as a shell bank, and that it does not have a business relation with shell banks or other credit institutions known to allow the use of their accounts to shell banks.

⁴⁵ Source: Police Department - Directorate for the Prevention of Money Laundering and Financing of Terrorism

In addition, the basis for the rating for this subcomponent are the answers submitted by the banks to the Questionnaire for the purpose of producing a National Risk Assessment in Montenegro, where most banks rated their cross-border correspondent relations as strong pressure to meet anti-money laundering standards.

8.2. Bank managements are vulnerable to money laundering risks that may affect national and international reputation

The managements of banks operating in Montenegro are highly sensitive to international and domestic money laundering risks, especially because more than 50% of banks in Montenegro have parent banks in EU countries, as well as the fact that experts from parent banks, who have developed awareness of the importance of managing money laundering risk, are in the management structures of banks.

Banks responded to a question about the level of market pressure affecting compliance with standards in the field of prevention of money laundering: 5 banks responded "excellent" (1.0), 1 bank replied "almost excellent" (0.9), 6 banks "very high" (0.8), 1 bank "high" (0.7) and 1 bank "medium" (0.5).

9. Availability and access to beneficial ownership information

This variable evaluates whether criminals are easy to conceal real ownership in corporations, trusts and similar structures registered in the country or have dependents in other countries but are managed from that country.

The rating of **0.60** shows a medium-high level of availability to beneficial ownership information.

The basis for this rating is explained by the following criteria:

9.1. Transparency regarding beneficial ownership and interests in corporations, trusts and similar entities exists if comprehensive information on the structure, management, control and beneficial ownership of corporations, trusts and similar entities can be easily obtained and can be accessed in a timely manner by the competent authorities, as well as being available to institutions that are regulated by ambient aspects in order to facilitate the implementation of identification and verification of clients' identities and monitoring of business relationships and control of client transactions

The Law on Business Entities in Article 81 stipulates that all forms of performing business activities in Montenegro are obliged to register in accordance with the provisions of this Law. Companies and other legal entities are obliged to register in the Central Registry of Business Entities (CRBE) run by the Tax Administration of Montenegro. Also, Article 83 of this Law stipulates that insight into the CRBE data can be made through electronic means of communication, including the website.

Determining data on the actual owner is simple in the case where the founders of legal entities are natural persons and resident legal entities. However, when a bank establishes a business relationship with a non-resident legal entity, it may encounter a problem due to verification of the actual owner of that legal entity, and the collection of data is largely based on documentation provided by the client.

Legal form of entities that allow the concealment of the beneficial owner, such as trusts, etc. does not exist in Montenegro, however, the Law on Amendments to the Law on the Prevention of Money Laundering and Financing of Terrorism of 2018 lays down the definition of a "trust", as well as measures and actions that the reporting entity is obliged to carry out when establishing a business relationship or carrying out intermittent transactions with a client who is a foreign trust.

However, for the purposes of producing a risk assessment, the Central Bank has sent an inquiry to all banks in Montenegro to provide information on the number of legal entities of the form of trusts that have open accounts in the bank, as well as on the turnover in these accounts for the period from 2015 to 2018. Out of 14 banks, 12 replied that they do not have such clients and two banks said they do have clients who are trusts (5 clients in total). Analytics cards for the period 2015 to 2018 show that these clients achieved a negligible turnover on their accounts.

10. Availability of reliable identification infrastructure

This variable assesses how many banks are able to identify and verify the identities of all the clients with the help of documents, data, or information from reliable and independent sources. It is considered that the existence of good infrastructure for identification contributes to the prevention of use of false documents and personal identities, which, in practice, makes it difficult to carry out the verification and evaluation measure of the client.

The rating of **0.70** shows a high level of availability of reliable identification infrastructure in the banking sector.

In Montenegro, there is high reliability in the identification documents of natural persons, due to biometric ID cards and passports based on which identities are being determined and verified, while in the case of identification of legal persons, there is room for improvement in part of obtaining data on actual owners of legal entities in accordance with the regulations in the field of prevention of money laundering and financing of terrorism. In this regard, in order to implement international standards in the field of prevention of money laundering relating to the obligation to identify and verify the actual owners of legal entities, trusts and legal arrangements, it is necessary in Montenegro to ensure that the Central Registry of Business Entities and other relevant registries contain data and information about the actual owner, which would be available to banks in a timely manner.

The Law on the Preventing Money Laundering and Financing of Terrorism stipulates provisions defining the Registry of Actual Owners (Article 21a), the delivery of data to the Register of Actual Owners (21b), as well as access to data from the Registry of Actual Owners. The interim and final provisions of this Law (Article 107b) set deadlines for establishing the Registry of Actual Owners. In addition, in April 2019, the Rulebook on the manner of managing the registry of actual owners, collecting, entering and updating the data in the registry and the manner of accessing the data was adopted. This registry should provide even better transparency regarding actual ownership, especially after the necessary harmonisation of the Law with the Fifth EU Directive planned for 2020.

11. Availability of third-party information sources

This variable evaluates the availability of independent and reliable sources of information in order to identify and verify the identities of clients and their business. The measures of verification and evaluation of clients are more easily and more qualitatively implemented if there are available sources of comprehensive, reliable historical data and other data on clients that can be used, such as data owned by the credit bureau, data on previous bank relations, the possibility of accessing previous employers or the availability of accounts for communal utilities.

The rating of **0.50** implies that independent sources of information are available, but that there is significant scope for their improvement.

In Montenegro, data relating to natural and legal persons are mainly available, through e.g. the credit bureau and the central account register, which is kept with the Central Bank. However, in case of legal entities registered in the Central Registry of Business Entities (CRPS), the problem may arise when registering these entities, i.e. they may be registered without prior identification of the parent owner, in a way required by international standards in the field of anti-money laundering.

Sources of information about persons in Montenegro, available on a limited scale, are as follows:

- On the Central Bank's website, data on the name of legal entities and entrepreneurs located in the records of the Central Registry of Business Entities whose accounts are blocked (registration number, blockade amount and days of blockade);
- A registry of credit debts has been established at the Central Bank, keeping records of credit debts of legal entities, entrepreneurs, and natural persons. Data from this registry is available to banks and other financial institutions, which use this information to assess client's creditworthiness rating when approving a loan;
- The Central Bank has been keeping a Central Registry of Accounts for Legal and Natural Persons since the beginning of 2018. It is available to the Supreme State Prosecutor's Office in order to carry out their obligations defined by the law, including prevention of money laundering.

Other sources with historical financial data and client information are not publicly available.

12. VARIABLES (FACTORS) OF INHERENT VULNERABILITIES FROM MONEY LAUNDERING

1. BANKING PRODUCTS/SERVICES

- 1) Private banking
- 2) Accounts of natural persons
- 3) Accounts of legal entities (including entrepreneurs)
- 4) Deposits of natural persons
- 5) Deposits of legal entities
- 6) Loans from natural persons
- 7) Loans from legal entities (small and medium legal entities)
- 8) Loans from legal entities (large legal entities)
- 9) Electronic transfers
- 10) Physically transferable payment instruments (except cash)
- 11) Financing of trade
- 12) Correspondent accounts
- 13) Electronic banking
- 14) Micro products
- 15) Asset management services
- 16) Small value electronic transfers

2. INPUT VARIABLES (FACTORS) OF INHERENT VULNERABILITIES FROM MONEY LAUNDERING

In addition to the variables of anti-money laundering control mechanisms that were addressed in the first part of the Report on the Assessment of the Banking Sector's Vulnerability from Money Laundering, and which affect all banking products, this part of the report analyzes the input variables (factors) of the inherent vulnerability, based on which influences the level of vulnerability of banking products/services to money laundering is assessed:

1. Total product volume/value,

2. Average product transaction amount,
3. Profile of a client using a specific product/service,
4. Availability of the investment/deposit option for the product,
5. The level of cash activities related to the product,
6. Frequency of international product-related transactions,
7. Other vulnerability factors associated with the product:
 - 7a. possibility to use the product anonymously,
 - 7b. Indicators in the typology of money laundering in the misuse of products,
 - 7c. Use of products in tax evasion or other fraudulent schemes,
 - 7d. Difficulties in tracking records,
 - 7e. Indirect use of the product,
 - 7f. Other vulnerability factors (e.g. product/service is placed through a representative)

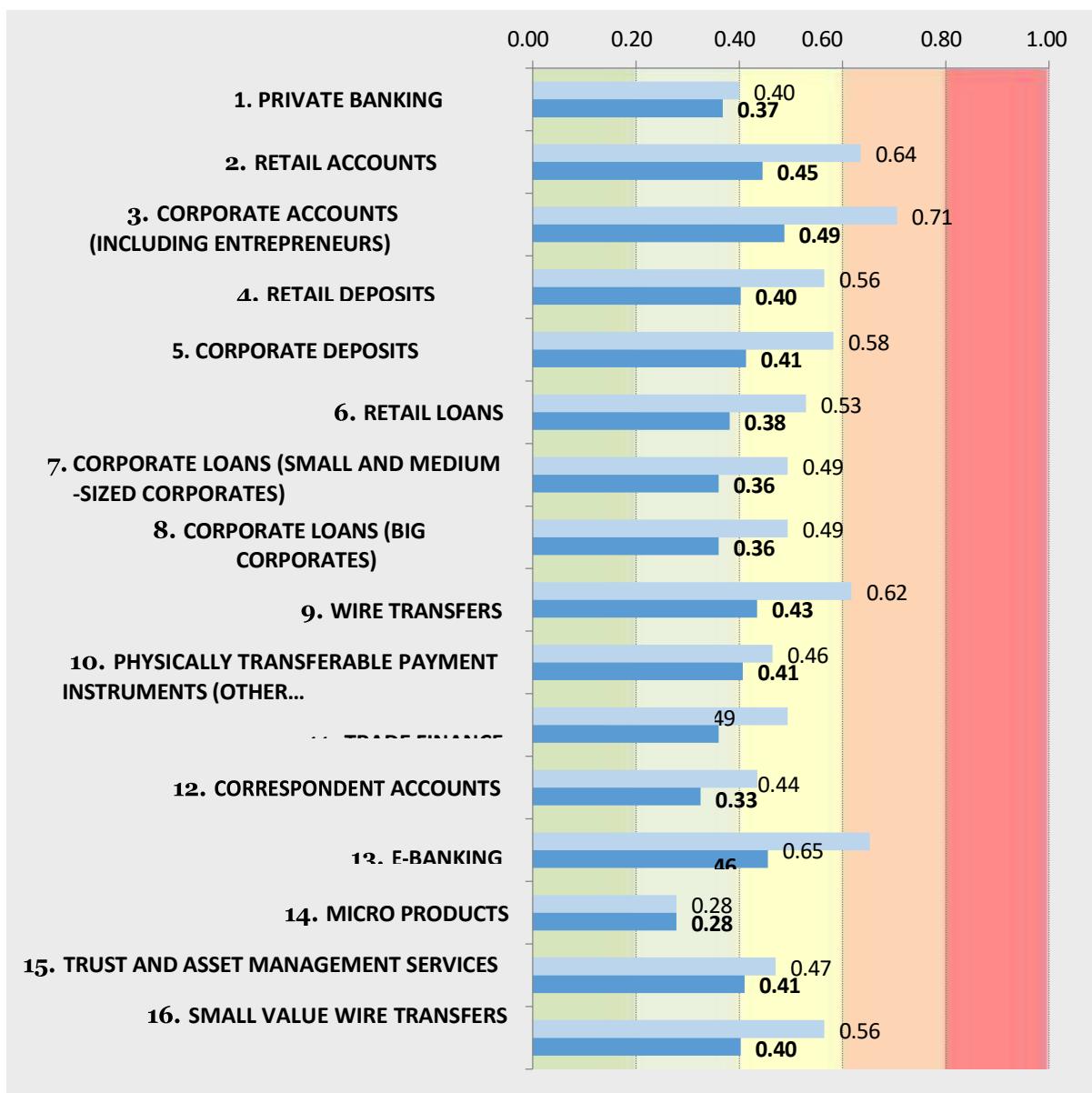
13. ANALYSIS AND EVALUATION OF BANKING PRODUCTS/SERVICES

The basis for adoption of ratings of banking products/services is based on banks' responses to the Questionnaire for the purpose of producing a National Money Laundering Risk Assessment in Montenegro, available data and information on the product/service being evaluated (including experience from the supervision), information from reports on suspicious clients and transactions, as well as the participation of a particular product in the balance sheet total at the aggregate level in Montenegro.

The vulnerability of previously defined banking products/services to money laundering risk is shown in the following graphic:

Vulnerability of Banking Products/Services - Graphics⁴⁶

⁴⁶ Source: World Bank Module for Calculating Vulnerabilities in the Banking Sector



For each of the analysed products/services, the inherent risk of money laundering is presented, and the risk after the measures are applied. In addition to the vulnerability analysis, as a circumstance that supports or facilitates money laundering, the overall risk assessment process also includes the concept of a threat and an analysis of the consequences due to the realisation of threats, which is an additional factor contributing to the overall risk of money laundering. The term “vulnerability” used in risk assessment includes all those circumstances that the threat may exploit.

When determining the average transaction size, the size of the country's net average earnings was used as a benchmark, which was EUR 513⁴⁷ in 2018, and is considered medium-sized for this analysis.

15.1 Private banking

Private banking in Montenegro is represented by eight banks and is characterized by medium-to-low volume compared to other banking products. Average transaction amount for private banking is slightly below average earnings in Montenegro. This product is available but limited in terms of

⁴⁷ Data source: MONSTAT

investment/deposit availability.

According to the risk profile, clients who use this product are high-risk, and most often those are: clients with high net assets, non-resident clients from high-risk jurisdictions, clients with business interests or share in foreign companies and politically exposed persons. In addition, private banking is characterized by the medium level of cash use and the medium-low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology suggests misuse of this product for money laundering purposes, use in fraud or tax evasion schemes is present but limited, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are low, while special control mechanisms exist but are limited.

The experience of central bank supervisors is that private banking is a product used by clients with high net assets, mainly residents, and that its representation is at a relatively low level, but that it is necessary to constantly monitor the growth of this product and analogous to its growth to adjust the risk assessment.

By analyzing the determined key input factors of inherent risk, as well as other characteristics that make private banking vulnerable, including threats of money laundering, it was assessed that this product presents a **medium level of risk**. Once the control measures are considered, it is estimated that this product characterizes a **medium-low level of risk**.

15.2 Accounts of Natural Persons

The accounts of natural persons are represented in every bank in Montenegro and are characterized by a medium-high level of representation in relation to other banking products. The average transaction amount of this product is at the level of average earnings in Montenegro. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally rated at medium risk levels, with the following high-risk clients: politically exposed persons, clients with high net assets, as well as clients with business interests or shares in foreign companies. The accounts of natural persons are characterized by the medium level of cash use and the medium frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, use in fraud or tax evasion schemes is present but limited, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms exist and are comprehensive.

From the aspect of the fight against money laundering in the banking sector, typology⁴⁸ was formed in case of this product, resulting from the application of indicators for recognizing suspicious transactions and clients. One of these typologies is when legal entities from abroad (registered in so-called "tax havens") transfer funds to the accounts of non-resident natural persons in Montenegro on different grounds (e.g. loan agreements). Non-resident individuals, clients of one of the banks in Montenegro, express their intention to have the bank pay them in cash. The actual owners of a legal entity from abroad are citizens of the same country as clients of the bank. Another case is that non-resident natural persons make significant inflows from abroad, on the basis of a "Consulting Agreement", after which these clients instruct the bank to withdraw cash. The cases described above, in the extreme, contribute to a higher level of risk of money laundering in the accounts of natural persons.

⁴⁸ Source: Work Reports of the Directorate for the Prevention of Money Laundering and Financing of Terrorism

By analyzing key input factors of inherent risk, as well as other characteristics that make the accounts of natural persons vulnerable, including threats of money laundering, it is assessed that **a medium-high level of risk** is present in this product. After the control measures are considered, it is estimated that the accounts of natural persons are characterized by **a medium level of risk**.

15.3 Accounts of legal entities (including entrepreneurs)

Accounts of legal entities are represented in every bank in Montenegro and are characterized by a medium-to-high level of representation in relation to other banking products. The average transaction amount is slightly above the average earnings in Montenegro. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally rated at medium risk levels, with the following high-risk clients: clients with high net assets, clients with business interests or shares in foreign companies, as well as clients whose actual owner or representative is a politically exposed person. The accounts of legal entities are characterized by the medium level of cash use and the medium-high frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, there is use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low level, while special control mechanisms exist and are comprehensive.

From the aspect of the fight against money laundering in the banking sector, typology⁴⁹ was formed as a result of the application of indicators for recognizing suspicious transactions and clients, which contribute to the assessment of vulnerability of this product. For example, a non-resident legal entity, which is a client of a bank in Montenegro, makes significant foreign inflows from several non-resident legal entities into its account, and a significant portion of the funds have been transferred from an offshore account to an “off-shore” destination. Then, the authorized representative of the client withdraws most of the transferred funds on an indicative basis of “official trip”.

In addition, based on supervision experience, transactions that come from non-resident legal entities established in the so-called “tax havens” have been found to be increasingly common in recent years. These legal entities transfer larger amounts of money into the accounts of resident legal entities in banks, justifying them as “consulting services”, so that after a few days the funds will be transferred back to the bank accounts of legal entities established in “tax havens” (such as the Virgin Islands, Cayman Islands, Cyprus, and the Dominican Republic).

By analyzing key input risk factors, as well as other characteristics that make legal entities vulnerable, including threats of money laundering, it is assessed that **a medium-high level of risk** is present in this product. After the control measures are considered, it is estimated that the accounts of legal entities are characterized by **a medium level of risk**.

15.4 Deposits of natural persons

Deposit operations are basic banking operations, so deposits of natural persons have a medium volume compared to other products in the banking sector in Montenegro. At the end of 2019, the structure of total deposits is such that the deposits of natural persons account for 1,773.9 million euros or 51.04%. The average transaction amount of this product in the banking system is at the level of average earnings in the country. This product is available in terms of investment/deposit

⁴⁹ Source: Work Reports of the Directorate for the Prevention of Money Laundering and Financing of Terrorism

availability.

According to the risk profile, clients who use this product are generally assessed at a medium level of risk, with the following high-risk clients: clients with high net assets, politically exposed persons and clients with business interests or shares in foreign companies. Deposits of natural persons are characterized by medium-high levels of cash use and medium and low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms exist and are comprehensive.

By analyzing key input risk factors, as well as other characteristics that make deposits of natural persons vulnerable, including threats of money laundering, this product is assessed to be characterized by **a medium level of risk**. The established risk level for natural persons deposits is the same after the control measures are considered.

15.5 Deposits of legal entities

Deposits of legal entities are also a basic product in the banking sector, and they record a medium-high level of representation in relation to other banking products. At the end of 2019, the structure of deposits in the banking sector is such that the deposits of legal entities amount to 1,701.8 million euros or 48.96%. The average transaction amount is at the level of average earnings in the country. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally rated at medium risk levels, with the following high-risk clients: clients with high net assets, clients with business interests or shares in foreign companies, as well as clients whose actual owner or representative is a politically exposed person. Deposits of legal entities are characterized by the medium level of cash activity and the medium-low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms while special control mechanisms exist and are comprehensive.

By analyzing key input factors of inherent risk, as well as other characteristics that make deposits of legal entities vulnerable, including threats of money laundering, this product is assessed to be characterized by **a medium level of risk**. The established risk level for deposits of legal entities is the same after the control measures are considered.

15.6 Loans from natural persons

This product is characterized by a medium level of representation in relation to other products in the banking sector in Montenegro. As of 31 December 2019, loans to natural persons amounted to EUR 1,373.7 million, or 44.87% of the banks' credit portfolio. The average transaction amount for natural persons' loans is at the level of average earnings in the country. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally assessed at a medium level of risk, with the following high-risk clients: politically exposed persons and clients with business interests or shares in foreign companies. Loans of natural persons are characterized by the medium level of cash activities and the medium-low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms are limited.

By analyzing key input risk factors, as well as other characteristics that make natural persons vulnerable, including threats of money laundering, it is assessed that a **medium level of risk** is present in this product. After the control measures are considered, it is estimated that natural persons' loans are characterized by **medium-low risk level**.

15.7 Loans from small and medium-sized legal entities

Loans from small and medium-sized legal entities record the medium level of representation compared to other banking products. The average transaction amount of this product in the banking system is at the level of average earnings in the country. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally assessed at a medium level of risk, with the following high-risk clients: clients whose actual owner is with high net assets, clients with business interests or shares in foreign companies, and clients whose actual owner or representative is a politically exposed person. Loans of small and medium-sized legal entities are characterized by medium-low levels of cash activities and medium-low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms exist and are comprehensive.

By analyzing key input risk factors, as well as other characteristics that make loans of small and medium-sized legal entities vulnerable, including threats of money laundering, it is assessed that a medium level of risk is present in this product. After the control measures are considered, it is estimated that loans of small and medium-sized legal entities are characterized by **medium-to-low** risk level.

15.8 Loans from large legal entities

Loans from large legal entities record the medium level of representation compared to other banking products. The average transaction amount of this product in the banking system is at the level of average earnings in the country. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally rated at a medium level of risk, with the following high-risk clients: clients whose actual owner is with high net assets, clients with business interests or shares in foreign companies, as well as clients whose actual owner or representative is a politically exposed person. Loans of large legal entities are characterized by medium-low levels of cash activities and medium and low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms exist and are comprehensive.

By analyzing key input risk factors, as well as other characteristics that make loans from large legal entities vulnerable, including threats of money laundering, it is assessed that a **medium level of risk** is present in this product. After the control measures are considered, it is estimated that loans from large legal entities are characterized by **medium and low risk level**.

15.9 Electronic transfers

Electronic transfers are characterized by the medium level of representation compared to other products in the banking sector in Montenegro. The average transaction amount is at the level of average earnings in the country. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally assessed at a medium level of risk, with the following high-risk clients: clients whose actual owner is with high net assets, clients with business interests or shares in foreign companies, clients whose clients is the actual owner or representative of a politically exposed person. Electronic transfers are characterized by the medium level of cash activities and the medium frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, prominent use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms exist and are comprehensive.

By analyzing key input risk factors, as well as other characteristics that make electronic transfers vulnerable, including threats of money laundering, it is assessed that a **medium-high level of risk** is present in this product. After the control measures are considered, it is estimated that electronic transfers are characterized by **a medium level of risk**.

15.10 Physically transferable payment instruments (excluding cash)

Physically transferable payment instruments are medium represented in relation to other products in the banking system in the country. The average transaction amount of this product in the banking system is at the level of average earnings in the country. This product is available but limited in terms of investment/deposit availability.

According to the risk profile, clients who use this product are high-risk, as follows: clients with business interests or shares in foreign companies, clients whose actual owner or representative is a politically exposed person and clients whose actual owner is with high net assets. Physically transferable payment instruments are characterized by the medium-low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates that there may be misuse of this product for money laundering purposes, use in fraud or tax evasion schemes is present but limited, records tracking requires a lot of time, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low level, while special control mechanisms exist but are limited.

By analyzing the key input factors of inherent risk, as well as other characteristics that make physically transferable payment instruments vulnerable, including threats of money laundering, it was assessed that this product is characterized by the **medium level of risk**. The established level of risk for this product is the same after the control measures are considered.

15.11 Financing of trade

Trade finance records the medium level of representation in relation to other banking products.

The average transaction amount of this product in the banking system is at the level of average earnings in the country. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally assessed with a medium level of risk, with the following high-risk clients: clients whose actual owner is with high net assets and clients whose actual owner or representative is a politically exposed person. Trade financing is characterized by medium-low levels of cash activities and medium-low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms exist and are comprehensive.

Analysis of key input risk factors, as well as other characteristics that make trade financing vulnerable, including threats of money laundering, assessed that the **product has a medium level of risk**. After the control measures are considered, it is estimated that trade financing is characterized by a **medium-low level of risk**.

15.12 Correspondent accounts

Correspondent accounts are characterized by the medium level of representation compared to other products in the banking sector in Montenegro. This product is available but limited in terms of investment/deposit availability.

According to the risk profile, clients who use this product are high-risk, with clients with business interests or shares in foreign companies most often appearing.

Correspondent accounts are characterized by medium-low levels of cash activities and medium-low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates that there may be misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at a low level, while special control mechanisms exist and are comprehensive.

Banks operating in Montenegro have concluded corresponding relationships with first-class banks from European Union countries or from countries that, according to the assessment of relevant international institutions, comply with standards in the field of preventing money laundering at the EU level or more. If the Montenegrin bank decided to conclude correspondence relations with a bank from another country that has a headquarters outside the EU, it would then be obliged to apply a detailed review and monitoring of the bank's operations, as required by the Law on the Prevention of Money Laundering and Terrorism Financing. Nevertheless, correspondent banking is in itself vulnerable to money laundering, as it implies conducting transactions on behalf of clients of another bank, on which information is limited.

By analyzing key input risk factors, as well as other characteristics that make correspondent accounts vulnerable, including threats of money laundering, this product is assessed to be characterized by a **medium level of risk**. After the control measures are considered, it is estimated that the corresponding accounts are characterized by **medium-low** risk level.

15.13 Electronic banking

Electronic banking is characterized by the medium level of representation in relation to other

products in the banking sector in Montenegro. The average transaction amount is at the level of average earnings in the country. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are high-risk, as follows: clients with high net assets, clients who are politically exposed persons, clients with business interests or shares in foreign companies, and non-resident clients from high-risk jurisdictions. Electronic banking is characterized by the medium frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms exist and are comprehensive.

Analysis of key input risk factors, as well as other characteristics that make electronic banking vulnerable, including threats of money laundering, assessed that this product is characterized by **medium-high level of risk**. After the control measures are considered, it is estimated that electronic banking is characterized by a **medium level of risk**.

15.14 Micro products

Micro-products have a medium-low level of representation compared to other products in the banking sector in Montenegro. The average transaction amount of this product in the banking system is below the level of average earnings in the country. This product is available but limited in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally assessed at medium risk level, with mostly politically exposed persons appearing as high-risk clients. Micro products are characterized by medium-low levels of cash use and low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates that there may be misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low level, while special control mechanisms exist but they are limited.

By analyzing the key inputs of inherent risk, as well as other characteristics that make micro products vulnerable, including threats of money laundering, it was assessed that this product is characterized by a **medium-low level of risk**. The established level of risk for micro products is the same once control measures have been considered.

15.15 Trust and asset management services

Trust and asset management services are characterized by a low level of representation compared to other products in the banking sector in Montenegro. The average transaction amount of this product in the banking system is below the country's average earnings. This product is available but limited in terms of investment/deposit availability.

According to the risk profile, clients who use this product are high-risk, most frequently those are clients with business interests or share in foreign companies. Trust and asset management services are characterized by medium-low level of cash use and medium-low frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion

schemes, there are difficulties in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at medium-low levels, while special control mechanisms are limited. But they're limited.

By analyzing the key input factors of inherent risk, as well as other characteristics that make trust services and asset management vulnerable, including threats of money laundering, it was assessed that this product **characterises the middle level of risk**. The established level of risk for this product is the same after the control measures are considered.

15.16 Small value electronic money transfer (quick transfer)

Small value wire transfer has a medium level of representation compared to other products in the banking sector in Montenegro. The average transaction amount of this product in the banking system is below the level of average earnings in the country. This product is available in terms of investment/deposit availability.

According to the risk profile, clients who use this product are generally rated at medium risk level, with the following high-risk clients: politically exposed persons, clients with high net assets, as well as clients with business interests or shares in foreign companies. Electronic transfers of small value money are characterized by the medium level of cash use and the medium frequency of international transactions.

Other inherent risk factors for this product are as follows: anonymity is not permitted, typology indicates misuse of this product for money laundering purposes, limited use in fraud or tax evasion schemes, no difficulty in tracking records, limited use through intermediaries, other risk factors (e.g. use through agents) are at a low level, while special control mechanisms exist and are comprehensive.

By analyzing the key input factors of inherent risk, as well as other characteristics that make the small value wire transfer vulnerable, including threats of money laundering, it was assessed that this product is characterized by the **medium level of risk**. The established level of risk for this product is the same after the control measures are considered.

CONCLUSION

The final rating of the banking sector's vulnerability to money laundering risk (medium risk) showed that an improved anti-money laundering system has been put in place in the banking sector in Montenegro, but that there is scope for its further improvement, especially in the efficiency part.

In general, Montenegrin banks conduct identification of the risk of money laundering, its assessment, monitoring, and control. Also, adequate policies and procedures have been established and measures are being taken to reduce the risk of money laundering. Nevertheless, the results of the central bank's supervision indicate the need to further strengthen risk-based approaches and continuous education of employees in the area of prevention of money laundering. In addition, the banking sector continues to evolve, and banks are steadily increasing the number of products offered, which ultimately gives greater opportunities for their misuse for money laundering purposes. Furthermore, the negative experiences and events related to the two business banks that resulted in bankruptcy, stressed the need for stronger banking supervision and additional improvements in bank control in the area of credit risk and money laundering. To that end, further continuous strengthening of supervisory capacity at the Central Bank is imperative to reduce the vulnerability of the banking sector to the risks of money laundering.

Accordingly, in the process of assessing the banking sector's vulnerability to money laundering, certain segments have been identified that need to be improved in order to reduce money laundering risks. The key findings are seen in the following:

- Ensure greater availability of independent and reliable state-level information sources, including actual ownership information;
- Strengthening risk-based approaches;
- Strengthening the functioning of internal control systems and internal audits;
- Conduct more intensive education of bank employees;
- Ensure continuous work towards improving the effectiveness of supervisory procedures and practices.

CAPITAL MARKET VULNERABILITY TO MONEY LAUNDERING RISK

National Risk Assessment for the capital markets sector was based on data from the Capital Markets Commission, a survey of the reporting entities over which the Commission performs supervision in accordance with the Law on the Prevention of Money Laundering and Financing of Terrorism and the reports of relevant international organisations.

According to the Law on the Prevention of Money Laundering and Financing of Terrorism, the Commission supervises the following reporting entities:

- investment companies and subsidiaries of foreign investment companies whose operations are governed by the law regulating the capital market, which provide:
 - a) investment services on the capital market in Montenegro that include: : the reception and transmission of orders in relation to one or more financial instruments; the execution of orders on behalf of clients; dealing on own account; portfolio management; investment advice; underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis; placing of financial instruments without a firm commitment basis; operation of multilateral trading platform (hereinafter: MTP) and operation of an organized trading platform (hereinafter: OTP);
 - b) services on the capital market in Montenegro that include: safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management; granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, in case the transaction involves the company which grants credit or loan; providing general recommendations on capital structure, business strategy and related matters and services relating to merger and acquisition of parts in undertakings; foreign exchange services where these are connected to the provision of investment services; research and financial analysis or other forms of general recommendations related to transactions in financial instruments; services related to underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis; investment services and activities as well as ancillary services related to underlying assets contained in financial derivatives, if connected with investment and ancillary services;
- companies for the management of investment funds, branches of foreign companies for the management of investment funds and companies from EU member states that are authorised to be directly engaged in the management of investment funds on the territory of Montenegro
- pension fund management companies.

| List of the reporting entities supervised by the Commission in the field of anti-money laundering and terrorism financing at the end of 2018 | |
|---|--|
| INVESTMENT COMPANIES | 1) Bull and Bear broker diler AD Podgorica 2) CG broker diler AD Podgorica 3) Global broker diler AD Podgorica 4) Market broker AD Bijelo Polje 5) NK broker AD Nikšić 6) Podgorica broker diler AD Podgorica 7) VIP broker diler AD Podgorica 8) Limit Prime Securities AD Podgorica |
| INVESTMENT FUND MANAGEMENT COMPANIES | 1) DZU Atlas Mont AD Podgorica 2) DZU Butterfly Finance AD Podgorica 3) DZU Euroinvest AD Podgorica 4) DZU Moneta AD Podgorica 5) DZU Prima AD Podgorica 6) DZU Quantum Investments AD Podgorica |
| PENSION FUND MANAGEMENT COMPANIES | 1) DZU Atlas Pension AD Podgorica 2) DZU Market Invest AD Bijelo Polje |

The results of the capital market vulnerability indicators are given in the following table, ranging from the lowest score of 0.0 to the highest 1.0:

| No. | Variable | Rating |
|-----|--|--------------|
| 1. | Quality of anti-money laundering supervision | 0,73 |
| 2. | Dedication and management in institutions that operate with securities | 0,80 |
| 3. | Quality of internal anti-money laundering policies and procedures | 0,70 |
| 4. | Compliance with the law by employees of institutions operating with securities | 0,40 |
| 5. | Quality of the framework for client's depth analysis | 0,60 |
| 6. | Quality of work in institutions that operate with securities | 0,40 |
| 7. | Quality of anti-money laundering control mechanisms | 0,40 |
| 8. | Inherent vulnerability: - investment companies - investment fund management companies | 0,46 0,42 |
| 9. | Total vulnerability: - investment companies - investment fund management companies | 0,46 0,42 |

To calculate the vulnerability score, the following input variables were used:

VARIABLES RELATED TO ANTI-MONEY LAUNDERING CONTROL MECHANISMS

1. Comprehensiveness of the anti-money laundering legal framework

a) Assigned value and brief justification:

(0,9) – There is a very good legal and regulatory framework for anti-money laundering and supervision of all types of institutions operating with securities, but due to the existence of minor deficiencies, the rating is not excellent.

The Commission for Capital Markets of Montenegro is designated by the Law on The Prevention of Money Laundering and Financing of Terrorism as the authority in charge of supervision over the implementation of this law and bylaws enacted under this law in relation to the following reporting entities: investment companies, investment fund management companies and pension fund management companies, as well as other institutions operating on the capital market.

The Law on the Prevention of Money Laundering and Financing of Terrorism details the measures and actions that reporting entities are obliged to take measures to detect and prevent money laundering and financing of terrorism, which are largely in line with international standards (FATF recommendations). On the other hand, the Law on Capital Markets, the Law on Investment Funds, and the Law on Voluntary Pension Funds prescribe the procedure of licensing, control, and rules of operation of the institutions that operate with securities.

Moneyval's report on the fourth round of evaluation of Montenegro's anti-money laundering and terrorism financing system with the accompanying reports confirms that the legal and regulatory framework for anti-money laundering and supervision of all types of institutions operating with securities is largely in line with international standards, although there are some minor shortcomings.

b) Shortcomings/problems/room for improvement:

MONEYVAL found in its reports the existence of minor deficiencies in regulations governing the operations of institutions in the capital market. These deficiencies can be addressed by amendments to the Law on Capital Markets, the Law on Investment Funds, and the Law on

Voluntary Pension Funds.

2. Effectiveness of supervisory procedures and practices

a) Assigned value and brief justification:

(0.8) – The Capital Market Commission as an authority that supervises institutions that operate with securities has the appropriate authority and jurisdiction to implement regulations relating to the prevention of money laundering and terrorism financing, and implements a risk-based approach when it comes to direct and indirect control of the reporting entity, but due to insufficient number of trained personnel and insufficient technical resources, the rating for this variable is not excellent.

The Law on the Prevention of Money Laundering and Financing of Terrorism clearly establishes the Capital Market Commission as the authority responsible for supervision over implementation of this law and bylaws enacted under this law in relation to institutions operating in the capital market. The Law on Capital Markets, the Law on Investment Funds and the Law on Voluntary Pension Funds specifically prescribe the competencies and entire supervisory framework and procedures that are available to the Capital Market Commission in supervising institutions that operate with securities, which provides for effective supervision in the area of preventing money laundering and financing of terrorism.

Each year, the Commission adopts annual plans to control institutions that operate with securities, which include supervision over implementation of regulations related to preventing money laundering and financing of terrorism. In addition to the above mentioned, the Commission uses a manual that elaborates procedures and manner of conducting controls in the area of prevention of money laundering and terrorism financing, which focuses on a risk-based approach. The first manual for controlling money laundering and financing of terrorism was adopted by the Commission in April 2011, while the innovative manual was adopted in September 2019. The number of systematized job positions per organizational unit in the Commission describing jobs, among other things, is nine, while the number of filled job positions is eight. Pursuant to internal organization and job systematization in the Commission, none of the above-mentioned job positions is solely tasked with conducting supervision in the field of AML/FT, but this task is an additional obligation of employees, among other obligations of conducting bonus supervision and control of the implementation of other regulations. The total number of AML/FT trainings that employees attended from 2015 to 2018 is five. The Commission does not currently use any technical means (software) to facilitate monitoring in the AML/FT area.

From 2015 to 2018, the Capital Markets Commission conducted 74 direct controls of reporting entities which it supervises regarding money laundering and terrorism financing, with 14 administrative measures in place.

b) Shortcomings/problems/room for improvement:

Out of the eight employees whose job description is to conduct controls in the field of AML/FT, not all regularly attended AML/FT training, so insufficient training of employees and lack of technical resources can affect the ability to exercise effective supervision by the Commission. In order to improve supervision, it is recommended that a special organizational unit be formed in the Commission as a supervisory authority to deal solely with supervision in the field of AML/FT, or to systematize special job positions within one of the existing organizational units in which the job description would be solely to perform supervision in the field of AML/FT. Apart from additional trainings, investments in the development of technical resources (software) in the area of AML/FT are needed as well.

3. Availability and implementation of administrative sanctions

a) Assigned value and brief justification:

(0.6) – There are specific legal standards that impose administrative sanctions against reporting

entities and their management in case of non-compliance with anti-money laundering laws and regulations. The Commission, as a supervisory authority in relation to institutions operating with securities, implements administrative measures in case of non-compliance with anti-money laundering regulations, but depending on the severity of the irregularities identified, more frequent imposition of fines as a type of sanction should be considered.

Article 94 paragraph 1 item 3 and paragraph 3 of the same article of the Law on the Prevention of Money Laundering and Financing of Terrorism, as well as Art. 99 and 100 of this Law prescribe administrative and infringement sanctions against reporting entities which do not comply with regulations relating to anti-money laundering. In addition to the above-mentioned law, the Commission may take measures against institutions that operate with securities under Article 145 of the Law on Investment Funds, Article 59 of the Law on Voluntary Pension Funds and Article 27 of the Law on Capital Markets. From 2015 to 2018, the Commission issued 14 administrative measures against institutions that did not comply with regulations relating to prevention of money laundering. The sanctions taken proved a deterrent, as the reporting entities against which the measures were taken eliminated perceived deficiencies in a timely manner and in most cases did not repeat them.

| Overview of the determined irregularities and measures taken by the Commission in the period 2015-2018 | | |
|--|--|--|
| Year | Irregularities | Administrative measures |
| 2015 | <ul style="list-style-type: none"> Non-timely delivery of AMLFT reports (quarterly questionnaire responses) | <ul style="list-style-type: none"> 3 reminders |
| | <ul style="list-style-type: none"> Non-compliance of the internal act with the Commission Guidelines | <ul style="list-style-type: none"> 1 Decision ordering elimination of irregularities |
| 2016 | No irregularities have been identified this year or any measures have been taken. | |
| 2017 | <ul style="list-style-type: none"> Non-timely delivery of AMLFT reports (quarterly questionnaire responses) | <ul style="list-style-type: none"> 7 reminders |
| | <ul style="list-style-type: none"> Compliance officer for AML/FT is not functionally and organizationally separate from other organizational activities of the reporting entity | <ul style="list-style-type: none"> 3 decisions ordering elimination of irregularities |
| 2018 | <i>No irregularities have been identified this year or any measures have been taken.</i> | |

In conducting supervision over implementation of the Law on the Prevention of Money Laundering and Financing of Terrorism, the Commission in 2015-2019 did not initiate misdemeanor proceedings against the reporting entity which it supervises, and therefore no fines were imposed on reporting entities for established irregularities.

b) Shortcomings/problems/room for improvement:

Provisions of the Law on the Prevention of Money Laundering and Financing of Terrorism on Administrative Sanctions should be amended/supplemented in such a way as to clearly indicate the possibility of revoking the licence of institutions that do not comply with the regulations relating to the prevention of money laundering and terrorism financing. As a supervisory authority, the Commission should, depending on severity of the irregularity identified, apply misdemeanor sanctions against reporting entities more often.

4. Availability and implementation of criminal sanctions

a) Assigned value and short explanation:

(0.9) – There are concrete norms prescribing criminal responsibility for a criminal offence of money laundering, and so far, no reporting entity or compliance officers of the reporting entity supervised by the Commission has been criminally liable for a criminal offence of money laundering.

Money laundering is prescribed as a criminal offence under Article 268 of the Criminal Code, and Article 3 of the Law on the Responsibility of Legal Persons for Criminal Offences stipulates that a legal person may be liable for a criminal offence of money laundering.

b) Shortcomings/problems/room for improvement:

Statistics for the period 2015-2019 show that no reporting entity or compliance officers of the reporting entity supervised by the Commission has been criminally liable for a criminal offence of money laundering. In this sense, the Commission as a supervisory authority for reporting entities in the capital market, as well as other investigative and other competent state authorities, need to continue to carry out quality audits to prevent possible attempts to launder money through this sector.

5. Availability and effectiveness of input controls

a) Assigned value and brief justification:

(0,9) – There are specific standards that prescribe the process of licensing and giving other authorities to institutions that operate with securities, but the organization and training of employees of the Commission dealing with issues of money laundering and terrorism financing could be better.

The Law on Capital Markets, the Law on Investment Funds and the Law on Voluntary Pension Funds prescribe the procedure of licensing and granting other authorities to institutions that operate with securities, as well as the authorities and competencies of the Capital Market Commission in the proceedings. The licensing process checks the sources of the founders' capital, checks on management and their qualifications and eligibility in terms of regulations related to preventing money laundering and financing of terrorism. The above-mentioned laws contain norms governing the procedure of acquiring qualified participation in institutions that operate with securities, as well as norms governing the procedure of appointing managers in these institutions. These norms prescribe clear criteria and conditions that prevent criminals (or their associates) from obtaining a license and/or achieving significant interest in ownership participation and/or management in institutions that operate with securities.

The organizational units of the Commission, which includes, among other activities, supervision over implementation of regulations in the field of prevention of money laundering and financing of terrorism are Department for market supervision and corporate governance; Department for collective investment schemes and digital assets; and the Corporate Activities Department. The number of systematized job positions per organizational unit in the Commission describing jobs, among other things, is nine, while the number of filled jobs is eight. Pursuant to internal organization and job systematization in the Commission, none of the above-mentioned job positions is solely tasked with conducting supervision in the field of AML/FT, but this task is an additional obligation of employees, among other obligations of conducting bonus supervision and control of the implementation of other regulations. The total number of AML/FT trainings that employees attended from 2015 to 2018 is five.

From 2015 to 2018, the Commission issued 4 licenses (work permits) and 9 consents for acquiring qualified participation. In two cases, no approval was issued for acquiring qualified participation for violating legal procedures.

In the period from 2015 to 2018, there have been no cases in which the Commission has revoked or temporarily revoked the license of the reporting entity for breaching the AML/FT standard.

b) Shortcomings/problems/room for improvement:

Out of the eight employees whose job description is to conduct controls in the field of AML/FT, not all regularly attend AML/FT training, so insufficient training of employees may affect the overall ability to exercise effective supervision by the Commission. In order to improve supervision, it is recommended that a special organizational unit be formed in the Commission as a supervisory authority dealing solely with supervision in the field of AML/FT, or to systematize special job

positions within one of the existing organizational units in which the job description would be solely to perform supervision in the field of AML/FT. In addition, additional training is needed for all Commission employees dealing with money laundering and terrorism financing issues.

6. Integrity of employees in institutions that operate with securities

a) Assigned value and brief justification:

(0,5) – There are control mechanisms for employees in institutions operating with securities established based on laws and internal acts of reporting entities, but the application of them is not excellent.

The Law on the Prevention of Money Laundering and Financing of Terrorism, the Law on Capital Markets, the Law on Investment Funds, and the Law on Voluntary Pension Funds, as well as internal acts of reporting entities, prescribe criteria for employee assessment and verification mechanisms for employees in institutions that operate with securities over which the Commission performs supervision, which is responsible for activities of prevention of money laundering and financing of terrorism.

Statistics for the period 2015-2019 show that the institutions over which the Commission performs supervision have not imposed disciplinary measures on employees. Nevertheless, the Capital Market Commission has issued 10 warnings to the institutions which it supervises for inaccuracies related to the delivery of reports in the field of preventing money laundering and terrorism financing, and inadequate organizational structure and functional separation of employees dealing with the prevention of money laundering and terrorism financing from other employees of the institutions.

In terms of the general level of integrity/operational surrounding in the country, according to Transparency International's 2018 report, the corruption perception index in Montenegro is 45/100.

b) Shortcomings/problems/room for improvement:

The cases and measures taken by the Commission towards certain institutions show that checking of employees in some cases is not being conducted adequately and that some compliance officers for preventing money laundering and financing of terrorism in institutions were not subject to disciplinary responsibility for failure to perform their duties.

7. Level of knowledge of employees in institutions that operate with securities

a) Assigned value and brief justification:

(0,4) – There is a legal and regulatory framework that is adequate, but the education of employees is not sufficiently implemented.

The Law on the Prevention of Money Laundering and Financing of Terrorism stipulates an obligation for compliance officers engaged in activities of preventing money laundering and financing of terrorism to comprise training programmes for employees as well as to implement them and to ensure regular professional training of employees.

The findings of the Capital Markets Commission show that reporting entities duly and regularly constitute professional development programmes for employees, but do not sufficiently implement them.

Statistics on the number of trainings show that in the period 2015 -2018, the reporting entities which the Commission supervises organized 18 trainings, with one institution organising 12 of the total number of trainings, while some institutions did not organise or document them at all.

In addition, the Capital Market Commission as a supervisory authority did not organize trainings for institutions operating with securities in the period 2015 - 2019.

b)Shortcomings/problems/room for improvement:

Institutions need to organise more employee training, and the Capital Market Commission needs to organize trainings in the area of money laundering and terrorism financing for the reporting entities which it supervises. Also, participation of representatives of the Department for the Prevention of Money Laundering and Terrorism Financing of the Police Administration (FIU) in organization of trainings would be desirable given their knowledge of money laundering typology.

8. Effectiveness of the compliance function (organization)

a)Assigned value and brief justification:

(0.4) – All institutions that operate with securities, and over which the Capital Market Commission performs supervision, have adopted internal acts, and established an independent function of the person authorized for activities of detection and prevention of money laundering, which also covers the internal compliance of these institutions with regulations on money laundering, but due to the lack of adequate statistics the rating of effectiveness of the compliance function is medium low.

The Law on the Prevention of Money Laundering and Financing of Terrorism stipulates the obligation to appoint an independent officer for detection and prevention of money laundering and financing of terrorism, as well as the obligation to make internal compliance and audit programmes depending on the level of risk, size of reporting entity and similar parameters.

All reporting entities adopted internal compliance programmes and appointed independent compliance officers for anti-money laundering compliance. Also, each of the reporting entities carried out an AML/FT risk assessment, but the quality of the assessment in some of the reporting entities is questionable.

However, statistics show that no institution has taken disciplinary action against employees, and data on internal/external audits relating to the prevention of money laundering and terrorism financing are missing. In addition, no institution has reported a case of refusal of business or termination of business ties based on recommendations of compliance officers.

b)Shortcomings/problems/room for improvement:

The absence of data on internal/external audits relating to the prevention of money laundering and terrorism financing, as well as disciplinary measures against employees responsible for the failures for which the Commission has issued administrative measures (orders for resolving irregularities and warnings) to certain institutions, may indicate that the function of compliance with the regulations on prevention of money laundering is not performed in the best way and that institutions should sanction irresponsible employees and invest more resources in professional training of staff.

9. Effectiveness of monitoring and reporting suspicious activity

a)Assigned value and brief justification:

(0.4) – Institutions that operate with securities, over which the Capital Market Commission performs supervision, implement statutory obligations to keep records and store data, but do not have sophisticated information systems that would make it easier for compliance officers to take measures to detect and prevent money laundering and terrorism financing.

The Law on the Prevention of Money Laundering and Financing of Terrorism in Chapter VIII contains provisions on records, manner of protecting and storing data, which reporting entities are obliged to respect. The results of direct and indirect controls conducted by the Commission in the

period 2015 - 2018 show that the reporting entities adhere to the obligations of keeping records, protection, and data retention in accordance with the law, and that employees understand well the framework of their reporting obligations regarding suspicious transactions and activities. Client transaction records are electronic and facilitate check and monitoring related to prevention of money laundering and terrorism financing.

Nevertheless, reporting entities keep records of clients' profiles (risks) mainly in Excel format (manual data entry) and do not possess special information systems that would enable them to automate effective verification of politically exposed persons.

Between 2015 and 2018, the reporting entities supervised by the Commission reported 5 suspicious transactions.

b)Shortcomings/problems/room for improvement:

Reporting entities with greater workload and a greater risk of money laundering and terrorism financing should invest resources in developing sophisticated information systems that would help compliance officers to identify suspicious transactions and take measures to detect and prevent money laundering and terrorism financing.

Estimates of the following variables were obtained:⁵⁰

Availability and access to beneficial ownership information (4.1.11) - rating (0.5);

Availability of reliable identification infrastructure (4.1.12) - rating (0.7);

Availability of third-party information sources (4.1.13.) – rating (0.6).

⁵⁰ No rating of the variable - The level of market pressure regarding the fulfilment of anti-money laundering standards (4.1.10), as according to the instruction for using the national risk assessment tool, the rating of this variable is optional.

INHERENT VULNERABILITY VARIABLES

| | | INVESTMENT COMPANIES | INVESTMENT FUND MANAGEMENT COMPANY |
|---|-------------------------|--------------------------|------------------------------------|
| Overview of the assessment of certain types of institutions that operate with securities: | | | |
| Estimating the variables of inherent vulnerability associated with a particular type of institutions operating with securities | | | |
| Total Value/Size | High | | |
| | Medium High | | <input type="checkbox"/> |
| | Medium | | |
| | Medium Low | <input type="checkbox"/> | |
| | Low | | |
| | Not analyzed | | |
| Complexity and diversity of portfolios | High | | |
| | Medium High | | |
| | Medium | | |
| | Medium Low | <input type="checkbox"/> | |
| | Low | | <input type="checkbox"/> |
| | Not analyzed | | |
| Basic Client Profile | Very high risk | | |
| | High risk | | |
| | Medium risk | <input type="checkbox"/> | <input type="checkbox"/> |
| | Low risk | | |
| | Very low risk | | |
| | Not analyzed | | |
| Existence of an investment/deposit option | Available and expressed | | |
| | Available | <input type="checkbox"/> | |
| | Available but limited | | <input type="checkbox"/> |
| | Not available | | |
| Portfolio liquidity | High | | |
| | Medium High | | |
| | Medium | | |
| | Medium Low | <input type="checkbox"/> | |

| | | INVESTMENT COMPANIES | INVESTMENT FUND MANAGEMENT COMPANY | |
|---|--|--------------------------------|------------------------------------|--------------------------|
| Overview of the assessment of certain types of institutions that operate with securities: | | | | |
| Estimating the variables of inherent vulnerability associated with a particular type of institutions operating with securities | | | | |
| | | Low | <input type="checkbox"/> | |
| | | Not analyzed | | |
| Frequency of international transactions | | High | | |
| | | Medium High | | |
| | | Medium | <input type="checkbox"/> | |
| | | Medium Low | | |
| | | Low | <input type="checkbox"/> | |
| | | It does not exist | | |
| | | Not analyzed | | |
| Other vulnerability factors | Anonymous/ Rollup | Available | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Not available | | |
| | Existence of money laundering typologies | Exists to a significant extent | | |
| | | Exists | | |
| | | Exists but to a limited extent | <input type="checkbox"/> | <input type="checkbox"/> |
| | | It does not exist | | |
| | Use with the aim of market manipulation | Exists to a significant extent | | |
| | | Exists | | |
| | | Exists but to a limited extent | <input type="checkbox"/> | <input type="checkbox"/> |
| | | It does not exist | | |
| | Difficulty in detecting records | Log not available | | |
| | | Difficult/Long-lasting | | |
| | | Easy to detect | <input type="checkbox"/> | <input type="checkbox"/> |
| | Indirect use | Available and expressed | | |
| | | Available | | |

| Overview of the assessment of certain types of institutions that operate with securities: | | INVESTMENT COMPANIES | INVESTMENT FUND MANAGEMENT COMPANY |
|--|-----------------------|----------------------|------------------------------------|
| Estimating the variables of inherent vulnerability associated with a particular type of institutions operating with securities | | | |
| | Available but limited | ✓ | |
| | Not available | | ✓ |
| Level of monetary turnover | High | | |
| | Medium high | | |
| | Medium | | |
| | Medium Low | | |
| | Low | | |
| | Not analyzed | | |
| | It does not exist | ✓ | ✓ |

The MONEYVAL report on the fourth round of evaluation of the money laundering and terrorism financing system as of 16 April 2015 found the following deficiencies in relation to the capital markets sector:

- Not all activities or operations covered by the FATF's definition of financial institution would be subject to preventive measures under the LPMLTF if lawfully conducted in Montenegro;
- While the law requires reporting entities to refuse to establish a business relationship with a client or execute a transaction, if the client's identity cannot be determined with sufficient certainty, the guidelines published by the SEC and ISA state that reporting entities may refuse to establish a business relationship which may give rise to ambiguity (5.15);
- No requirement to obtain senior management approval once a client becomes a PEP to continue business relationship;
- Administrative sanctions may not be applied to a branch of a foreign bank, branch of a foreign investment management company, or branch of a foreign company that manages pension funds;
- The SEC may apply sanctions only where a reporting entity fails to remediate a misdemeanour. (17.1);
- The SEC, under the Securities Law and the Law on Voluntary Pension Funds, and the APMLTF, in relation to those financial institutions under its supervision, cannot take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in reporting entities for which they have supervisory responsibility. (23.3);
- Whereas the Central Bank and ISA administer legislation that requires both to give their prior approval to persons who are to hold a controlling interest in a reporting entity, sit on its management board, this is not so for the SEC;
- The SEC does not have clear authority to conduct examinations of

stockbrokers for AML/CFT purposes. (29.2);

- The SEC cannot share information spontaneously under the Securities Law or the Law on Voluntary Pension Funds; (40.3);
- The SEC does not have a general power to conduct an examination under the Securities Law on behalf of a foreign authority; (40.5).

In order to address these deficiencies, the Commission initiated amendments to the Law on Investment Funds and the Law on Voluntary Pension Funds, adopted in February 2018, and amendments to the Law on the Prevention of Money Laundering and Financing of Terrorism were adopted in July 2018. In addition to the above mentioned, in January 2018 the Law on Capital Markets came into force, which from the aspect of supervision and competencies of the Commission contributed to the removal of certain deficiencies identified in the MONEYVAL Report on the fourth round of evaluation.

As a result of these regulatory changes, in an analysis of the Sixth Compliance Report dated 29 June 2018, as well as analyses of regular progress reports that followed, MONEYVAL noted that deficiencies related to the FATF recommendation on 23 June 2018, were largely corrected. On the other hand, in relation to recommendation 23, it was noted that there are still minor deficiencies in the regulations for which the Commission is competent (the range of criminal offences that prevent criminals from being owners or managers in management companies, in the opinion of MONEYVAL experts, should be wider and involving related persons).

In the opinion of MONEYVAL experts, in relation to FATF Recommendation 40 and Special Recommendation V (old recommendations numbers), there are still some minor deficiencies in relation to regulations whose implementation is within the Commission's jurisdiction (norms in the Law on Capital Market regarding international cooperation and the possibility of exercising controls apply to EU member states, while third countries are not included). Further changes and amendments to regulations under the Commission's jurisdiction would be needed to address these minor deficiencies.

CONCLUSION

According to all of the above, the following conclusions have been reached and issues that need to be improved have been identified:

- I. The capital market has a medium level of vulnerability to money laundering.
- II. Within the capital markets sector, investment companies have a slightly greater vulnerability to money laundering than investment fund management companies.
- III. In order to reduce the overall level of money laundering vulnerabilities in the capital markets sector, it is necessary to:
 - 1) improve the level of knowledge of employees in institutions that operate with trades of securities;
 - 2) improve the effective internal function of compliance (organization) with anti-money laundering regulations in institutions operating with securities;
 - 3) improve systems for record keeping, monitoring and reporting of suspicious transactions;

- 4) measures taken to better verify and preserve the integrity of employees in institutions that operate with securities;
- 5) depending on the severity of the irregularities identified, impose fines on reporting entities more often as a type of administrative sanction for non-compliance with AML/FT regulations;
- 6) take measures to improve availability and access to real ownership information;
- 7) take measures to improve availability of third-party sources of information.

VULNERABILITY OF THE INSURANCE SECTOR TO MONEY LAUNDERING RISK

Life insurance sector in Montenegro

National Risk Assessment (NRA) for the insurance sector was conducted on the basis of internal analyses and data owned by the Insurance Supervision Agency, information obtained in the procedures of direct and indirect controls of operation of the life insurance companies, and on the basis of the data obtained from the life insurance companies through questionnaire and direct discussions.

In order to adequately assess the exposure of life insurance sector in Montenegro to the money laundering and terrorist financing risk, it is necessary to bear in mind the characteristics of Montenegrin insurance market and in connection to that especially:

- availability of life insurance products in Montenegro
- main characteristics of products available in Montenegrin market,
- degree of development and representation of life insurances,
- number of service providers and
- overall status in insurance market.

Pursuant to the Law on Insurance, life insurance services in Montenegrin market may only be provided by life insurance companies which have been established as joint stock companies, or do business as branch offices of foreign companies, whereat the requirement for registration, that is, beginning of their work, is obtaining the permit from the Insurance Supervision Agency. The above companies do not have the option to sell their services in foreign markets given the terms and conditions of EU regulation regarding the status of insurers that have been registered in third countries (mandatory permit, capital requirements, supervision) and freedom of provision of services. Legal entities and natural persons in Montenegro are committed to use the services of service providers holding the permit issued by the Insurance Supervision Agency.

In Montenegrin insurance market there are four joint stock companies for life insurance operating at the moment, of which all of them are in 100% foreign ownership, while branch offices of foreign companies do not exist. In the period from making of previous National Risk Assessment, two life insurance companies have ceased to exist, and their portfolio has been taken over by the same company currently leading the life insurance market in Montenegro. In addition to the above, the number of other payers, i.e. companies for mediation/representation in life insurance business, has also been reduced, and there are five companies for mediation/representation less compared to the period covered by the previous National Risk Assessment.

Premium

The following Table shows gross invoiced life insurance premium for the period from 2014-2018:

| Year | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|--|--------|--------|--------|--------|--------|--------|
| Gross invoiced life insurance premium (in thousands of euro) | 10,876 | 12,556 | 12,925 | 13,696 | 14,166 | 15,227 |
| Growth Index | - | 115,4 | 102,9 | 106,0 | 103,4 | 107,5 |

Average growth rate of gross invoiced life insurance premium for the period of six years (from 2014 to 2018) is in total 7,1%.

In 2018 the life insurance premium amounted to 15,2 million euro and achieved the share of 17,5% in overall insurance premium (life and non-life insurance). The following Table provides the overview of life insurance premium share in overall insurance premium for Montenegro, Serbia and Croatia:

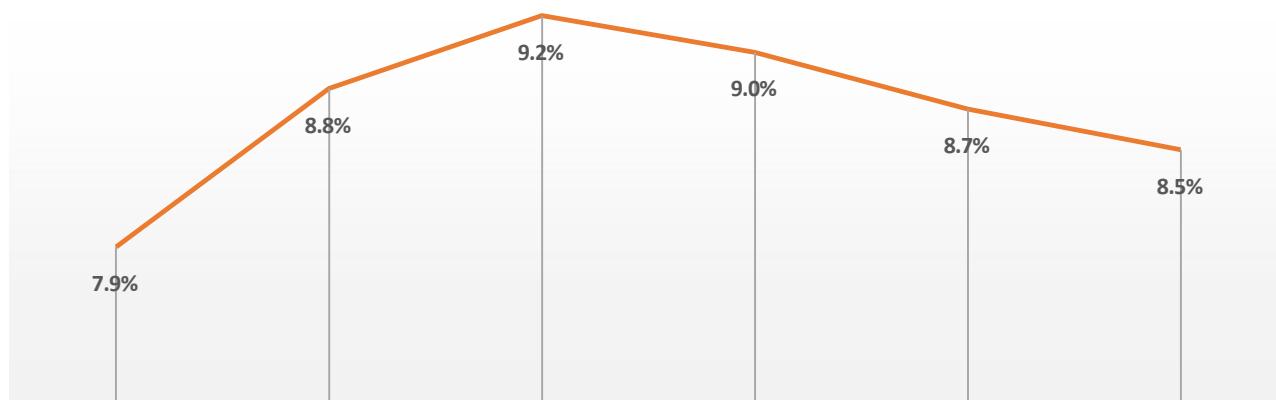
| Year | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|------------|-------|-------|-------|-------|-------|-------|
| Montenegro | 14,9% | 17,3% | 16,8% | 17,1% | 17,3% | 17,5% |
| Serbia | 22,0% | 23,1% | 23,9% | 25,9% | 24,4% | 23,8% |
| Croatia | 28,0% | 30,8% | 33,6% | 33,3% | 32,4% | 31,8% |

The previously presented data additionally indicate the insufficient development of life insurance in Montenegro compared to the regional countries, while that underdevelopment is more prominent in comparison to more developed markets of EU member countries.

Share of insurance premium, especially of life insurance premium in gross domestic product in the period from 2015 to 2018 is still at extremely low level. In 2018 the total insurance penetration (share of insurance premium in GDP) amounted 1,8%, while penetration of life insurances only amounted the total 0,3%. These data indicate relatively low insurance premiums, that is, insufficient development of life insurance market and insufficient population awareness of the need for entering into the life insurance contracts, taking into account the data from more developed markets of EU member countries.

In addition to the above, the data that gross invoiced life insurance premium per capita in Montenegro in 2018 amounted EUR 24,5 is significant for the assessment of market status, which is still significantly under the average of EU member countries and therefore the risk of exposure of this sector to money laundering and terrorist financing should also be assessed.

The following graph shows the participation of total number of the insured persons (life insurance) in total number of population in Montenegro for the period from 2013-2018:



- Share of total number of the insured persons in total number of population of Montenegro

Products

The most common sub-type of insurance in life insurance type is the mixed life insurance, whose premium at the end of 2018 amounted 71% of gross invoiced premium in life insurance

type, that is, 63,5% of total invoiced premium of all life insurances. The share of gross invoiced mixed insurance premium in total life insurance premium compared to the period from the previous National Risk Assessment (2014-65,4%) has recorded a mild decline of 1,9 percentage points. However, if gross invoiced mixed insurance premium is observed, which in 2014 amounted 7,114 million euro, compared to 2018 (9,674 million euro) the growth in the amount of 2,560 million euro can be recognized.

The second most common sub-type of insurance in life insurance – life insurance in case of death for a definite period of time (risk insurance), at the end of 2018, participated in life insurance premium with 21,3%, that is, made 19,1% of total invoiced premium of all life insurances. Observed in relation to the period from the previous National Risk Assessment (2014- 13,2%), the share of gross invoiced risk insurance premium in total life insurance premium recorded a growth of 5,9 percentage points. The growth of this product within the observed period was conditioned by increase of credit activity of the banks which asked for such type of insurance as means of security. In 2014, the gross invoiced risk insurance premium amounted to 1,434 million euro, and at the end of 2018 amounted to 2,907 million euro.

Characteristics of these 2 most common products are:

- a) Mixed insurance (group and individual) – covers the risk of survivorship and death (payment after expiry of the agreed period or payment in case of death during the agreed period), offers possibility of buying out and capitalization, often concluded with additional accident and/or health insurance and insurance from severe diseases. It can be assigned for example in favour of the bank as credit security.
- b) Risk insurance (group and individual) – covers the death risk (payment in case of death during the agreed period), does not offer a possibility of buying out, often concluded with additional accident and/or health insurance and insurance for incurrence of severe diseases. In Montenegro, this insurance is often used as credit security and is assigned in favour of the bank.

These two sub-types make the total of 92,4% of total premium of life insurance, that is 82,6% of total premium in the life insurance group. Other life insurances analysed for the Needs of this assessment, sub-type insurance in case of survivorship (with a share of 5,7% in gross invoiced life insurance premium) and annuity insurance together make 5,4% of total premium in life insurance group, and they are characteristic by the fact that they are concluded in case of survivorship and offer a possibility of early buying out.

SUMMARIZED OVERVIEW OF VULNERABILITY OF LIFE INSURANCE SECTOR IN TERMS OF MONEY LAUNDERING AND TERRORIST FINANCING

The Data gathered and processed in the procedure of National Risk Assessment indicate that the life insurance sector is in the low level of vulnerability to money laundering and terrorist financing risk (Grade – 0.19).

Quality of general controls carried out for the purposes of money laundering and terrorist financing is in the medium high level (Grade-0.77), considering the grades given to quality of operations of insurance companies, that is, quality of internal policies and procedures related to prevention of money laundering and terrorist financing. Quality of operation of life insurance companies is also in medium high level (Grade 0.77), while the quality of procedures and policies set forth has been assessed as high (Grade -0.81).

General quality of customer due diligence framework applied by the life insurance companies is in the medium high level (Grade -0.64). Level of observance of duties by employees of the

insurance companies, as well as engagement of the Management of life insurance companies on improvement of operations aimed at reducing the exposure of this sector to money laundering risk, are in the high level (Grade-0.80 and 0.83).

VULNERABILITY map and Table of priorities for this sector indicate that the highest Need for improvement is in the domain of availability of independent sources of information, as well as sources of information on beneficial ownership.

GENERAL INPUT VARIABLES

1. Comprehensiveness of legal Network for the prevention of money laundering (Grade:0.8)

Description of variable

This variable assesses if the respective country has comprehensive laws and regulations with regard to the preventive measures for PML (prevention of money laundering) and supervision over PML in the insurance sector.

This input variable assesses the enforcement of the laws and regulations with regard to the PML (which is assessed by other input variables). Namely, it is connected to legal and regulatory framework in the domain of PML for the insurance sector.

Assessment criteria

In Montenegro, comprehensive laws and regulations with regard to the PML within the insurance sector are in force if those laws and regulations fit into the international standards with regard to:

- clients' due diligence (based on the risk, also including the verification of beneficial ownership of the clients who are natural persons/legal entities/legal arrangements)
- improvement of due diligence with regard to politically exposed persons (PEP) and countries of high risk
- improved due diligence of the clients in case of new technologies
- improved due diligence with business relations and transactions with natural persons/legal entities or financial institutions from countries of high risk
- leaning on due diligence of clients by third parties
- keeping records
- reporting on doubtful transactions
- reporting and confidentiality
- internal controls, foreign branch offices and subsidiaries
- regulation and supervision of financial institutions
- supervisory authorizations.

Sources of information and Data

- questionnaires sent to the insurance companies
- relevant laws, regulations and other acts
- discussions/consultations with the employees of the supervisory authority
- discussions /consultations with representatives of the insurance sector.

2. Effectiveness of supervisory procedures and practice (Grade: 0.9)

Description of variable

This variable assesses the effectiveness of supervisory procedures and practice on PML in the insurance sector. Effective supervision regime is the one that: (1) has a comprehensive legal

and regulatory framework, supported by appropriate authorizations and good resources, and (2) uses approach based on the risk for direct/indirect monitoring and supervision.

This variable assesses availability and enforcement of sanctions. The sanctions are assessed through two separate variables related to the administrative and the criminal sanctions.

Assessment criteria

Procedures and practice of the PML are effective when the supervisory body:

- is clearly established in the laws and regulations
- has appropriate authorizations and mandate for conducting the supervision on compliance within the PML domain
- implements its supervisory activities in comprehensive supervisory framework (which includes clear policies, procedures and supervision manuals)
- well understands and evaluates money laundering risks within the insurance sector
- has sufficient trained staff
- provides necessary skills and updated knowledge for compliance reviews in the PML domain to its staff
- has necessary resources for ensuring compliance in the domain of PML (like technical capacities, budget and tools)
- carries out comprehensive, risk based supervisory program comprised of direct and indirect components and in regular scheduled cycles and in sporadic reviews on the site (risk based and if need be)
- submits reports and systematically records results of the review and is able to effectively use those records for the purpose of policies
- advocates moral position that has a significant impact in management in the insurance sector and is sufficient for the purposes of exercising positive impact on behavioural patterns
- can demonstrate that supervisory authorizations are executed in effective manner and impartially.

Sources of information and Data

- relevant laws, regulations and other acts
- discussions / consultations with employees in the insurance sector
- information obtained from direct and indirect controls
- other information owned by a supervisory authority

The following table gives overview of pronounced supervisory measures with regard to the duties laid down by the PMLTF regulation, for the period 2015-2018⁵¹

| Period of control | Number of direct PMLTF controls | Supervisory measures referred to in Article 130 of the Law on Insurance (in conjunction with the Law on PMLTF) | | |
|-------------------|---------------------------------|--|--|-----------------|
| | | Number of supervisory measures | Main omissions | Number of fines |
| 2015 | 9* | 10* | <ul style="list-style-type: none"> adoption of analysis and risks and harmonization of internal acts with the PMLTF regulations obtaining Data from Article 15-17 of the Law on PMLTF classification of PEP into appropriate risk category and adequate filling in of the PEP form performing activities of internal control in accordance with PMLTF regulations performing internal audit in a part of the PMLTF notifying Management for PMLTF on appointment of authorized person adoption of Program for Vocational Education and Training | 3 |
| 2016 | 8* | 4* | <ul style="list-style-type: none"> adoption of risk analysis and harmonization of internal acts with the PMLTF regulations appointment of authorized person and notification of the Management for PMLTF provision of vocational education for authorized person in accordance with the Law on PMLTF conducting activities of internal control in accordance with the PMLTF regulations classification of clients into appropriate risk category | 0 |
| 2017 | 6* | 4* | <ul style="list-style-type: none"> adoption of risk analysis and harmonization of internal acts with the PMLTF regulations obtaining Data and documentation of the client and its representative in accordance with Article 14-17 of the Law on PMLTF adoption of Program for Vocational Education and Training appointment of authorized person and provision of vocational education to authorized person in accordance with the Law on PMLTF classification of clients to appropriate risk category | 1 |
| 2018 | 3* | 1 | <ul style="list-style-type: none"> obtaining Data and documentation on the client in accordance with Article 14-16 of the Law on PMLTF | 0 |

In addition to activities regarding control, the Agency has a practice of sending circular letters to companies, aimed at providing transparency in acting under the legal provisions.

3. Availability and enforcement of administrative sanctions (Grade: 0.8)

Description of variable

This variable assesses if the country has a range of effective, proportionate and dissuasive sanctions that apply to natural persons and legal entities in cases of incompliance with the laws and regulations on PML. The sanctions may apply not only on financial institutions including the insurance companies, but also to their directors and senior management. If sanctions are more effective, proportionate and having a higher function of dissuasion, it is more likely that the management and staff members will be compliant with the laws and duties related to the PML.

This variable also assesses whether the country takes measures for enforcement of administrative sanctions against the banks or individuals who are members of the Management or staff of the insurance companies, in cases of incompliance with the obligations related to the PML.

⁵¹Notes:

- In 2015, 6 controls of insurance companies were carried out, as well as 3 controls of the insurance representation and mediation companies, one of which was a repeated control (control of operations following the orders from previous control). Out of 10 supervision measures, one was adopted in 2016 after compiling Minutes.
- In 2016, 3 repeated controls of insurance companies were carried out, which did not recognize any omissions, as well as 5 controls of the insurance representation and mediation companies. Out of 4 supervision measures: one measure was adopted in 2017 after compiling of Minutes, while the procedure for one of the measures was suspended since the insurance representation company meanwhile terminated its cooperation with the life insurance company and thus ceased to be the subject of the Law on PMLTF.
- In 2017, one control of the insurance company was conducted, as well as 5 controls of the insurance representation and mediation companies, one of which was a repeated control. Out of 4 supervision measures, 2 measures were adopted in 2018 after compiling of Minutes. Adoption of supervision measure for one company was suspended since the insurance mediation company meanwhile terminated its cooperation with the life insurance company and thus ceased to be the subject of the Law on PMLTF.
- In 2018, one control of the insurance company was conducted, as well as 2 controls of the insurance representation companies, one of which was a repeated control.

Assessment criteria

The following criteria indicate if there are effective, proportionate and dissuasive administrative sanctions in the country.

- appropriate administrative sanctions for incompliance with the obligations related to PML have been established;
- administrative sanctions are sufficient for executing positive impact on conduct of the Management and staff (like fines, administrative measures, removal of critical staff and suspension / withdrawal of licenses) in insurance companies.

The following criteria indicate if the country implements its duties in the domain of PML in cases of incompliance:

- majority of persons working in the insurance sector deems that in case of incompliance with the requirements related to PML administrative measures would be taken;
- there are the records of enforcing administrative measures taken in the previous period by law enforcement services with regard to incompliance with the requirements related to PML within the sector.

Sources of information and Data

- questionnaires sent to the insurance companies
 - relevant laws, regulations and other acts
 - discussions /consultations with representatives of the insurance sector
- information owned by a supervisory authority.

The following table gives overview of pronounced supervisory measures with regard to the duties laid down by the PMLTF regulation, for the period 2015-2018:

| Period of control | Number of direct PMLTF controls | Supervisory measures referred to in Article 130 of the Law on Insurance (in conjunction with the Law on PMLTF) | | |
|-------------------|---------------------------------|--|---|-----------------|
| | | Number of supervisory measures | Main omissions | Number of fines |
| 2015 | 9* | 10* | <ul style="list-style-type: none"> • adoption of risk analysis and harmonization of internal acts with the PMLTF regulations • obtaining Data from Article 15-17 of the Law on PMLTF • classification of PEP into appropriate risk category and adequate filling in of the PEP form • performing activities of internal control in accordance with PMLTF regulations • performing internal audit in a part of the PMLTF • notifying Management for PMLTF on appointment of authorized person • adoption of Program for Vocational Education and Training | 3 |
| 2016 | 8* | 4* | <ul style="list-style-type: none"> • adoption of risk analysis and harmonization of internal acts with the PMLTF regulations • appointment of authorized person and notification of the Management for PMLTF • provision of vocational education for authorized person in accordance with the Law on PMLTF | 0 |

| | | | | |
|------|----|----|---|---|
| | | | <ul style="list-style-type: none"> conducting activities of internal control in accordance with the PMLTF regulations classification of clients into appropriate risk category | |
| 2017 | 6* | 4* | <ul style="list-style-type: none"> adoption of risk analysis and harmonization of internal acts with the PMLTF regulations obtaining Data and documentation on the client and its representative in accordance with Article 14-17 of the Law on PMLTF adoption of Program for Vocational Education and Training appointment of authorized person and provision of vocational education to authorized person in accordance with the Law on PMLTF classification of clients to appropriate risk category | 1 |
| 2018 | 3* | 1 | <ul style="list-style-type: none"> obtaining Data and documentation on the client in accordance with Article 14-16 of the Law on PMLTF | 0 |

4. **Availability and enforcement of criminal sanctions (Grade: 0.8)**

Description of variable

This variable assesses if the country has a range of effective, proportionate and dissuasive sanctions that apply in cases of incompliance with the laws and regulations on PML. The sanctions should apply not only on insurance companies, but also on their directors and senior management. If sanctions are more effective, proportionate and having a higher function of dissuasion, it is more likely that the Management and staff members will be compliant with the laws and duties related to the PML.

This variable also assesses not only the legal frameworks, but also realistic criminal measures for law enforcement, taken against the banks or individuals who are members of the Management or staff of the insurance companies, in cases of incompliance with the obligations related to the PML.

Assessment criteria

The following criteria indicate that there are effective, proportionate and dissuasive criminal sanctions available:

- appropriate criminal sanctions for incompliance with the obligations related to PML have been established;
- persons in the insurance sector think that the criminal sanctions regime is sufficiently dissuasive for the purposes of exercising a positive impact in individual behaviour patterns;
- criminal sanctions also apply on appropriate supporting actions following the money laundering actions.

The following criteria indicate that the country implements its duties in the domain of PML in cases of incompliance:

- majority of persons working in the insurance sector deems that in case of incompliance with the requirements related to PML criminal measures would be taken;

- there are the records of convictions and criminal measures taken in the previous years by law enforcement services due to incompliance with the requirements of the PML within the sector.
- enforcement of criminal measures against the insurance companies and their staff with regard to other financial criminal acts (fraud, etc.) may also provide insight into the perceptions on enforcement of regulations within the sector.

Sources of information and Data

- questionnaires sent to the insurance companies
 - relevant laws, regulations and other acts
 - discussions /consultations with representatives of the insurance sector
- information owned by a supervisory authority.

5. Availability and effectiveness of input control mechanisms (Grade: 0.8)

Description of variable

This variable assesses the availability and effectiveness of input control mechanisms (including licensing, registration and other forms of business approval). Effective input control mechanisms exist in the country when there is a comprehensive legal and regulatory framework enabling the authorities to have appropriate authorizations, sufficient level of trained staff and other resources by which they carry out their duties. Effective input control mechanisms contribute to the decrease in susceptibility to money laundering and ensure a higher level of compliance with the PML requirements.

Assessment criteria

Input control mechanisms are effective when the licensing body:

- is clearly established in the laws and regulations,
- well understands and appreciates ML risks in the insurance sector,
- effectively implements its duties related to licensing and input control mechanisms,
- has clear and comprehensive framework of requirements for licensing and registration in the insurance sector, including:
 - proper and appropriate test designed for the purposes of preventing the issuance of license for insurance to criminals (or their associates), or that they have a significant control share in the insurance company or to be on a significant managerial position,
 - appropriate requests related to educational-professional certification for directors and senior management,
 - request that all licenses have established adequate control mechanisms for the compliance with PML, including the compliance manuals and appointment of qualified staff for internal control/compliance,
 - adequate resources for the purposes of providing input control mechanisms for appropriate companies, including the sufficiently trained and highly qualified personnel.

Sources of information and Data

- relevant laws, regulations and other acts
- discussions /consultations with representatives of the supervisory authority
- information from direct and indirect controls of the company.

6. Integrity of staff in insurance companies (Grade: 0.8)

Description of variable

This variable assesses if the staff of the insurance company acts with integrity. The above implies that the staff does not act as if blind by their own will, not in the agreement with criminals, and not acting corruption wise. Besides, they have to take care not to unknowingly get into a situation of involvement (as “innocent mediators”) with criminals who would want to use their products, including specialised knowledge and skills.

If members of the insurance company staff agree with criminals or undermine the control mechanisms for PML by corruptive actions, insurance companies are susceptible to abuse through money laundering.

Assessment criteria

It is deemed that insurance companies staff acts with integrity if the following criteria have been met:

- if insurance companies generally see the members of their staff as safe that they will not be corrupted by the criminals,
- frequency of integrity failure (e.g. negligence or “wilful blindness” of suspicious transactions) related to the staff is in the low level,
- there are appropriate mechanisms for the protection of the insurance companies’ staff from negative consequences that would result from reporting of suspicious transactions or other procedures of incompliance with the duties based on the PML.

Sources of information and Data

- questionnaires sent to insurance companies
- discussions/consultations with employees of the supervisory sector
- information from direct controls and other information owned by the supervisory authority.

On the basis of questionnaires made for the purposes of analyses, the following data have been obtained:

| Question | Company 1 | Company 2 | Company3 | Company 4 |
|--|-----------|-----------|-----------|-----------|
| Is there a Code of ethics with the Insurer(YES/NO) | NO | YES | YES | YES |
| Does the Company have the prevention of conflict of interest policy? (YES/NO) | NO | NO | NO | YES |
| Does the Insurer think that employees of the company are exposed to corruption risk? (YES/PARTIALLY/NO) | NO | NO | NO | NO |
| Does the Insurer have the risk for integrity of employees? (YES/PARTIALLY/NO) | NO | NO | PARTIALLY | NO |
| Is there the system of checking the integrity of employees?(YES/NO) | NO | YES | YES | NO |
| Were there any discipline/criminal procedures against the employees and to which extent compared to the average number of employees in the last 5 years? (YES/SLIGHTLY/NO) | NO | NO | NO | NO |
| Are there any appropriate mechanisms in the company for protection of employees from negative consequences from reporting suspicious transactions or other procedures in accordance with the obligations related to PMLTF?(YES/PARTIALLY/NO) | NO | YES | YES | YES |

In addition to the above, information from direct controls implemented indicate that representatives of companies, authorized persons for the prevention of money laundering and terrorist financing in companies, as well as other employees with whom the representatives of Agency have communicated, think that in these companies there is no risk for integrity of employees, which has also been assessed through the total number of registered charges for theft, fraud and abuse of position.

7. Knowledge of PML by the staff in the insurance companies (Grade: 0.8)

Description of variable

This variable assesses how well the insurance companies' staff knows and understands their duties with regard to the PML.

Assessment criteria

Staff in insurance companies has the required level of knowledge of PML if the following conditions have been met:

- if there are appropriate programs and materials for training on PML available to the staff of the insurance companies,
- if training programs are designed so as to provide training of all appropriate staff members,
- all staff members shall undergo current training in order to ensure adequacy and updated their knowledge with regard to the laws, policies and procedures of the PML,
- staff members well know and regularly inform themselves of local and transnational schemes and typologies of money laundering, including those where there are abuses of the insurance company, its products and services and specialized knowledge and skills of its staff,
- staff members know about compliance, reporting procedures and duties with regard to PML,
- staff members understand legal consequences of violating the compliance with regard to the PML.

Sources of information and data

- questionnaires sent to the insurance companies
- discussions/consultations with representatives of the insurance sector
- information from indirect and direct controls of the company
- other information owned by a supervisory company.

Data obtained by the questionnaires made for the purposes of the National Risk Assessment indicate the following:

- the question of how often the Insurer checks if the representatives/mediators in the insurance, with whom it cooperates, meet the obligations referred to in the Law on PMLTF, was answered by all of the companies as follows – when concluding the contract on representation/mediation and during the business cooperation (other offered answers: 1) only when concluding the contract and 2) it is not checked);
- the question if all employees have mandatory repeated training on PMLTF, or just the employees who have contact with the clients, three companies answered that all employees have mandatory repeated training, while one company answered that mandatory repeated training on PMLTF is organized only for employees who have contact with the clients;
- the question if employees are organized training on typologies of money laundering in the insurance activity, all companies answered that the above training was organized once a year (other offered answers: 1) every couple of years and 2) no);
- the question if the Insurer appointed a person covering one of the managerial positions in the company as authorized person (sector or department director, etc.) one company provided positive, and three companies provided negative answers;
- the companies were asked to evaluate from 1 to 10 the degree of knowledge and understanding of the PMLTF regulations by employees of the company, whereat two companies answered with 7, one company with 8 and one with 9.

In addition to the above, on the basis of information obtained during the direct controls, and on the basis of reports of internal auditors of companies that are submitted quarterly and

annually, it has been observed that PMLTF training is regularly organized in life insurance companies, that authorized persons for the prevention of money laundering and terrorist financing undergo at least one mandatory annual training.

By assessment of the Agency, the above programs and training cover the largest number of segments laid down by the Law on PMLTF, however it is required to additionally enrich the program of this training and organize external training by competent authorities, where inter alia it would be pointed to new typologies of money laundering in insurance and different cases in practice, and provide interpretation of certain disputed legal provisions and specific advices for their application.

As mitigating circumstance in assessment of this variable we need to bear in mind that the largest part of the life insurance sale is related to the types of insurance that are generally known and of low risk level, that average premiums are in the low level and general riskiness of clients in the low level (small number of politically exposed persons, extremely low number of foreigners –legal entities and individuals) and , in this phase of the market development, current professional education does not weaken the capacity of the company to respond to the risks.

8. Effectiveness of compliance function (Grade: 0.8)

Description of variable

This variable assesses if the insurance companies have the effective compliance function which is comprehensive, risk based and well equipped, with independent compliance function related to the PML.

Assessment criteria

The insurance sector has effective internal compliance functions with regard to the PML if majority of the insurance companies meet the following criteria:

- if they have the compliance programs that are proportionate to the risk level, taking into account the factors such as the scope and the nature of products being offered, clients' profile, transaction forms and cross border nature of transactions,
- if they have appointed a well-equipped and independent officer for PML in the senior management level,
- if they take disciplinary measures against their staff in case of disturbance of compliance policy;
- if they conduct internal and/or external audits regarding the PML.

Sources of information and data

- questionnaires sent to the insurance companies
- discussions/consultations with representatives of the insurance sector
- information from indirect and direct controls of the company
- other information owned by a supervisory company.

9. Effectiveness of monitoring and reporting on suspicious activities (Grade: 0.7)

Description of variable

This variable assesses if the insurance companies have effective and appropriate systems for recording, monitoring and reporting of suspicious transactions as support to their policies and procedures related to the PML. Well-designed manual system may be adequate for small insurance company with one branch office, however, more

sophisticated systems are required for large insurance companies. Good system of recording is a prerequisite for efficient system of monitoring.

Assessment criteria

If the following criteria have been met, it means that the insurance companies have adequate and suitable system of monitoring in the domain of the PML and reporting on suspicious transactions:

- Insurance companies have information systems that enable and facilitate tracking of clients' transactions in relation to their new profiles,
- Transaction records are available in format that facilitates recording and monitoring in the domain of the PML,
- The systems support the insurance companies in carrying out effective recording in the domain of the PML,
- The systems help insurance companies and their staff in effective identification and noting of all complex, unusually large transactions,
- The systems help insurance companies and their staff in effective identification and reporting on suspicious transactions,
- The staff should well understand the scope of their duties regarding the reporting on suspicious transactions and activities, including which activities have been encompassed by the laws and which have not.

Sources of information and data

- questionnaires sent to the insurance companies
- discussions/consultations with representatives of the insurance sector
- information from indirect and direct controls of the company

On the basis of gathered information the following has been established:

- effectiveness of mechanisms is monitored/tested with all companies annually, with the aim of preventing the money laundering and terrorist financing;
- with two out of four companies the information system enables the verification of the following indicators for assessing the risk of money laundering: 1) classification of the insured under the categories of risk from money laundering and terrorist financing, 2) PEP status of the contracting authority, 3) PEP status of the Insured and 4) PEP status of insurance beneficiaries. However, in all companies there are alternative methods for verification of the above indicators, in a form of the data bases kept manually and separate records (e.g. in Excel format) and even with the companies where the information system enables the verification of the above indicators;
- in one out of four companies the information system enables notification in case of unusually large and other suspicious transactions from the aspect of preventing the money laundering and terrorist financing;
- in two out of four companies the information system enables the Insurer to regularly monitor changes in concluded contracts, client status, transactions, etc.

In the period from 2015 to 2019, the number of reports on suspicious transactions reported by the insurance companies was 2 (1 suspicious transaction -2015 and 1 suspicious transaction -2016).

During direct controls, majority of representatives of the company have emphasized that they have been continuously working on increase of IT support and advancement of the entire information system in the companies. Information obtained from the controls and

questionnaires indicate that the information systems of the companies need to be further adjusted to the needs of the PMLTF, especially in a part of client classification and PEP categories, which is most frequently done in isolated documents, out of the system, which are available only to a certain number of people. However, for the needs of assessing this variable it is important to note that the current deficiencies in information systems do not threaten the quality of operations and business of the company, considering the current workload and established procedures that enable observance of legal standards.

10. Level of market pressure in terms of meeting standards in the domain of the PML (Grade: 0,8)

Description of variable

This variable assesses if (and if correct, to which extent) the market forces put pressure on managements of the insurance companies that they must have effective compliance function with regard to the PML. It processes the pressures beyond the legal and supervisory regime in the country, for example, economic pressure put by economic partners, like commercial partners.

Assessment criteria

If the following criteria have been met, it means that there is the market pressure on the management of the insurance companies in terms of meeting the international standards in the domain of the PML.

- Insurance companies have cross-border correspondent relations they deem important and because of which they must be compliant with international standards in the domain of PML if they wish to keep those relationships,
- Management of the insurance companies are sensitive to risks for international and local reputation related to PML.

Sources of information and data

- questionnaires sent to the insurance companies
- discussions/consultations with representatives of the insurance sector
- information owned by the regulatory authority

11. Availability and access to information on beneficial ownership (Grade: 0,6)

Description of variable

This variable assesses if the criminals find it easy to cover their beneficial ownership in companies, trusts or similar structures that have been registered or are managed from the country itself.

Assessment criteria

Transparency with regard to beneficial interests in corporations, trusts and similar entities exists if comprehensive information on structure, management, control and beneficial ownership in corporations, trusts and similar entities can be easily obtained and if competent authority can timely access them and they are available to institutions and business entities and professions regulated by the PML for the purposes of facilitating the requirements related to due diligence of their clients.

Sources of information and data

Assessment of this variable was made by the Working group for assessment of vulnerability of the banking sector.

12. Availability of reliable identification infrastructure (Grade: 0,7)

Description of variable

Financial transparency and processes of identification and verification of clients have been upgraded when the institutions regulated by the PML can check identity of the clients with the documents, data or information from reliable, independent sources. Good identification structure will also prevent the use of false documents and false identities. False documents and false identities aggravate the possibility of discovering and investigating money laundering and tracking revenues from criminal acts.

Assessment criteria

Good identification structure is in place and information are available when the institutions regulated by PML may rely on identification infrastructure in the country.

That infrastructure may consist of the following:

- Safe national identification system with identification documents issued by the government, whether issued by the national or local authority, and/or
- Comprehensive and reliable public information systems helping in checking the clients' data.

Sources of information and data

Assessment of this variable was done by the Working Group for assessment of vulnerability of banking sector.

13. Availability of independent sources of information (Grade: 0,6)

Description of variable

This variable assesses the availability of independent and reliable sources of information aimed at establishing the transaction patterns with the clients. Processes of due diligence of clients are easier to carry out and they are more qualitative if such sources are available. They can be used for identification or verification of transaction patterns and commercial history of clients. Such information may, *inter alia*, include the data possessed by the credit bureau, data on previous banking relations, possibility of accessing the former employers and availability of utility bills.

Assessment criteria

Independent and reliable sources of information are available when sources of comprehensive and reliable historical financial information and other clients' information are available and when institutions regulated by PML can easily access them.

Sources of information and data

Assessment of this variable was done by the Working Group for assessment of vulnerability of banking sector.

INPUT VARIABLES FOR SELECTED SPECIFIC PRODUCTS AND SERVICES: SCOPE, INHERENT VULNERABILITY FACTORS AND SPECIFIC CONTROL MECHANISMS

Analysed products, for the entire sector:

1. Mixed insurance/group,
2. Mixed insurance/individual,
3. Risk insurance/group,
4. Risk insurance/individual,
5. Life insurance in case of survivorship/individual,
6. Annuity insurance/individual.

In order to obtain more information than those the Agency disposes of through regular reporting, the insurance companies were gathered the information on the size and number of transactions and characteristics of these products.

Also, for the purposes of this analysis, information on life insurances at the end of 2018 were also used, as addition to the previously compiled Questionnaire, and the internally conducted one for the needs of the Insurance Supervision Agency in accordance with the data from the Report on the status in the insurance market in Montenegro for 2018.

Mixed insurance / individual (vulnerability is medium low)

Risks covered by this product are risk of survivorship and risk of death and it is concluded and tariffed in individual level. As for the representation of product, it is characterized with high share in insurance sector (observed according to the share in total invoiced life insurance premium). Amounts of transactions, compared to the average level of transactions in the sector, low number of foreigners, low number of clients classified into high risk categories on other grounds). Product does not offer a possibility to be used for the investment purposes, early redemption is possible, but is in a high level. Monitoring records under such contracts is simple and there is a low level of vulnerability of the product from the aspect of money laundering or terrorist financing that would arise from the transactions with offshore centres, high risk jurisdictions, existence of PMLTF typology. As for the adequate specific controls, only general controls of the PMLTF are implemented.

Mixed insurance / group (low vulnerability)

Risks covered by this product are risks of survivorship and risk of death and it is concluded only for multiple persons (groups). For this product it is characteristic to have a low product share in the insurance sector, and that average amounts of transactions are extremely low. Risk connected to the profile of clients concluding this type of contract is very low (most frequently legal entities –employers, registered in Montenegro, with low risk profile of operations or state institutions). This product does not have the investment character and offers a possibility of early redemption, which is represented to a small extent. Monitoring the records under such contracts is simple and there is a low level of vulnerability of the product from the aspect of money laundering or terrorist financing that would arise from the transactions with offshore centres, high risk jurisdictions, omnibus transactions, existence of PMLTF typology. As for the adequate specific controls, only general controls of the PMLTF are implemented.

Risk insurance / individual (low vulnerability)

Risk covered by this product is the risk of death for a certain period and it is concluded and tariffed in individual level. As for the representation or share of the product, evaluated

through the premium of life insurance sector, individual risk insurance has a low share in the insurance sector, even besides a large number of individual contracts. The product is characterized by very low risk related to clients' profile –mainly individuals (of which a large number of the retired persons taking the insurance for shorter periods of time). When speaking about investing, the product does not offer a possibility to be used for investing purposes or the possibility of early redemption. Monitoring records under such contracts is simple and there is a low level of vulnerability of the product from the aspect of money laundering or terrorist financing that would arise from the transactions with offshore centres, high risk jurisdictions, existence of PMLTF typology and only general controls of the PMLTF are implemented.

Risk insurance / group (low vulnerability)

Risk covered by this product is the risk of death for a certain period and it is concluded only for multiple persons (groups). This product is characterized by low share of technical reserves in total technical reserves of the life insurance sector, as well as by medium average amounts of transactions compared to the average premium in life insurance sector. The average client for this product has a low risk (insured are individuals) and this product does not offer a possibility to be used for investing purposes or the possibility of early redemption, considering that it only covers the risk of death. Monitoring records under such contracts is simple and there is a low level of vulnerability of the product from the aspect of money laundering or terrorist financing that would arise from the transactions with offshore centres, high risk jurisdictions, existence of PMLTF typology. The companies do not have specific controls in place when concluding and executing such contracts.

Life insurance in case of survivorship / individual (low vulnerability)

This product covers the risk of survivorship. As far as the share of product in the insurance sector is concerned, it is in medium low level, average transaction amounts are medium low, and the risk related to clients is also low – low number of PEP persons, low number of foreign individuals, low number of clients classified in high risk categories on other grounds. For this product it is characteristic that it does not provide the possibility of use for the purposes of investing. With this product there is a possibility of early redemption, which is in low level. Monitoring records under these contracts is simple and degree of vulnerability of product is low from the aspect of money laundering and terrorist financing that would result from transactions with offshore centres, high risk jurisdictions, existence of PMLTF typologies. As for adequate specific controls, only general controls of the PMLTF are implemented.

Annuity insurance / individual (vulnerability is low)

This product is characterized by low share of the product in the insurance sector, low average amounts of transactions and very low risk related to clients profile, low number of PEP persons, low number of foreign individuals, low number of clients classified in high risk categories on other grounds. This product does not offer possibilities of use for the investing purposes, while early redemption is possible but in a low level. Monitoring records under these contracts is simple and degree of vulnerability of product is low from the aspect of money laundering and terrorist financing that would result from

transactions with offshore centres, high risk jurisdictions, existence of PMLTF typologies. As for adequate specific controls, only general controls of the PMLTF are implemented.

1. SPECIFIC INPUT VARIABLES FOR CERTAIN PRODUCT

General input values processed in the previous part, have a simultaneous impact on all products, considering they are connected to all products indicated in the previous paragraph. In addition to general variables, there are seven specific values for each product:

1. Total scope/value of the product,
2. Use of representative,
3. Profile of product clients,
4. Availability of policies of investment type,
5. Level of cash activity,
6. Availability of cross-border use of the product,
7. Other factors of susceptibility of the product.

1.1.1 Total scope/value

Description of variable

This variable assesses the scope/value of certain product in the insurance sector. Total scope/value of certain product indicates the level of susceptibility to money laundering it can bring into the sector unless possible related risks are mitigated. Objective of this indicator is to assess the importance of certain product within the insurance sector compared to other products offered in that sector.

Higher scope/value of the product in the given sector is facilitated by masking of dirty transactions and makes it difficult to institutions to observe them and discover them.

Assessment criteria

The following criteria indicate the high scope of products:

- High participation of the premium for individual product in total invoiced premium;
- High average amount of premium;
- High average amount of indemnity;
- High scope of assets or liabilities related to the product;
- High average amount of redemption.

Basis for giving the assessment:

According to the data submitted from the insurance companies, compared to the official data at disposal of the Insurance Supervision Agency (Report on status on the insurance market in Montenegro for 2018), the share of individual product in overall insurance market, through premium share in total invoiced premium, through average premium amount, indemnity and amount of redemption in overall portfolio was assessed.

The data on insurance premium was also used (life+non-life) in GDP of Montenegro, which at the end of 2018 amounted 1,88%. Out of that, 0,33% was the share of life insurances in GDP, which indicated the significant under development of this sector and therefore, smaller attraction to use for the purposes of money laundering and terrorist financing.

According to the data at disposal of the Agency pursuant to regular annual reporting of the company, out of total number of concluded contracts in 2018, 21% belongs to the contracts of mixed insurance and 28% to risk insurance (95% of all contracts in life insurance). According to the answers obtained from the insurance companies, the highest number of transactions (premium payments) during the previous 2018, belongs to the mixed insurance, while transactions according to the contracts on risk individual insurance take medium low scope of transactions. The assessment is conducted according to the number of concluded contracts and amount of technical reserves set up for the required period.

However, in the part of the premium, mixed insurance has 64% of total premium of life insurance and risk insurance 19%.

Average amount of premium, assessed compared to the average premium with other products of the insurer, pursuant to the filled in questionnaire at mixed individual insurance, is medium high, as well as with the individual insurance in case of survivorship.

Average amount of indemnity is medium in mixed individual insurance, risk individual insurance and individual insurance in case of survivorship.

Average amount of redemption is medium in mixed individual insurance and medium low in individual insurance in case of survivorship.

All of this indicates the medium high level of activities under the contract on mixed insurance and medium low level of activities under the risk insurance contracts and individual insurance in case of survivorship.

1.1.2. Use of the representative

Description of variable

This variable assesses how often the representatives or mediators are used for the purposes of implementation of products sale within the insurance sector.

Assessment criteria

Objective of this visit is to compare the use of representative in the insurance sector compared to the use of representative in other financial institutions.

It is deemed that as much as the use of agents is high, according to module 5, the risks for money laundering are that high.

Susceptibility of products in terms of abuse by money laundering can be increased due to poor surveillance systems in the domain of PML for representatives and mediators. It is deemed that by using the agent, the potential for anonymous use of the given product may change.

Basis for making the assessment:

In the insurance market of Montenegro, at the end of 2018, 21 representation companies and 7 banks had the permit for carrying out the jobs of representation and mediation in insurance, while 10 companies for insurance mediation had the permit for carrying out mediation in insurance. Pursuant to the data at disposal of the Agency, the total number of companies for representation or mediation in insurance that operate in life insurance is 10. By direct controls of the above companies the Agency established that the number is significantly reduced for reasons of more demanding duties that these companies have in accordance with the Law on PMLTF, which often leads to termination of the cooperation agreements of the above companies with the life insurance companies.

After analysing answers of the insurance companies provided in the questionnaire, related to the share of premiums under the contracts concluded via representative or mediator in total invoiced premium, it has been recognized that share of agents in mixed individual insurance is medium high and medium low with risk individual insurance and individual insurance in case of survivorship.

However, the sale of policies via representatives or mediators does not have to initially mean the increased risk of money laundering for reasons that mainly all representatives and mediators operating in Montenegrin insurance market use internal acts from the area of PMLTF that are almost identical to the acts of the insurance companies. Likewise, in the process of direct supervision of representatives and mediators, the Agency could have been convinced that compliance of operations with the legal regulations and bylaws governing the area of prevention of money laundering and terrorist financing is in the satisfactory level.

According to the data the Agency has at its disposal, there were no cases on suspicious transactions, criminal acts, including cases of money laundering where the product has been used for money laundering by using the representative/mediator in the insurance sector.

1.1.3 Profile of the product client

Description of variable

This variable assesses if the type of clients that most frequently use the product increases the risks for abuse of these products and services for the purposes of money laundering.

Assessment criteria

Client's profile is risky if the client is:

- Local/foreign politically exposed person;
- Natural person of high net worth;
- Non-resident client;
- Client with foreign companies or personal shares;
- Client with criminal files or administrative and/or supervisory measures pronounced in the previous period;
- Client with business connections with known jurisdictions of high risk;
- Company with complex, non-transparent ownership structure;
- Client obtained through introduced jurisdictions with low level of control mechanisms in terms of the PML.

Basis for making assessment:

In assessing of this variable we used the answers of companies provided to the questions asked by the Agency, which referred to the data on clients having increased risk. As it has been confirmed by findings of the controls, the percentage of local, foreign and non-resident PEP persons and those with addresses in off-shore zone is low in overall operation of companies themselves and in overall operation of the entire sector.

Likewise, the share of contracting authority/insured/users registered as local and foreign legal entities and legal entities with complex/non-transparent ownership structure is classified as very low in overall operation of the companies themselves and in overall operation of the entire sector.

According to the data at disposal of the Agency, there were no cases on criminal acts, including the cases of money laundering where clients of high risk were using the product for money laundering.

Pursuant to the findings from direct controls it has been recognized that the companies have appropriate mechanisms for identification and monitoring of natural persons of high risk.

1.1.4 Availability of policies of investment type

Description of variable

This variable assesses if certain product enables policies of the investment type that could be used to increase susceptibility to abuse by money laundering.

Assessment criteria

Characteristics giving the product the possibility of benefits in a form of investing in units of the investment funds or other forms of investing are deemed more susceptible to abuse from money laundering. The product is deemed more susceptible to money laundering if it enables investing into the financial systems. The scope of susceptibility will depend on whether the investment appears as the most prominent characteristics of the product or it is one of the ancillary characteristics.

Basis for making assessment:

Data for this variable have been obtained from the Questionnaire of the companies and from the information at disposal of the Agency.

It stems from the Questionnaire that none of the products analysed offers a possibility of use for the purposes of investing.

According to the data at disposal of the Agency, there were no cases on criminal acts, including the cases of money laundering where the product has been used for money laundering due to the availability of investment characteristics. .

1.1.5 Level of cash activity

Description of variable

This variable assesses if the product provides a possibility for the use of cash which could increase the risk from abuse by money laundering when speaking about the given product.

Assessment criteria

Assessment of characteristics that provide the benefits to the policy holder by using cash. If the product enables the use of cash it will be more susceptible to money laundering.

Basis for making assessment:

According to the allegations of the companies, products are not based on the cash, but all payments and disbursements are made through bank accounts and the above products are not susceptible to money laundering in this segment. According to the data available to the Agency, there were no cases of criminal acts, including cases of money laundering where the product has been used for money laundering due to possibility of carrying out cash transactions.

1.1.6 Availability of cross-border use of the products

Description of variable

This variable assesses up to which extent the cross-border use is connected to the product, which consequentially could increase the risk of certain product in terms of abuse by money laundering. For example, the policy owner may be a resident of one jurisdiction and the insurance beneficiary may be in other one.

Assessment criteria

If it is the cross-border use with the product, it can be susceptible to money laundering. As the scope of availability of the given product for cross-border use is bigger, it can be more susceptible to money laundering.

Increased frequency of international transactions by given product will enable better masking of international operation of money laundering.

Basis for making the assessment:

Cross-border use of the insurance product in Montenegro is not possible, pursuant to Article 6 of the Law on Insurance indicating that the property of persons in Montenegro may be insured only with the insurance companies established under this Law, or pursuant to Article 42 saying that a foreign insurance company holding the approval in the country of its seat for conducting the insurance or reinsurance jobs may carry out insurance or reinsurance jobs in Montenegro only through its branch office.

According to the data available to the Agency, there were no cases on criminal acts, including cases of money laundering where the product was used for money laundering through international transactions.

1.1.7 Other factors of product susceptibility

Description of variable

This variable assesses if there are any additional factors due to which the insurance company would be susceptible to risk of money laundering.

Assessment criteria

Presence of other typical characteristics and factors among which are those that follow, increase vulnerability:

- Anonymous use of product;
- (Non) existence of typologies of money laundering when speaking about the abuse of products;
- Use of the product/service in fraudulent or tax evasion schemes;
- Severity of monitoring the transaction records on the product;
- Indirect use of the product;
- Possibility of early redemption and
- (Non) existence of special control mechanisms for the products.

1.1.7.1 Anonymous use of products – Basis for making the assessment:

Personal contact with the client is obligatory for the seller (Agent/sales agent), and there is no risk of anonymous use of the product. The policy user must always be identified.

1.1.7.2 (Non) existence of typology of money laundering when speaking about the abuse of the product – Basis for making the assessment:

According to the data from the practice, Montenegro has not yet had the procedures related to money laundering through insurance and therefore it is possible to take into account only the existence of typologies of money laundering when speaking about the abuse of products, according to the practice from abroad.

1.1.7.3 The use of product/service in fraudulent or tax evasion schemes – Basis for making the assessment:

The possibility of using the product/service in fraudulent or tax evasion schemes that did not exist is also taken into account.

According to the data available to the Agency, there were no cases on criminal acts and tax evasions, including cases of money laundering where the product was used for money laundering due to the above factors.

1.1.7.4 Severity of monitoring the transaction records on the product – Basis for making the assessment:

Severity of monitoring transaction records on the products does not exist in the company, but all companies in the answers to the questionnaire indicated that monitoring transactions per products is easy to monitor, which has proven in the procedure of direct supervision in the companies.

1.1.7.5 Indirect use of the product – Basis for making the assessment:

Pursuant to the filled in questionnaire, two companies have indicated that in mixed individual insurance and risk individual insurance the indirect use of the product/service by persons who have not contracted the policy is possible, while it is not possible with the others.

1.1.7.6 Possibility of early redemption – Basis for making the assessment:

The risk of possibility of early redemption is low, i.e. according to the allegations of the companies the share of early cancelled (redeemed) policies is either low or inapplicable with certain products.

1.1.7.7 (Non) existence of special control mechanisms for the products – Basis for making the assessment:

Separate control mechanisms for the products with all companies exist either in general form of ML controls or they exist in a limited form for certain products.

According to the data available to the Agency, there have been no cases of criminal acts, including cases on money laundering where the product has been used for money laundering for the above indicated factors.

1.2 Assessment for all products

According to the above parameters, assessment of all products is as follows:

| Results of assessments for each product | Total scope/value | Use of the agent | Profile of the client | Availability of the policy of investment type | Level of cash activity | Availability of cross-border use | Other susceptible factors |
|---|-------------------|------------------|-----------------------|---|------------------------|----------------------------------|---------------------------|
| Mixed insurance / group | Low | Low | Low | N/A | Low | N/A | Low |
| Mixed insurance / individual | Medium high | Medium high | Low | N/A | Low | N/A | Low |
| Risk insurance / group | Low | Low | Low | N/A | Low | N/A | Low |
| Risk insurance / individual | Medium low | Medium low | Low | N/A | Low | N/A | Low |
| Life insurance in case of survivorship / individual | Medium low | Low | Low | N/A | Low | N/A | Low |
| Annuity insurance /individual | Low | Low | Low | N/A | Low | N/A | Low |

CONCLUSION

The Law on the Prevention of Money Laundering and Terrorist Financing as well as the bylaws stipulate measures and activities the reporting entities, among others the life insurance companies, insurance representation and mediation companies, implement for the purposes of minimizing risks of money laundering and terrorist financing. The regulations set forth the competent authorities of the system, in charge of the verification, as well as prescribed measures for breaching the duties related to the prevention of money laundering and terrorist financing. Competence for performing supervision on the implementation of the Law on the PMLTF and regulations adopted on the basis of it is entrusted to the Insurance Supervision Agency, as regulatory authority for the insurance market, by Article 94 paragraph 1 point 4 of the above Law. Competence of the Insurance Supervision Agency is also stipulated by Article 130 paragraph 1 point 6 of the Law on Insurance, which stipulates that the Agency will by its Decision pronounce the measure for remedying illegalities and irregularities in operations to the insurance company which acts contrary to the Law, other regulations and general acts regulating the operations of the insurance company.

In addition to the above, the Council of the Insurance Supervision Agency in May 2015 adopted the Guidelines on analysis of risks from money laundering and terrorist financing, regulating more detailed criteria for the development of risk analysis from money laundering and terrorist financing that reporting entities of the Law on the PMLTF are exposed to in the insurance market. The above guidelines are currently in the phase of harmonizing with the last amendments to the Law on the PMLTF, which became effective in July 2018.

Namely, each of the currently active four life insurance companies was subject of direct and indirect control in the area of the PMLTF in the period from 2015-2019, and in addition to that, a large number of direct controls were carried out on other reporting entities of the Law on the PMLTF –insurance representation-mediation companies. The above procedures recognized mainly smaller omissions in carrying out obligations referred to in the Law on the PMLTF and regulations based on it, and there were no significant measures of supervision or other penalties. General impression is that the PMLTF regulations have been significantly improved compared to the period covered by the previous National risk assessment, which has proven in

the previous practice and implementation of the Law on the PMLTF and regulations based on the same.

VULNERABILITY OF OTHER FINANCIAL INSTITUTIONS TO MONEY LAUNDERING RISK

Assessment of functioning of other financial institutions through application of targeted and designed measures which in the period from 2015 to 2019 have been taken with regard to combat against money laundering and terrorist financing, as well as actions and measures that should be taken further, are crucial for more successful management of this type of risk.

In that direction, a special attention is paid to novelties in a part of innovating of legal and bylaw regulations as well as the data and information regarding the licensed companies that will be the subject of controls in future period, and thereby the vulnerability assessment in the mentioned part. Institutions that have not been included in this analysis are institutions for electronic money given that the companies have been licensed end of 2018. Register of institutions for electronic money is the database on institutions for electronic money that have obtained the approval for the issuance of electronic money from the Central Bank of Montenegro, branches through which the institutions for electronic money issue electronic money and/or render payment services, and agents to whom the institutions for electronic money entrust the provision of payment services. One institution for electronic money has obtained the work permit from the Central Bank of Montenegro.

Primary objective of vulnerability assessment of other financial institutions is to analyze vulnerability which, *inter alia*, stems from the products, services and channels provided by certain financial institutions, types of clients of these institutions and similar.

Vulnerability assessment includes the assessment of financial institutions, such as:

- Investment and Development Fund – IDF of Montenegro;
- Factoring companies;
- Microcredit financial institutions;
- Service providers for sending and receiving allotments through the Post of Montenegro;
- Payment institutions;
- Leasing companies;
- Unregulated financial institutions.

Vulnerability of other financial institutions from money laundering has been implemented separately for each financial institution. Final score of vulnerability of other financial institutions includes individual scores of vulnerability of financial institutions representing input values for national vulnerability of these institutions from money laundering.

Input variables include the following:

- Variables in connection with control mechanisms (quality and efficiency of control mechanisms for the prevention of money laundering);
- Variables of inherent susceptibility (specific characteristics – for example: risk assessment of the client's basic profile).

Medium variables include factors that cannot be directly assessed –automatically determined through module according to overall input variables –their significance is especially important in network structure of risks of money laundering.

Assessment of vulnerability from money laundering and terrorist financing of other financial institutions includes two main phases:

1. Assessment and valuation of input variables and supporting the assessment with the data and information that have been collected;

2. Data entry and assessment of vulnerability of category, that is, obtaining results and their interpretation.

General input variables referring to the assessment of other financial institutions are:

- comprehensiveness of legal framework for the prevention of money laundering;
- efficiency of supervision implementation;
- availability and enforcement of administrative sanctions;
- availability and enforcement of criminal sanctions, availability and efficiency of input controls;
- integrity of persons in charge of the jobs of preventing money laundering and terrorist financing;
- level of training and knowledge of persons in charge of the jobs of discovering and preventing money laundering;
- efficiency of the organization of work of financial institution regarding the prevention of money laundering;
- efficiency of supervision and reporting of suspicious activities;
- availability and access to information on beneficial owner;
- availability of reliable infrastructure for identification;
- availability of independent sources of financing.

On the basis of criteria for the assessment of gathered data and information, appropriate values have been obtained for each variable.

| Other financial institutions | Numerical identifier for vulnerability to money laundering | Level of vulnerability to money laundering |
|--|--|--|
| Regulated financial institutions | | n/a |
| Investment and Development Fund | 0,18 | Low vulnerability |
| Microcredit financial institutions | 0,30 | Medium low vulnerability |
| Payment institutions | 0,31 | Medium low vulnerability |
| Service providers for sending and receiving allotments- Post of Montenegro | 0,35 | Medium low vulnerability |
| Factoring companies | 0,35 | Medium low vulnerability |
| Providers of leasing services | 0,41 | Medium vulnerability |
| Unregulated financial institutions | | n/a |
| Overall assessed vulnerability level of other financial institutions | 0,32 | Medium low vulnerability level |

Overall assessment of vulnerability to money laundering that other financial institutions in Montenegro are exposed to reflects a medium low vulnerability level presented by coefficient (0,32), at the scale from 0,00 the lowest to 1,00 the highest vulnerability.

Simultaneous impact of general input variables on all financial institutions recognized within the operations of other financial institutions specifically reflects to each financial institution individually, on the basis of whose impact the difference is made in the vulnerability level to money laundering and vulnerability to terrorist financing among individual financial institutions, such as:

Variables of inherent susceptibility:

1. Size of the sector/business area;
2. Client's basic profile;
3. Use of n agent;
4. Degree of monetary turnover;
5. Products and services which intensively use cash;
6. Frequency or percentage of international transactions;

7. Anonymous product use;
8. Aggravated recognition of suspicious transactions and keeping records;
9. Abuse of financial institution by existence of typology of money laundering;
10. Indirect use of products and services and similar.

INVESTMENT AND DEVELOPMENT FUND⁵² (IDF MNE)

Vulnerability to money laundering is expressed by coefficient 0,18 and reflects a low vulnerability level

In the period from 2015 till the end of 2018 the IDF of Montenegro has set up a direct communication with the target groups, has expanded the bases of its clients, through improvement of financing conditions and reducing costs of fees and interests and has continued cooperation with international financial institutions.

By continuing the trend of successful operation, the IDF of Montenegro has accomplished prominent results in 2018. In overall implementation the plan has been exceeded by almost 50%. The growth has been reached by comparing the implementation for the past two years, by 19% compared to 2017 and even 63% compared to 2016.

Approved placements are intended for opening of new enterprises, improving competitiveness and liquidity of companies, improving production and export oriented services as well as production reducing the import dependence, financing of infrastructure projects, all aiming at opening of new job positions through continuous support and stimulating the accelerated commercial development of Montenegro.

During 2018, the IDF of Montenegro has continuously focused on entrepreneurship, for both new and future businesses. Successful small and medium enterprises are holders of development of one economy and the largest part of financial activities of IDF of Montenegro is allocated to that direction. By provision of financial assets, the IDF of Montenegro significantly contributes to the development of all our regions with a special reference to northern municipalities and those with development level lower than the average one in the state level.

In 2018, a special attention was directed to current enterprises and their development projects that support the priority development sectors, which is intended to impact the diversification of economic structure.

In its operation, the IDF of Montenegro has a personalized approach so that it is dedicated to each entrepreneur/enterprise individually, which requires a higher level of engagement and understanding the clients' needs and wider social community. Thus, the support instruments that will affect the better connecting of enterprises and sectors are continuously promoted, support to clusters, support to projects related to production and processing with higher degree of product finalization and support to enterprises giving preference to local products and raw materials.

Dedication and relevant engagement of the IDF of Montenegro have been recognized not only by support program beneficiaries and local partners but also by international institutions. It is extremely important having regard to the fact that financing funds are also provided in the international financial market.

Complete engagement of the IDF of Montenegro generates a long-term sustainable financial result also based on the fact that adequacy of portfolio and monitoring of implemented projects

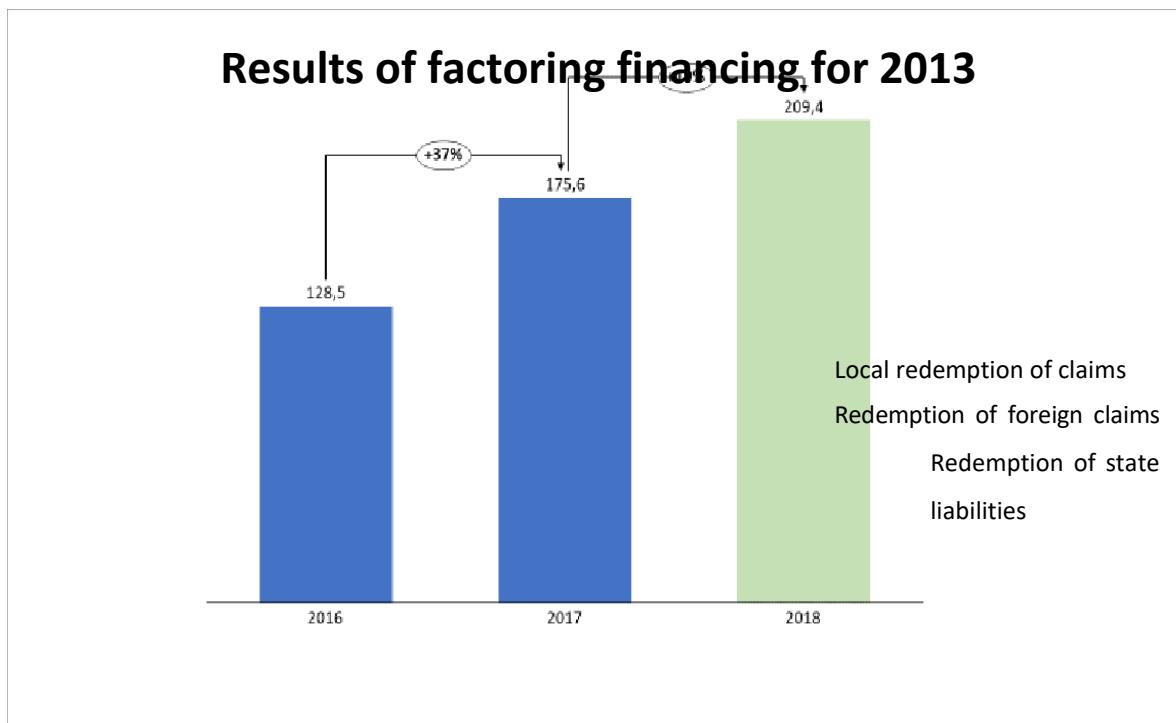
have been continuously tracked so that the effects on progress of Montenegrin economy and standard of living would be compliant with what has been expected.

⁵² Hereinafter referred to as IDF of Montenegro

Variables of inherent susceptibility

Implementation plan for 2018 amounted 140 million euro of long-term and short-term loans/factoring. IDF of Montenegro completed the 2018 business year with 209,4 million euro for financing of 412 projects. The growth has been accomplished, by almost 50%, in relation to the plan and in relation to the result from 2017 by 19%.

Graph number 1 below shows the amount of approved funds for the last three years/in millions of euro:



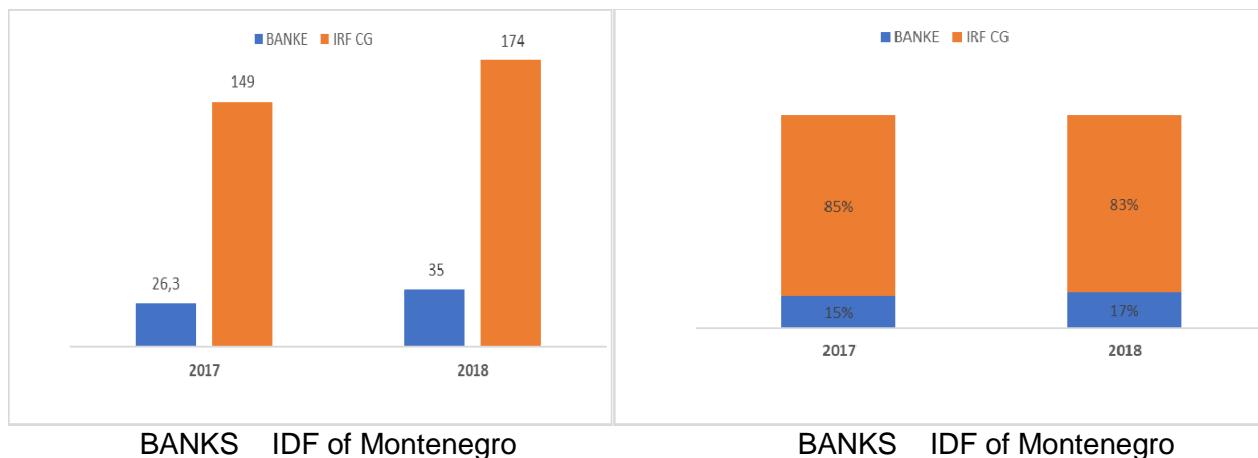
Activities and investments of the IDF of Montenegro directly stem from the work program of the Government and refer to the following:

- Improvement of business environment for the purposes of improving competitiveness of economy with increase of employment through improvement of existing and creation of new credit lines aimed at stimulating the business development;
- Application of instruments and mechanisms of financial support that provide support to the development of priority sectors, balanced regional development, improvement of business and liquidity of micro, small and medium enterprises, optimization of using the large systems capacities aimed at adequate connecting of repro chain and diversification of economic activities;
- Creating conditions for higher employment, increase of work activity and mobility of workers through support to special target groups;
- Establishing connection of agriculture and trade and tourism through diversification of economic activities in rural areas.

For 2018, the IDF of Montenegro secured financial support through 33 credit lines directed to the following programs:

- **Entrepreneurship**, through support to special target groups (young people, beginners, women, higher educated persons, redundancies, individual agricultural producers, innovative entrepreneurship, ICT business, cluster production and similar);
- **Agriculture**, through support program to agro industry and production of food, collection of agricultural products, improvement and modernization of agricultural production process and similar;
- **Tourism**, as incentive to one of the priority sectors of Montenegrin economy, through construction of new and advancement of current suite and hotel capacities, tourist infrastructure and similar;
- **Production**, through support to enterprises in the field of wood processing, modernization of industry, clusters...;
- **Services**, through investing in ICT⁵³ sector, enterprise of wider range of service activities, as well as stimulating entrepreneurship spirit in the field of culture and arts;
- **Support to enterprises through maintenance and/or improvement of liquidity** (short-term credit assets, refinancing of current credit assets, factoring financing, permanent working capital and similar);
- **Stimulus to competitiveness of Montenegrin products/services in other markets** (credit assets intended to preparation of production and export services);
- **Support in implementation of green field and brown field investments;**
- **Infrastructural projects**, through support to projects for water supply, environmental protection, projects of ecological, local and state significance and projects in the field of energy efficiency and renewable energy sources.

In 2018 and further on the growth of directly placed assets has been recorded in relation to the placements through commercial banks. In overall realized assets in 2018, the share of direct placements for 2018 (including factoring/redemption of claims) has been 83% and 17% through the banks. When observing 2017, the ration has been slightly higher in favour of directly placed assets of the IDF of Montenegro (85%:15%)⁵⁴.



Additionally, interest rates mark the decline tendency from 3,40% in 2017 to 3,20% in 2018.

Besides better interest rates, for 2018 the IDF of Montenegro has also provided special conditions of crediting in a form of stimulating measures.

⁵³ Information and Communication Technologies

⁵⁴ Values presented in millions of euro and percentages (%) of share

They primarily refer to entities implementing projects in the municipalities of the northern region and in municipalities with the development degree under the state development average, as well as to the subjects which in implementation of the projects employ 5 or more new persons. In these cases stimulation is approved in a form of reducing the interest rate by 0,5 percentage points, as well as lower fees for the approved credit. Stimulation also refers to direct credit arrangements for which a guarantee of any of the commercial banks would be approved, in a way that initial interest rate is reduced by 1 p.p.

End users of credit arrangements of the IDV of Montenegro may only be entities which obtain from the Tax Administration the Certificate that they regularly settle their tax liabilities (which means security from the aspect of preventing the money laundering), while the tidiest ones that are found on White Tax List have been provided a stimulation in a form of lower interest rate by 0,5 p.p. Another form of stimulation, i.e. lower interest rate of 0,5 p.p. also refers to the projects financed from the EIB funds.

In 2018 the Investment and Development Fund achieved positive business result (profit) in the amount of EUR 710,296 (in 2017 it was EUR 1,120,186). Total revenues amounted to EUR 8,743,839 (in 2017 they were EUR 6,345,303), and total expenditures EUR 8,033,543 (in 2017 they were EUR 5,225,117). Operating revenues amounted EUR 7,724,209 and comprise of the revenues from interests and fees under the credits and factoring, in the amount of EUR 6,706,474 (in 2017 they were EUR 5,562,319). In this segment, the growth of 20,6% has been achieved thanks to intense credit activity on the basis of direct placements of the IDF of Montenegro. Adequate management of available monetary funds has also led to the growth in interest revenues (a vista interest, interest on housing loans, revenues from interests to portfolio bonds) and revenues from default interest under credits and factoring have been achieved in the amount of EUR 653,044.

As already indicated, total revenues amounted EUR 8,033,542, of which EUR 3,026,993 referred to costs of reservations on approved placements (cost of these reservations in 2017 amounted EUR 870,442). Financial expenditures, on the basis of interest and fee per credit of the European Investment Bank in 2018 amounted to EUR 2,136,714 (in 2017 these costs amounted to EUR 1,476,934). Value of assets (property) of the IDF of Montenegro as of 31 December 2018 amounted to EUR 323,419,529 (in 2017 they were EUR 259,152,920).

Liabilities on the basis of undue and due principal of credit placements at the end of 2018 amounted to EUR 247,056,797 (in 2017, EUR 174,334,797). Other significant positions of assets of the IDF of Montenegro are shares in capital of other enterprises (shares and stocks inherited from the Fund for the Development of Montenegro, as well as share in the capital of one tourist centre), portfolio of state bonds, claims under factoring arrangements (in the amount of EUR 22,043,811), short-term deposits time-deposited with commercial banks (in the amount of EUR 20,500,000) and similar. Liabilities on sources of financing at the end of 2018 amount EUR 222,351,264, while at the end of 2017 these liabilities amounted EUR 157,849,446.

In 2018, the IDF of Montenegro used financial assets approved by the European Investment Bank and the Development Bank of the Council of Europe, which constitutes a low vulnerability risk to money laundering.

During 2018 business year, the focus as before was on creation of long-term sustainable business result having in mind the mission of the IDF of Montenegro which primarily refers to improvement of business surroundings, creation and provision of adequate financial support for

MSME (micro, small and medium enterprises), sector leading to opening of new job positions and improvement of standard of living of the citizens of Montenegro.

- Size of the sector/business area is small because it is one fund (investment and development fund) whose assessment in a part of vulnerability to money laundering indicates a low level of vulnerability to money laundering;
- Primary profile of clients using the services of IDF of Montenegro is made of persons who are well known by their operations in the market of Montenegro, therefore the vulnerability in the above part is low. Possible vulnerability from money laundering is low since IDF of Montenegro does business with known legal entities that are recognizable by activities they are dealing with. IDF of Montenegro checks and analyzes clients from the aspect of risk of money laundering and monitors their business activities. Exposure to any of the clients is, by all means, something that is analyzed in details and verifies in details by standard methods of banking operations in combination with permanent contact and monitoring the work of clients and debtors;
- Since the frequency of international transactions is present, i.e. support from reputable international institutions, there is a low vulnerability to money laundering because the origin of funds is verifiable;
- Degree of monetary trade is characterized by representation without cash because the payments are made through the banks, therefore the vulnerability to money laundering is low;
- Exposure and risk from revenues loss may be observed from the aspect of debtor and creditor, delivered securities, quality of collected products or services or similar;
- Availability and access to information on beneficial ownership is accessible since the IDF of Montenegro has the procedures harmonized with the Law and bylaws and when applying for the loan the Fund uses the procedures that refer to detailed check of the persons who will be future beneficiaries of the loan allocated from the Fund. To that regard, representation of reliable identification infrastructure exists as well as availability of independent sources of information which in synergy of observance indicate that vulnerability in the mentioned part is low.

Application of appropriate models defined by the factoring arrangement depends on the transaction risk assessment by the Fund, as well as on credit worthiness of the customer and the debtor. Risk in factoring financing is significantly smaller than with other financing instruments due to its time restriction, but also to multiple provided guarantees and therefore the vulnerability to money laundering is low.

Inclusive of 2018, in the structure of its clients the Fund had the minimum number of high risk clients from the aspect of money laundering risk, as follows: owners or authorized persons of legal entity that is approved the loans or are offered the service of factoring financing, foreign officials, beneficial owners –politically exposed persons, politically exposed persons, non-residents –only in case of factoring financing, when collection of claims of the Fund's clients is done from foreign buyers and therefore the vulnerability to money laundering is low.

The Fund sees a possible risk of money laundering only on the side of a debtor in factoring (collection of claims of the Funds' clients) by which the client's debtors become the debtors of the Fund. However, that vulnerability is low because the operation is not well elaborated and the Fund does business at the moment with known legal entities, which are recognizable within activities they are dealing with, that is, which are paying assets to the account of the Fund but on the basis of documented claim (invoice) of the client.

Within the observed period there were no reported suspicious clients and transactions to the Administration for the prevention of money laundering and terrorist financing (Sector for the prevention of money laundering and terrorist financing) by the Fund considering that in the

structure of its clients it has a minimum number of highly risky clients and therefore the vulnerability to money laundering is low.

(Inherent) vulnerability to money laundering – control measures

System of internal control of the IDF of Montenegro is a process set up by the Management and intended for reaching strategic and business objectives, reporting objectives and compliance with the laws objectives, rulebooks, procedures that, *inter alia*, regulate the field of prevention of money laundering.

System of internal controls is in a high level. The new Law defines that the IDF is subject to the Central Bank of Montenegro which will supervise the implementation of the Law on Prevention of Money Laundering and Terrorist Financing.

Objective of internal control is, through permanent supervision of work of organizational units, to control the compliance of operations of the IDF of Montenegro with the rulebooks, procedures and other internal acts, to improve the operation of the IDF of Montenegro so that the operational-procedural risk of money laundering is brought down to the smallest possible extent.

In the process of risk management the Fund performs continuous control, sets forth, assesses, measures and monitors this type of the risk it is exposed to in its operation.

The Fund appointed persons in charge of monitoring the money laundering risk: authorized person for the prevention of money laundering and terrorist financing and his/her deputy, who do not carry out solely and exclusively the jobs of preventing money laundering and terrorist financing as the Law commits. Thus, the Fund allocated assets related to the provision of resources in its operation related to the jobs of discovering and preventing the money laundering and terrorist financing, but for the possible conflict of interest and confidentiality of data and information these persons dispose of, it is necessary that those persons are functionally and organizationally separated from other organizational parts – units of the IDF and exclusively deal with the jobs of prevention of money laundering and terrorist financing.

Authorized person and his/her deputy shall duly notify the competent administrative authority of suspicious clients and transactions. In the period from 2015 to 2019 the Fund did not report the competent authority of suspicious clients and transactions since in the structure of its clients it mainly does business with people recognized in the market of Montenegro by its work, that is, in the structure of its clients has a small percentage of high risk clients, therefore the vulnerability from money laundering is assessed as low.

IDF of Montenegro does business in accordance with the Law on the Investment and Development Fund of Montenegro.

Availability and implementation of administrative sanctions is defined by the Law on Prevention of Money Laundering and Terrorist Financing on the basis of which the penalty provisions have been prescribed. Additionally, implementation of criminal sanctions (for fraud, abuse of position, smuggling, etc.) has been defined by the Criminal Code.⁵⁵

⁵⁵ Official Gazette of the Republic of Montenegro 070/03, 01/04, 047/06, 40/08, 025/10, 073/10, 032/11, 064/11, 040/13, 056/13, 014/15, 042/15, 058/15, 044/17, 048/18 of 17.07.2018.

Persons in charge of discovering and preventing the money laundering and terrorist financing have integrity for doing this type of jobs and the level of education and knowledge, therefore the vulnerability to money laundering is low in this part. However, taking into account that these persons in certain number of MFIs do other jobs, the commitment remains that their liability is brought down only and exclusively to managing the risk of money laundering and terrorist financing in the following period, that is, that there is a functional and organizational separation of these persons from other organizational parts of the MFI, for the purposes of confidentiality of data and information they are handing with and avoidance of possible conflict of interest. Taking into account the level of knowledge and integrity of these people the overall assessment indicates the medium low vulnerability of this observance variable.

IDF of Montenegro has accessibility to reliable infrastructure for identification of clients of the Fund, as well as access to information on beneficial ownership, which indicates the low level of vulnerability to money laundering.

During 2018, the Central Bank of Montenegro carried out significant activities on advancing the functioning of the Credit Register and improving the quality of services provided by the register. Quality of reports on clients' indebtedness in the system of other financial institutions has been significantly improved and extended by additional data. Besides a detailed monthly report on indebtedness of clients in the system, the Credit Register gathers and exchanges the data on newly approved placements, as well as on payments effected on a daily basis, by which it achieves daily update of the data on all placements in the system. A set of new reporting patterns of systemic character has been created, including the report on credit history of each client individually. Cumulative data on debtor-creditor relations from the Credit Register have therefore been qualitatively improved and become more comprehensive and eventful. Thus the quality and scope of monitoring the systemic risks in the financial sector has been significantly improved.

Pursuant to the new Decision on Credit Register adopted in June 2018, which became effective in 2019, IDF of Montenegro was included in the system of data and information exchange with the Central Bank of Montenegro.

The Fund carries out activities aimed at decreasing the risk from money laundering through client identification procedures (natural persons and legal entities) in the manner stipulated by the Law on the Prevention of Money Laundering and Terrorist Financing.

Since the source of donated capital pertaining to the functioning of the Fund's work is easily verifiable, as well as the source of generated revenues of clients that are approved the loans, there is a low risk of vulnerability to money laundering within this observed financial institution.

Final vulnerability to money laundering (after including control measures) is expressed with coefficient 0,18 and reflects a low level of vulnerability;

MICROCREDIT FINANCIAL INSTITUTIONS (MFI)

Overall assessed level of vulnerability to money laundering is expressed with coefficient 0,30 and reflects the medium low level of vulnerability

Microcredit financial institutions (MFI) in the market of Montenegro constitute a mechanism for the prevention of poverty growth and creation of qualitative economic and social environment. Based on the research – after having insight into the media we have come to the data that almost every fourth citizen of Montenegro at the end of 2018 applied for the loan of microcredit financial institution, that is, used micro-crediting services. Micro financing in Montenegro, after defining of new legal regulations, Law on Financial Institutions, increased its significance, because MFIs constitute a rounded whole of the financial sector when speaking about the credit placements.

Target groups of MFIs are natural persons who generate (or plan to do so) revenues from independent activity, entrepreneurs, micro and small enterprises (MSE), employees and retired persons. Pursuant to target groups and their needs credit products offered in the market of Montenegro have been defined as follows:

- Loans for micro and small enterprises,
- Loans for independent conduct of activities in trade, agriculture, service activities and production,
- Loans for reconstruction and upgrade of residential units,
- Loans for improving the living conditions,
- Loans for situations that need prompt reaction in connection to the sudden financial situations.

Variables of inherent susceptibility

Within the banking system of Montenegro at the end of the fourth quarter of 2018 there were seven MFIs operating in total. Eight MFIs operated inclusive of 2019, that is, during 2019 another MFI was licensed by the Central Bank of Montenegro.

In the financial system of Montenegro, as at 31.12.2018., there were seven microcredit financial institutions (MFI) operating, whose total balance sum at the end of 2018 amounted 64,6 million euro. The balance sum for MFI in annual level marked the growth of 5,77%. Out of the total balance sum, 84,44% referred to two MFIs.

At the end of 2018, total gross loans of MFI amounted to EUR 64,7 million, which constitute the growth of 9,25% compared to the end of 2017. In time restricted structure of the loan the share of long-term loans is dominant (more than one year) with 87,31%. Sector structure of loans of MFIs shows that dominant share of 96,97% belongs to the loans approved to natural persons, followed by economy with only 3,03%. In the structure of MFI loans, approved by their purpose, there is a prevailing share of loans for fixed assets (40,54%), followed by loans approved for the purpose of "everything else" (13,58%), consumer loans (11,66%), loans for the construction and adaptation of building facilities (11,29%), cash loans (9,58%), liquidity loans (7,56%), loans for vehicle purchase (3,05%), loans for the preparation of tourist season (2,69%) and residential loans (0,06%).

Loans of MFIs late with repayment at the end of 2018 amounted to EUR 4,5 million or 6,97% out of the total approved loans and generate growth of 13,19% annually. Out of the total amount of delayed loans, 63,62% referred to the loans delayed for more than 90 days. Poor quality loans of MFIs at the end of 2018 amounted to EUR 2,9 million, which constituted 4,43% of total loans. Poor quality loans mark the growth of 0,63% annually.

MFIs approve loans to natural persons mainly in small amounts, with minimum level of security, which refers to medium low level of vulnerability, with smaller scope of documentary evidence

of credit application and implementation of the applications at the shortest time period compared to the conditions of the banks, but with multiple higher loan prices expressed through the level of effective interest rate. Availability and access to information on beneficial ownership exists, availability of reliable identification structure exists, therefore the vulnerability to money laundering is minimum.

The most significant share in the liabilities structure is achieved by funds borrowed from the banks and other clients and capital, as the primary source of financing activities of these institutions.

At the end of 2018, MFIs achieved a positive financial result in the amount of 4,5 million euro. One MFI at the end of 2018 operated with a loss. Bearing in mind the fact that MFIs do not receive deposits and that they have a small share in total assets of the financial system, the MFIs do not pose a threat for financial stability and therefore no threat from money laundering although they cover a certain "niche" in Montenegrin financial system.

When speaking of the structure of clients that are approved the loans, micro credits dedicated to micro business prevail, so that the largest number of approved loans intended to natural persons (who mainly do not have a permanent source of income) for whom it is sometimes difficult to prove their origin the risk from money laundering is therefore medium low.

High concentration in the micro crediting sector impacts rigidity of effective interest rates. A part of the sample of high interest rates lies in the fact that micro credit financial institutions accept that segment of the market the banks consider too risky or whose approval is followed by not effective high costs of approval compared to the required loan.

Micro credit financial institutions mainly perform transactions through the banks, therefore the vulnerability in that part is low.

Clients of micro credit financial institutions to whom loans are approved are mainly persons not having a permanent employment and therefore the source of generated revenues of the above loans is difficult to prove. Considering the loan is to be repaid and the origin of assets is unknown because these are mainly persons not having a permanent source of income, assessment of vulnerability from money laundering in this part has been assessed as medium low vulnerability.

The most significant share in the structure of liability is made of funds borrowed from non resident banks and other clients (other deposit financial institutions, funds) and capital, as primary sources of financing of activities of these institutions. Considering the source of donated capital is verified before obtaining the work permit related to the establishment and financing of work of micro credit financial institutions, there is a low level of vulnerability to money laundering in this sector.

Frequency or percentage of share of international transactions for the period of four business years of operation is not a negligible category, that is, it is represented in a part of borrowed assets from reputable Funds.

Likewise, these institutions use the List of Indicators for recognizing suspicious clients and transactions and take measures and actions pertaining to the ban on doing business with countries that do not observe generally accepted standards in the field of preventing the money laundering and terrorist financing.

Indicators of potential activities of money laundering and actions causing doubts in money laundering

The thing that characterizes the work of micro credit financial institutions in Montenegro is a permanent close supervision of clients under the principle “Know your client”) and therefore the vulnerability in that part is low.

When speaking about classifying and recognizing clients according to riskiness we can say that for the period of four years of operation the presence of highly risky clients has not been recorded (politically exposed persons, non-residents, beneficial owners of politically exposed persons, etc.) and therefore the vulnerability of this sector of operations has been assessed as low.

Micro credit financial institutions did not have the reports of suspicious transactions to the Administration for the prevention of money laundering and terrorist financing – competent administrative authority for the period of observance of four business years.

(Inherent) vulnerability to money laundering and terrorist financing – control measures

Micro credit financial institutions are payers under the Law on the Prevention of Money Laundering and Terrorist Financing supervised by the Central Bank of Montenegro. Micro credit financial institutions observe the Law on the Prevention of Money Laundering and Terrorist Financing, Law on the Banks, Guidelines for risk analysis of clients, decision on minimum standards for risk management of micro credit financial institutions, indicators of suspicious transaction, Rulebook on the method of work of authorized person, method of implementing internal control, keeping and protecting the data, method of keeping records and education of employees, Rulebook on the contents and type of data on the payer accompanying the electronic transfer of moneys.

Financial institutions carry out the monitoring activities relating to the jobs of prevention of money laundering and terrorist financing through authorized persons for the prevention of money laundering and terrorist financing and their deputies.

Availability and enforcement of administrative sanctions have been defined by the Law on the Prevention of Money Laundering and Terrorist Financing on the basis of which the penalties are prescribed.

Additionally, enforcement of criminal sanctions (for fraud, abuse of position, smuggling, etc.) has been defined by the Criminal Code.

Persons in charge of the jobs of discovering and preventing the money laundering and terrorist financing have integrity for carrying out this type of jobs and the level of education and knowledge, therefore vulnerability for money laundering is low here. However, taking into account that these persons in the specific number of MFIs do other job, the obligation remains that their liability is reduced only and solely to managing the risk of money laundering and terrorist financing in the next period, that is, that there is a functional and organizational separation of these persons from other organizational parts of the MFIs, for the purposes of confidentiality of data and information they are handling and avoidance of possible conflict of interest. Taking into account the level of knowledge and integrity of these persons, the total assessment indicates the medium low vulnerability of this variable of observing.

Microcredit financial institutions have open accounts with the banks in Montenegro. Controls were carried out for the observed period indirectly through the banks. Considering the transactions of microcredit institutions are carried out through banking system, controls have been carried out indirectly, namely, by bank control the microcredit financial institutions were also controlled. Additionally, the Central Bank also implemented direct target controls-on site of MFIs directly in microcredit financial institutions.

Supervision of sector of micro crediting operations in Montenegro in the capacity of primary supervision authority is conducted by the Central Bank of Montenegro which, for the four years of observing, carried out 29 indirect controls of MFIs through the banks and 5 direct on site target controls of microcredit financial institutions.

Likewise, in the next period it is needed to intensify activities related to target training (needs based) of employees in the MFI who are in direct contact with the client and of authorized persons for the prevention of money laundering and terrorist financing that are supervising the same. During 2018, the Central Bank of Montenegro continued the reform of regulatory framework, within which harmonization of current regulation and the new *acquis* of European Union is conducted and with international standards in the field of financial services.

Aimed at harmonization with the regulatory framework governing the work of institutions dealing with the jobs of financial leasing, factoring, collection of claims, micro crediting and credit guarantee jobs, the Council of the Central Bank in June 2018 adopted the Decision on credit register 21, with the application as of 1 January 2019. This Decision is also prepared for the purposes of improving the Credit Register through provision of additional, individual and summarized data from the Credit Register that will become available to the users.

Within the activities on harmonization with EU regulations, the Central Bank in December 2018 adopted the working versions of the draft Law on Credit Institutions. By their adoption, which by the Program Montenegro accession to the EU 2019-2020 is envisaged for the fourth quarter of 2019, harmonization with Directives 2013/36 EU will be made (so called CRD) and 2014/49 EU (so called BRRD) and the existing framework for supervision of operation of credit institutions will be improved and will properly intervene in credit institution that has a problem.

A series of activities related to twinning program "Support to regulation of financial services" was implemented within which, in cooperation with experts from EU, the Law on Credit Institutions was prepared. In the period April-November 2018, six expert missions were implemented on the development of regulations which will harmonize the regulatory framework with Directive 2013/36 EU on accession of activities of credit institutions and prudential supervision of credit institutions and investment companies, as well as the Regulation number 575/2013 of EU on prudential requirements for credit institutions and investment companies, through which Basel standards of capital and liquidity (Basel III) are implemented in the EU.

During 2018 the Central Bank carried out significant activities on improving the functioning of Credit register and improving the quality of services provided by the register. Quality of the report on indebtedness of clients within the system of other financial institutions has been significantly improved and extended by additional data. Besides the detailed monthly report on indebtedness of clients in the system, the Credit Register will gather and exchange the data on newly approved placements, as well as payments effected on a daily basis, which achieves the daily update of the date on all placements within the system. A set of new reporting forms of

systemic character has been created, including report on credit history of each client individually. Cumulative data on debtor-creditor relations from the Credit Register have therefore been improved and become more comprehensive and eventful. Thus, the quality and scope of monitoring the systemic risks in the financial sector has been significantly improved.

Pursuant to the new Decision on Credit Register adopted in June 2018 which came into force in 2019, besides MFI and the Investment and the Development Fund, newly licensed other financial services have been included into the system of data exchange (leasing and factoring companies, companies dealing with redemption of claims, companies dealing with credit guarantee jobs), as well as not licensed institutions which have the claims over 200 thousand euro in their portfolio.

Significant expansion of entities included in the system of data exchange in the Credit Register contributes to the creation of more realistic framework for monitoring financial stability and reducing financial risks.

In the base of the Credit Register at the end of 2018 there were 14.783 persons with indebtedness on the basis of loans, leasing, credit cards, permitted minus under the current account, guarantees, letters of credit and other reported indebtedness, which constitutes increase of 5% compared to the end of 2017. Out of total number of registered persons, 138.807 persons, i.e. 96%, referred to natural persons, while the remainder of 5.976 persons, i.e. 4%, referred to legal entities. The number of questionnaires by beneficiaries of Credit Register services during 2018 amounted 197.513, which is by 3% higher compared to the previous year. Credit Register of the CBMNE will continue in the future period with advancement of services, especially in the part of data exchange with not banking not financial institutions, which will contribute to increase of the scope of information on credit worthiness of clients and create the basis for better monitoring of the credit risk in the system.

This sector has vulnerability in the part related to the verification of origin of assets related to the repayment of borrowed funds since they are persons without permanent source of income. In the following period, bigger attention will be directed to both establishing identity and monitoring the business relation of the client with micro credit financial institution and to employment of staff implementing supervision on the work of these institutions (employment of larger number of employees). Note: In 2019 the Central Bank of Montenegro issued the work permit to one MFI, and inclusive of 31.12.2019. there were 8 micro credit financial institutions operating in the market of Montenegro.

Final vulnerability to money laundering (after including control measures) is presented by coefficient 0,30 and reflects a medium low vulnerability level.

PROVIDERS OF SERVICES OF SENDING AND RECEIVING REMITTANCES THROUGH PAYMENT INSTITUTIONS

Total assessed level of vulnerability to money laundering is presented by coefficient 0,31 and reflects the medium low level of vulnerability

In Montenegro, in the period from 2015 to 2018, the Central Bank of Montenegro issued the approval/work permit to three payment institutions. Two payment institutions have approval for execution of monetary remittances and one for the issuance and/or acceptance of payment instruments.

Payment institutions have not been included by previous assessment of vulnerability of other financial institutions since they are the institutions that are licensed companies, licensed by the Central Bank of Montenegro in March 2015.

Payment institutions provide payment services of executing monetary remittances through a network of their agents such as the locations of Post of Montenegro, banks, mobile telephone operators, bus stations and/or on own locations. The main bearers of the payment institutions development are quality of the service of money transfer, speed of the service, expertise and training for the provision of service and continuous support to service users and agents on whose locations the payment service is provided.

Payment institutions are payers pursuant to the Law on the Prevention of Money Laundering and Terrorist Financing and therefore the comprehensiveness of legal framework is adequate and includes the areas that refer to the measures of verification of clients, politically exposed persons, keeping records and other criteria that have been defined by the Law and the bylaws in the field of preventing the money laundering and terrorist financing.

Effectiveness of supervision of payment institutions in the area of PMLTF is adequate because of the existence of direct controls by regulator and supervisor – Central Bank of Montenegro. In the period from 2015-2019 four direct target controls of payment institutions were implemented.

Availability and enforcement of administrative sanctions is defined by the Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of the Republic of Montenegro 33/1, 44/18 and 73/19) on the basis of which the penalty provisions have been prescribed.

The penalty provisions of the Law on the Prevention of Money Laundering and Terrorist Financing regulate misdemeanour liability in case of establishing irregularities in operations of payment institutions. Additionally, enforcement of criminal sanctions (for fraud, abuse of position, smuggling, etc.) is defined by the Criminal Code of Montenegro.

Assessment of the level of availability and enforcement of administrative sanctions is high. This assessment has been made on the basis of provisions of the existing Law on the Prevention of Money Laundering and Terrorist Financing which has a defined set of penalty provisions for institutions and responsible persons in case of failure to abide to the regulations from this area. Assessment of the level of availability and enforcement of criminal sanctions is high. Criteria for this assessment are existence of a set of criminal sanctions within the effective laws.

Assessment of the level of availability and effectiveness of input controls is high. This assessment has been made on the basis of existence of legal, i.e. regulatory framework and regulations which clearly and thoroughly define the necessary requirements for licensing of payment institutions and their agents as well as the need for meeting the criteria regarding the education and professional capacities of responsible persons. Assessment of the level of integrity of staff in the enterprise/institution is high. This assessment has been made on the basis of established measures and mechanisms of internal control as well as legal liabilities with regard to reporting to supervisory authorities of persons appointed for the jobs of preventing the money laundering and terrorist financing, regular reporting of payment institutions to supervisory authorities, in accordance with the law.

Assessment of the level of effectiveness of compliance function (organization) is high. This assessment is based on the fact that the function of authorized person for the prevention of

money laundering and terrorist financing is organizationally separated from other organizational parts in the payment institution, that controls of compliance with legal regulations are regularly conducted and that there are adequate personnel solutions.

Assessment of the level of effectiveness of supervision and reporting on suspicious activities of clients of payment institution is high. This assessment is based on existence and implementation of internal policies and procedures that prescribe the method of reporting to supervisory authorities as well as recording, protection and keeping of the data. Payment institutions used to report suspicious transactions and clients to FIU(Financial intelligence unit) and in 2018 this trend showed the tendency of growth in recognizing and reporting such transactions to a competent authority. In connection to that, these institutions recognize indicators of suspicion in money laundering and vulnerability in the above part is low.

Users of services of payment institutions included in the analysis are natural persons. Indirectly, when entering into the contract on entrusting the payment service to the agents the payment institutions establish the ownership structure of all of its agents in accordance with the requirements of regulations and internal acts, therefore the vulnerability to money laundering is low.

Whereas it is difficult to define the source of funds that relates to the received and sent money through payment institutions and the source of generated revenues of persons using this type of services, there is a medium low vulnerability for money laundering in the above part. In this part the payment institutions rely on the information obtained from the user of the payment service.

Assessment of the level of availability of independent sources of financing is high. This assessment is based on specific features of service of monetary remittances which is a single transaction and does not constitute the establishment of a business relation, and it is not applicable to do enquiries to the credit bureau and ask for the data on prior financial activities of similar type. However, the payment institution through established reporting mechanisms and tracking of suspicious transactions and clients and taking measures of deepened analysis tries to objectively define the client's risk exposure. Likewise, to that purpose we also use the information from publicly available sources and media for tracking and checking of persons.

Out of three payment institutions, two payment institutions deal with the provision of services of effecting monetary remittances. The capital prescribed by the Law for the establishment of payment institution is EUR 20,000. More detailed information on the number of transactions and generated trade are regularly submitted to the Sector of Payment Transactions of the Central Bank of Montenegro.

Assessment of vulnerability to money laundering of payment institutions in a part of risky profile of the user of payment institution services indicates the medium low level of vulnerability because, besides local individuals who are users of the payment service, the same service is used by the foreigners – non residents who send money from Montenegro abroad or receive money in Montenegro.

Risk assessment for using of representatives (agents) in the category of other financial institutions is medium. Criteria are: existence of a network of representatives/agents in the territory of Montenegro, whose work and provision of payment services are regularly controlled

and visited by payment institutions, checking the application of instructions and procedures related to monetary remittances and enforcement of legal regulations in the field of PML/TF.

Assessment of vulnerability to money laundering for the level of generated monetary turnover in the category of other financial institutions is medium low. The basis criteria is the fact that the payment institutions are currently providing the service of effecting the monetary remittance in cash, that is, the cash transactions of smaller amounts⁵⁶.

Assessment of vulnerability regarding the frequency of international transactions is medium. Monetary remittance is dominantly of international character. There are restrictions for sending money from Montenegro (daily and monthly limits) and sending money from other countries to Montenegro is subject to restrictions of the country the money is sent from.

Factor of anonymous use of the product is not applicable since the identification of recipient or payer of payment institution of monetary remittance is mandatory, regardless to the amount of transaction, therefore the vulnerability to money laundering is assessed as low.

Aggravated disclosure of transaction records does not exist since monetary transactions can easily be traced, there is the adequate system for searching persons and transactions, reporting system etc., and vulnerability here is low.

⁵⁶ Note: Certain types of monetary transactions are connected and refer more to terrorist financing than money laundering, because these are transactions in smaller amounts. If the money is frequently sent from high risk countries, these transactions are subject to regular monitoring and reporting.

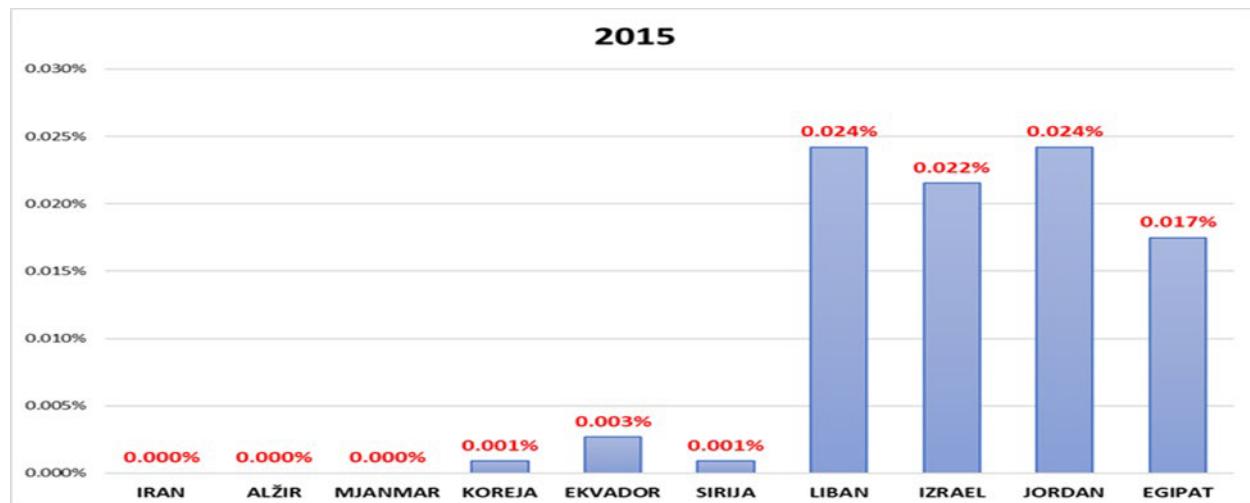
This analysis includes the data related to the country of destination and origin of funds that are transferred in order to establish to which extent the funds are transferred to (or received from) the zone of conflict (or jurisdiction of high risk for terrorism, including the zone geographically close to the conflict zone, e.g. border of Turkey with Syria or Lebanon).

Aimed at monitoring and searching the transactions the payment institution use specialized programs for the prevention of money laundering and terrorist financing that include the following search parameters: PIN, type and number of personal document, name and surname of recipient/payer, amount, date, name of the agent, country. Every payment institution defines its own criteria for searching of persons and transactions, subject to the number of transactions and internal procedures.

Programs that generate necessary reports for reviewing the transactions and monitoring the users of service from the aspect of the prevention of money laundering and terrorist financing are used for searching transactions and persons.

Deadlines for monitoring the payment institution are defined subject to the number of users of the service and number of transactions in accordance with internally defined search criteria, procedures for PMLTF of payment institutions that are update pursuant to the liabilities referred to in the Law on the PMLTF. Subject to the above criteria, the payment institutions perform search of the persons and transactions that can be performed daily, monthly, quarterly, yearly on any other defined time period subject to the risk assessment of the payment institution itself.

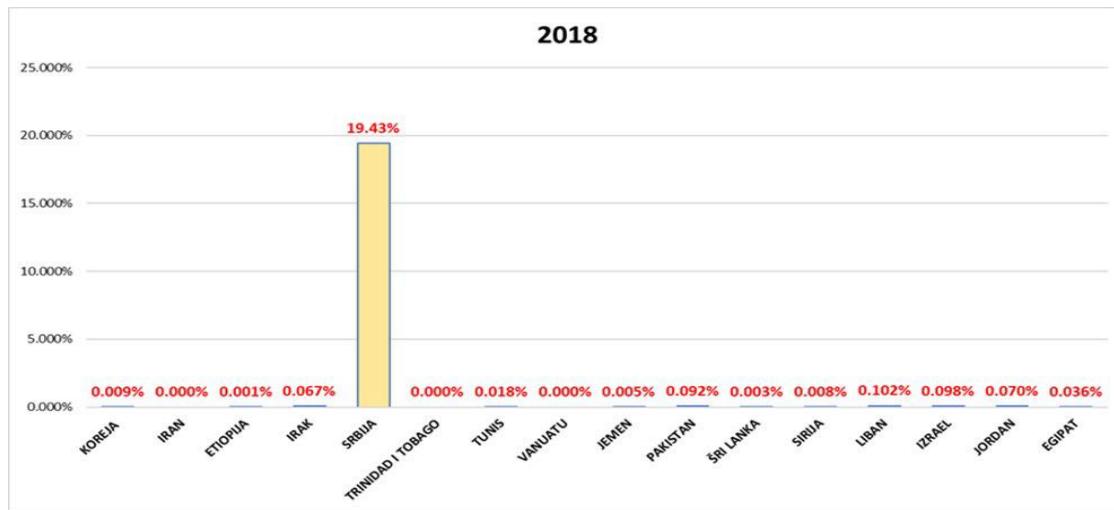
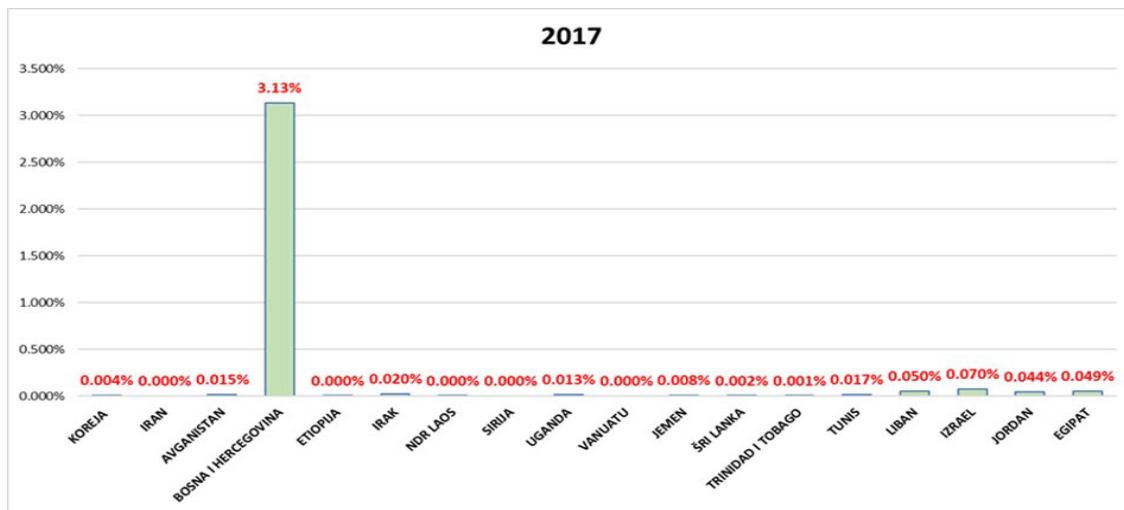
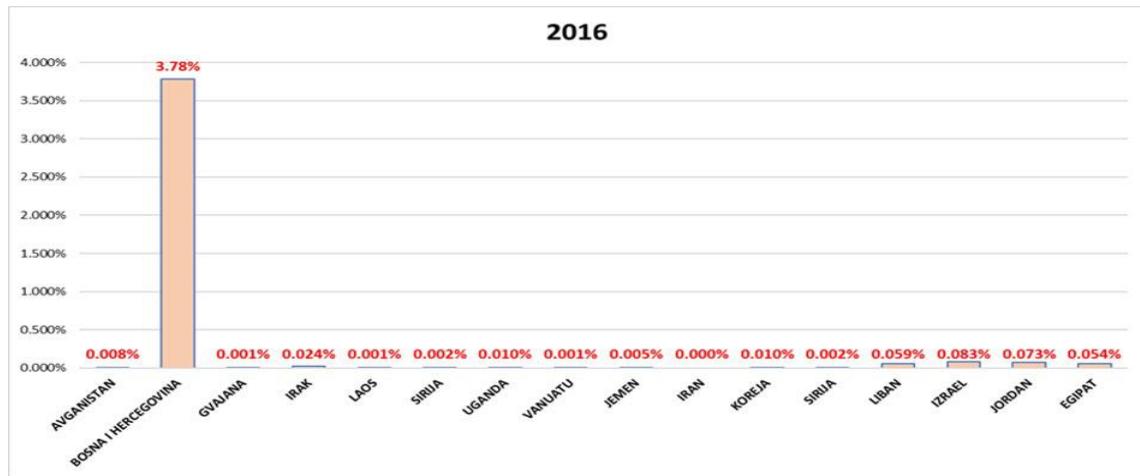
In addition to the above criteria, the search and analysis of users of the service from countries that on the basis of reports of relevant international institutions (FATF⁵⁷ and MONEYVAL⁵⁸) on common evaluation have been identified as countries not having efficient system for combating against the money laundering and terrorist financing are done, and in relation to other countries that pursuant to the risk matrix have been qualified as countries of higher risk, with application of relevant indicators from the applicable list of indicators that refer to the geographic risk, which significantly reduces the vulnerability to money laundering. By analyzing the report on monetary transactions with countries with strategic deficiencies in application of regulations related to the PMLTF (FATF list) it is obvious that a percentage of share of these countries is extremely low, which can be seen from the graphic overview by years:



IRAN, ALGERIA, MIANMAR, COREA, EQUADOR, SYRIA, LEBANON, ISRAEL, JORDAN, EGYPT

⁵⁷ Financial Action Task Force

⁵⁸ Committee of Experts on the Evaluation of Anti - Money Laundering Measures and the Financing of Terrorism



There are no separately presented typologies of money laundering. Clients have been constantly warned not to send money to unknown persons, not to reveal details on transaction to anyone else apart from the recipient because they may be deceived. Warnings of fraud are delivered and notified to the clients when executing transaction.

In addition to technological support that payment institutions own, it is important that these institutions use the List of Indicators for recognizing suspicious clients and transactions when

monitoring and searching persons and transactions, therefore they notify the Financial Intelligence Unit, which additionally reduces the risk of money laundering.

Since payment institutions have restrictions connected to the amounts of sent and received money, that amounts of funds are smaller, vulnerability of money laundering is lower compared to the vulnerability of terrorist financing.

When searching and reporting transactions/suspicious persons, the payment institutions base every charge of a person/transaction on a combination of multiple indicators that point to unusual transactions and suspicious persons and on the basis of indications more in the terrorist financing.

As previously described, the payment institutions regularly report suspicious persons and persons where they perceive unusual transactions, for which there is the statistics that indicates a huge number of reported suspicious clients and transactions. In the period 2015-2019 the payment institutions reported to the Financial Intelligence Unit a significant number of persons and transactions through 93 submitted reports.

Payment institutions do not offer services of monetary remittance indirectly because the user of the service must come in person and be identified on the spot, that is, on the site where the payment services are provided. It is not possible that the representative or attorney perform the service in the name of the user, and in connection to that the vulnerability here is low.

On the basis of all analyzed parameters of inherent vulnerability and general input variables, the overall assessment of vulnerability of payment institutions has been assessed as medium low vulnerability to money laundering.

Since it is difficult to define the source of funds pertaining to the received and sent money through payment institutions as well as the source of generated revenues of persons using this type of service there is a medium low vulnerability of money laundering in this segment of observing.

Final vulnerability to money laundering (after including control measures) is presented by coefficient 0,31 and reflects the medium low vulnerability level

POST OF MONTENEGRO PROVIDER OF SERVICES OF SENDING AND RECEIVING REMITTANCES

Overall assessed level of vulnerability to money laundering is presented by coefficient 0,35 and reflects the medium low level of vulnerability

The Post of Montenegro does business and provider of monetary remittances in international and regional level (Serbia, Croatia, Bosnia and Herzegovina) related to receiving/sending money

The Post of Montenegro carries out its activity through 157 branch offices throughout Montenegro, of which 49 post offices has been leased to legal entities with the right to use the postal brand and provision of postal services, so called post franchises. In this context it is important to have in mind that the Post of Montenegro provides services of fast money transfers, i.e. international remittances, on the basis of contracts concluded with two payment institutions,

which are the agents, i.e. representatives of the globally known and reputable companies offering services of fast transfers of money.

Besides international remittances on the basis of contracts concluded through its branch offices the Post of Montenegro in its name and on its behalf carries out the money order transactions with posts of the region: Public Enterprise "Post of Serbia" Belgrade, Posts of Srpska JSC Banja Luka, Public Enterprise Bosnia and Herzegovina Post Ltd. Sarajevo, Croatian Post-Zagreb, Croatian Post Ltd. Mostar.

In the period 2015-2018 the continuous trend of growth of international and regional money order transactions has been recognized.

Following the review of the report on monetary transactions with the state with strategic deficiencies in enforcement of regulations related to the PMLTF (FATF list) it is obvious that the percentage of share of transactions of these countries is extremely low which constitutes safety from the aspect of money laundering and terrorist financing.

The service of sending/receiving money remittances constitutes cash transaction (transfers are not effected by credit cards) which is why in this segment vulnerability to money laundering and terrorist financing has been assessed as medium low.

As for the frequency of international transactions, a minimum number of high risk clients is present, but the appearance of the same and the fact that origin of sent and received money is not checked, impact that this segment is allocated the assessment of medium low vulnerability to money laundering and terrorist financing. However, through the system of functioning of payment institutions more detailed checks of the sender and recipient of funds are performed and the system reject to effect the transaction unless all criteria have been met.

The procedure of sending money requires identification of sender/recipient of monies by having insight into the valid identification document with biometric data and obtaining all other data in accordance with the application requirements: name and surname of the recipient/sender, date of birth of the sender/recipient of assets, number and type of identification document of the recipient/sender with the date of issue and validity, country of sending/receiving money, town and address of the recipient/sender of funds.

Disbursements through payment institution show the growth trend for the period 2015-2018 and payments show tendency of decline.

The most money was transferred to/from Serbia, then to/from Bosnia and Herzegovina (Republic of Srpska) and to/from Croatia.

During the training and introduction to the Law on the Prevention of Money Laundering and Terrorist Financing the persons authorized for the prevention of money laundering and terrorist financing draw attention of the employees of the Post of Montenegro to information of the client of importance of caution when sending money to unknown persons and caution of not disclosing the information on money transfer to third parties. After payment of the funds the sender will obtain a unique reference number and notifies the same only to the recipient. The above conduct significantly impacts the vulnerability decrease in this segment.

Additionally, we conclude that there is a danger of abuse regarding terrorist financing due to a possibility that one person sends/receives funds from numerous persons from different destinations. Supervisory authority of the Post of Montenegro in the field of enforcement of the Law on the Prevention of Money Laundering and Terrorist Financing is the Agency for electronic communications and postal activity.

Enforcement of administrative sanctions is defined by the Law on the Prevention of Money Laundering and Terrorist Financing. Penalty provisions of the Law on the Prevention of Money Laundering and Terrorist Financing regulate misdemeanour liability.

Additionally, enforcement of criminal sanctions (fraud, abuse of position, smuggling, etc.) is defined by the Criminal Code. Persons liable for criminal actions become the subject of courts, prosecution and the police.

Persons in charge of the jobs of detecting and preventing the money laundering and terrorist financing have integrity, training and required level of knowledge for conducting this type of jobs but do not work solely on the jobs of detecting and preventing the money laundering and terrorist financing and the risk in this segment has been assessed as medium.

Inherent vulnerability to money laundering and terrorist financing –control measures

Monitoring of monetary transactions in the Post is carried out according to the internal instructions harmonized with the Law on the Prevention of Money Laundering and Terrorist Financing. Officers in the Posts shall act in accordance with the Law, and Guidelines for the preparation of the risk analysis adopted by the Agency for Communications and Postal Activities in the capacity of supervisory authority of the Post. On the basis of guidelines for the preparation of the risk analysis for money laundering and terrorist financing vulnerability in this segment has been assessed as low.

Likewise, in accordance with the legal obligation, the Post delivers the data to the FIU on cash transactions in the value of EUR 15,000 and more, data on many mutually connected transactions that jointly exceed the value of EUR 15,000 and data on suspicious transactions recognized on the basis of the List of indicators for recognizing suspicious transactions, operators shall submit the data on a prescribed form to the competent Sector of the Post (to authorized person for the prevention of money laundering and terrorist financing, or his/her deputy). Authorized person shall immediately forward the above information to the insight of the supervisory authority of management of the Post.

What has been identified as the deficiency is that authorized person and its deputy in addition to the above job, also do other jobs in the Post.

Likewise, in the part of operation with the clients when offering services of sending and receiving money, considering it is difficult to define the source of funds related to the received and sent money and the source of generated income of persons using this type of service, there is a medium low level of vulnerability to money laundering in this sector.

In a part related to verification/control before obtaining the work permit ("fit and proper analysis"), it is done by the Agency for telecommunications and postal activity, vulnerability to money laundering that refers to control measures has been assessed as the medium level of vulnerability to money laundering.

Final vulnerability to money laundering (after calculating control measures) is presented with coefficient 0,35 and reflects medium low level of vulnerability

Recommendations

- Education of officers and authorized persons in connection to their liabilities under the Law on the Prevention of Money Laundering and Terrorist Financing;
- Removal of other jobs from the competence of authorized persons, except for the jobs of preventing the money laundering and terrorist financing;
- Stronger and more comprehensive supervision of transactions in the field of money transfer;
- Advancement of cooperation between the state authorities regarding the exchange of information and planned actions.

FACTORING COMPANIES

Overall assessed level of vulnerability to money laundering is presented with coefficient 0,35 and reflects the medium low level of vulnerability

The Law on financial leasing, factoring, redemption of claims, micro crediting and credit-guarantee affairs, among other things, regulates the operation of factoring companies and companies dealing with the redemption of claims.

Observed from the economic point of view, factoring constitutes a specific technique or mechanism of collection of trade receivables that improves liquidity of participants of trade turnover by simultaneously reducing the operating costs.

Factoring affairs are carried out in a very limited scope and those affairs are mainly carried out by the banks. The need for factoring development is primarily caused by the liquidity problem in payment that has a particularly negative effect on small and medium enterprises (SME) due to the lack of working assets.

The factoring contract is deemed such contract by which one party –factor commits to assume (undue, short-term) claims of other party – client, to collect them, in its name and on its behalf, and pay to the client immediately or at accurately préciséd term the counter value and guarantee collection, under certain conditions.

In the market of Montenegro, in the period from 2015-2018, there was small number of companies whose primary activity was factoring. One bank set up the independent company, that is, factoring company, which redeemed bad credit placements from its parent bank.

In this case, factoring is a process of releasing the daughter bank from poor credit placements. Considering that factoring company is a young company which is developing quickly, its activity is connected to the collection of claims of clients of the daughter bank and provision of services in the process of collecting claims for individuals and legal entities. This job is carried out in accordance with the legal regulations of Montenegro, taking into account the individual characteristics of each client.

Apart from the collection of debt, the companies also deal with real estate management. The growing portfolio contains land, business premises, apartments, business-residential facilities, facilities under construction, etc.

Variables of inherent susceptibility –size of the sector/business area

Provision of factoring services in Montenegro at the end of 2018 was carried out by one factoring company with the capacity of legal entity whose primary activity is collection of claims from the bank. Condition in the market with regard to the number of providers, kind and type of services came down to one company which is primarily engaged in redemption of claims.

For the above observance period in the market of Montenegro, the banks implemented a certain number of iterations, that is, significantly reduced the credit portfolio through sale of groups of balance and out of balance claims, which are secured by real estate, legal entities –factoring companies, whose task would be to secure the further collection of assigned claims through taking over the security and implement their collection of assigned claims through takeover of the security assets and execute their sale.

Total number of collected claims of one factoring company amounted 9.645, of which 9.201 refers to individuals (0.95%) and 444 to legal entities (0.05%).

The analysis of the total number of collected claims from 2015-2018 showed that the largest number of collected claims was recorded in 2017.

Since factoring companies have been established by the capital of the mother bank, that their initial capital was allocated by the mother bank, that during the operations the borrowed assets originate from the same, vulnerability to money laundering has been assessed as low.

Exposure to any of the clients is, by all means, something that is under detailed analysis and due verification by standard methods of operation in combination to permanent contact and monitoring of clients and debtors work.

Exposure and risk from revenue loses may be observed from the aspect of debtors and creditors, delivered securities, quality of redeemed products and services and similar.

Since the dominant share of engaged assets refers to non cash, vulnerability of this sector to money laundering is low.

Factoring companies carry out transactions through the banks, that is, without cash, and therefore their vulnerability to money laundering is minimum.

Factoring company disposes of and has access to information related to establishing and verifying identity of beneficial owner as well as availability of reliable identification infrastructure, therefore the vulnerability to money laundering has been assessed as low.

Since assets are borrowed from the mother bank and that operation of these companies is regulated by the Law on the Prevention of Money Laundering and the Law on Financial Leasing, factoring, redemption of claims, micro crediting and credit-guarantee affairs, vulnerability in the above-mentioned part has been assessed as low.

Indicators of potential activities of money laundering and actions arising suspicion to money laundering

What characterizes the work of factoring companies in Montenegro is taking measures and actions accompanying transactions with regard to the redemption and collection of the

disputable claims, and therefore the vulnerability to money laundering has been assessed as low.

Application of appropriate models defined by the factoring arrangement depends on the risk assessment of transaction by factoring company, as well as credit worthiness of both the client and the debtor. The risk with factoring financing is significantly smaller than with other instruments of financing due to their time-restrictions, therefore the vulnerability to money laundering is low.

Inclusive of 2018, the factoring companies in the structure of their clients did not have the owners or authorized persons of enterprises that are approved loans or factoring financing, foreign officials, politically exposed persons, beneficial owners –politically exposed persons, non-resident clients and therefore the vulnerability to money laundering has been assessed as low.

With factoring companies, the only possible risk from money laundering is seen only with debtors in factoring (redemption of clients' claims) by which the client's debtors become debtors of the factoring company. However, vulnerability in the above is medium low since operations have not been well elaborated and factoring companies operate for the time being with known legal entities, which are recognizable within the activity they are dealing with, that is, which are paying funds to the company account but on the basis of documented claims (invoices) of the client.

Within the observed period there were no suspicious transactions reported to a competent management authority from factoring companies since they do not have high risk clients and therefore the vulnerability of these institutions has been assessed as low.

(Inherent) vulnerability to money laundering –control measures

Factoring companies are reporting entities under the Law on the Prevention of Money Laundering and Terrorist Financing. In the period of observance, these institutions did not have any direct controls or supervision by supervisor and regulator.

Availability and enforcement of administrative sanctions have been defined by the Law on the Prevention of Money Laundering and Terrorist Financing on the basis of which the penalty provisions have been prescribed. Additionally, enforcement of criminal sanctions (for fraud, abuse of position, smuggling, etc.) has been defined by the Criminal Code.

Factoring companies are reporting entities under the Law on the Prevention of Money Laundering and Terrorist Financing, apply Guidelines for risk analysis of clients, apply indicators of suspicious transactions, follow the Rulebook on the method of work of authorized person, method of implementation of internal control, keeping and protecting data, method of keeping records and training of employees, Rulebook on the contents and type of data on the payer tracking the electronic transfer of monetary funds.

Monitoring activities referring to the jobs of preventing the money laundering and terrorist financing the institutions carry out through authorized persons for the prevention of money laundering and terrorist financing and their deputies with integrity and level of training, but do not carry out solely and exclusively these jobs but also other jobs whose execution may lead to conflict of interest and therefore the vulnerability in the above part is medium low.

Since the Law on Factoring has not existed in Montenegro until 2017, supervision of the work of factoring companies has not been entirely regulated adequately, therefore vulnerability is assessed as medium. The Law on Financial Leasing, Factoring, Redemption of Claims, Micro Crediting and Credit-Guarantee Jobs adequately regulates operations, *inter alia*, and factoring of companies and companies dealing with redemption of claims, which indicates the lower level of vulnerability from money laundering of these institutions. In the following period the supervision, that is, control of these companies will be carried out by the Central Bank of Montenegro, among other things in the part of preventing money laundering. Inclusive of the second quarter of 2019 the statistics indicates that only the factoring company obtained the work permit from regulator and supervisor.

One company, by the end of second quarter 2019, brought its operations down to solely redemption of claims.

Final vulnerability for money laundering (after including control measures) is presented by coefficient 0,35 and reflects medium low level of vulnerability

PROVIDERS OF LEASING SERVICES

Overall assessed level of vulnerability to money laundering is presented by coefficient 0,41 and reflects the medium level of vulnerability

The Law on Financial Leasing, Factoring, Redemption of Claims, Micro Crediting and Credit-Guarantee Jobs regulates operations of, among others, the leasing companies.

In December 2018, the Council of the Central Bank issued the work permits for two leasing companies, considering that the work permit in these companies after adoption of the new law is issued by the Central Bank of Montenegro, Inclusive of 2018, two leasing companies have been licensed by the Central Bank of Montenegro, which will carry out direct supervision of these companies.

Aimed at harmonization with regulatory framework that regulates operation of institutions dealing with jobs of financial leasing the Council of the Central Bank in June 2018 adopted the new Decision on Credit Register, to be effective as of 1 January 2019. This Decision was prepared for the advancement of the Credit Register. Pursuant to the new Decision on Credit Register adopted in June 2018, which becomes effective in 2019, the newly licensed companies were included in the system of data exchange.

The Law on Financial Leasing, Factoring, Redemption of Claims, Micro Crediting and Credit-Guarantee Jobs has been effective since 11.05.2018. This Law, *inter alia*, governs the financial leasing jobs. The Central Bank is in charge of issuing work permits to the providers of financial services, and for the control of their operations, and for the adoption of bylaws regulating the operation of these entities.

In 2018, the Central Bank issued and adopted the bylaws regulating in more details the issues of risk management in operation of the providers of financial services, issues of mandatory reporting to the Central Bank, and documentation submitted by these entities in the procedure of issuance of approvals. Therefore, the Council of the Central Bank, on 13.04.2018., adopted the following Decisions:

- Decision on minimum standards for risk management in operation of the providers of financial services,
- Decision on reports that providers of financial services submit to the Central Bank of Montenegro and the Decision on documentation to be submitted along with the applications for issuing approvals from the Law which, *inter alia*, regulates the financial leasing.

It will have intense cooperation with other regulators of financial system in the country, and with the relevant foreign regulators and other institutions from the domain of financial stability. It will continue cooperation with international institutions in the field of preventing the money laundering, with simultaneous strengthening of mechanisms and procedures necessary for the successful implementation of the given process.

Variables of inherent susceptibility

In the leasing market in Montenegro in the period of interest from 2015 to 2018 there were 6 (six) providers of leasing services operating, four leasing companies with the capacity of legal entity and two banks.

All leasing companies are directly or indirectly in foreign ownership, with the exception of one bank which is in dominant local ownership.

The subject of leasing most frequently is equipment or vehicles that will be permanently used during the period of lease under the Contract on financial leasing and it continuously losses its value. It is the primary assumption that leasing recipient delayed with meeting the obligations will not maintain the object of leasing knowing that the leasing provider will regain it and the proposed standard is preventing that additional impairment of the object of leasing.

With regard to the structure of leasing users, newly concluded contracts with legal entities made around 75,97% of total contracts, while contracts with individuals made 23,87% and 0,17% with entrepreneurs. Compared to the previous years, a significant growth in concluding new contracts with legal entities and individuals has been recorded in 2018.

| Leasing users | Number | % | Value | % |
|------------------------|---------------|----------|--------------|----------|
| Legal entities | 2,395 | 66,49% | 43,906,557 | 75.97% |
| Natural persons | 1,195 | 33.18% | 13,795,536 | 23.87% |
| Entrepreneurs | 12 | 0.33% | 95,627 | 0.17% |
| Total | 3602.00 | 100.00% | 57,797,720 | 100.00% |

Financial leasing operations had a significant share in the overall number, and the value of the concluded contracts.

Operating leasing is represented in average with 40% and financial leasing with 60% for the given period. It is recorded that passenger vehicles constantly have the largest share , around 95% in total amount of leasing placements.

| Type of leasing | Number | % | Value | % |
|--------------------------|---------------|----------|--------------|----------|
| Operating leasing | 238 | 41% | 2,890,298.29 | 35% |
| Financial leasing | 349 | 59% | 5,458,19.24 | 65% |
| Total | 587 | 100% | 8,348,467.53 | 100% |

| Subject of leasing | Value of concluded contracts | % |
|--|------------------------------|--------|
| Passenger vehicles | 7,529,374.54 | 90.19% |
| Commercial vehicles (trucks, buses and delivery vehicles) | 528,634.91 | 6.33% |
| Construction machinery and equipment | 54,262.45 | 1% |
| Ships | 236,195.63 | 3% |
| Real estate | 0.00 | 0% |
| Other | 0.00 | 0% |
| Total | 8,348,467.53 | 100% |

| Sector | Number of concluded contracts | % | Value of concluded contracts | % |
|---|-------------------------------|---------------|------------------------------|---------------|
| Agriculture, forestry and fishery | 0 | 0.0% | - | 0% |
| Civil engineering | 14 | 2.6% | 240,942.7 | 3% |
| Trade | 59 | 11.1% | 1,329,051.5 | 18% |
| Accommodation and food services | 4 | 0.8% | 93,455.0 | 1% |
| Other services | 300 | 56.6% | 3,205,043.4 | 43% |
| Traffic | 5 | 0.9% | 63,600.0 | 1% |
| Financial activities | 0 | 0.0% | - | 0% |
| Industry | 2 | 0.4% | 65,669.6 | 1% |
| Health, education and social welfare | 2 | 0.4% | 269,600.0 | 4% |
| State administration | 130 | 24.5% | 1,970,390.3 | 26% |
| Other sectors | 14 | 2.6% | 302,008.4 | 4% |
| Total | 530 | 100.0% | 7,539,760.9 | 100.0% |

If individual users repay their annuities from the assets whose source of income in cash may be unknown, vulnerability to money laundering is high.

Availability and access to information on beneficial ownership exists, availability of reliable identification infrastructure exists and therefore the vulnerability in that part is low.

Share of international transactions is minimum, that is, vulnerability has been assessed as low in the above part.

For the observed period, the leasing companies reported one suspicious transaction to the Administration for the prevention of money laundering and terrorist financing.

Percentage of contracts concluded with politically exposed persons is small compared to the total number of concluded contracts for four years of operation with four companies. Since clients using the leasing services are foreign officers in a smaller part, that is, high risk clients, this risk has been assessed as medium because it confirms, although in a small number, the presence of the same in using this type of service.

Persons in charge of the discovering and preventing the money laundering and terrorist financing have integrity for carrying out these jobs and the level of training and knowledge, therefore vulnerability in the said part has been assessed as low.

Availability and enforcement of administrative sanctions has been defined by the Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of the Republic of Montenegro 3/14 and 44/18) and penalty provisions have been prescribed on the basis of the same.

Additionally, enforcement of criminal sanctions (for fraud, abuse of position, smuggling, etc.) is defined by the Criminal Code⁵⁹.

⁵⁹ (Official Gazette of the Republic of Montenegro 070/03, 013/04, 047/06, 40/08, 025/10, 073/10, 032/11, 064/11, 040/13, 056/13, 014/15, 042/15, 058/15, 044/17, 049/18 of 17.07.2018.).

(Inherent) vulnerability to money laundering – control measures

Leasing companies are reporting entities under the Law on the Prevention of Money Laundering and Terrorist Financing, to which the permit was issued by the Ministry of Finance and the supervisory authority was the Administration for the prevention of money laundering and terrorist financing. Adoption of the new Law on Leasing in 2017 – Law on Financial Leasing, Factoring, Redemption of Claims, Micro Crediting and Credit-Guarantee Affairs⁶⁰ has regulated the operation, *inter alia*, of leasing companies whose regulator and supervisor is the Central Bank of Montenegro.

Potential activities of money laundering and actions arising suspicion of money laundering are reflected through a number of cases of money laundering discovered in the sector, number of reported suspicious clients and transactions by authorized person for the prevention of money laundering and terrorist financing or his/her deputy who is reporting them to the Administration for the prevention of money laundering and terrorist financing.

As a whole, leasing companies satisfactorily reach the compliance threshold which has been established in term of carrying out activities regarding the prevention of money laundering and terrorist financing.

In the observed period the leasing companies have adjusted their operations with the Law on Financial Leasing, Law on the Prevention of Money Laundering and Terrorist Financing, Guidelines for analysis of clients' risk, Indicators of suspicious transactions, Rulebook on the method of work of authorized person, method of implementation of internal control, keeping and protecting the data, method of keeping records and training of employees, Rulebook on the method of submitting data on cash transactions in the value of EUR 15,000 and more and suspicious transactions to the Administration for the prevention of money laundering and terrorist financing, Rulebook on the contents and types of data on the payer that accompany electronic transfer of monetary assets etc.

Sector of provision of leasing services is the sector with significant balance sheet total. Possibly present are numerous fraudulent actions with the aim of presenting the false theft of the leasing in question or other means of deception or fraud from the recipient of the subject of leasing in attempting the illegal method of obtaining the object of leasing or in rare cases, where on the basis of forging documents on alleged delivery (supply) of the object of leasing money is provided illegally for financing of such falsely "created" supply.

The following factors affect the high risk of money laundering through leasing sector of providing leasing services:

- Monetary flows go through banking sector –cash given for repayments of instalments or advances is often not recognized,
- Third parties often repay instalments in the name of recipient of the object of leasing – (know your client) are not identified with the grantor of leasing because they were not the contracting party,
- Fraudulent actions that have a characteristic of predicate criminal acts.

⁶⁰ Official Gazette of Montenegro 73/17

Generally observed, larger money laundering through leasing is possible if criminals or representatives of organized crime are engaged in legal affairs where they require substantial basic assets (equipment, vehicles, machinery) for carrying out activities, where through repayments of the instalments it is possible to successively place dirty money and inflow into the legal flows where we indicated through illustration and schematic overview how it can come to the commitment of predicate criminal act by inflow of illegally obtained money into the legal operating flows.

Business policy of leasing company, during 2015, 2016, 2017 and 2018, to the large extent, was based on entering into the contracts with clients of high level of credit capacity, which affected the decrease of credit risk exposure. Growth in the number of credible clients, as well as more efficient collection of claims, are priorities of leasing companies in the following period, while the recovery of economic activity in Montenegro will be a direct cause for the growth of leasing affairs.

It means that vulnerability from money laundering in this sector is present and that it is necessary the leasing companies direct larger attention to establishing identity of client and verification of generated sources of its income.

Although there is a risk, the above measures are implemented in Montenegro. It is necessary to continue to adequately perform detailed verification and analysis of clients (due diligence), enforce the policy of "know your client" and provide evidence on the origin of generated income of users of leasing services, in order to have this risk under control and the tendency of drop in the following period.

Inclusive of 2019, the Central Bank of Montenegro issued 2 work permits for leasing companies which will be subject to controls in future period.

Final vulnerability to money laundering (after including control measures) is presented with coefficient 0,41 and reflects the medium low vulnerability.

ASSESSMENT OF VULNERABILITY OF DESIGNATED LEGAL ENTITIES AND INDIVIDUALS BEYOND FINANCES

The data the assessment is based on are obtained in cooperation of the Administration for the prevention of money laundering and terrorist financing/Sector for the prevention of money laundering and terrorist financing with the Tax Administration, Central register of Commercial Entities, Central Bank of Montenegro, Chamber of Commerce of Montenegro, Administration for Statistics, Institute of Certified Accountants and Auditors, Notarial Chamber, real Estate Administration, Administration for Games of Chance and Administration for Inspection Affairs. Request for designating a representative has been submitted to the Bar Chamber, but due to their noncooperation, we did not have a representative from the sector of lawyers.

By the Decree of the Government of Montenegro on organization and method of work of the state administration⁶², former APMLTF has been integrated into the Police Administration, as Sector for the prevention of money laundering and terrorist financing (SPMLTF). Likewise, it is important to note that due to the above organizational changes supervision of reporting entities who were under the competence of the APMLTF was entrusted to the Ministry of Interior which took over the inspectors from the former Department for control of the reporting entities of the APMLTF. For that reason, during 2019 there were 9 controls performed of the reporting entities whose supervisory authority, under the Law on the Prevention of Money Laundering and Terrorist Financing, was APMLTF.

⁶¹ Designated non- financial businesses and professions (designated legal entities and individuals out of financial sector

⁶² Official Gazette of Montenegro 087/18 of 31.12.2018, 002/19 of 11.01.2019.

Private sector was included in the assessment indirectly, through questionnaire for reporting entities.

Principal objective of the assessment “Vulnerability of DNFBPs” is to analyze vulnerability of that part of the system which, *inter alia*, emanates from the offer of the products and services offered by reporting entities in that sector.

For adequate assessment of vulnerability of the sector of DNFBP, risk exposure of this sector, the following was analyzed:

- availability of products and services
- number of service providers
- total status in the market-development, offer/demand
- differentiation of products and possibility of abuse.

When assessing the degree of vulnerability the following criteria were taken in the account: effectiveness of inspection activities, results of supervision, enforcement of penalties, number of submitted STR⁶³, from the reporting entities and the number of STR that refer to reporting entity, etc.

General conclusion of the size of this sector, based on the number of reporting entities that fall into the sector of DNFBPs is that it is a complex and very large sector that includes reporting entities whose activity and significant use of cash impact the increased level of vulnerability in individual parts of the sector.

According to the official data gathered from the Central Register of Commercial Entities, there are significantly large number of legal entities operating in the market within majority of category of reporting entities. However, what is important to point out is that the number is relative category because in certain number of reporting entities, despite a large number of reporting entities, there is much smaller number of active ones or operating with a profit. Besides, the fact

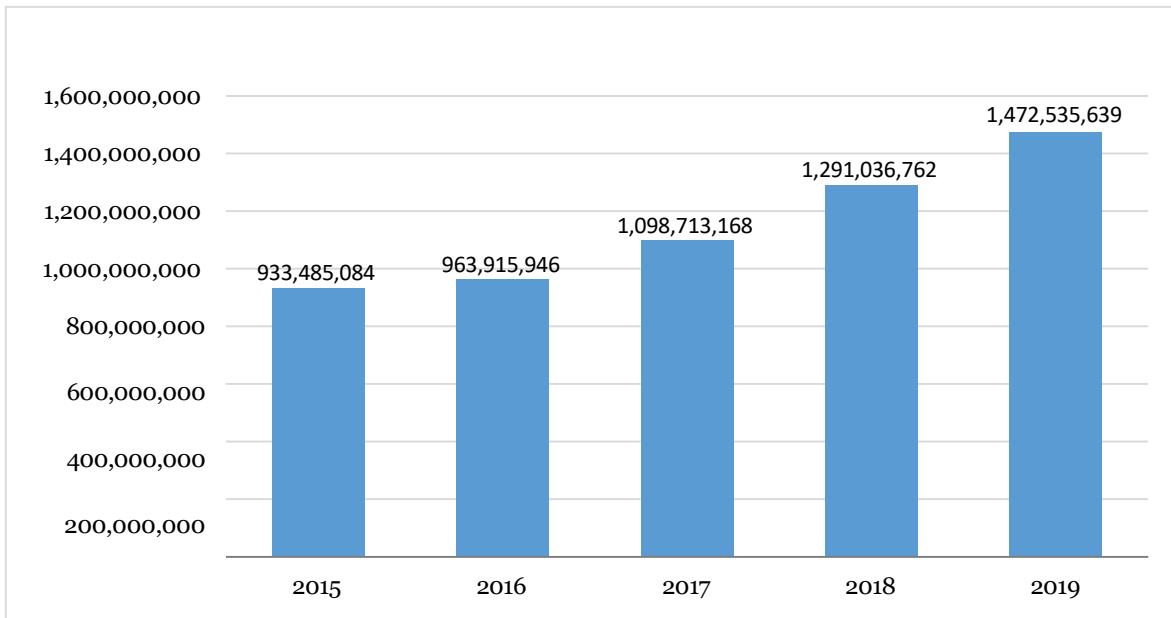
is that some reporting entities are registered under one code of activity (prevailing activity) and also deal with other activities, still makes it difficult to precisely determine the number of reporting entities within the DNFBP sector.

With regard to the supervision on implementation of the LPMLTF by this sector, it can be said that this issue is well regulated by legal regulations, but considering the size of the sector, when speaking about application of relevant legal provisions in question, it is necessary to increase the number of inspectors, so that the supervision on large number of reporting entities is adequately performed. Besides, it would be useful for all categories of reporting entities, in cooperation with the Central Register of Commercial Entities and Tax Administration, to do the list of all companies and entrepreneurs operating in a significant scope, in order to facilitate target controls. Supervisory authority would in that case periodically check the enforcement of the LPMLTF by sending the questionnaire to those reporting entities. The questionnaire could obtain the information on which of the reporting entities are engaged in related activity, and not only the one under which code they are registered (prevailing activity). Therefore, at least the framework insight into the number of registered reporting entities would be obtained for those activities that are related and where there is overlapping (such as with the accountants and consultancy services).

⁶³ Suspicious transaction

Sector that includes individuals and legal entities beyond the financial sector which, according to the Law on the Prevention of Money Laundering and Terrorist Financing (LPMLTF) have been defined as “reporting entities” is separated as particularly “interesting” from the aspect of vulnerability from money laundering. Namely, the data on annual turnovers in the areas that make this sector, i.e. turnover with reporting entities that are recognized as significant and defined by the Law on the Prevention of Money Laundering and Terrorist Financing, indicate a very large possibility of bringing in dirty money and its implementation, taking into account that they are very high taxable turnovers, according to the data from the Tax Administration. The fact that it is “taxable” indicates that realistic turnover is significantly higher. The assessment includes and represents the overview of status for 2015, 2016, 2017, 2018 and 2019, and reporting entities that are the subject of assessment in this sector are organizers of lottery and special games of chance, persons carrying out activities and jobs of investing, trade and mediation in the trade of real estate, persons carrying out activities and jobs of trade in precious metals and rocks, lawyers, notaries, accountants and auditors, car dealers, persons engaged in provision of services when establishing legal entities and other companies, as well as business or fiduciary services, and persons dealing with property management for third parties.

Table of taxable turnover of nonfinancial sector⁶⁴



Tendency of growth of turnover and profit in the sector is noticeable in the observed period, which thereby increases the risk and vulnerability of the sector and the need of stronger response in a form of controls, training (prevention) and verifications and taking of proactive legal measures. We should especially have in mind that economy in Montenegro in this sector is cash oriented, that turnover is significantly generated by cashless transactions with the share of very large number of clients reporting entities, which additionally increases the vulnerability level in terms of more difficult monitoring of legality of operations, that is, so called “placement of dirty money” is enabled and its final conversion into value, which is the objective of money laundering.

⁶⁴ According to the data of Tax Administration

Important data is that every year non-financial sector made around one fourth (24.4-27.7%) of share in gross domestic product (GDP) of Montenegro. Since the official data of MONSTAT for GDP of 2019 will be published in the second half of 2020, it is not possible to calculate the share of the non-financial sector in GDP for 2019.

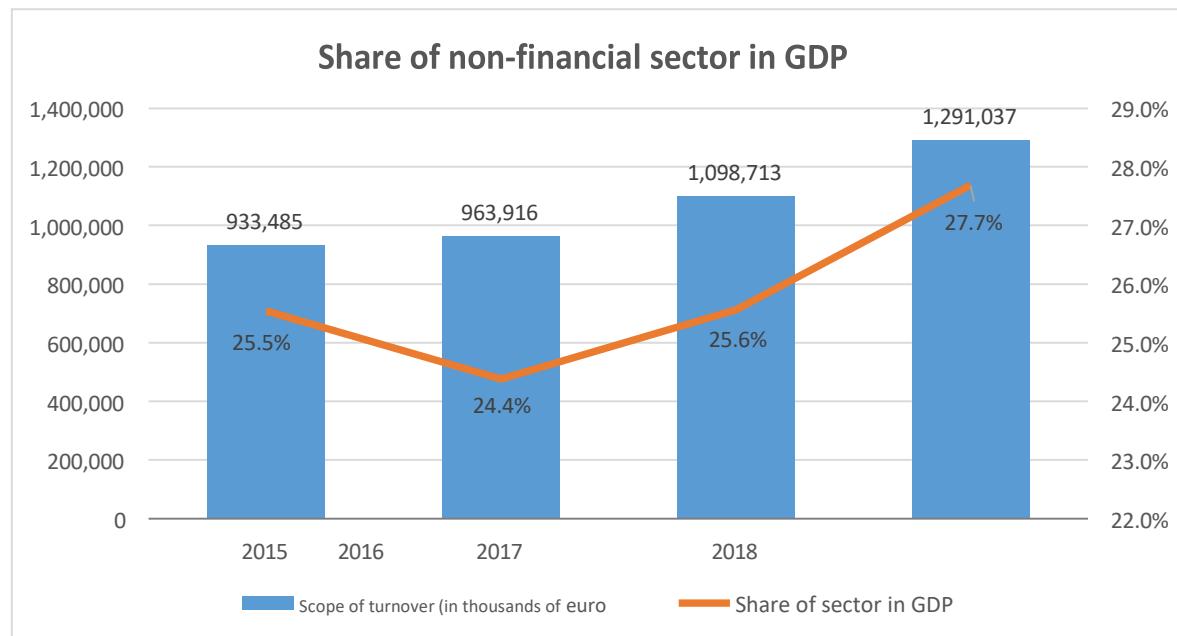


Table of the level of vulnerability of DNFBP sector

| DNFBP sector | Degree of vulnerability from money laundering |
|---|---|
| Lawyers | 0,99 (H) |
| Persons carrying out activity and jobs of investing, trade and mediation in real estate trade | 0,80 (H) |
| Organizers of games of chance | 0,78 (MH) |
| Persons dealing with the provision of marketing and consultancy activities related to operations and other management | 0,61 (MH) |
| Accountants and auditors | 0,59 (M) |
| Notaries | 0,56 (M) |
| Person carrying out activity and jobs of trade in precious metals and other precious stones | 0,55 (M) |
| Traders in motor vehicles | 0,47 (M) |
| Persons dealing with management of property of third persons | 0,45 (M) |

Therefore, the total vulnerability of designated legal entities and individual beyond the financial sector (DNFBPs) to money laundering risks is medium high.

OVERVIEW OF ANALYSIS OF INDIVIDUAL REPORTING ENTITIES

1. LAWYERS (grade of vulnerability: 0,99)

Normative framework

After the assessment has been performed it was established that the degree of vulnerability of lawyers is 0,99, which defines the same as high level of vulnerability. Such high degree of vulnerability is established for reasons that during the data gathering they did not show their interest in participation, cooperation was not established with the Bar Association and the assessment was done solely on the basis of the data that could be gathered from publicly available sources.

Under the Law on the Prevention of Money Laundering and Terrorist Financing, the lawyers are defined as reporting entities that are committed to implement measures of money laundering and terrorist financing in certain cases, prescribed by the Law on the Prevention of Money Laundering and Terrorist Financing –Article 49

“A lawyer, or a notary shall, in accordance with this Law, implement measures of detecting and preventing the money laundering and terrorist financing, when:

- a) he/she assists in planning and executing transactions for a customer, related to:
 - purchase or sale of real estate or a business organization;
 - managing money, securities or other property of a customer;
 - opening and managing a bank account, savings deposit or the account for dealing with securities
 - collection of funds for establishing, operating or managing the business organization;
 - founding, operating or managing the institution, fund, company or other similar form of organization;
- b) he/she executes a financial transaction or transaction concerning real estate on behalf and for a customer.

When acting in the above cases, the lawyers shall implement all actions and measures as other reporting entities under the Law on the Prevention of Money Laundering and Terrorist Financing.

According to the Law on Advocacy⁶⁵, lawyers registered in the Bar Association can practice advocacy independently, in joint law firm or law partnership firm. Advocacy is independent and autonomous service, providing legal aid to individuals and legal entities. The Bar Association is autonomous, independent, professional organization of lawyers that does the jobs of common interest for the lawyers registered in the list of lawyers and does jobs entrusted by the Law on Advocacy. The lawyers mandatory join in the Bar Association.

A lawyer registered in the list of lawyers of other country is entitled to act before the judicial and other state authorities in Montenegro, under the condition of reciprocity. Certificate of reciprocity is issued by the ministry in charge of the judiciary jobs, with previously obtained opinion of the Bar Association. Condition for the registration in the Bar Association of Montenegro is Montenegrin citizenship, which is not compliant with the EU acquis.

⁶⁵ Official Gazette of the Republic of Montenegro 079/06 of 26.12.2006, Official Gazette of Montenegro 073/10 of 10.12.2010, 022/17 of 03.04.2017

Due to the acting in proprietary-legal affairs the lawyers are designated as focus both through the LPMLTF and through this assessment. Their role is to provide legal security of citizens in trade of real estate.

Structural indicators of vulnerability

According to the publicly available data, 989 lawyers are registered in the list of the Bar Association.

Scope of the turnover for lawyers, obtained from the representatives of the Tax Administration, is presented in table below and for the period 2015-2019 it amounted to 118,2 million euro, and the level of vulnerability, in accordance with the above data, is designated as high.

The lump sum taxation system applies to the lawyers pursuant to the Law on Personal Income Tax66, in accordance with the provisions on income generated on the basis of conducting independent activity. This tax is paid according to actual income in a form of monthly advances. As exception, the Law stipulates that the payer of income tax from independent activity, whose total turnover in the year preceding the one for which the tax is established, that is, whose planned turnover at the beginning of carrying out activities is less than EUR 18,000, may at its request, recognize that the tax is paid in annual lump sum amount.

Scope of turnover according to the data of the Tax Administration for lawyers who have voluntarily registered as VAT payers (VAT of lawyers payers: in 2015 the total of 241; in 2016 the total of 26; in 2017 the total of 300; 2018 the total of 347; in 2019 the total of 369).

Taxable turnover with lawyers (EUR)⁶⁷

| Year | Number of lawyers | Amount |
|-------|-------------------|---------------|
| 2015. | 241 | 21,275,394.94 |
| 2016. | 266 | 21,497,830.33 |
| 2017. | 300 | 23,192,643.63 |
| 2018. | 347 | 24,935,360.08 |
| 2019. | 369 | 27,318,251.93 |

Control measures

Lawyers' Code of Professional Ethics constitutes a set of rules on duties and rights of lawyers, based on a special type and high level of their professional and ethical liability. Supervision on implementation of the LMLTF and regulations adopted on the basis of it, for lawyers and law firms, performs the Bar Association of Montenegro. The lawyer shall implement measures of detecting and preventing of money laundering and terrorist financing in accordance with this Law, in cases defined by Article 49 of the Law on the Prevention of Money Laundering and Terrorist Financing.

⁶⁶ Official Gazette of the Republic of Montenegro 65/01, 12/02, 37/04, 78/06 and 4/07 and Official Gazette of Montenegro 86/09, 40/11, 14/12, 6/13, 62/13, 60/14, 79/15, 3/16 and 67/19

⁶⁷ Data of the Tax Administration

The lawyer shall report the SPMLTF on clients and transactions for which there are the reasons for suspicion in money laundering and terrorist financing.

In the First regular progress report after the fourth round of evaluation of the system of PMLTF (Manival) it was indicated that it is necessary to define the competencies and authorities of the Bar Association in order to enable it to perform efficient supervision on the implementation of the LPMLTF. Due to the lack of cooperation with the Bar Association it was not possible to get the information on performed controls.

Besides, the Bar Association shall, as authority supervising the implementation of the LPMLTF by the lawyers and law firms, before performing controls, notify the financial intelligence unit on supervision activities it is planning to take and, if needed, to coordinate and harmonize its activities in performing supervision over the implementation of this Law (Article 94 paragraph 2). Likewise, according to paragraph 3 of the same Article, if in the supervision procedure over the implementation of this Law the supervisory authority establishes illegalities and/or irregularities in operations of the reporting entity, it shall be authorized to order the reporting entity to remedy illegalities and/or irregularities; initiate the misdemeanour procedure against the reporting entity in accordance with the law governing the misdemeanour procedure; and to instruct other measures to the reporting entity in accordance with the Law. The FIU during the reporting period did not receive any notification of the Bar Association regarding the planned or performed controls, and it is questionable if the Bar Association performs supervision over the implementation of the LPMLTF at all, and if yes, to which extent.

According to the data of the Financial Intelligence Unit, so far the lawyers have not reported any suspicious transactions. In 2019, other reporting entities have reported 2 suspicious transactions that referred to the lawyers. Acting upon these reports, the officers of the FIU temporarily blocked the assets. On the basis of these practical applications, it is clear that they not only fail to report any suspicious transactions of their clients, but the lawyers appear as perpetrators of individual suspicious transactions.

In 2018, 2 reports on cash transactions were prepared by the lawyers, in total amount of EUR 25,670.01.

Pursuant to the Law on the Prevention of Money Laundering and Terrorist Financing, the lawyers as profession are separated in one special category of reporting entities due to the possibility of abuse of their knowledge of the legal and economic system of one side and specific nature of operations and needs of their clients on other side. Thus, it is the profession that may be used for the purposes of surpassing the legal obstacles and hiding of illegal actions so that assets of illegal origin are placed into the legal flows, or be presented as legal. Since the lawyer have direct insight into the activities of a client in which they also participate as representatives, their role implies higher exposure and vulnerability in terms of this analysis. It is the reason more that this category of reporting entities abides to the obligations prescribed by the LPMLTF and be the subject of increased control by competent and supervisory authorities.

In order to improve the current status and reduce the vulnerability of lawyers to money laundering, it is necessary:

- to do the analysis and change of the Law on the Prevention of Money Laundering and Terrorist Financing, in order to designate other authority that would implement the competencies of supervision compared to the PMLTF;
- increase number of controls to the lawyers pursuant to the LPMLTF;
- since there are no reported suspicious transactions, provide the mechanism of raising awareness of lawyers on duties, objectives and significance of monitoring and reporting suspicious transactions.

2. PERSONS CARRYING OUT ACTIVITIES AND JOBS OF INVESTING, TRADE AND MEDIATION IN REAL ESTATE TRADE (vulnerability grade: 0.80)

Normative framework

After the assessment, it was established that the level of vulnerability of legal entities and individuals carrying out activities and jobs of investing, trade and mediation in the trade of real estate is 0.80, on the basis of which it is defined as high level of vulnerability.

The Law on the Prevention of Money Laundering and Terrorist Financing defines these legal entities and individuals as reporting entities, which means that they shall implement measures and actions established by the Law in order to prevent money laundering and terrorist financing. The laws that apply to persons engaged in investing and constructing of real estate are: Companies Act, Law on Corporate Income Tax, Law on Personal Income Tax, Law on Construction Products, Law on Spatial Planning and Construction of Structures, Decree entrusting a part of the tasks of the Ministry of Sustainable Development and Tourism to the Engineering Chamber of Montenegro, Rulebook on the method of preparation, scale and detailed content of technical documentation, Rulebook on the method of calculating the area and volume of the facilities, Rulebook on the method and procedure of issuing and revoking licenses and the method of keeping the license register, Rulebook on the conditions and method of certifying and annulling the certification of a foreign person's license, Rulebook on the form and appearance of the board with the information on the issued building permit. The real estate sale is not regulated by a separate law, but the provisions of the Law on Obligations, Law on Real Estate Sales Tax, Law on Value Added Tax will apply.

As far as the area of real estate sales is concerned, persons carrying out investment, sale and mediation activities in real estate transactions, who as such are defined by the Law on the Prevention of Money Laundering and Terrorist Financing as reporting entities, were taken into account. It was impossible to precisely determine the size of this sector since a number of persons registered for execution of construction works perform other activities and vice versa. According to data from the CRCE, 3,581 legal entities and natural persons are registered in Montenegro engaged in investment and construction, while 1,002 real estate agencies are engaged in real estate sales and mediation, as well as 562 legal entities and natural persons registered for the activity of purchase and sale of own real estate.

The risk of money laundering in this area is increased by the fact that the payment of construction materials, daily wages, fuel, etc. is very often made in cash, which is shown by numerous reports on suspicious transactions and criminal proceedings for criminal offenses of taxes and contributions evasion, which in the background have the withdrawal of cash for payment of workers and construction materials.

Unlike the construction companies, agencies for real estate sales do their business mainly through accounts.

The scope of trade, according to the data of the Tax Administration, is based on the reporting entities for VAT, in 2015 there were 1451, in 2016-149, in 2017-155, in 2018-1641, in 2019-1795.

Taxable turnover with persons engaged in investing and constructing real estate (EUR)⁶⁸

| Year | Number of VAT payers | Amount |
|-------|----------------------|----------------|
| Year | Number of VAT payers | Amount |
| 2015. | 1451 | 487,186,847,91 |
| 2016. | 1496 | 568,536,386.14 |
| 2017. | 1553 | 690,914,254.09 |
| 2018. | 1641 | 818,708,726.37 |
| 2019. | 1795 | 977,390,662.04 |

Scope of turnover of real estate agencies, presented in the table, refers to 783 VAT payers in 2015, 778 in 2016, 810 in 2017, 882 in 2018 and 972 in 2019.

Taxable turnover of agencies for real estate and persons registered for activities of purchase and sale of own real estate (EUR)⁶⁹

| Year | Number of VAT payers | Amount |
|-------|----------------------|---------------|
| 2015. | 783 | 83,325,868.18 |
| 2016. | 778 | 77,099,917.64 |
| 2017. | 810 | 86,815,736.07 |
| 2018. | 882 | 92,688,098,60 |
| 2019. | 972 | 84,442,869.22 |

According to the Severe and Organized Crime Threat Assessment in Montenegro–SOCTA (2017), the real estate market has been recognized as one of the particularly “vulnerable” areas, that is, areas where high prominent risk level is characteristic in relation to money laundering. High level of vulnerability is caused by a possibility of purchasing land and constructed structures for cash, whose origin may come from criminal activity⁷⁰.

Control measures

When speaking about control measures for the activity of construction industry the level of vulnerability has been assessed as medium. Control of enforcement of the LPMLTF until 2019 has been implemented by the former APMLTF –Department for control of reporting entities. There were five inspectors employed in the above Department, who on the basis of established methodology, selected the reporting entities to be controlled. Objectives and scope of legal obligors of inspection supervision have been defined by the annual plan of inspection controls and the control of legal reporting entities was based on the approach based on the risk assessment. As criteria for the assessment of exposure to risk of money laundering and terrorist financing, results of the previous National Risk Assessment of money laundering and terrorist financing of 2015 were used.

⁶⁸ Data of the Tax Administration

⁶⁹ Data of the Tax Administration

⁷⁰ SOCTA 2017, Severe Organized Crime Threat Assessment in Montenegro (public version), page 61

In the period 2015-2019 there were total of 279 controls of persons dealing with "investing, sale and mediation in real estate sale". Misdemeanours were determined in 88 controls, whereat 156 penalties were pronounced in total amount of EUR 248,000. Likewise, the court pronounced 19 penalties in total amount of EUR 32,40.

On the basis of presented data on number of controls and number of controls identifying breaches of the LPMLTF, it can be recognized that irregularity in implementation of the LPMLTF was observed at almost each third reporting entity. It is also obvious that most of the irregularities were established when controlling the reporting entities-construction companies (and the same had the largest number of controls), as well as with legal entities and individuals dealing with investing, trade and mediation in the sale of real estate.

The most frequently established misdemeanours with the reporting entities are:

- within the legally prescribed term they did not perform the risk analysis that establishes the assessment of the risk of individual client, group of clients, state or geographic area, business relationship, transaction or product (Article 7 paragraph 1);
- they did not keep the prescribed records (Article 78 paragraph 1 point 1 and 2);
- within the legally prescribed term they did not submit the act appointing the authorized person and the person designated as his/her deputy (Article 43 paragraph 3);
- they did not establish and did not apply appropriate rules in their acting with the client and did not provide reporting, keeping of data, internal control, risk assessment, risk management and communication, with a view to prevent money laundering and terrorist financing (Article 43 paragraph 1);
- did not submit to the management authority a report that contains accurate and complete data referred to in Article 79 points 1-4 and 8-11 of this Law on any transaction executed in cash in the amount of at least EUR 15,000 with no delay (Article 41 paragraph 1);
- did not identify the client (Article 8 paragraph 1 point 1);
- did not obtain the data on objective and nature of business relationship or purpose of transaction and other data in accordance with this Law (Article 8 paragraph 1 point 3);
- within the prescribed period did not designate authorized person and at least one deputy for the tasks of detecting and preventing the money laundering and terrorist financing and notify the administrative authority thereof.

In the same period, the FIU has not been reported any suspicious transaction by these reporting entities, but 61 report on suspicious transactions related to this sector have been received, that is, in which cases there has been implementation of real estate sale. Besides, FIU singled out 9 STR71, and in 2019 one STR. According to the answers to the submitted questionnaire, all test subjects claim that there have been no suspicious transactions during the operations. However, by analyzing the database on suspicious transactions it was established that within the above period, element of real estate sale was represented in significantly large number of received suspicious transactions. Therefore, it is questionable whether the reporting entities really did not have suspicious transactions or, which is more likely, that they did not refer to monitoring and analysis of transactions with due care, which leads to a very significant risk for the sector where we have not only failure to report a criminal act by the reporting entities and misdemeanour liability for not meeting the legally stipulated duties, but also the suspicion in covering up of the same on purpose.

Besides, in the period 2015-2019 the FIU received from this category of reporting entities 1735 cash transaction reports (CTR) in total amount of EUR 60,382,430.06.

In overall assessment of control measures it is necessary to take into account the existence of Engineers Chamber of Montenegro, the work of which is supervised and controlled by the Ministry of Sustainable Development and Tourism. The ministry through a separate Decree (periodically renewed), entrusts to the Engineers Chamber a part of the jobs of Ministry, such as: issuance and revocation of licenses, certification and annulling of certification of licenses and keeping the register of licenses and other competencies entrusted by Article 140 of the Law on Spatial Planning and Construction of Structures. As one of the competencies of the Chamber the Statute of the Engineers Chamber of Montenegro defines adoption of the Code of Ethics and supervision of its implementation. The Code of Ethics refers to the “rules of good practice” and to general principles and rules contained in all documents of the Chamber, especially in its Statute. Pointing to the law in the Code of Ethics contains a general message of obligation of each engineer and company to abide to the legal regulations of our country, especially to the part of the legal and bylaw regulations prescribing the area of designing, supervision and construction of structures.

Vulnerability from money laundering is expressed in connection between the activities of civil engineering and real estate sale. The reason for that is, as first, impossibility of establishing the accurate number of reporting entities in this area (persons registered under the code of one activity as prevailing one, often simultaneously and to no smaller extent deal with other related activities), which reduces the possibility of target control for the purposes of preventing the money laundering. The increased risk is affected by use of cash for payment of workers, purchase of building material, land and constructed real estate. Besides, on the basis of observed typologies and practical experiences, it is obvious that dirty money transferred to the accounts of related legal entities and individuals is further invested, often in real estate and in the civil engineering sector.

It is important to emphasize that significantly large amounts of funds, transferred to a large extent from abroad, are very often from legal entities registered in off shore destinations. Thus, it can be concluded that this sector is the most appropriate for placing, i.e. investing money, since it enables investing of significant amounts whose origin is difficult to establish. Likewise, it enables an easy transfer of funds to the related persons, with formally legitimate job.

Real estate sale was represented in larger number of researched cases in Financial Intelligence Unit and on the basis of practice in the observed period it can be established that it is probably the most frequent method of investing funds for which it is suspected to come from illegal sources, that is, one of the easiest methods of placing funds for the purposes of possible money laundering. In addition to the above, it is necessary to emphasize that it is prominent in one number of reporting entities, not only the ignorance of duties under the Law on the Prevention of Money Laundering and Terrorist Financing, but also ignorance for the application of the provisions of the Law during the operations. Besides, a tendency was perceived with this type of reporting entities that in client identification, verifying the origin of money and identifying of suspicious transactions, they entirely rely on the banks, Notaries and FIU. The above factors affected such high level of vulnerability to money laundering in this area.

Recommendations

- education of representatives of this sector reporting entities with regard to their obligations under the Law on the Prevention of Money Laundering and Terrorist Financing;
- finding a new solution when speaking about registering persons from the civil engineering sector that would result in easier and more precise identification of individuals and legal entities dealing with investing, construction and sale/mediation in the real estate sector;
- improvement of cooperation between the state authorities in a part of exchanging the information and planned actions.

1. ORGANIZERS OF GAMES OF CHANCE (vulnerability grade: 0.78)

Normative framework

After the completed assessment it has been established that the level of vulnerability of the sector of organizers of games of chance is medium-high.

As organizers of games of chance have been defined as reporting entities in Article 4 of the LPMLTF, it means that they shall perform all measures and actions laid down by the Law on the Prevention of Money Laundering and Terrorist Financing.

The games of chance are organized in Montenegro in accordance with the Law on the Games of Chance. The right of organizing the games of chance in Montenegro is transferred by the state through a concession, through competent authority, to companies with a capacity of legal entity registered for organizing the games of chance.

The right of organizing the lottery games of chance and special games of chance in casinos is transferred by the concession contract, concluded on the basis of the decision of the Government of Montenegro with legal entity, if meeting the prescribed conditions. Concession for organizing lottery games, except of bingo, TV tombola and closed type tombola, may be granted only to one concessionaire organized as a joint stock company. The procedure of granting concession for organizing the lottery games and games of chance in casinos is initiated by public call published in at least one printed daily media available in the entire territory of Montenegro.

Organizing games of chance via Internet, that is, other telecommunication means that are subject to online supervision, after rejecting the approval by administrative authority in charge of the games of chance, is allowed only to companies obtaining the concession for organizing games of chance.

Concession shall be transferred by the concession contract, signed by the competent authority as concedent and company as concessionaire. The contract specifies location and address of a special organized space for organizing games of chance, concession duration, date of starting the organizing of games of chance and other rights and obligations of concedent and concessionaire. In case that during the concession duration it comes to changes or failure to meet the requirements for having concessions, it can be taken away, and reasons indicated in Article 14 of the Law on Games of Chance.

According to the current regulations, the period for which the concession is transferred, that is, duration of concession, depends on the type of the games of chance:

- For games of chance on ATMs; betting shop games of chance; organizing games of chance via Internet, or other telecommunication means; as well as for some lottery games-bingo, TV tombola and closed type tombola, concession is issued for the period of three years, and following the concessionaire's request if it meets the requirements, it can be extended for the period of two years;
- For lottery games and games of chance in casinos the concession is granted for the period of 10 years, and following the concessionaire's request, if meeting the requirements, may be extended for the period of five years.

Starting from 12.08.2016., when the Rulebook amending the rulebook on more detailed spatial and technical requirements for ATMs and forms of the operating report and inventory of the counters and Rulebook amending the rulebook on spatial and technical requirements for organizing the betting shop games, there was a period of 90 days for organizers of games of chance to familiarize with the obligations the same contain and adequately prepare for connecting to ON-LINE supervision. In cooperation with the Administration for Inspection Affairs the organizers were put under pressure to observe all legal and contractual duties aimed at connecting to the ON-LINE supervisory system.

Mid April 2017, the first organizer was connected and by the end of 2017 most of the organizers of games of chance, 35 of them, were connected to the ON-LINE supervisory system, by which significant results in final implementation of this project were achieved. Those who are still not connected are in the process of granting concessions and connections.

As far as the Internet betting is concerned, organizing of games of chance via Internet, after getting approval from the administrative authority in charge of the games of chance, is permitted only to companies being granted concession for organizing games of chance (Article 9 of the Law on Games of Chance).

Companies referred to in paragraph 1 of this Article must connect the information system on which they organize the games of chance via Internet into the information system of a competent authority and provide permanent access to the data and system notes.

For organizing of games of chance referred to in paragraph 1 of this Article a concession fee is determined in fixed amount of EUR 10,000 a month, which is to be paid by the 15th of the month for current month.

Structural indicators of vulnerability

According to the data of the Administration of the Games of Chance for 2019, there are 40 organizers of the games of chance operating in Montenegro and related to ISONIS:

- games of chance in casinos are organized by 3 organizers, on 5 locations as follows: one casino in Podgorica, four in Budva. Closed type tombola is organized by 4 organizers with 4 concessions.
- Special games of chance on ATMs are organized by 23 companies in total 119 ATM clubs with 1581 ATMs and 83 electronic roulettes with 48 gamer places.
- Special games of chance – betting shop games are organized by 20 companies and there are total of 926 betting shops and 44 betting terminals.
- 7 organizers have approval for organizing the games of chance via Internet or other telecommunication means.
- 8 companies organize simultaneously special games of chance –betting games and special game of chance on ATMs.

On the basis of these data, it was assessed that the sector is large and therefore the vulnerability assessment for this indicator is high. According to the data that organizers of games of chance submitted to the Administration for the Games of Chance, the total turnover of organizers of games of chance for the period of 2015-2019 was around 60 million euro.

In 2019, the largest incomes from the games of chance were generated in the area of organizing special games of chance:

- Betting games: EUR 7,951,135
- Casinos: EUR 4,565,136
- Automation clubs: EUR 2,496,723
- Tombola: EUR 6,606
- Internet betting: EUR 817,551
- Prize winning games: EUR 41,484

On the basis of the data gathered for casinos, tokens are mainly bought by cash, at the cash register of the casino or at the tables and props (slot machines), while cash payments are mainly made in betting shops. Card payments is made in the system defined as "Organizing games of chance via Internet and other telecommunication devices", when entering into contract on bet is done remotely, by indirect entering into bet and gaining participation in the game, without a physical presence of organizers of games of chance and participants in the games of chance.

Organizers of games of chance do not check the origin of money. Frequency of international transactions is low, since majority of payments is done in Montenegro. Percentage of foreign visitors for the period 2015-2019 was around 80% (based on the available data).

It should be emphasized that, in accordance with the Law on Games of Chance, for organizing tombola of a closed type there are no numerical or territorial restrictions, and that game may be organized by any legal entity meeting the conditions stipulated by the Law on Games of Chance. Bearing in mind a small number of organizers of lottery games and premises in which they are organized, as well as the turnover which is lower than in other games of chance, it can be concluded that lottery games have been assessed as medium level of vulnerability, while level of vulnerability for other games of chance has been assessed as high.

In Manival Report on IV round of evaluation of system of PMLTF implemented in 2014, it is indicated that there are no mechanisms that would prevent the criminals and their associates to be owners or to manage casino. Besides, within the observed period there was only one inspection performed. No penalty was pronounced until now. Absence of efficient supervision in casinos increases the concern in relation to the implementation of duties of PMLTF stipulated by the Law in relation to casinos. Besides, the obligation of implementing CDD measures does not exist for Internet casinos, which increases the risk from money laundering in this sector. Likewise, implementation of CDD measures is insufficient in relation to transactions in the legally stipulated period in the amount of EUR 2,000, as well as in cases when transaction is made by one or more related transactions. During the meeting with representatives of casino it was established that related transactions are not checked in casinos, which disturbs the efficient implementation of CDD measures in the casino sector.

Obligation to pay attention to unusual and complex transactions does not apply in practice in casino sector, and there is a serious concern in relation to the system of reporting due to complete absence of reports on suspicious transactions by the casinos. In addition to that, it is obvious that representatives of organizers of games of chance do not clearly understand the reporting obligation. Casino representatives are, as it seems, only aware of the obligation to report the cash transactions to the FIU.

According to the Severe and Organized Crime Threat Assessment in Montenegro –SOCTA (2017), the games of chance are indicated as one of the areas in which money laundering is implemented. Namely, modus observed in the last period in Montenegro refers to the operations of legal entities that organize the games of chance via Internet, without obtaining appropriate license for the above business activities.

From the aspect of application of measures for the prevention of money laundering, Article 36 paragraph 1 point 12 of the Law on the Games of Chance specifies that along with the application for allocation of concession for casinos they should also provide evidence that authorized persons have not been convicted for offenses against the payment operations and commercial operations and that no criminal procedure is currently conducted against these persons for the respective offences, but the same does not envisage that the above documentation has to be submitted for owners and beneficial owners of those entities, which also constitutes deficiency from the aspect of preventing the criminal inflow into this commercial activity.

The following table provides the overview of revenues for the period 2015-2019, i.e. total amount of payments reduced by the overall value of disbursements.

Table of turnover with organizers of games of chance (€)

| Legal entities | 2015 | 2016 | 2017 | 2018 | 2019 |
|-----------------------------|--------------|--------------|--------------|--------------|--------------|
| Casinos | 1.597.285,44 | 1.865.824,92 | 1.752.343,35 | 3.866.033,96 | 4.565.136,63 |
| Betting shops- terminals | 4.959.566,35 | 6.112.147,42 | 7.312.527,51 | 8.316.463,56 | 7.951.135,31 |
| ATMs | 1.974.679,23 | 2.130.322,81 | 2.015.897,81 | 2.250.954,51 | 2.496.723,62 |
| Lottery games | 155.070,43 | 142.179,86 | 16.743,04 | 6.463,69 | 6.606,16 |

Control measures

All organizers of games of chance are reporting entities under the Law on the Prevention of Money Laundering and Terrorist Financing. Supervision over implementation of the Law on Games of Chance and regulations adopted on the basis of that Law is done by the Administration for the games of chance. Supervision in the area of games of chance, and therefore with regard to the LPMLTF, since 2012 has been entrusted to the Administration for Inspection Affairs – Department for Games of Chance. There are 8 job positions systematized in this Department and all 8 of them are filled in.

According to the available data, in accordance with the LPMLTF:

- In 2015 there were 8 performed controls and irregularities were not recognized;
- In 2016 there were 11 controls;
- In 2017 there were 23 controls and one penalty in the amount of EUR 2,400,
- In 2018 the Department performed 12 controls in accordance with the LPMLTF,
- while in 2019 there were 14 controls where no breaches of the LPMLTF were recognized.

Analysis of these data and having regard to the fact that according to the assessment of organized crime threats⁷² this category of reporting entities is extremely vulnerable, and bearing in mind that generated revenues are presented annually in tens of millions of euro, one detected irregularity by supervisory authority and one fine for the offence, clearly indicate that system control of implementation of the Law on PMLTF is not performed in this area. This conclusion is supported by the fact that in the above period no report on suspicious transactions (STR) has been reported to FIU. By analyzing the cash transactions by the FIU, one STR was singled out

in 2016, and in 2018 one was received from the bank, while in 2019 there were three STR received and related to the sector of organizers of games of chance. The number of submitted Cash Transaction Reports (CTR) in the observed period was 4065 CTR (in the amount of EUR 200,143,496 million), on the basis of which it can be concluded that this sector is very active, that it uses a large amount of cash, and that exposure and vulnerability of the same are also high.

A possibility of opening “privilege account” by some casinos (new service for the players) has been determined as additional indicator for stronger controls in this part. It is the casino account to which the players (mainly foreign) pay money for the game in the casino and which can only be used for the game. From that account the player can withdraw cash in casino. Also, funds cannot be transferred from that account to the accounts of related persons, but only to the account of a person who has paid the money and to the same amount from which the money has been paid.

⁷² SOCTA 2017, *Severe and Organized Crime Threat Assessment in Montenegro (public version)*

Control of this account is performed by having insight into the bank statement of the organizers of games of chance where all individual cashless payments of the player are made (solely) for the game in casino and disbursements (solely) of gains to the players.

The above established facts, matched with external factors such as the overall population of Montenegro (according to the census from 2011 there were 620,029 inhabitants_, total turnover in the area of games of chance, number of organizers and facilities in which the games are organized, number of controls in the last couple of years, affected the **overall assessment of sector vulnerability –medium high**.

Recommendations

- analysis of current solutions in the Law on the Prevention of Money Laundering and Terrorist Financing is necessary, especially from the aspect of tracking the money flows, checking of clients and supervisory authority for the implementation of the LPMLTF;
- education of concessionaires with regard to the obligations of preventing the money laundering and terrorist financing (PMLTF);
- increase number of inspectors for the games of chance and strengthen their professional capacities;
- increase number of controls;
- amendments to the Law on Games of Chance are necessary in the part related to organizing games of chance via Internet or other telecommunication means, as well as in the part referring to beneficial owners of companies that hold a concession, i.e. to disable the owners of those companies to be criminals or persons related to them. Aimed at better monitoring, control of organizing the games of chance via Internet and protection of players, it is necessary to regulate this area more precisely;
- strengthen cooperation between the competent authorities and FIU in a part of timely and comprehensive exchange of information and coordinated actions.

2. PERSONS DEALING WITH PROVISION OF SERVICES AT ESTABLISHING LEGAL ENTITIES AND OTHER COMPANIES, AS WELL AS OF BUSINESS OR FIDUCIARY SERVICES (Grade of vulnerability: 0,61)

Normative framework

The assessment established a medium high level of vulnerability (0,61) of the sector that includes legal entities and individuals dealing with the provision of marketing and consultancy activities related to the operations and other management.

The Law on the Prevention of Money Laundering and Terrorist Financing, in Article 4, *inter alia*, defines as categories of reporting entities those companies, legal entities, entrepreneurs and individuals who are conducting activity of provision of services when establishing legal entities and other companies, as well as of business or fiduciary services.

On the basis of analysis of the Law on Classification of Activities, the conduct of all indicated types of jobs is equalized with “consultancy activities related to operations and other management”, where in the period 2015-2019 there were 36 entrepreneurs and 2528 companies registered.⁷³

Besides the LPMLTF, persons carrying out the above activity are reporting entities of other laws such as the Companies Act and the Law on the Prevention of Illegal Operations, which have been already mentioned with previous categories of reporting entities.

⁷³ Mainly LTD companies

Structural indicators of vulnerability

As indicated above, according to the data of the Central register of Commercial Entities, there are total 2564 legal entities and individuals registered in this category of reporting entities.⁷⁴ The scope of turnover of reporting entities from this category for the period 2015-2019 is around 220,8 million euro.

The scope of turnover according to the data of the Tax Administration is grounded on the basis of the data on VAT payers – in 2015-521, in 2016-568, in 2017-667, in 2018-872 and in 2019-1026. Taxable turnover with persons dealing with consultancy activities related to operations and other management (EUR)⁷⁵ is indicated in the following table:

| Year | Number of payers | Amount |
|-------|------------------|---------------|
| 2015. | 521 | 38.119.750,11 |
| 2016. | 568 | 31.503.314,55 |
| 2017. | 667 | 40.653.200,19 |
| 2018. | 872 | 54.109.764,32 |
| 2019. | 1026 | 56.400.095,94 |

Practical experiences from the case of FIU in relation to the reports on STR/SAR by the reporting entities, and then processing and analyses of overall financial flows, is that in significant number of cases the Ltd companies registered in the territory of Montenegro for

performing consultancy and advisory services, are in the ownership of non-residents, who came to Montenegro to establish these companies and open bank accounts in Montenegro for the needs of international payments.

Invoicing fees for consultancy services or services described as “management fee”, on the basis of which the payments from abroad are made to the accounts of the above companies, constitute services for which it is difficult to determine if they have been actually performed, and assess the level of adequacy of accompanying documentation. Although the bank, observing the provisions of the LPMLTF, establishes the beneficial ownership of a domicile company, persons ordering payments from abroad often remain only the appointed contracting parties in agreements, defining only the periods in which the collection of a wide range of consultancy services is made – in certain field of investment or research activity, or percentage amounts of value of the jobs executed beyond Montenegrin territory, which will be periodically paid to the accounts the service provider owns, for example in Montenegro. Therefore the efforts of persons authorized for the PML jobs, on the side of reporting entity and on the side of the FIU, are directed to analysis of further financial flows –method of further use or layering of assets, and the exchange of relevant data with the FIUs of countries of origin of persons and assets in question. The above circumstances affected that structural vulnerability for this activity is assessed as medium, although so far there has been no filing of charges in cases related to the consultancy activity providers, which due to the existence of reasonable doubt in money laundering FIU further forwarded to the State Prosecutor’s Office.

⁷⁴ Under the code of activity 70.22

⁷⁵ Source of data is Tax Administration

Control measures

Control of implementation of the Law on the Prevention of Money Laundering and Terrorist Financing by 01.01.2019 had been done by former APMLTF –Department for Control of Reporting Entities. Five inspectors were employed in the above Department who, on the basis of established methodology, selected the reporting entities that will be controlled. Since 01.01.2019., this organizational unit was transferred to the Mol, with the same description of jobs and authorizations.

During the observed period there were total of 34 controls of reporting entities from this sector. Misdemeanours were identified in 5 controls, where 10 penalties were pronounced in the amount of EUR 17,500. In the above period no report on suspicious transactions was submitted by this sector, but four STR were pointed out by FIU.

Likewise, the bank sector submitted the total of 38 STR which referred to the above sector, in which, pursuant to the Rulebook in indicators for recognizing suspicious persons and transactions operation of certain persons from this activity has been assessed as suspicious. The cases where assets were received in Montenegro on the basis of collection of consultancy services were presented, cash withdrawn by authorized persons or layering to further payments to abroad on various grounds, which indicates the conclusion that commercial accounts in Montenegro are not used for operations in the territory of Montenegro. Competent authorities and FIUs of countries relevant for the origin of persons or assets, or for destination to which the assets are further forwarded, have been notified.

Recommendations

- Define specific reporting entities –by internal act/rulebook (if besides the code of activity 70.22 any other code of activity –due to overlapping in the description of jobs, may be joined to this category of reporting entities, and in cooperation with the Tax Administration connect the system of monitoring the scope of turnover generated on the basis of consultancy services);
- Define competencies and authorizations of supervisory authorities performing the jobs of supervision and control in relation to obligations related to the LPMLTF, since there has been no STR/SAR reports by these reporting entities;
- Organize training for representatives of reporting entities, with the purpose that in case the operations from the activity of consultancy services deep CDD verification measures are always implemented, that is, that clients must precise and clarify the type and scope of service which is the subject of specific collection;
- Organize training with a special focus on submission of reports of suspicious and cash transactions.

3. ACCOUNTANTS AND AUDITORS (grade of vulnerability: 0,59)

Normative framework

After the completed assessment it has been established that the level of vulnerability of accountants and auditors is medium. The Law on the Prevention of Money Laundering and Terrorist Financing defines accountants and auditors as reporting entities, meaning that they shall implement measures and actions laid down by the Law for the purposes of preventing the money laundering and terrorist financing.

Primary acts regulating the area of accounting and audit in Montenegro are the Law on Accounting and the Law on Audit.

The Law on Accounting defines reporting entities of application (micro, small, medium and large legal entities, as well as small, medium and large groups of parent and related legal entities), business books, inventory of property and liabilities, keeping of business books, financial reports (financial statements, Management report, Management comments, non-financial reports, statement on application of code of corporate management, report on payment of fees to the state, i.e. the unit of local self-government and other documents), classification of reporting entities (companies, NGOs and a part of a foreign company), financial reporting standards, obligation of applying the financial reporting standards for all reporting entities of the Law, liability for compiling and publishing of financial statements and management reports, and property valuation reports of a legal entity and entrepreneur.

The Law on Audit defines a set of financial reports that are the subject of audit, method of conducting audit, who is considered as chartered auditor, mandatory application of the IFAC⁷⁶ Code of Ethics for professional accountants, issues of restricting the audit, obligation of continuous professional education of auditors, issuance and withdrawal of license to auditors and work permits, additional services the auditors may be engaged in, obligation of compiling the Report on transparency, obligation of audit (for entities of public interest, for medium and large legal entities, for parent companies that together with affiliated legal entities make medium and large groups, for investment companies and funds and companies managing them), sets forth the obligation of establishing the audit committee as a separate authority of the audit reporting entities (made of at least three members, of which at least one has to have knowledge in accounting and audit), as well as competences of work of audit committee. Simultaneously,

the Law defines a role of internal auditor only in large legal entities, method of performing and plan of internal audit. The Law has established the Audit Council whose inspection authority will control the audit companies and chartered auditors.

Structural indicators of vulnerability

In the accounting and audit sector in Montenegro there are currently 591 legal entities and individuals actively operating under the code of activity "6920" (source CRCE) and according to the available information there are much more active legal entities with a code of related activities (consultancy and other financial services), dealing, *inter alia*, with the provision of accounting services. Likewise, there is a certain number of non-registered providers of accounting services, which is contrary to the Law on the Prevention of Illegal Operations and disloyal competition is concurrently created, which is not good for the commercial environment from the aspect of paying fiscalities.

Majority of test subjects (only members of the ICAMN⁷⁷) in answers from the questionnaire indicated that only 14,5% of clients pay cash for their services. However, there is a substantial number of unregistered accountants, who charge the accounting services under low tariffs, in cash and beyond all records, and their turnover is not registered.

The total turnover generated in the period 2015-2019 amounted around 105,3 million euro.

76 International Federation of Accountants

77 Institute of Certified Accountants of Montenegro

Taxable turnover with accountants and auditors (EUR)⁷⁸

| Year | Number | Amount |
|--------------|---------------|---------------|
| 2015. | 310 | 17.249.701,17 |
| 2016. | 332 | 18.258.618,89 |
| 2017. | 351 | 20.328.319,37 |
| 2018. | 367 | 23.746.130,43 |
| 2019. | 384 | 25.748.817,67 |

According to the data from the Tax Administration, for 2015 there were 310 reported VAT payers, for 2016 -32, for 2017-351, for 2018 -67 and for 2019 -384.

In the end, the fact is that the number of payers of VAT does not correspond to the number of the same registered in the Central register of Commercial Entities (CRCE), which is logical since the Law on VAT allows that a company whose annual turnover is less than EUR 18,000 has a possibility of not registering for VAT, i.e. is treated as small VAT payer, although that number of registered may be questioned due to a known fact that there is a high percentage of accountants working without being registered.

Tax Administration does not dispose of the data on unregistered providers of accounting services. The Tax Administration in its work takes activities and measures aimed at suppressing gray economy and especially in the area of illegal trade, unregistered work, tax evasion and other forms of gray economy. Tax inspectors were applying penalties to all payers where irregular operation was discovered, from pronouncing misdemeanour orders to temporary

measure of ban of conducting activities, observing the basic principles in work of the Tax Administration –non selectivity and zero tolerance to gray economy.

As for the fit and proper test, ICAMN has no competence to suggest to accountants and auditors to apply this test to registering the companies providing services of money transfer and service providers when establishing and managing companies.

The fit and proper test when establishing the accounting company and audit company is not implemented formally-legally according to the standards and regulatory procedure of EU. For the establishment of accounting company there is no requirement for having adequate professional certificate, attending teaching in the area of continuous professional development. However, ICAMN⁷⁹ in that context , although it is not a legal obligation, regularly organizes training within annual seminars on the topic of Code of Ethics of professional accountants, IFAC. The public register in the Ministry of Finance of Montenegro is in charge of certified auditors. The rule defined by the law that, before issuing license to an auditor, it is tested if the auditor is under the judicial or criminal investigation is applied with the auditors. Audit company must have minimum two auditors with the license of the Ministry of Finance. Besides, the auditors must attend and meet the requirements of continuous professional development and strictly apply the requirements of the Code of Ethics of professional accountants, IFAC.

⁷⁸ Source of data Tax Administration

⁷⁹Institute of Certified Auditors of Montenegro

According to the information of the Institute of Certified Accountants of Montenegro (ICAMN), there are 1.500 members operating and subject to the Code of Ethics and continuous education (726 professional accountants, 86 auditors and 688 candidates for professional titles). Then, in Montenegro, there are around 1.800 accountants with certificates issued before 2002 that are additionally active in accounting jobs (who do not attend the continuous education and are not subject to Code of Ethics) by the unions that do not exist today, and since the current Law on Accounting enabled that everyone (at employer's decision) can keep business books and sign financial reports, then under such circumstances there is no regulatory framework to regulate this issue, except "by amendments to the Law on Accounting". Likewise, there are private institutions in Montenegro as organizers of training of adults for accountants and there are around 700 questionable certificates issued by these institutions (whose students do not attend the continuous education and are not subject to Code of Ethics).

The ICAMN has no legal-regulatory authorization to monitor the work of all accountants in Montenegro, except of its members and those who in their educational program refer to Montenegrin educational accounting standard CORS (since the same is in accordance with the Decree of the Government of Montenegro was adopted by the ICAMN).

In addition to this number (4.000) there is a certain number of "accountants" with unregistered activity, contrary to the Law on the Prevention of Illegal Operations. In connection to that, it is clear that the scope of turnover and therefore the level of vulnerability are disqualified, that is, much higher level of vulnerability is with unregistered accountants and those that are not subject

to the application of the Code of Ethics, in relation to the members of the ICAMN. Only those accountants and auditors to whom the application of Code of Ethics is imposed by the professional organization (ICAMN) with a high level of certainty observe the LPMLTF. Therefore, a possibility of abuse by the client is higher where there is no application of Code of Ethics and continuous education and therefore the level of vulnerability of this sector to money laundering is increased.

Acting under the Code of Ethics is more needed for accounting than audit profession for two reasons:

1. The scope of audit pursuant to the Law on Audit is in the level of medium and large legal entities, which is 3-5% of all companies;
2. Impact with the objective of prevention and combat against gray economy (tax evasion), money laundering and corruption with remaining 95-97% of micro and small companies.

Basis for such conclusion is in the quality control of the work of accountants in the field (voluntarily implemented by the ICAMN in educational terms for its members and obtains information from the terrain on this issue) and a growing number of media monitored affairs where groups of accountants were arrested together with owners of companies, as well as individual political entities and their accountants, related to money laundering and tax evasions.

Since there is a small number of inspectors of the Tax Administration and MoI Inspectors (who since 01.01.2019. have been supervising the implementation of the LPMLTF by the auditors and accountants), it is a frequent situation that majority of companies for years have not done any inspection control. By introduction of mandatory application of the Code of Ethics to all accountants in Montenegro, the scope of misdemeanours would be reduced since clients (owners of companies) would not be able to request the accounting workers to "make compromises" by breach of regulations.

Since 2007, the ICAMN has had the developed investigative and disciplinary authorities and so far has pronounced multiple warnings to its members for acting contrary to the Code of Ethics and measures range in 4 stages, whereat the last stage is making the professional certificate ineffective. Anyway, according to the Decree of the Government of Montenegro, the ICAMN is the only one authorized to educate accountants and auditors according to IFAC standards of education and in its educational program (in internal acts) it has the areas of mandatory application of Code of Ethics.

On the basis of internal acts, when a person, after initial education with the ICAMN, obtains a professional certificate he/she then becomes the member of the ICAMN and shall continuously follow the education (annually minimum 40 points or 40 hours) on the basis of which he/she obtains/renews the annual license. This license is the proof that the professional accountant is updated with all amendments of the legal regulations and therefore the regulations in the area of the prevention of money laundering and terrorist financing. The whole process is monitored and controlled by the ICAMN for its members and notifies the competent Ministry of Finance thereof (through annual report) and International Federation of Accountants (IFAC).

Control measures

Inspection supervision tasks are performed by the Tax Administration in accordance with the law governing inspection supervision. Therefore, the Tax Administration, in addition to the obligations and authorizations established by the law governing inspection supervision, has the obligation and authorizations to examine: the accuracy of the classification of legal persons into

small, medium and large, whether legal persons have arranged the organization of accounting operations in accordance with this Law, whether business books and accounting records are kept in accordance with this Law, whether legal persons submit annual financial statements and consolidated statements to the Tax Administration within the deadlines established by this Law and whether they are published in the prescribed manner, whether together with the financial statements, the statistical annex is submitted, whether the financial statements and consolidated statements are signed by the responsible person, etc.

Also, the Tax Administration, through the formation of the tax police, needs to increase its competences and increase the number of inspectors because the existing number is not enough (currently there are about 160 of them).

The Ministry of Interior is defined as the supervisory authority for accountants and auditors (until January 1, 2019, this was the responsibility of the former APMLTF). Five inspectors for control of reporting entities are in charge of controlling the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing. The annual plan of inspection controls defines the goals that will be achieved through inspection supervision, i.e. coverage of legal reporting entities by inspection supervision. Control of legal reporting entities is based on an approach based on risk assessment. In the period 2015-2018, a total of 15 controls were carried out on persons engaged in "accounting, bookkeeping and audit work; tax consulting". Violations were found in only one control, where two fines in the amount of 3,500 euros were imposed, and one fine imposed by the court in the amount of 3,500 euros.

In the mentioned period, the Financial Intelligence Unit received only four cash transaction reports (CTR) in the total amount of 77,924 euros. The insignificant number of cash transaction reports is understandable considering that accountants and auditors do not use cash in their operations, but payments are made through accounts. In accordance with the FIU data, there were no requests related to accountants and auditors.

Recommendations

Based on the above data, it is necessary to take a certain set of measures that would reduce the vulnerability of this sector in relation to money laundering:

- It is necessary to amend the regulations as a first step, through Amendments to the Law on Accounting:
- Introduce the obligation that only persons with a professional certificate from the public registry of the Institute of Certified Accountants of Montenegro (issued in accordance with the Montenegrin National Educational Accounting Standard - CORS) can sign financial statements. Otherwise, CORS also recognizes old accounting certificates (so this measure would encompass all accountants from the period of the 90s until today with certificates, regardless of when the certificates were issued and regardless of which professional association they were issued from) and imposes the obligation to comply with IFAC's Code of Ethics, and this Code of Ethics regulates the issues of preventing money laundering and the fight against corruption;
- Introduce the obligation to submit a copy of the certificate to the Tax Administration along with the submitted financial statements. In this way, a strong foundation can be laid for regulating the issue of preventing money laundering and terrorist financing;
- Introduce the obligation to apply the Code of Ethics to accountants, because such an obligation exists for auditors in the Law on Auditing. It is wrong to examine the application of the Code of Ethics only for auditors, because in the Code of Ethics itself there is a separation between those who work in public practice and those who work in business;

- Introduce the obligation of continuous education and application of the Code of Ethics into the Law on Accounting;
- Increase the number of controls under the Law on the Prevention of Money Laundering and Terrorist Financing, as well as the number of penalties for non-compliance with the provisions of the Law on the Prevention of Money Laundering and Terrorist Financing;
- Continue organizing training for this sector.

4. NOTARIES (vulnerability assessment 0.56)

Normative framework

Upon the assessment, it was determined that the degree of vulnerability of notaries is 0.56, which represents a medium level of vulnerability.

In accordance with the Law on the Prevention of Money Laundering and Terrorist Financing, notaries are defined as reporting entities who are obliged to implement measures for prevention of money laundering and terrorist financing in specific cases, prescribed by the Law.⁵¹

When acting in the mentioned cases, notaries are obliged to carry out all actions and measures, as well as other reporting entities under the Law on the Prevention of Money Laundering and Terrorist Financing. The work of notaries is regulated by the Law on Notaries⁵², on the basis of which secondary legislation was adopted, the most important of which is the Rulebook on the Work of Notaries⁵³. The notary is authorized to perform the following tasks: draw up notarial deeds; receives documents, money, securities and other items for deposit; according to the order of the court, performs tasks entrusted by this Law; performs other tasks entrusted by a special law. The court can entrust the notary with the following tasks: inventory and valuation of estate; custody of probate documents, money, securities or valuables; other tasks determined by special laws. In addition, the Non-Litigious Procedure Law⁵⁴ defines new competences of notaries, i.e. entrusts notaries with the exercise of judicial authority in cases where there are no disputed facts, which leads to relief of the courts and greater effectiveness and efficiency in case resolution.

The Rulebook on the number of posts and official registered offices of notaries determines the number of notaries and official registered offices of notaries in the territory of Montenegro, in accordance with the Law on Notaries. The total number for Montenegro according to this

⁵¹ Article 49

(1) A lawyer, i.e. a notary, is obliged to implement measures to detect and prevent money laundering and terrorist financing in accordance with this Law, when:

1) assists in planning and executing transactions for the client related to:

- buying or selling real estate or a company;
- managing the client's money, securities or other assets;
- by opening or managing a bank account, savings account or account for dealing with securities;
- raising funds for the incorporation, operation or management of a company;
- establishing, operating or managing an institution, fund, company or other similar form of organization.

2) performs a financial transaction or a transaction related to real estate in the name and on behalf of the client.

(2) A lawyer, i.e. a notary, is obliged to, when performing tasks from paragraph 1 of this Article, in addition to the measures referred to in Article 7c and 8 of this Law, apply enhanced measures for determining and verifying the client's identity and monitoring the client's business relationship referred to in Article 32 to 35 of this Law when, in connection with a business relationship, client or transaction, there is a reason to suspect that money laundering or terrorist financing is involved.

⁵² Official Gazette of the Republic of Montenegro 68/2005, Official Gazette of Montenegro 49/2008, 55/2016, 84/2018

⁵³ Official Gazette of Montenegro 30/2009, 36/2013, 13/2017

⁵⁴ Official Gazette of the Republic of Montenegro 27/2006, 20/2015

Rulebook is 54 notaries and it is determined by determining one notary post for every 15,000 inhabitants in the territory of the municipality. There are 54 of them for the observed period.

Article 12 of the Law on Notaries prescribes the conditions for the appointment of notaries. In this way, it is undoubtedly ensured that the notary does not become an inappropriate person. The procedure for appointing notaries is led by the Ministry of Justice, that is, notaries are appointed by the Minister of Justice.

Notaries, as well as lawyers, are in focus precisely because of the handling of property-legal matters, both through the Law on the Prevention of Money Laundering and Terrorist Financing and through risk assessment. Their role is to ensure the legal security of citizens in real estate transactions.

Structural indicators of vulnerability

For the observed period, the information shows that a total of 54 notaries were registered in the Chamber of Notaries. The number of notaries is determined in proportion to the number of inhabitants. The volume of turnover for notaries is shown in the table below, and for the period 2015-2019 amounts to about 34.8 million euros:

Taxable turnover of notaries (EUR)⁵⁵

| Year | Number of notaries | Amount |
|------|--------------------|--------------|
| 2015 | 33 | 5,462,916.67 |
| 2016 | 38 | 6,044,957.88 |
| 2017 | 40 | 6,666,978.05 |
| 2018 | 41 | 8,280,503.52 |
| 2019 | 41 | 8,322,355.64 |

All notary offices provide services that are paid in cash (natural persons) or via invoice (legal persons). Most notary offices carry out transactions for and on behalf of the client, but only transactions carried out through the notary account for the parties. All notary offices in Montenegro carry out client identification by inspecting their identification documents, all in accordance with the Law on Notaries.

The majority of notaries keep records of clients in the manner prescribed by the Law on the Prevention of Money Laundering and Terrorist Financing, while there are a certain number of notaries who do not do so, even though this obligation is prescribed in Article 6 of the Law on the Prevention of Money Laundering and Terrorist Financing: *The reporting entity is obliged to, when performing business activities, carry out measures and actions in accordance with this Law, and in particular to: 7) keep records and ensure the protection and preservation of data and documentation obtained in accordance with this Law.*

The percentage of clients representing high-risk clients is small, on average from 10% to 40%, and mostly refers to non-residents. Most notaries determine the origin of the money according to the client's statement and proof of the origin of the money, while a certain number of notaries do not verify the origin of the money at all. Also, most notaries use the List of Indicators for

⁵⁵ Data of the Tax Administration

Identifying Suspicious Transactions, while a small number of notaries do not use the List of Indicators at all. According to the Law on the Prevention of Money Laundering and Terrorist Financing, the notary is obliged to use a list of indicators for identifying suspicious clients and transactions, which must be in the notary's business documentation.

For notaries, the system of flat-rate taxation applies in accordance with the Law on Income Tax of Natural Persons⁵⁶, in accordance with the provisions of the Law on Income generated from self-employment. This tax is paid based on actual income in monthly instalments. As an exception, the Law stipulates that a taxpayer for tax on income from self-employment, whose total turnover in the year preceding the year for which the tax is determined, i.e. whose planned turnover when starting to perform activities is less than 18,000 euros, can at their request, admit that they pay the tax in an annual lump sum.

Control measures

The Code of Notary Ethics establishes the principles and rules that regulate the behaviour of notaries in the performance of notarial duties and outside of it, with the aim of preserving and improving the dignity and reputation of the notary service and the legal performance of the notary service as a public service. The principles and rules of the Code require specific professional ethics of notaries in their work and behaviour with the highest degree of compliance with the legal order and the rule of law.

The notary is obliged to implement measures to detect and prevent money laundering and terrorist financing in accordance with this Law, in cases defined by Article 41 of the Law on the Prevention of Money Laundering and Terrorist Financing.

Pursuant to the Law on the Prevention of Money Laundering and Terrorist Financing, supervision over the implementation of this Law and regulations adopted on the basis of this Law by notaries is performed by the Chamber of Notaries.

Supervision over the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing and the regulations adopted on the basis of it for notaries is carried out by the Management Board (or 9 board members) of the Chamber of Notaries of Montenegro. In addition, the amendments to the Law on Notaries from 2016 and 2018 introduced competent authorities that prosecute and impose fines on notaries for violations of their official duties (disciplinary prosecutor and disciplinary commission). According to the claims of the representatives of the sector, the aforementioned authorities, in addition to the Management Board, are competent if the notary violates the provisions of the Law on the Prevention of Money Laundering and Terrorist Financing in the performance of official duties.

In the mentioned period, the Management Board, through various commissions, controlled the work of 45 notary offices, including work related to the PMLTF, and the results of the controls show that there were no violations related to the application of the Law on the Prevention of Money Laundering and Terrorist Financing. However, it is evident that notaries refer mainly to the Law on Notaries during their operations, and that, despite the fact that they are familiar with the Law on the Prevention of Money Laundering and Terrorist Financing, it seems that they show a certain misunderstanding of the obligations prescribed by the Law on the Prevention of Money Laundering and Terrorist Financing, which calls into question not only the degree of

⁵⁶ Official Gazette of the Republic of Montenegro 65/01, 12/02, 37/04, 78/06 and 4/07 and Official Gazette of Montenegro 86/09, 40/11, 14/12, 6/13, 62/13, 60/14, 79/15, 3/16 and 67/19

implementation of the Law on the Prevention of Money Laundering and Terrorist Financing, but also the quality of the performed controls.

Also, in the First Regular Progress Report after the fourth round of evaluation of the AML/CFT system (Moneyval), it is still stated that it is necessary to define the competences and authorizations of the Chamber of Notaries in order to enable it to supervise the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing.

For its part, the Chamber of Notaries expresses its willingness to accept the responsibility and authority to exercise control over the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing, with broader authorizations, and a position has been taken to change the Articles of Association in the part of control over the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing. However, it is necessary to solve this issue by amending the Law on Notaries, which will regulate the issue of the authority of the Chamber of Notaries to exercise supervision over the application of the Law on the Prevention of Money Laundering and Terrorist Financing, or the Law on the Prevention of Money Laundering and Terrorist Financing, which would define another supervisory authority over the work of notaries.

The notary is obliged to report to the FIU about clients and transactions for which there are reasons to suspect money laundering and terrorist financing. The notary submitted:

| | Number of STRs ⁵⁷ submitted by notaries | Number of STRs which referred to notaries |
|------|--|---|
| 2015 | 1 | |
| 2016 | 1 | |
| 2017 | | 1 |
| 2018 | | 1 |
| 2019 | 12 | |

In the mentioned period, notaries submitted 29,616 reports (real estate sales contracts), of which 9,661 contracts were received in 2019, and the FIU singled out 3 contracts as suspicious. According to notaries, the main cause of non-reporting of suspicious transactions by the notary sector is the lack of recognition and ignorance of suspicious transactions, lack of capacity and insufficient professional training, as well as insufficient knowledge of the law, and therefore most notaries believe that additional education is needed in connection with the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing.

Recommendations

- Perform an analysis of the Law on the Prevention of Money Laundering and Terrorist Financing regarding the optimal supervisory authority and in this regard, depending on the results of the analysis:
 - Amend the Law on Notaries in order to define the competences and authorizations of the Chamber of Notaries in order to carry out the tasks of supervision in relation to AML/CFT established by the Law on the Prevention of Money Laundering and Terrorist Financing;
 - Amend the Law on the Prevention of Money Laundering and Terrorist Financing with regard to designation of another supervisory authority;
- Increase the number of controls by the Chamber of Notaries over reporting entities stipulated in the Law on the Prevention of Money Laundering and Terrorist Financing;

⁵⁷ Suspicious transaction

- Submission of periodic reports from the Chamber of Notaries to the FIU on the conducted controls and their results (the legal obligation of the supervisory body is to submit reports, but considering that this is not done in practice, consider submitting a request to them on a semi-annual basis);
- Provide a mechanism for raising the awareness of notaries about the obligations and goals of monitoring and reporting suspicious transactions, as well as other obligations defined by the Law on the Prevention of Money Laundering and Terrorist Financing, through trainings and meetings with sector representatives

5. PERSONS PERFORMING THE BUSINESS ACTIVITY AND TRADING IN PRECIOUS METALS AND PRECIOUS STONES (vulnerability assessment 0.55)

Normative framework

Upon the assessment, it was determined that the degree of vulnerability of the sector, which includes natural and legal persons that perform the business activity and trade in precious metals and precious stones, is 0.55, on the basis of which it is defined as a medium degree of vulnerability.

The Law on the Prevention of Money Laundering and Terrorist Financing defines persons who perform the business activity and trade in precious metals and precious stones as reporting entities, which means that they are required to implement the measures and actions established by the Law in order to prevent money laundering and terrorist financing.

Dealers in precious metals do business in accordance with the provisions of the Companies Act⁵⁸, as well as the provisions of the Law on Craftsmanship⁵⁹, which regulate the conditions for performing artisanal activity and other issues of importance for artisanal activity. Also, the business system is based on the Law on Prevention of Illegal Operations⁶⁰ which determines the measures to be taken to prevent illegal operations. Illegal operations, within the meaning of this Law, mean the performance of business activities without prior registration in accordance with the law or without approval prescribed by law, i.e. contrary to the conditions under which the approval was granted. A legal person and an entrepreneur are required to open an account with a bank in the manner established by regulations, keep funds in such account and transfer funds through such account, including the payment of taxes, surtaxes and contributions on the calculated gross salary and paid leave benefits, as well as the payment of net salary and paid leave benefits of employees. In accordance with the provisions of the Law, legal persons and entrepreneurs can, during the day, use cash to pay for goods and services, provided that, at the end of the working day, they can keep cash in the cash register up to the amount of the cash maximum. The cash maximum is: for small legal persons and entrepreneurs - up to 2,000 euros; for medium-sized legal persons - up to 10,000 euros and for large legal persons - up to 20,000 euros. If an entrepreneur or a legal person conducts its operations through several business establishments, the cash maximum per business establishment is up to 50% of the value determined in paragraph 2 of this Article.

⁵⁸ Official Gazette of the Republic of Montenegro 06/02, 17/07 and Official Gazette of Montenegro 80/08, 40/10, 73/10, 36/11, 40/11

⁵⁹ Official Gazette of Montenegro 54/2009

⁶⁰ Official Gazette of Montenegro 029/13, 016/16

The Law on Control of Precious Metal Articles⁶¹ and accompanying secondary legislation⁶², inter alia, regulate mandatory marking, testing and stamping of precious metal articles produced, imported and placed on the market in Montenegro. Pursuant to the aforementioned Law:

- A manufacturer of precious metal articles (manufacturer) is a company or an entrepreneur with its registered office in Montenegro registered for the business activity of manufacturing precious metal articles, which has been assigned a manufacturer's mark in accordance with this Law, and is required to mark precious metal articles it manufactures with its manufacturer's mark and fineness mark.
- An importer of precious metal articles (importer) is a company or an entrepreneur with its registered office in Montenegro registered for the business activity of importing precious metal articles, which is assigned the importer's mark in accordance with this Law, and is required to ensure the marking of imported precious metal articles with the importer's mark and fineness mark.
- A dealer in precious metal articles (dealer) is a company or an entrepreneur with its registered office in Montenegro registered for the business activity of wholesaling and retailing, which may place precious metal articles on the market, keep them prepared for the purpose of placing them on the market or keep them displayed as samples, only precious metal articles that are stamped, i.e. accompanied by a certificate, in accordance with this Law.

The manufacturer's mark and the importer's mark are awarded by the Institute of Metrology, and in order to obtain the manufacturer's mark, it is necessary to fulfil the requirements established by the Rulebook on the requirements for the production of precious metal articles concerning the equipment and work premises and the manner of establishing the fulfilment of these requirements⁶³, and the supervision of the fulfilment of these requirements is carried out by the Administration for Inspection Affairs, i.e. metrological inspection of the aforementioned Administration.

Among other competences established by the aforementioned Law, the Institute of Metrology exclusively carries out testing and stamping of precious metal articles, and maintains a register, i.e. records of the manufacturer's mark and the importer's mark of precious metal articles.

Structural indicators of vulnerability

According to data from the CRCC, 673 legal and natural persons were registered under different business activity codes⁶⁴, from which it follows that it is very difficult to determine the exact number of persons who are exclusively engaged in the trade of precious metals and precious stones. Volume of turnover in this business activity, for the period 2015-2019 is only about 206 million euros, so the degree of vulnerability is assessed as low. Based on the information gathered from representatives of this sector, it was determined that jewellery stores use cash as a mode of payment for about 30% of their business activities. According to the claims of representatives of the sector, there is generally no trade in precious metals in significant amounts, because they are retail shops, therefore the amounts of cash transactions are low. In rare cases, precious metals and precious stones whose amounts are more significant are mostly bought by foreigners who pay by card.

⁶¹ Official Gazette of Montenegro 40/10 and 40/11

⁶² <https://metrologija.me/propisi/>

⁶³ Official Gazette of Montenegro 40/11

⁶⁴ 46.48 – Wholesale of watches and jewellery; 46.72 – Wholesale of metals and metal ores; 47.77 – Retail of watches and jewellery in specialised shops; 47.78 Other retail of new products in specialised shops; 47.79 – Retail of second-hand goods in shops

In accordance with the data of the Tax Administration, the volume of turnover is based on the number of VAT payers, which there are for 2015 – 306, for 2016 – 313, for 2017 – 321, for 2018 – 311 and for 2019 - 310.

Taxable turnover of dealers in precious metals and precious stones (EUR)⁶⁵

| Year | Number of reporting entities | Amount |
|------|------------------------------|---------------|
| 2015 | 306 | 30,291,638.48 |
| 2016 | 313 | 34,892,377.16 |
| 2017 | 321 | 36,520,982.28 |
| 2018 | 311 | 45,072,908.19 |
| 2019 | 310 | 59,205,059.26 |

Control measures

Indicator of control measures, such as for example Professional Ethical Standards, is clearly defined for this activity. In the system, there is a legal framework that regulates the work and behaviour of jewellery stores, as well as the principles of work that must be followed when registering and performing business activities. Control over the application of the Law on the Prevention of Money Laundering and Terrorist Financing, until January 1, 2019 was carried out by the former APMLTF, i.e. Department for the Control of Reporting Entities with 5 inspectors, which from January 1, 2019 was transferred to the Ministry of Interior with the same authorizations and competences.

In the period 2015-2019, no control was carried out over reporting entities from this sector. In the mentioned period, not a single report was received on suspicious transactions related to the trade in precious metals, but in 2015, one STR was singled out by the APMLTF. There were no cases of money laundering (ML) related to this sector. There was no reporting from the sector itself in the mentioned period.

Recommendations

- Increase the number of controls in this sector;
- Due to the inadequate selection of business activities when registering with the CRCC, it is necessary to define the method of registration of dealers in precious metals, and link that system with the system of the Tax Administration in order to monitor the volume of turnover;
- Organize trainings for sector representatives.

6. MOTOR VEHICLE DEALERS (vulnerability assessment 0.47)

Normative framework

Upon the assessment, it was determined that the degree of vulnerability of motor vehicle dealers is 0.47, on the basis of which it is defined as a medium degree of vulnerability.

⁶⁵ Tax Administration

The Law on the Prevention of Money Laundering and Terrorist Financing defines motor vehicle dealers as reporting entities, which means that they are obliged to implement the measures and actions established by the Law in order to prevent money laundering and terrorist financing.

This area functions, *inter alia*, on the basis of the Law on Internal Trade⁶⁶, which regulates internal trade, conditions and forms of trade, protection against unfair competition in trade and supervision over the application of this Law. Also, since 2013, the Law on Prevention of Illegal Operations⁶⁷ has been in force, according to the provisions of which it is prohibited to carry out business activities without prior registration in accordance with the law or without approval prescribed by law, i.e. contrary to the conditions under which the approval was granted. In accordance with this Law, legal persons and entrepreneurs may, during the day, use cash to pay for goods and services, provided that, at the end of the working day, they may keep cash in the cash register up to the cash maximum amount, which is:

- for small legal persons and entrepreneurs - up to 2,000 euros;
- for medium-sized legal persons - up to 10,000 euros;
- for large legal persons - up to 20,000 euros.

If an entrepreneur or a legal person conducts its operations through several business establishments, the cash maximum per business establishment is up to 50% of the value determined by the aforementioned paragraph on the cash maximum. Cash in the amount exceeding the cash maximum, legal persons and entrepreneurs are required to pay into their account by the end of the working day, and at the latest by 2:00 p.m. on the following working day.

Structural indicators of vulnerability

In accordance with the data available from the Central Registry of the Commercial Court (CRCC), 334 legal persons and one entrepreneur are registered for trade in cars, light motor vehicles and other motor vehicles, so the size of the sector is medium and the degree of vulnerability is medium. In accordance with the taxable turnover data for 182 reporting entities in 2015, 193 reporting entities in 2016, 195 reporting entities in 2017, 200 reporting entities in 2018 and 203 reporting entities in 2019, turnover based on the sale of motor vehicles is high - around 937.5 million euros for the period 2015-2019:

Taxable turnover of motor vehicle dealers (EUR)⁶⁸

| Year | Number | Amount |
|------|--------|----------------|
| 2015 | 182 | 193,218,140.03 |
| 2016 | 193 | 174,166,702.41 |
| 2017 | 195 | 170,588,903.16 |
| 2018 | 200 | 196,069,875.27 |
| 2019 | 203 | 203,442,957.08 |

Based on the collected data from this category of reporting entities, the services that are paid in cash are the sale, servicing and repair of vehicles and the sale of spare parts. Repair services and vehicle servicing are generally lower than 1,000 euros per invoice, for which a fiscal invoice is issued and the money is immediately paid into the bank as a daily takings. In case the client decides to buy a vehicle and pay in cash, and that amount is over 15,000 euros, the same is paid in as a takings, and the report on the cash transaction is submitted to the FIU. However,

⁶⁶ Official Gazette of Montenegro 49/08, 40/11

⁶⁷ Official Gazette of Montenegro 29/13, 16/16

⁶⁸ Data of the Tax Administration

the number of such payments is very small, mostly natural persons buy through credit or leasing, and business with companies is done exclusively through accounts.

Based on the collected information, it was determined that the reporting entities are not fully aware of their obligations under the Law on the Prevention of Money Laundering and Terrorist Financing, and that there is a certain misunderstanding when it comes to suspicious transactions.

Control measures

Given that car dealers are defined by the Law as reporting entities, they are obliged to implement all measures prescribed by the Law in order to prevent money laundering. Control over the application of the Law on the Prevention of Money Laundering and Terrorist Financing, until January 1, 2019 was carried out by the former APMLTF, i.e. Department for the Control of Reporting Entities with 5 inspectors, which from January 1, 2019 was transferred to the Ministry of Interior with the same authorizations and competences. In the period 2015-2018, the former Administration for the Prevention of Money Laundering and Terrorism Financing carried out a total of 12 controls of persons involved in trade of motor vehicles. Violations were determined in 4 controls, where 12 fines in the amount of 20,300 euros were imposed (of which the court imposed 4 fines in the amount of 6,300 euros).

Only one STR was submitted to the FIU from the sector in the period 2015-2019, and according to the information collected from the reporting entities, it was concluded that the reason for not submitting STRs was not recognizing or understanding the term 'suspicious transaction'. Through its day-to-day activities, the FIU identified three STRs that related to motor vehicle dealers. In the mentioned period, a total of 771 reports on cash transactions were received, in the amount of around 18.2 million euros.

Evidently, in the reporting period there were not enough controls in relation to the size of the sector, both in relation to the number of registered entities and in relation to the financial participation in the totality of this sector. In addition to the above, it should be emphasized that based on the information gathered from the representatives of the sector, it was concluded that a large number of reporting entities have an incomplete knowledge and understanding of the obligations under the Law on the Prevention of Money Laundering and Terrorist Financing.

Recommendations

- Increase the number of controls;
- Ensure submission of statistics;
- Ensure raising of awareness with regards to the obligation and purpose of reporting suspicious transactions;
- Introduce periodic verification of the application of the Law on the Prevention of Money Laundering and Terrorist Financing through questionnaires;
- Inspect the existence of risk analyses and ensure their development in case they do not exist, or provide a mechanism for controlling the quality and content of the risk analysis from which data can be obtained for monitoring trends in the sector.

9. PERSONS ENGAGING IN PROPERTY MANAGEMENT FOR THIRD PARTIES (vulnerability assessment 0.45)

Normative framework

The assessment determined the medium degree of vulnerability of the sector, which includes legal and natural persons engaged in property management for third parties. The Law on the Prevention of Money Laundering and Terrorist Financing defines this category of reporting entity in Article 4.

Representatives of the Tax Administration/CRCC, based on the analysis of the Law on the Classification of Business Activities⁶⁹, equated the performance of the aforementioned type of work with persons registered for the performance of the prevailing business activity "real estate management for fees"⁷⁰, of which a total of 106 were registered in 2019 (including 2 entrepreneurs) and these are mostly limited liability companies.

In addition to the Law on the Prevention of Money Laundering and Terrorist Financing, the persons who perform the aforementioned business activity are also subject to other laws such as the Companies Act⁷¹ and the Law on Prevention of Illegal Operations⁷², which were already discussed in the previous categories of reporting entities.

Structural indicators of vulnerability

In accordance with the data of the CRCC, 106 legal and natural persons were registered under a business activity code 6832 – Real estate management for fees. The volume of turnover of units of this business activity for the period 2015-2019 is around 110.5 million euros.

In accordance with the data of the Tax Administration, the volume of turnover is based on the number of VAT payers which are for 2015 – 31, for 2016 – 34, for 2017 – 31, for 2018 – 40, and for 2019 - 49.

Taxable turnover of persons engaging in property management for third parties (EUR)⁷³

| Year | Number of reporting entities | Amount |
|------|------------------------------|---------------|
| 2015 | 31 | 48,668,225.42 |
| 2016 | 34 | 21,665,365.97 |
| 2017 | 31 | 11,934,639.83 |
| 2018 | 40 | 12,985,479.68 |
| 2019 | 49 | 15,244,968.44 |

Experiences from the FIU's cases in relation to reports of STR/SAR by reporting entities, and then the processing and analyses of total financial flows, indicate that the business activity of "real estate management for fees" did not appear often as a subject of FIU analysis and information processing to other competent authorities.

It is important to note that in relation to a business activity 68.32, in FIU cases from the period 2015-2018, more emphasis was placed on companies that are registered under the prevailing business activity 68.31 - Activity of real estate agencies, which according to the Law on Classification of Business Activities⁷⁴, includes the provision of the following services related to real estate:

- mediation in the purchase, sale and rental of real estate for a fee;

⁶⁹ Official Gazette of Montenegro 18/11

⁷⁰ Code of business activity 68.32

⁷¹ Official Gazette of Montenegro 40/11

⁷² Official Gazette of Montenegro 016/16

⁷³ Tax Administration

⁷⁴ Official Gazette of Montenegro 18/11

- consulting activities and valuation services related to the purchase, sale or rental of real estate, for a fee;
- the activities of agents who act as a neutral third party and who hand over the property after the previous written conditions have been met.

The aforementioned data is another proof of how difficult it is to measure the exact volume of turnover achieved both on the basis of consulting services in general and on the basis of real estate management for someone else's account - for a fee.

Control measures

Control over the application of the Law on the Prevention of Money Laundering and Terrorist Financing, until January 1, 2019 was carried out by the former APMLTF, i.e. Department for the Control of Reporting Entities with 5 inspectors, which from January 1, 2019 was transferred to the Ministry of Interior with the same authorizations and competences. During the observed period, this organizational unit performed a total of 11 controls over reporting entities from this sector. Violations were determined in 2 controls, whereby 4 fines in the amount of 7,000 euros were imposed, as well as one fine of 1,050 euros imposed by the Court.

In the mentioned period, not a single report on suspicious transactions was submitted by this sector, but the FIU singled out 1 STR, and in the period 2015-2019 a total of 6 STRs related to the aforementioned sector were submitted. During 2016, representatives of this sector submitted 1 CTR in the amount of 19,676 euros.

Recommendations

- Define specific reporting entities - by internal act/rulebook (whether, apart from a business activity code 68.32, some other business activity code - due to overlapping in the job description, can be added to this category of reporting entities, and in communication with the Tax Administration, link the system for monitoring the volume of turnover achieved on the basis of property management for someone else's account);
- Define the competences and authorizations of the supervisory authority that will carry out the tasks of supervision and control in relation to the obligations under the Law on the Prevention of Money Laundering and Terrorist Financing, considering that there were no reports of STR/SAR by these reporting entities;
- Organize trainings for representatives of the sector with a special focus on submitting reports of suspicious (STR and SAR) and cash (CTR) transactions.

TERRORIST FINANCING RISK ASSESSMENT

Terrorism represents one of the main global security threats to all countries and nations, and therefore a threat to security, the values of a democratic society, justice and freedom of citizens, in particular in recent history. In the 21st century, there has been a sudden increase in acts of terrorism aimed at endangering human lives, destroying material goods, and as a result causing panic and fear of new attacks and possible consequences.

The criminal offense of terrorist financing has gained importance in the last period and based on the increasing degree of risk for the realization of acts of terrorism, both at the global level and in Montenegro.

Since the ultimate goal of acts of terrorism is the destruction of democracy, freedom, security, the destruction of basic human rights, constitutional order, peace and stability, where the psychological element of the perpetrators of those acts is important, in whom repression and punishment after execution do not cause significant consequences, the focus of the fight against terrorism is placed on blocking the possibility of execution. Threats are globally real, and it should be taken into consideration that problems can easily spill over, that terrorist organizations have a global network, and that no country is completely safe.

Taking into account the importance of the consequences in the case of acts of terrorism, more attention was paid to preventive action through the detection of terrorist financing or at least the reduction of the risk that an act of terrorism will be carried out, for the execution of which it is necessary to collect funds so that it can be carried out. The organization and execution of an act of terrorism require certain funds that are collected in different ways and then transferred, i.e. transferred for further use (purchase of necessary equipment, organization of training, purchase of weapons, etc.). Very often, the organization of these acts involves several jurisdictions, so couriers, formal (banks, business entities providing payment services) and informal money transfer systems (hawala, etc.) are used for money transfer, and more recently, cryptocurrencies and dark web platforms. Considering the above, the goal is to stop such transfers of funds through better controls, both from the aspect of persons of security interest, and from the aspect of the transfer of funds.

Terrorist activities are carried out in an organized manner and are associated with other threats and risks, such as: transnational organized crime, spread of chemical, biological, radiological, nuclear weapons and materials, smuggling of light weapons and small-calibre weapons, explosive devices, man-portable missile systems, narcotic drugs, military and dual-purpose goods, falsifying of documents and money, illegal migration and human trafficking.

Terrorist groups and organizations develop alternative ways of organizing and financing and use elaborate logistical organization, especially in the procurement of weapons and means of mass destruction, military and dual-purpose goods, equipment and other means that can be used for terrorist purposes.

The obligation of all state bodies and state administration bodies is to, in accordance with their competences, continuously analyse and monitor all types of potential terrorist threats that Montenegro could face and act appropriately to prevent them. Bearing in mind the above, it is

clear that preventive action is key in the fight against these criminal offences. Very important are the activities aimed at improving international cooperation, quick and easy exchange of information, monitoring the transfer of funds and transfers across the border, and in connection with that, monitoring people who are of interest from that aspect.

Given that the legal framework is well established in this area, much more attention should be focused on the implementation of legal solutions by all system actors. When it comes to the terrorist financing, increased attention is required both from reporting entities that have the obligation and interest to prevent funds intended for the financing of terrorism from passing through their systems, as well as from the competent authorities which have the obligation to prevent the establishment and business activity of legal persons and informal and formal organizations whose goal is to collect funds for the terrorist financing.

When it comes to reporting entities, that have a very important role in preventing the terrorist financing, it is necessary for them to develop systems for recognizing the identity of persons who are on international and national lists of designated persons⁷⁵ and which are taken over and obtained by the competent authorities and the Financial Intelligence Unit. Since the amounts of transactions in the terrorist financing are generally small, it is necessary to develop software that, based on certain indicators, can recognize grounds for suspicion for reporting suspicious transactions or persons.

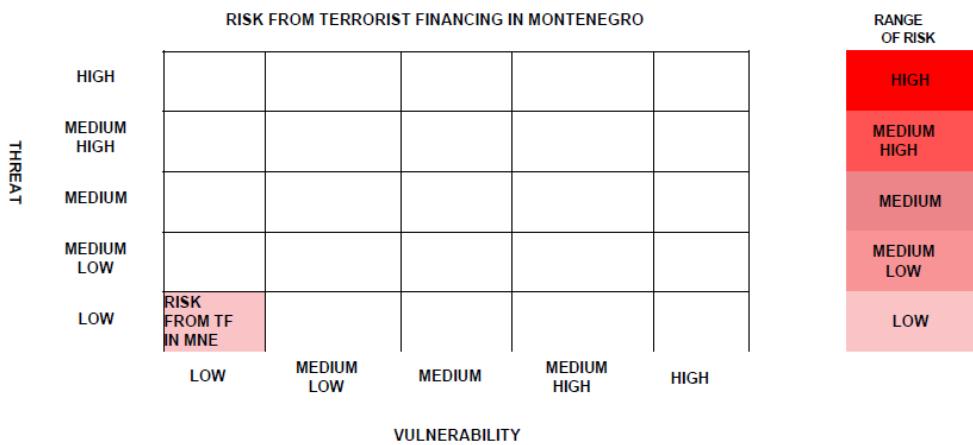
The terrorist financing risk assessment at the national level is based on: terrorist financing threat assessment and vulnerability assessment from in the period from 2015 to 2020 and was made according to the methodology of the World Bank.

The terrorist financing threat assessment and vulnerability assessment are based on: analyses of periodic terrorist threat assessments made by the security services and the National Interdepartmental Operational Team, in the period 2015-2019; information and data collected by the relevant state authorities: prosecutor's offices, security services, Ministry of Defence, Ministry of Justice, Ministry of Interior, Ministry of Economy, Ministry of Finance, Ministry of Public Administration, Ministry of Foreign Affairs, Tax Administration, Central Bank of Montenegro, Customs Administration, Directorate for Protection of Classified Data and Cooperation with Civil Society, Administration for Execution of Criminal Sanctions. Also, with the aim of a comprehensive analysis and assessment, data also available to the civil sector were used.

Terrorist financing threat assessment

In determining the degree of threats from terrorism and threats from terrorist financing, qualitative and quantitative data from the security services and other competent state authorities from the assessment of the threat from terrorism and terrorist financing were used, as well as data from the Prosecutor's Office and the Administration for Execution of Criminal Sanctions in two criminal proceedings for the execution of the criminal offense of participation in foreign armed formations referred to in Article 449b of the Criminal Code of Montenegro and final guilty verdicts. In this way, it was identified that the greatest degree of threats from terrorism and terrorist financing in Montenegro comes from ideologically and religiously motivated terrorism. In the mentioned cases, it was determined that there were no elements of terrorist financing, but that the motive was religious in one, and ideological in the other case.

⁷⁵ Pursuant to the Law on International Restrictive Measures



By evaluating the overall parameters and statistical data, the FATF made an assessment that the “Risk of terrorist financing” in Montenegro is “LOW”, and that the “Threat of terrorist financing” is also assessed as “LOW” with a tendency of “It does not change”. This situation is conditioned by continuous monitoring, preparation and analysis of periodic assessments of the situation, close and efficient cooperation of all relevant state authorities in the chain of suppression of terrorism and terrorist financing.

Modern terrorism represents one of the biggest global threats to security, which causes new, complex risks, while the consequences of terrorist attacks are increasingly devastating and mostly affect civilians. Its protagonists use the adversary's legal infrastructure to plan and execute attacks. This indicates that the logistics of terrorists today are increasingly simple and difficult to detect. The latest terrorist methods are the result of the use of new modern technologies, and international activity, as well as the discovery of new sources of financing and support. The use, or abuse, of information technologies, such as the Internet and mobile phones, has expanded the scope of activities of terrorist organizations. The means of global information development have just brought to the fore the possibility of terrorists to develop better cooperation with their sympathizers and like-minded people around the world and to influence their behaviour and direct them towards their goals through ideological recruitment.

Bearing in mind that terrorist activities, in most cases, are carried out in an organized manner, and that organizations develop alternative ways of organizing and financing, Montenegro continuously analyses and monitors all possible types of potential terrorist threats that could be encountered and strengthens mechanisms of preventive actions of system authorities, with the aim of monitoring money transfers and transfers across borders, as well as monitoring individuals. Montenegro is also improving and strengthening cooperation with legal reporting entities responsible for the prevention of financial transactions intended for the terrorist financing. Thus, the list of reporting entities includes legal and natural persons, that perform tasks related to the issuance and management of virtual currencies, including the services of changing virtual currencies into conventional currencies, and vice versa.

Looking into vulnerable areas will contribute that the competent state authorities, as well as reporting entities, take appropriate measures in a timely and adequate manner in order to minimize the potentially negative implications of terrorist financing.

Compared to other countries in the region, Montenegro was described in the Montenegro 2019 Report - European Commission as “marginally affected by the phenomenon of radicalization and foreign fighters so far”. However, in the period from October 2012 to the end of 2018, 23

adult Montenegrin citizens (18 men and five women), together with three children, travelled to Syria. Six men died in Syria; three men, four women and two children remained in ISIL-controlled territory, while one man was detained in Turkey; eight men, one woman and one child returned to Montenegro. **Since November 2015, there have been no registered departures of Montenegrin citizens to Syria.** Since 2014, five adult Montenegrin citizens have stayed in Eastern Ukraine, and all of them have returned to Montenegro. Of the total number of “foreign fighters”, two criminal proceedings were conducted before the High Court in Podgorica for the criminal offense of participation in foreign armed formations referred to in Article 449b of the Criminal Code of Montenegro: one person was found guilty of participating in foreign armed formations in Eastern Ukraine and sentenced to a prison sentence of six months, i.e. to three years and five months for other criminal offenses related to the criminal offense of participation in foreign armed formations, while another person was found guilty of participating in foreign armed formations in Syria and sentenced to a prison sentence of six months. It was established that there were no elements of terrorist financing in both cases, but that the motive was of a religious and ideological nature. Both persons served their sentences and were released.

Terrorist financing usually consists of 3 phases: collection of funds, distribution/forwarding and use of funds.

1. Collection of funds represents the phase of demand for funds, which can originate from legal activities (such as donations from individuals, organizations, state) or from criminal offences where cash is mainly used.
2. Phase of distribution, i.e. forwarding of funds implies the phase of delivery, i.e. making the collected funds available to terrorists, i.e. terrorist organizations to use for the execution of the act.
3. The final phase represents the use of the collected and transferred funds for the purpose of providing the logistics necessary for the execution of the act.”⁷⁶

Therefore, from the aspect of terrorist financing, all 3 phases are important, the prevention of which also affects the prevention of the commission of the offence. Certain state authorities are competent for each phase of the above, which are obliged to undertake the measures and actions provided for by law. In addition to the relevant authorities, the reporting entities are very important, as they have numerous obligations according to the Law on the Prevention of Money Laundering and Terrorist Financing and secondary legislation, which are expected to inform other competent state authorities about everything undertaken, in addition to establishing the identity of clients and monitoring their operations. The obligation to use the list of designated persons obtained from the Ministry of Foreign Affairs and forwarded by the United Nations and the European Union is particularly important here. Precisely in relation to this obligation, it can be concluded that a vulnerability has been established, because the conclusion is that very few reporting entities have systems that would alert reporting entities if their client is found on those lists. As the Law on International Restrictive Measures does not prescribe the activities, competences and obligations of reporting entities in terms of blocking the assets of designated persons, or persons connected with them, this results in vulnerability in terms of significant restrictions related to the effective freezing of assets, especially funds.

In securing funds, terrorist organizations use various methods of securing and various sources of funds. Therefore, collection mechanisms are created, which can include legal activities as

⁷⁶ UNODC

well as illegal ones, then money laundering, and verified or more secure channels are created for the transfer of funds.

Given that the act of providing financing can take place in a different country than the country where the act of terrorism was committed, it is important to observe the transactions of the transfer of funds. For these purposes, the services of money transfer service providers are often used, with a simpler system of checking the identity of the person as well as the origin of the funds. Banking services can also be used, whereby transactions are made in smaller amounts. In recent times, alternative money transfer systems are increasingly being used, through cryptocurrencies and dark web Internet platforms that are extremely difficult to track.

When it comes to providing financing at the internal level, based on the analyses done, it can be concluded that non-profit organizations, especially non-governmental organizations engaged in humanitarian work, may be exposed to the risk of misuse for terrorist financing, which represents a trend and typology at the international level. However, these threats have not yet been identified at the national level. Bearing in mind all the circumstances, and in order to maintain the lowest level of threat and vulnerability from the terrorist financing, it is of essential importance to maintain the continuity of the work of all relevant authorities and institutions in Montenegro, and to ensure cooperation with the NGO sector and strengthening of trust and capacity of the system in the early detection and identification of suspicious persons and transactions with full respect for all the principles of a democratic society.

Terrorist financing vulnerability assessment

The assessment of "Terrorist Financing Vulnerability" in Montenegro was made based on the analyses of: (1) Quality of legislation; (2) Quality of intelligence data in which sense the data collection process was evaluated, (3) Effectiveness of domestic, regional and international cooperation; (4) Assessing the effectiveness of reporting, monitoring and analysis of suspicious transactions under the competence of the authority responsible for preventing money laundering and terrorist financing, based on the number and quality of suspicious activity reports, the number of cases opened based on suspicious activity reports, the capacity and commitment of reporting institutions on compliance with requirements relating to verification, in accordance with the UN sanctions regime; (5) Adequacy of human and financial resources provided for the fight against the terrorist financing; (6) Political commitment to combating terrorism and terrorist financing, awareness and commitment to combating terrorist financing among policy makers, law enforcement authorities, security and financial intelligence services; (7) Geographical and demographic factors.

Based on the overall parameters, the FATF made an assessment that the degree of "Terrorist financing vulnerability" is LOW.

However, the analysis identified the need for a detailed analysis of registered non-governmental organizations (NGOs); the reorganization of the police FIU in order to finalize the comprehensive concept of the fight against money laundering and terrorist financing; and capacity building through advanced specialist training of banking system officials and money transfer service providers.

Normative framework

Recognizing terrorism as one of the biggest security threats of the 21st century, as well as criminal offences of terrorism, money laundering and terrorist financing, Montenegro, relying on the relevant international body of legislation, the development and movement of terrorism and acts of terrorism, developed its normative framework.

The criminal legislation of Montenegro envisages the terrorist financing and participation in foreign armed formations as special criminal offenses in Article 449 and 449b of the Criminal Code of Montenegro, which are prescribed in Title XXXV of criminal offences against humanity and rights guaranteed under international law.

Article 449 of the Criminal Code of Montenegro prescribes:

“Terrorist Financing”

(1) Whoever provides in any manner or raises funds with the aim of using them or with the knowledge that they will be used in whole or in part for financing criminal offenses referred to in Article 164, 337, 340, 341, 342, 343, 447, 447a, 447b, 447c, 447d, 448 and 449 of this Code or for the financing of organizations which have the commission of those offences as their aim or members of such organizations or individuals who have the commission of those offences as their aim, shall be punished by imprisonment sentence for a term of one to ten years.

(2) The resources referred to in paragraph 1 of this Article are considered to be all assets, tangible or intangible, movable or immovable, regardless of the method of acquisition and the form of the document or instrument, including electronic or digital, which prove ownership or interest in relation to these assets, including bank loans, traveller cheques, money orders, securities, letters of credit and other means.”

(3) The resources referred to in paragraph 1 of this Article will be confiscated.”

Furthermore, a security threat that has recently become very frequent is the participation of foreign fighters in armed conflicts around the world. Accordingly, in March 2015, the Law Amending the Criminal Code of Montenegro (Official Gazette of Montenegro 14/2015 of March 26, 2015) was adopted, which introduced a new criminal offense “Participation in foreign armed formations”.

By prescribing this criminal offence in the Criminal Code of Montenegro, all forms of participation of foreign fighters in conflicts abroad were criminalized, and in this way human rights and basic social values were protected. In this way, the citizens of Montenegro are also protected from the negative direct and indirect effects produced by the commission of this criminal offence. The need for regulation arose due to the suppression of the participation of Montenegrin citizens in foreign armed formations, as well as the adequate sentencing of the perpetrators and organizers of this criminal offence. The aim of introducing this criminal offense is sanctioning the commission of a criminal offence, sanctioning the incitement to commit this criminal offence, as well as raising the financial resources necessary for its execution. Also, this Article defines the concept of a foreign armed formation.

Article 449b of the Criminal Code of Montenegro reads:

“Participation in foreign armed formations”

(1) Whoever, contrary to the law, other regulations or rules of international law, recruits, enlists, prepares, organizes, manages, transports or organizes transport or trains an individual or a group of people with the intention of joining or participating in foreign armed formations operating outside Montenegro, shall be punished with imprisonment sentence for a term of two to ten years.

(2) Whoever, contrary to the law, other regulations or rules of international law, travels for the purpose of joining or participating, joins or participates in a foreign armed formation operating

outside Montenegro, individually or in organized groups, shall be punished by imprisonment sentence for a term of six months to five years.

(3) Whoever, directly or through a third party, offers, gives, provides, requests, raises or conceals financial resources, funds, material resources or equipment that are intended in whole or in part for the commission of the offence referred to in paragraphs 1 and 2 of this Article, shall be punished by imprisonment sentence for a term of one to eight years.

(4) Whoever publicly invites others to commit the offence referred to in paragraph 1, 2 and 3 of this Article, shall be punished by imprisonment sentence for a term of six months to five years.

(5) A person referred to in paragraphs 1 to 4 of this Article, who prevents the commission of a criminal offence by exposing an individual or a group, shall be punished with imprisonment sentence for a term of six months to three years, and may be released from the punishment.

(6) A foreign armed formation, within the meaning of this Article, is considered a terrorist organization, a foreign army or police, a foreign paramilitary formation or a para-police formation established in violation of the law, other regulations or rules of international law.”

The Criminal Code of Montenegro, after this amendment, is fully harmonized with the United Nations Resolution 2178 (2014) on foreign fighters/mercenaries, which was adopted by the United Nations Security Council at the 7272nd session of September 24, 2014.

The Criminal Code of Montenegro is harmonized, *inter alia*, with the following international documents: Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism from 2005; Council of Europe Convention on the Prevention of Terrorism; International Convention for the Suppression of Terrorist Financing from 1999; FATF Recommendation I for preventing money laundering; FATF Special Recommendation II regarding the terrorist financing. On July 26, 2017, Montenegro adopted the Law Ratifying the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, which was adopted on May 19, 2015.

The Law on the Prevention of Money Laundering and Terrorist Financing is harmonized with the requirements of international organizations and institutions and relevant regulations in the field of prevention of money laundering and terrorist financing: recommendations of FATF, Moneyval, Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing; Directive 2006/70/EC of 1 August 2006, laying down implementing measures; Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of “politically exposed person” and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (32002L0092); UN International Convention for the Suppression of the Financing of Terrorism. It is important to mention the full harmonization with the IV Directive.

Pursuant to the Criminal Procedure Code of Montenegro, criminal reports are submitted to the State Prosecutor (Basic State Prosecutor, Higher State Prosecutor and Special State Prosecutor). The state prosecutor is responsible for conducting criminal and financial investigations, as well as the only person authorized to file charges before the court for all predicate criminal offences for which prosecution is undertaken *ex officio*. The Special State Prosecutor's Office is responsible for the area of terrorism, which in the case called the so-called “coup d'état” laid the foundations of the Montenegrin judicial system, bearing in mind that this area, i.e. the area of terrorism was a novelty when it comes to the judicial system in Montenegro.

Strategic planning began in 2010, when the first Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing was adopted, for the period 2010-2014. The second strategy covered the period 2015-2018, while the third (which is in the final stage of development) refers to the period 2020-2023. The implementation of the strategic framework was specified by action plans that contained specific measures, the implementation of which would lead to the fulfilment of the aims recognized by the strategic text.

Proceeding from security interests both at the national, as well as regional and international level, trends in the development and movement of terrorism, needs, and taking into account the commitments established in the Constitution of Montenegro, the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2015-2018 defined six strategic goals.

Given that money laundering and terrorist financing represent a criminal activity with a high degree of social danger, this Strategy defines eight goals that are elaborated in accompanying action plans: (1) Determined assessment of the risk of money laundering and terrorist financing, (2) Improvement of normative-legal framework; (3) Developed personnel and material-technical capacities; (4) Improved institutional cooperation in order to efficiently exchange data; (5) Improved international cooperation; (6) Capacity building through training and development; (7) Applied recommendations of Moneyval; (8) Strengthening supervision over the reporting entities of the Law on the Prevention of Money Laundering and Terrorist Financing.

The national interdepartmental operational team, formed by the Bureau for Operational Coordination of the activities of intelligence and security department bodies, is in charge of monitoring the implementation of measures for the implementation of the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2015-2018 and the Action Plan 2015-2016.

From the aspect of terrorist financing, especially taking into account the contemporary trend of the spread of radicalization through *Soft measures*, which was actualized after the weakening of ISIL, it is important to point out that the phenomenon of violent extremism and radicalism was treated by the Countering Violent Extremism Strategy 2016-2018, with the accompanying action plan, after which the Transitional Action Plan for 2019 was adopted, then the new Countering Violent Extremism Strategy 2020 - 2024. The implementation of strategic documents is entrusted to another body of the Bureau for Operational Coordination of the activities of intelligence and security department bodies - the National Operational Team for the Implementation of the Action Plan for the Implementation of the Countering Violent Extremism Strategy, which is in charge of the implementation of tasks that require operational coordination of activities in this area.

Recommendations:

- To identify modified circumstances compared to the period when the valid version of the law was adopted, ambiguities and issues in the practical application of the valid Law on the Prevention of Money Laundering and Terrorist Financing.
- On the basis of the identified, adopt amendments to the Law on the Prevention of Money Laundering and Terrorist Financing and harmonize it with the 5th EU Directive.
- Draft relevant secondary legislation in accordance with the Amendments to the Law on the Prevention of Money Laundering and Terrorist Financing.

- Fully harmonize the Law on Restrictive Measures with the EU *acquis*.
- Adopt the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2020-2023 with an accompanying action plan that will contain specific activities, the implementation of which will strengthen capacities in the fight against terrorist financing.

Institutionalized framework

Special State Prosecutor's Office

In accordance with best practice, Montenegro has made certain reforms at the institutional level. In accordance with the recommendations of the European Commission, in 2015 it established the Special State Prosecutor's Office, which is responsible for the criminal offence of terrorism and terrorist financing. In addition, within the Police Administration, a Special Police Department was formed, under whose competence is the fight against terrorism. This unit cooperates directly with the Special State Prosecutor's Office, and in addition to terrorism and closely related areas such as arms smuggling and terrorist financing, it also deals with issues of organized crime, money laundering, etc. In order to ensure the effectiveness of investigations and prosecution of perpetrators of criminal offences under the competence of the Special State Prosecutor's Office, the Special State Prosecutor's Office has the legal option of forming investigation teams, which are composed of the Special State Prosecutor's Office, the Police Administration, the Tax Administration and the Customs Administration. The work of the investigation team is coordinated by the Special State Prosecutor.

In addition to the Special State Prosecutor's Office, the fight against terrorist financing is also dealt with by other state authorities at the national level: Police Administration (Department for Prevention of Money Laundering and Terrorist Financing (FIU) and Department for Fight against Organized Crime and Corruption), National Security Agency, Ministry of Defence, Ministry of Justice, Ministry of Interior, Supreme State Prosecutor's Office, High Court in Podgorica, Ministry of Economy, Ministry of Finance, Ministry of Public Administration, Ministry of Foreign Affairs, Tax Administration, Central Bank of Montenegro, Customs Administration, Directorate for Protection of Classified Data.

Police Administration

With the amendments to the Rulebook on Internal Organization and Systematization of the Police Administration of April 2019, the Department for Prevention of Money Laundering and Terrorist Financing was formed - the FIU police model, which reorganized the former Administration for the Prevention of Money Laundering and Terrorist Financing. In this manner, the obligation of reporting entities with regard to reporting under the Law on the Prevention of Money Laundering and Terrorist Financing was reaffirmed, as well as more consistent application of indicators of suspicious transactions, and trust and partnership between FIU and reporting entities was re-established, which directly resulted in an increase in the number of suspicious transactions. This kind of reorganization had an impact on the better quality of work, which led to specific results.

The FIU took over the complete tasks performed by the former APMLTF. However, in addition to the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing, officers of the FIU police model also implement other laws: Law on Internal Affairs, Law on Criminal Procedure and all other laws and regulations that provide greater competence

and other opportunities prescribed by the Law. As officers of the Police Administration, they have the opportunity to use relevant resources of organizational units within this authority, where the possibility of working in joint teams that are formed by order of the Chief Special Prosecutor, and whose integral part are officers of the Department for Fight against Organized Crime and Corruption (Special Police Department and Department for Suppression of Serious Criminal Offences) is of particular importance, under whose competence is money laundering, terrorism and terrorist financing. Through the implementation of the project "Intelligence-Led Policing", the Criminal Police Department is constantly working on introducing new methods of criminal-intelligence work and collecting intelligence data related, *inter alia*, to terrorism and terrorist financing.

National Security Agency (NSA)

The Agency collects, records, analyses, evaluates, uses, exchanges, stores and protects data defined in Article 6 of the Law on NSA. Continuous work is being done to strengthen capacities in the process of gathering intelligence data. In the NSA, there is a special line of work that deals with the security challenge of terrorism, within which the necessary intelligence-preventive activities are undertaken.

In addition to the mentioned state bodies, in Montenegro there is a certain number of civil society organizations that are active in the field of combating terrorism, money laundering and terrorist financing. Non-governmental organizations represent relevant partners to public authorities in implementing preventive programmes and mitigating the possible consequences of terrorism, money laundering and terrorist financing.

Recommendations:

- Strengthening cooperation between competent authorities at the national level in the area of terrorist financing.

International and regional cooperation

Financial Intelligence Unit

During the existence of the former Administration for the Prevention of Money Laundering and Terrorist Financing, Montenegro was a member of the Egmont network through which financial intelligence were exchanged with other member states, data on suspicious operations and suspicious financial transactions of persons associated with terrorist financing. With the reorganization of the Administration for the Prevention of Money Laundering and Terrorist Financing and the formation of the Department for Prevention of Money Laundering and Terrorist Financing within the Police Administration (FIU police model), Montenegro lost the status of a member of Egmont. Upon the adoption of the Law Amending the Law on the Prevention of Money Laundering and Terrorist Financing, in December 2019, an application was submitted to the Secretariat of the EGMONT Group for admission to membership, and the re-admission procedure is ongoing. In the meantime, FIU has access to all data on suspicious transactions that pass through the Montenegrin financial and non-financial system, because it has the legal option to collect those data in Montenegro. Also, the financial intelligence unit and competent authorities in Montenegro have alternative options for collecting financial data from foreign authorities, primarily through bilateral cooperation, international police cooperation or letters rogatory for international legal assistance. In order to strengthen international cooperation, FIU signed agreements on cooperation with foreign financial intelligence services

of Serbia, Albania, Bosnia and Herzegovina, North Macedonia, Kosovo, Slovenia, Croatia, Bulgaria, Portugal, Russia, Poland, UAE, Ukraine, USA, Romania, Bermuda, Moldova, San Marino, Israel, Aruba, Estonia, Armenia, British Virgin Islands, United Kingdom, Japan, Canada, Cyprus, India, Saudi Arabia, Kazakhstan, Turkey, Panama, Australia, Georgia, South Africa and Bangladesh.

In order to facilitate the smooth exchange of information with foreign financial intelligence services, during 2019 the FIU signed agreements with the financial intelligence services of: Serbia, North Macedonia, Kosovo, Cyprus, Slovenia and Azerbaijan.

International police cooperation

International and regional cooperation also take place through the Police Administration - Department for International Operational Police Cooperation INTERPOL-EUROPOL-SIRENE, which through a protected communication channel 24/7 exchanges information with over 190 members of Interpol, with which intelligence and other data are exchanged in connection to the terrorist financing, money laundering, cash flows of foreign fighters fighting abroad, exchange of data on their movements. Also, through EUROPOL and the Siena channel, coordinated operations are carried out with the aim of locating persons who finance terrorism, access to Europol's analytical files to Montenegrin authorities, preventive action of persons who are asylum seekers in Montenegro and all other useful data related to the fight against terrorist financing. Each member of Europol has its own national unit for fight against terrorism and fight against terrorist financing.

The Montenegrin police share data on persons traveling to conflict zones for terrorist activities through Europol's analytical project AP TRAVELLERS, thus participating in it. The Montenegrin FIU participates in the AP TFTP analytical project for checking financial transactions due to suspicions of terrorist financing. By means of this analytical project, checks are carried out on entities, that is, natural persons in its database, as receivers/senders of monetary transactions suspicious from the aspect of terrorist financing. It also participates in the analytical project for suspicious financial transactions of AP SUSTRANS. The trend of increased communication towards this analytical project is evident since the establishment of the Department for Prevention of Money Laundering and Terrorist Financing, i.e. the police model of the financial intelligence unit within the Police Administration. During 2018, there were no outgoing communications towards AP SUSTRANS, while in 2019 there were 25 communications.

National Security Agency

Also, the National Security Agency and the Ministry of Defence, through their channels, exchange data with partner services with the aim of preventive action in suppression of terrorist financing. The Agency's international cooperation is defined by Article 15a of the Law on NSA *"The cooperation of the Agency with bodies, organizations and services of other countries and international organizations and it is carried out/implemented by exchanging data and jointly performing tasks within the competence of the Agency, in accordance with the law."*

When exchanging data, the Agency may disclose personal data from Montenegro, i.e. supply it to authorities, organizations and services referred to in paragraph 1 of this Article if:

- 1) the country to which the data is disclosed has regulated protection of personal data and*
- 2) it receives information that the person to whom the personal data relates to threatens the national security of Montenegro, the security of the country to which the data is supplied or values protected by international law; and*

3) the principle of reciprocity is ensured.

Data referred to in paragraphs 1 and 2 of this Article can only be used for the purpose for which they were supplied. The Agency is required, when supplying the data referred to in paragraph 1, 2 and 3 of this Article, to state the recipient's obligations regarding the application of an adequate level of personal data protection measures and their use exclusively for the purpose for which they were supplied. The records of data referred to in paragraph 2 of this Article are kept by the Agency."

Ministry of Defence – International defence cooperation

Throughout the year, the Ministry of Defence, as a member of NATO, had intensive cooperation with other members of the NATO alliance, as well as with EU countries and other partner countries. As a NATO member state, Montenegro, i.e. the Ministry of Defence and the Army of Montenegro actively exchange operational and strategic data and participate in joint operations and exercises aimed at preventing terrorism.

International legal assistance

In accordance with Article 3 of the Law on International Legal Assistance in Criminal Matters, international legal assistance includes the extradition of the defendants and convicted, assignment and taking over of criminal prosecution, enforcement of foreign court decisions in criminal matters, formation of joint investigation teams, as well as other forms of international legal assistance prescribed by this Law. Other forms of international legal assistance within the meaning of this Law are: delivery of documents, written materials and other items related to criminal proceedings in the requesting state; mutual exchange of information, as well as execution of certain procedural actions; hearing of the defendant, witnesses and experts, including hearing via video and telephone conference connection, preliminary investigation, search of premises and persons, temporary confiscation of objects, secret surveillance measures, submission of banking data, DNA analysis, temporary surrender of persons deprived of their liberty for the purpose of testifying, submission of information from criminal records of data on conviction and other procedural actions.

Article 4 of the Law on International Legal Assistance prescribes the ways of exchanging letters rogatory: the domestic judicial authority forwards letters rogatory for international legal assistance to foreign judicial authorities and receives letters rogatory for international legal assistance from foreign judicial authorities through the ministry competent for judicial affairs, i.e. **through the Ministry of Justice**. In the event that an international treaty, or reciprocity, does not exist, the Ministry **delivers and receives** letters rogatory for international legal assistance **diplomatically**. Exceptionally, when it is stipulated by an international treaty, or when there is reciprocity, the domestic judicial authority can **directly deliver to the competent foreign judicial authority and receive from the foreign judicial authority a letter rogatory for international legal assistance**, with the obligation to deliver a copy of the letter rogatory to the Ministry.

In urgent cases, if there is reciprocity, a letter rogatory for international legal assistance can be sent and received through the **INTERPOL** National Central Bureau. Courts and the state prosecution office are competent to provide international legal assistance, in accordance with the law.

Also, this Law in Article 6 paragraph 2 stipulates that the domestic judicial authority will also act on a letter rogatory for international legal assistance from a foreign judicial authority when **the**

letter rogatory is submitted by electronic or other means of telecommunication that provides confirmation of receipt, if it can determine its credibility, and the foreign judicial authority is ready to deliver the original of the letter rogatory within 15 days.

Recommendations:

- Renew FIU's membership in the Egmont Group,
- Strengthening international police cooperation in the area of terrorist financing

Adequacy of human and financial resources prescribed for the fight against terrorist financing

With the inclusion of the financial intelligence unit in the Police Administration, this Department, in addition to the authorizations defined by the Law on the Prevention of Money Laundering and Terrorist Financing, also receives police authorizations, primarily towards applying the authorizations from the Criminal Procedure Code, which define the possibility of FIU participation in the phase of preliminary investigation in the part of gathering intelligence and evidence that could be useful for the successful conduct of criminal proceedings.

Pursuant to the provisions of the Law on the Prevention of Money Laundering and Terrorist Financing, the FIU has its own budget and allocated financial resources for the unhindered performance of tasks within its competence.

On the basis of the adopted Rulebook on Organization and Systematization of Jobs, 2 departments with 30 employees were classified in the FIU (Department for Prevention of Money Laundering and Terrorist Financing):

- Department for Processing Suspicious Transactions and Analytical Work,
- Department for Exchange of Intelligence and Information

The existing organization and profile of the official staff is not fully adequate to the needs of the Department, because the emphasis is currently placed on logistics services instead of operational services which deal with the primary tasks of the Department. Thus, of the total number of jobs, only 40% are officers dealing with suspicious transactions and analytics, while the rest are supporting services, which is insufficient for the efficient operation of the Department. Also, in the official staff structure, there is a large number of officials with secondary education (7 officials). In addition, the analysis identified a lack of appropriate training and skills that would give officials the opportunity to adequately approach contemporary challenges in preventing and combating money laundering and terrorist financing.

Recommendations:

- By amending the Rulebook on Internal Organization and Systematization of the Police Administration, foresee the reorganization of the Department for Prevention of Money Laundering and Terrorist Financing in order to finalize the comprehensive concept of the fight against money laundering and terrorist financing and include additional tasks related to international restrictive measures;
- As part of the profiling of officials for an adequate response to the challenges in prevention and suppression of money laundering and terrorist financing, it is necessary to continuously conduct advanced specialist training for officials.

ASSESSMENT OF VULNERABILITY OF CERTAIN CATEGORIES OF REPORTING ENTITIES WITH REGARD TO TERRORIST FINANCING

Banking sector

There are 15 banks operating in Montenegro, while two are in bankruptcy (Atlas Bank and Invest Bank). The banking sector is a category that is the focus of competent institutions, primarily the Central Bank of Montenegro, which has a supervisory role over the operations of banks in Montenegro.

With the formation of the FIU police model, the obligation of reporting entities with regard to reporting under the Law on the Prevention of Money Laundering and Terrorist Financing was reaffirmed, as well as more consistent application of indicators of suspicious transactions, and trust and partnership between FIU and reporting entities was re-established, which directly resulted in an increase in the number of reported suspicious transactions of an enviable level of quality and in accordance with the indicators of suspicious transactions. Although in Montenegro, no cases of terrorist financing have been registered, this fact leads to the conclusion that in Montenegro there are appropriate mechanisms for high-quality and efficient recognition of suspicious transactions related to terrorist financing.

The analysis of the overall situation indicated a low level of risk when it comes to the banking sector. Namely, in addition to the more intensive and specific cooperation between the police FIU and the banking sector, in the coming period it is necessary to strengthen the capacities of the banking system in terms of early recognition of subjects and transactions that could represent a path to terrorist financing, due to new forms and manifestations of terrorism. This can be achieved through attending advanced specialist trainings for members of the banking sector independently and with members of the police FIU in order to raise awareness and strengthen capacities in this direction.

The analysis of the legislation, especially in the part of the application of restrictive measures - freezing financial assets of designated persons⁷⁷, which is regulated in Montenegro by the Law on International Restrictive Measures, found that this Law is not in accordance with FATF recommendations and European standards. *Inter alia*, as one of the key shortcomings that also represents a vulnerability, is the impossibility of temporarily blocking funds until the final decision of the competent authorities is made, at the moment when the financial funds are recorded and recognized by the reporting entities. That is why the legislative area in the part of restrictive measures must be revised and harmonized with international standards, in order to enable all reporting entities, and above all the banking sector, to operate efficiently.

Recommendations:

- Amendment to the Law on International Restrictive Measures for purpose of harmonization with international standards;
- Strengthening the capacity of the banking system in terms of early recognition of entities and transactions that could represent a path to terrorist financing, through attending advanced specialist training (independently and with representatives of the police FIU);
- Continue with continuous and effective cooperation between the police FIU, the Central Bank of Montenegro and the banking sector.

⁷⁷ Persons who are on international or national lists of designated persons – persons towards which the sanctions are put in place

Non-governmental organizations (NGOs)

In Montenegro, 5300 non-governmental organizations are registered. Their geographical distribution is as follows:

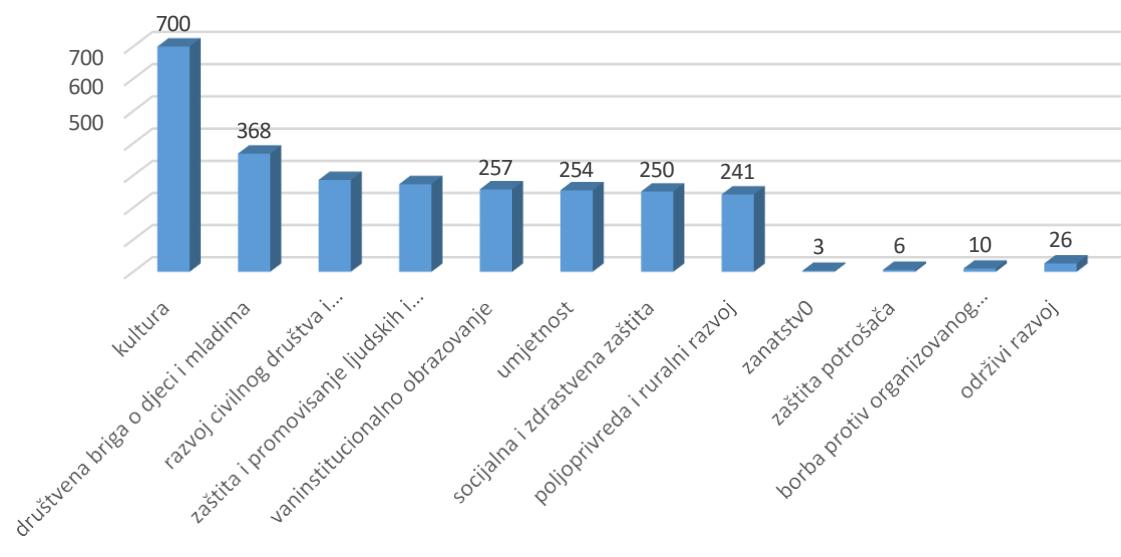
| Registered office | Associations | Foundations | Representative offices of foreign NGOs | Total per municipalities |
|-------------------|--------------|-------------|--|--------------------------|
| Andrijevica | 42 | 1 | 0 | 43 |
| Bar | 298 | 11 | 7 | 316 |
| Berane | 179 | 4 | 5 | 188 |
| Bijelo Polje | 262 | 4 | 2 | 268 |
| Budva | 168 | 8 | 4 | 180 |
| Cetinje | 136 | 8 | 0 | 144 |
| Danilovgrad | 72 | 7 | 0 | 79 |
| Gusinje | 11 | 1 | 1 | 13 |
| Herceg Novi | 240 | 13 | 2 | 255 |
| Kolašin | 66 | 2 | 0 | 68 |
| Kotor | 185 | 10 | 7 | 202 |
| Mojkovac | 38 | 0 | 0 | 38 |
| Nikšić | 442 | 14 | 0 | 456 |
| Petnjica | 37 | 1 | 0 | 38 |
| Plav | 101 | 2 | 0 | 103 |
| Pljevlja | 194 | 1 | 1 | 196 |
| Plužine | 18 | 1 | 0 | 19 |
| Podgorica | 1946 | 82 | 82 | 2110 |
| Rožaje | 176 | 6 | 0 | 182 |
| Šavnik | 14 | 0 | 0 | 14 |
| Tivat | 131 | 3 | 0 | 134 |
| Tuzi | 50 | 3 | 2 | 55 |
| Ulcinj | 118 | 4 | 6 | 128 |
| Žabljak | 35 | 1 | 0 | 36 |
| Total | 4959 | 187 | 119 | 5265 |

Pursuant to the Law on Non-Governmental Organizations, NGOs are required to register with the competent state authority, and to act within the framework of the articles of association and generate income during one calendar year as prescribed in the law.

In accordance with the classification of business activities from the Register of NGOs, most non-governmental organizations are represented by following areas:

- culture - 700,
- social care for children and youth - 368,
- development of civil society and volunteerism - 286,
- protection and promotion of human and minority rights - 273,
- non-institutional education - 257,
- arts - 254,
- social and health care - 250,
- agriculture and rural development – 241,
- crafts – 3,
- consumer protection – 6,
- fight against organized crime – 10,
- sustainable development – 26,
- Euro-Atlantic and European integrations – 26.

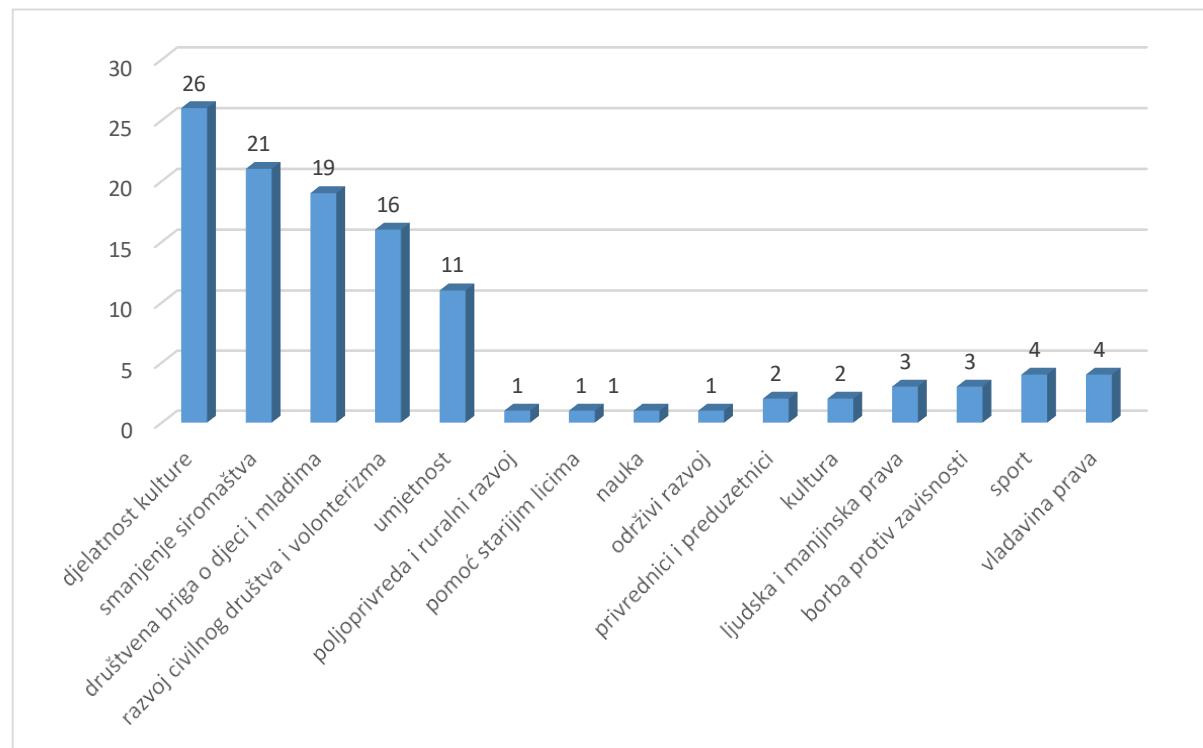
Area of activities of NPO



Left to right: culture; social care for children and youth; development of civil society...; protection and promotion of human...; non-institutional education; arts; social and health care; agriculture and rural development; crafts; consumer protection; fight against organized...; sustainable development

When it comes to non-governmental foundations, most of them are registered in areas related to:

- cultural activities - 26,
- poverty reduction - 21,
- social care for children and youth - 19,
- development of civil society and volunteerism - 16,
- arts – 11
- agriculture and rural development – 1
- assistance to the elderly – 1
- science – 1
- sustainable development – 1
- businessmen and entrepreneurs – 2
- culture – 2
- human and minority rights – 3
- fight against addiction – 3
- sport – 4
- rule of law – 4



Left to right: cultural activities; poverty reduction; social care for children and youth; development of civil society and volunteerism; arts; agriculture and rural development; assistance to the elderly; science; sustainable development; businessmen and entrepreneurs; culture; human and minority rights; fight against addiction; sport; rule of law

Representative offices of foreign NGOs mainly perform their activities in the areas related to:

- poverty reduction 46
- professional help 12
- institutional and non-institutional education – 9
- development of civil society and volunteerism – 9
- social care for children and youth – 7
- economy-entrepreneurs – 1
- sustainable development – 1
- sports in total – 1
- rule of law - 1

Summarizing this data and taking into account all types of NGOs, they are most represented in activities related to culture: 732, social care for children and youth: 394, and the least in activities related to artisanal activities 3, consumer protection 6 and fight against corruption and organized crime 10.

Taking into account all types of NGOs, most of them are represented in Podgorica, i.e. their geographical registered office is such that there are 1,668 of them in the capital - while together with the two city municipalities of Golubovci and Tuzi, there are 1,760, which makes up 38.48% of the total number of registered NGOs in Montenegro, then in Nikšić 410, in Bar 284 and Bijelo Polje 235.

The fewest registered NGOs are in the municipalities: Šavnik 10, Plužine 17, Žabljak 34, Mojkovac 35, Andrijevica 41 and Kolašin 57.

The above-mentioned statistical data support the fact that the establishment and registration of NGO associations, foundations and representative offices of foreign NGOs in Montenegro is on the rise, and therefore there is a fear that some of them may in the future be used for certain other activities for which they are not foreseen by their constituent acts, and therefore the control and verification procedure when registering these NGOs must be tightened, but also be under a certain "magnifying glass" of the competent authorities if they become suspicious from the aspect of the entry and exit of money from Montenegro, suspicious money transfers, transactions, etc.

No NGO has been identified in Montenegro that is or had the intention of participating in the process of financing a terrorist activity. On this basis, in the previous National Terrorist Financing Risk Assessment, as well as in the reporting period, NGOs were not recognized as a threat from terrorist financing, which was the reason why they were not recognized as such in the legal framework.

However, taking into account the modern methods of spreading radical ideas (current after the weakening of ISIL) through *Soft measures* (online educational conversations, speeches, holding educational forums, etc.), and the geographical position of Montenegro in the region, Montenegro in the coming period should pay attention to the analysis of NGOs in relation to their susceptibility to indirect or direct participation in the terrorist financing (here, in particular, meaning the spread of radical ideas), the possibility that some of them may in the future be used for certain other activities for which they were not foreseen by their constituent acts. In this context, it is necessary to consider tightening the measures of the NGO registration procedure and supervision by the competent authorities if they become suspicious from the aspect of the entry and exit of money from Montenegro, suspicious money transfers, etc.

In accordance with the Law on Non-Governmental Organizations, NGOs that are registered in the Central Registry of the Commercial Court must act in accordance with their articles of association and their income during one calendar year must not exceed 4,000 euros, otherwise the non-governmental organization cannot directly perform an economic activity until the end of the current year. It is important to emphasize that the profit that has been generated must be used on the territory of Montenegro in order to realize it as provided by the articles of association of the same NGO. Therefore, if the income of that non-governmental organization exceeds the aforementioned amount, the money is paid into the account of the budget of Montenegro. An NGO that performs an economic activity is obliged to submit annual financial reports to the Tax Administration.

In the future period, the focus of control by state authorities should be directed to non-governmental organizations, since they are "privileged" categories, which often acquire money through donations, voluntary contributions, dividends, rent, estate. They are also exempt from paying VAT, and accordingly it is extremely important that NGOs really act in accordance with their articles of association and serve the purpose for which they were founded.

Monetary donations to non-governmental organizations are one of the types of potential danger, in particular if it is a donation from abroad, especially from some countries that are affected by wars, so the monitoring of these donations must develop in such a way that special attention should be paid to smaller but more frequent monetary amounts from certain countries.

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wars, so the monitoring of these donations must develop in such a way that special attention should be paid to smaller amounts of money from certain countries. Also, as the law stipulates that an NGO that carries out an economic activity is required to submit annual financial reports to the Tax Administration, it is necessary to strengthen the cooperation of this authority with the FIU in order to create preconditions for rapid response and prevention.

In research conducted by the Centre for Development of Non-Governmental Organizations, it was decisively stated that almost half of non-governmental organizations do not publish their annual reports on their websites, which supports the thesis that the control of NGOs and other organizations must be a priority in the coming period in Montenegro.

Taking into account the available data, the analysis of the same led to the conclusion that the level of risk in relation to NGOs is low, but that it exists, which indicates the necessity of taking steps to eliminate the possibility that certain NGOs are used for the purposes of terrorist financing.

Recommendations:

- Perform an analysis of registered NGOs (non-governmental associations and non-governmental foundations) from the aspect of the activities they are engaged in and the persons who establish them, responsible persons, or persons in the boards of directors;
- Assess the need to tighten control measures during the NGO registration process and during NGO operations;
- Introduce the obligation to consult the authority competent for NGO registration with official religious communities in Montenegro when deciding on the registration of NGOs whose operations have certain religious components;
- Perform an analysis of financial operations, transactions and donations made by NGOs;
- Carry out continuous controls in relation to the turnover of funds, namely:
 - Source of funds and amount of those funds,
 - Geographical origin of funds,
 - Data on donors.

Capital market

When it comes to the capital market, the biggest problem is the so-called "custodial services" provided by the banking sector. This is an area that is experiencing remarkable progress everywhere in the world, considering that it is a very convenient way to bring in larger funds. Namely, this is an area where there is a risk of potential terrorist financing, due to the complicated ownership structures that most often come from the so-called offshore destinations. Montenegro had no reports of suspicious business or suspicious financial transactions that can be subsumed under the criminal offence of Terrorist Financing.

Providers of services of sending and receiving remittances

The provision of services for sending and receiving money through business agents is represented in Montenegro. The *Western Union* service, whose system includes banks and post offices, stands out as the most represented. By analysing the situation, the impossibility of validly establishing the identity of the person sending and receiving money is recognized as a vulnerability of this system, i.e. impossibility of determining the authenticity of the presented identification document of the payer and/or recipient.

Also, a problem was observed with the services of receiving money from persons who are registered as migrants, i.e. asylum seekers on the territory of Montenegro (and come from areas

affected by religious wars), and who as such do not have an identification document, but only a certificate from the competent authority (Ministry of Interior) on the asylum application that contains data that those persons gave to the authorized officer, without the possibility of checking and establishing the real identity.

As information on all suspicious transactions is submitted to the police FIU, and as this body now has police authorizations, and therefore the possibility of exchanging operational data with other countries, the analysis of the situation defines the level of vulnerability as low, but indicates the need for preventive action and strengthening capacity of post office employees through attending subsequent trainings.

Other financial and non-financial institutions

When it comes to the rest of the financial sector, service providers: life insurance, investment development fund, leasing service, organizers of games of chance, trade in real estate, trade in precious metals and precious stones, lawyers, accountants and auditors, tour operators, motor vehicle dealers and others, no cases have been observed that can be classified as terrorist financing, so no threat from terrorist financing has been identified.

Recommendations:

- Strengthen the capacities of the Post of Montenegro through the organization of advanced training for officials who carry out or have contact with possible suspicious sending and receiving of money.

CONCLUSION

The risk of terrorist financing in Montenegro is low.

Bearing in mind the geographical position of Montenegro, external factors, global trends regarding the strengthening of radicalism, violent extremism and terrorism, as well as the fact that Montenegro is located on the so-called "Balkan route" for illegal migration, smuggling of narcotics, weapons, excise goods and other goods, it is necessary to pay constant and comprehensive attention to this problem.

Threats from the terrorist financing in Montenegro are low, but potentially present, primarily due to its evident presence in the surroundings, Europe and the world. The trends of propagating radicalism of all forms, the use of modern technological achievements and social networks to propagate ideas and recruit members, and the use of sophisticated platforms for the exchange of information and funds, including virtual currencies, which can be used to finance terrorism, are certainly present, and the possibility of their spillover from country to country is a constant potential threat.

Vulnerability to terrorist financing in Montenegro is low. However, a potential vulnerability is the insufficiently developed cooperation mechanism of state authorities in terms of preventing the use of financial resources by potential financiers of terrorism and their blockage. In this direction, coordination and rapid exchange of data between state authorities, including mutual access to data in databases, must be established at a higher level. From the aspect of reporting entities, the vulnerability is reflected in the control of NGOs with regard to the impossibility of determining the origin of the money and the purpose for which it was obtained and for which it

is used. Insufficient in-depth control of persons during the application for NGO registration and later during the operation of the NGO is evident, in terms of checks of enclosed documentation, checks of authorized persons, especially if the persons are from abroad, geographical position of the country from which they come, checks of cash flows, and all other measures and actions that are necessary for preventive action when it comes to terrorist financing.⁷⁸

⁷⁸ In the development of this report, the following data sources were used:

- annual reports of the Police Administration for 2015, 2016, 2017 and 2018
- data from SOCT
- Supreme State Prosecutor's Office of Montenegro for 2015, 2016, 2017 and 2018
- Customs Administration
- Ministry of Public Administration
- Ministry of Justice
- National Security Agency
- documents of commercial banks in Montenegro
- the national risk assessment report that was adopted in 2015
- Central Bank of Montenegro
- Tax Administration
- Administration for Inspection Affairs and Supervision
- EUROPOL
- European Commission "COMMISSION STAFF WORKING DOCUMENT 2019"
- Moneyval's report
- report of the European Commission
- Criminal Procedure Code of Montenegro

ACTION PLAN

FOR REDUCING THE MONEY LAUNDERING AND TERRORIST FINANCING RISK

| Strategic goal 1 | Reduced risk of money laundering and terrorist financing | | | | |
|--|--|--|--------------------------------------|-------------------|-------------------|
| Initial status | The status at the end of the implementation of the action plan | | | | |
| <p>The system for monitoring the money laundering and terrorist financing risk is not entirely adapted to the modern trends and the movement of criminality. The use of sophisticated methods by organised criminal or terrorist groups for the use of information technologies for the purpose of money laundering and terrorist financing is more and more present and the law enforcement services need to adequately respond to it. The entire system in Montenegro, both in the public and the private sector, is insufficiently advanced for it to be able to give a continuous and efficient response to the trends in the movement of threats that directly affect the money laundering and terrorist financing risk.</p> <p>Montenegro has achieved enviable results in the practical application of EU standards regarding the prevention of money laundering and terrorist financing, but has not yet reached the required level of compliance, especially in the area of effective implementation of legislation that is highly harmonised with the EU <i>acquis</i>. Further activities are necessary to improve the organisational, information and personnel/professional framework for achieving standards and a positive report during the Moneyval's Fifth Evaluation Round.</p> | <p>A coordinating body for monitoring the implementation of the existing strategic and operational documents and the development of the new documents, according to the needs, has been established.</p> <p>An efficient system of monitoring the National Risk Assessment and the implementation of the Action Plan for reducing the money laundering and terrorist financing risk has been established.</p> <p>A system of clear coordination between the authorities at the national level has been established for the purpose of a systemic response to risks through the amendments in the legislative, organisational, technical and personnel framework.</p> <p>Montenegro has applied all modern standards and the best practices of the European Union in terms of preventing the use of financial and non-financial system for money laundering and terrorist financing, and has fulfilled all obligations regarding the Moneyval's Fifth Evaluation Round.</p> | | | | |
| Operational goal 1 | An efficient system for monitoring the anti-money laundering and terrorist financing risk has been established | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 1.1.1. Establish a coordinating body that will monitor the analysis of the effectiveness of the anti-money laundering and counter terrorist financing system | <ul style="list-style-type: none"> Coordinating body established Number of meetings held annually Number of prepared reports on the implementation of measured Number of recommendations for improving the measures implementation system | PA – FIU in cooperation with supervisory authorities | I quarter of 2021, continuously | / | Budget funds |

| | | | | | |
|--|---|---|---|---|-----------------------------------|
| | <ul style="list-style-type: none"> Number of reports on the implementation submitted to the Government | | | | |
| 1.1.2. Conduct the activities for the preparation of the Moneyval's Fifth Evaluation Round | <ul style="list-style-type: none"> The analysis of the status from the aspect of standards of efficient money laundering and terrorist financing prevention with regard to the Fifth EU Directive has been prepared The proposal of measures for the improvement of the status has been drafted The authorities responsible for implementing the measures have been defined The periodic reports on the implementation of measures with the implementation degree have been prepared The periodic reports have been submitted to the Government The coordination during the Fifth Evaluation Round has been finished The defense of the report in Moneyval | Coordinating body | I quarter of 2021, continuously, IV quarter of 2022 | / | Budget funds / External financing |
| 1.1.3. Carry out the implementation monitoring and the periodic evaluation of the National Risk Assessment and the Action Plan | <ul style="list-style-type: none"> Periodic reports have been prepared on the fulfillment of obligations from the Action Plan for reducing the money laundering and terrorist financing risk Period evaluation of the NRA and the AP has been carried out A proposal has been drafted on the harmonisation of the Action plan, according to the identified needs for changes Information has been continuously collected about the new threats and vulnerabilities and the money laundering and terrorist financing risk | Coordinating body, responsible institutions in AP | Continuously | / | Budget funds |

| | | | | | |
|---|--|---|---------------------------|---|-----------------------------------|
| 1.1.4. Ensure regular updating of the NRA and the Action Plan | <ul style="list-style-type: none"> The proposal for the amendments to the NRA and the AP has been drafted, in accordance with the identified problems and shortcomings and changes in threats from ML / TF The proposal for the amendments to the NRA and the AP has been adopted | Coordinating body, the Government of Montenegro | Once a year, continuously | / | Budget funds |
| 1.1.5. Improve the record-keeping system at the national level and unify the methodology of creating statistical data | <ul style="list-style-type: none"> The system of a unified statistical monitoring of money laundering cases from suspicious transaction to a final verdict has been established through: <ul style="list-style-type: none"> Analysis of the existing reporting system Defining the obligation of keeping the minimum set of statistical data Development of the methodology for the preparation of reports Development of uniform reporting patterns Establishing a single statistical data base An efficient mechanism for periodic reporting of the authorities has been provided, according to the Law on PMLTF | PA, SSPO, Supreme court | IV quarter of 2021 | / | Budget funds / External financing |
| 1.1.6. Establish a register of beneficial owners | <ul style="list-style-type: none"> The beneficial owners base has been established An application solution for the access to the data from the base has been created A system for updating the register and providing information to the FIU in cases of discrepancies between the data in the register and the data of the reporting entity has been established Procedures for updating databases and the access to the databases have been adopted | TA – CRCE in cooperation with FIU | IV quarter of 2021 | / | Budget funds / External financing |

| | | | | | |
|---|--|-----------------------------------|--------------------|---|-----------------------------------|
| 1.1.7. Establish a register of account owners and a register of safe deposit box owners | <ul style="list-style-type: none"> • The base of account and safe deposit box owners has been established • The application solution for the access to the data in the databases has been created • Procedures for updating databases and the access to the databases have been adopted | Central Bank of Montenegro (CBCG) | IV quarter of 2021 | / | Budget funds / External financing |
|---|--|-----------------------------------|--------------------|---|-----------------------------------|

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| Strategic goal 2 | Reduced vulnerability to the money laundering risk at the national level |
| Initial status | The status at the end of the implementation of the action plan |
| <p>Montenegro is located on the so-called „Balkan Route“ – the crossroads of the key smuggling routes that stretch from the Middle East to the European Union.</p> <p>One part of the so-called Balkan Route passes through Montenegro. Drug trafficking is largely seen as one of the main elements of the cross-border crime, while human trafficking and the smuggling of migrants, as well as the excise goods smuggling, are significant criminal activities that bring financial benefits. Driven by the desire to gain profit, organised criminal groups from Montenegro are the force behind criminal activities for all those illegal routes that pass through the territory of Montenegro, and they often act as the organisers of the smuggling operations through the territories of other countries, including the European Union countries. A significant amount of property benefit achieved through the activities of OCG on the national and international level is being invested in legal flows. Insufficient activity has been recognised in identifying criminal offences that generate unlawful financial benefits, identifying the property that represents income from a criminal activity, and implementing appropriate investigative measures and actions so as to increase the number of identified and prosecuted criminal offences of money laundering and ultimately increase the number of final verdicts and the amount of the confiscated property benefit, either for the criminal offences of money laundering, or by conducting financial investigations. The need to improve the existing technical capacities and information systems has been recognised, including connecting the available databases in order to create preconditions for optimal use and analysis of the available databases by using modern analytical tools. The level of training of the personnel involved in the anti-money laundering system, from the authorised persons at the reporting entities, the supervisory authorities, investigative and prosecution authorities, to judges, has still not reached the required level. Given that it is a criminal offence of money laundering that is developed by using modern and new technologies and products, a continuous training and education of all participants in the system is necessary. The cooperation of the authorities involved in the fight against money laundering should be strengthened.</p> | <p>The strategic and planning action framework of all authorities in the country on money laundering threats has been improved.</p> <p>The number of OCGs operating on the territory of Montenegro has been reduced. The number of persons prosecuted for criminal offences of money laundering has been increased; the amount of confiscated property benefit gained through criminal activity has been increased. A more efficient system has been established that is more resistant to money laundering risks. The cooperation between the authorities in the process of preventing and combating money laundering has been increased. Databases and their interoperability have been established, and the efficiency of information exchange has been improved.</p> <p>Personnel capacities of all authorities in the process of identifying and prosecuting criminal offences of money laundering have been strengthened, from identification to adjudication and confiscation of property, through continuous and specialised training in accordance with the recognised trends. The reorganisation and strengthening of the capacities of the Financial Intelligence Unit, which is capable of successfully responding to the requirements and identified typologies of money laundering, has been carried out.</p> <p>The balance of the results of the Financial Intelligence Unit in terms of identifying suspicious transactions and drafting analytical reports that lead to the prosecution of persons for criminal offences of money laundering has been improved. The balance of temporarily blocked funds that were temporarily confiscated during the investigation and criminal proceedings, and permanently confiscated after the end of the court proceedings, has been improved.</p> <p>The international cooperation has been improved through more efficient exchange of data with foreign partner services leading to more efficient prosecution of persons for criminal offences of money laundering, and more efficient implementation of financial investigations.</p> |
| Operational goal 1 | The quality of policies and strategies for anti-money laundering has been improved |

| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
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| 2.1.1. Provide systematic monitoring and analysis of effects, and the update of the existing and the adoption of new strategic and operational documents in the field of organised crime, prevention of money laundering, radicalism, terrorism and terrorist financing | <ul style="list-style-type: none"> • A system of continuous monitoring of the implementation of strategic and operational documents at the national level regarding the prevention and suppression of money laundering and terrorist financing has been established. • The analysis of all existing strategies has been carried out, in order to avoid their inconsistency and negative overlaps • New strategies harmonised with the EU legal acquis and the recommendations from the relevant expert reports of the member states have been adopted • The analysis of the effects of previous action plans has been done • The measures for updating action plans have been proposed | Bureau for Operational Coordination in cooperation with the Coordinating body | Continuously | / | Budget funds |
| Operational goal 2 | The capacities of the Financial Intelligence Unit for money laundering and terrorist financing prevention have been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |

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| <p>2.2.1. Reorganise the FIU for the purpose of clearly defining and dividing the tasks defined by law</p> | <ul style="list-style-type: none"> The Rulebook on the Internal Organisation and Systematisation of the positions of the Police Administration for the Department for Prevention of Money Laundering and Terrorist Financing has been adopted and defined: <ul style="list-style-type: none"> Scope of work of the Financial Intelligence Unit Organisational units dealing with suspicious transactions, strategic and operational analysis Organisational unit dealing with prevention and following of international standards Organisational unit dealing with the management of the IT system of the FIU Organisational unit dealing with international financial and intelligence cooperation | <p>Mol in cooperation with PA - FIU</p> | <p>IV quarter of 2020</p> | <p>/</p> | <p>Budget funds</p> |
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| 2.2.2. Draft standard operational procedures of the FIU for opening and handling the cases | <ul style="list-style-type: none"> Standard operating procedures have been prepared and prescribe the following: <ul style="list-style-type: none"> Receiving and processing information collected from the reporting entities and other authorities The procedure of opening and handling cases The procedure of information exchange Acting upon the requests of other authorities and organisations Information storage and access | PA - FIU | II quarter of 2021 | / | Budget funds / External financing |
| 2.2.3. Carry out an analysis and adoption of by-laws with the aim of more efficient application of the Law on PMLTF by the reporting entities | <ul style="list-style-type: none"> The analysis of the existing by-laws has been carried out The recommendations for the amendment of the by-laws have been prepared The recommendations have been included through the adoption of new/amended guidelines for the reporting entities' work Amended by-laws according to the Law on PMLTF have been adopted | Mol, PA – FIU in cooperation with supervisory authorities | III quarter of 2021 | / | Budget funds / External financing |

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| <p>2.2.4. Make an analysis of international and the EU regulations in the area of prevention of money laundering / terrorist financing and create an action plan for incorporating the identified regulation (with special reference to the so-called Fifth EU Directive) into national legislation and operational procedures</p> | <ul style="list-style-type: none"> The analysis of the existing regulation has been carried out A report on identified shortcomings with recommendations on changing the normative / organisational / technical part have been prepared Harmonisation of existing regulations with relevant international and EU legal acquis has been done Periodic report on the implementation of recommendations has been prepared Periodic reports have been drafted and submitted to Moneyval and the European Commission | <p>Mol in cooperation with PA – FIU, other supervisory authorities</p> | <p>IV quarter of 2020, Continuously</p> | <p>/</p> | <p>Budget funds / External financing</p> |
| <p>2.2.5. Meet the requirements for re-admission to the EGMONT group</p> | <ul style="list-style-type: none"> Egmont membership application has been submitted Preconditions for re-admission to EGMONT have been met FIU has been admitted as the EGMONT member | <p>PA-FIU</p> | <p>II quarter of 2021</p> | <p>/</p> | <p>Budget funds</p> |

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| <p>2.2.6. Intensify cooperation with foreign financial intelligence services and international organisations at the operational and strategic level</p> | <ul style="list-style-type: none"> • Number of information exchanged with foreign partners • Number of processed cases according to foreign requests / number of verified legal and natural persons • Number of requests sent to foreign FIS • Number of continuous monitoring of accounts according to foreign requests • Preparation of periodic comparative analysis of quantitative and qualitative improvement of international cooperation • Number of blocked transactions / amount of funds blocked according to foreign requests | PA-FIU | Continuously | / | Budget funds |
| <p>2.2.7. Improve the balance of achieved results in identifying and prosecuting the criminal offences of Money Laundering / Terrorist Financing, and related criminal offences</p> | <ul style="list-style-type: none"> • Amount of information submitted to the Prosecutor's Office and other organisational units of the Police on the basis of which the investigation was started • Number of persons prosecuted | PA - FIU in cooperation with Supreme State Prosecutor's Office/Special State Prosecutor's Office and other competent authorities | I quarter of 2021, continuously | / | Budget funds / External financing |

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| | <p>for money laundering / number of criminal offences of money laundering, based on the information from the FIU</p> <ul style="list-style-type: none"> • Number of continuous trackings of accounts • Number of blocked transactions / amount of blocked funds • Number of cash and suspicious transactions received • Number of requests and information / analytical reports sent from / to other authorities | | | | |
| 2.2.8. Strengthen the planned and proactive approach to the work of the FIU based on the recognised typologies of money laundering | <ul style="list-style-type: none"> • Identified new typologies of money laundering • Analysis of cash and suspicious transactions in relation to the identified typologies - number of specific cases and analysis of transactions whose method of execution represents a recognised typology of money laundering | PA - FIU | I quarter of 2021, continuously | / | Budget funds |
| 2.2.9. Strengthen the strategic analysis and planned activities of the FIU in terms of preventing money laundering | <ul style="list-style-type: none"> • New typologies of money laundering have been recognised through practical examples, analyses, suspicious and cash transactions that represent a money laundering or terrorist financing risk • Periodic reports on trends and Identified new typologies | PA - FIU | I quarter 2021, continuously | / | Budget funds |

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| | <p>of money laundering have been prepared according to the FIU's future action plan.</p> <ul style="list-style-type: none"> • New typologies of money laundering and identified trends included in the updated NRA • Information on new typologies submitted to reporting entities for familiarisation and monitoring of future suspicious transactions and activities • An updated list of indicators of suspicious transactions has been made | | | | |
| 2.2.10. Strengthen the targeted action of the FIU in the direction of identifying the property of the members of the OCG, which is inserted into legal flows through money laundering | <ul style="list-style-type: none"> • Identified persons - members of the OCG based on the SOCTA document • Identified persons associated with the members of the OCG responsible for laundering illegally acquired property of the members of the OCG • Number of open cases in relation to identified persons • Number and amount of temporarily blocked funds • Number of analytical reports submitted to the prosecution | PA - FIU | I quarter 2021, continuously | / | Budget funds |

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| <p>2.2.11. Improve professional capacities and analytical skills of the FIU officers</p> | <ul style="list-style-type: none"> • The capacities of the FIU have been improved through the development of a training plan and the implementation of training in the following areas: <ul style="list-style-type: none"> ○ Financial-intelligence analyses ○ Use of modern analytical tools ○ Virtual (crypto) currencies, dark web and alternative money transfer channels ○ Modern methods in money laundering and terrorist financing investigations ○ The use of open sources in the prevention and suppression of money laundering and terrorist financing ○ Investigations of money laundering and terrorist financing using information technologies, the Internet, and cryptocurrencies ○ Use of modern tools (application solutions) for automatic analysis and recognition of suspicious activities in daily work • Number of conducted trainings • The number of officers who have undergone training in relation to the total number of officers | PA - FIU | I quarter 2021, continuously | / | Budget funds / External financing |
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| <p>2.2.12. Improve the IT capacities of the FIU (procurement of equipment and improvement of software solutions for adequate reception and management of data and objects)</p> | <ul style="list-style-type: none"> • Server equipment in accordance with the identified needs / established server room has been procured • Computer and crypto equipment has been procured in accordance with the data protection standards • The application for managing cases/linked with the improved portal for communication with the reporting entities has been developed • The analytical software for processing suspicious and cash transactions and automatic checking of available databases has been developed • The analytical software for improved analyses of the intelligence data has been developed (business intelligence) • Procured analytical tools (I-2, I-base) • Procured software for open source data collection and processing | PA - FIU | II quarter of 2021, continuously | / | Budget funds / External financing |
| <p>2.2.13. Enable direct access of the FIU to Europol's Siena system for exchanging information with Europol, its members and operational partners, in accordance with</p> | <ul style="list-style-type: none"> • A direct connection to Siena has been enabled through a web service, linked to the FIU's application for case management | PA - FIU | I quarter of 2021, continuously | / | Budget funds / External financing |

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| <p>the EU acquis and the Law on the Ratification of the Agreement with Europol</p> | <ul style="list-style-type: none"> • Direct communication with Europol has been enabled through Siena • Number of information exchanged through Siena • Number of information submitted for analytical projects of Europol | | | | |
| <p>2.2.14. Enable direct access of the FIU to Interpol's database (ASF, Operational FIND, SLTD and Dashboard) in accordance with the needs of checking available Interpol databases (red, blue, green, purple notices) for persons processed in the FIU</p> | <ul style="list-style-type: none"> • A direct link to I-24/7 linked to the FIU's application for case management has been enabled • A direct checking of Interpol's databases of wanted persons has been enabled, as well as the persons recorded as perpetrators of criminal offences, persons for whom a locating measure has been imposed and the modus operandi of committing criminal offences • A direct downloading of the content of warrants / notices has been enabled, in order to determine the factual situation of the commission of the crime for which the persons were entered in the Interpol database • A link has been established through Interpol's NCB with Interpol's SLTD database, in order to automatically check the documents of persons | PA - FIU, NCB Interpol | I quarter 2021, continuously | / | Budget funds / External financing |

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| | performing business activities with reporting entities in accordance with the Law on PMLTF for the purpose of checking the validity of their documents | | | | |
| 2.15. Strengthen the personnel capacities of the FIU by increasing the number of officers for the application of international restrictive measures | <ul style="list-style-type: none"> The reorganisation of the FIU has been carried out through the amendment of the Rulebook on the Organisation and Systematisation of workplaces in the Police Administration. The number of officers' positions has been increased by 3 positions for the tasks of freezing the property of persons in accordance with restrictive measures | PA in cooperation with the Mol | III quarter of 2021 | / | Budget funds |
| 2.16. Improve the financial status of the FIU's officers who deal with money laundering and financial investigations | <ul style="list-style-type: none"> The Decision on the Introduction of a Special Allowance has been amended and the special allowance of 30% covers the organisational units of the FIU that deal with financial analysis, prevention and suppression of money laundering and terrorist financing | PA | I quarter of 2021 | / | Budget funds |
| Operational goal 3 | The capacities and resources for investigating financial crime (including asset forfeiture) have been improved | | | | |

| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
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| 2.3.1. Improve the system of parallel conduct of criminal and financial investigations | <ul style="list-style-type: none"> • Standard operating procedures at the level of the Police have been developed, and they define: <ul style="list-style-type: none"> • Functioning of the ARO • The obligation to determine property gain in the earliest phase of the investigation for criminal offences that generate property gain • Defining organisational units at the level of the Police Administration that act in the procedures of identifying proceeds of crime (financial forensics) • Defining the role of the FIU in conducting financial investigations | PA | 1 quarter of 2021 | / | Budget funds / External financing |

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| <p>2.3.2. Improve the capacities of the Police for proactively conducting financial and money laundering investigations</p> | <ul style="list-style-type: none"> • A training plan for financial investigations and money laundering has been prepared • Number of trainings conducted • Number of officers trained • Number of parallel financial and criminal investigations conducted • The number of submitted reports on the identified unlawfully acquired property with criminal charges for criminal offences that generate property gain • The number of processed criminal reports and persons for criminal offences of money laundering • The number of processed criminals reports and persons for independent criminal offences of money laundering | PA | I quarter of 2021, continuously | / | Budget funds / External funding |
| <p>2.3.4. Improve the balance of results for criminal offences of money laundering</p> | <ul style="list-style-type: none"> • Increased number of processed criminal reports / number of persons prosecuted for independent criminal offences of money laundering | PA | I quarter of 2021, continuously | / | Budget funds / External financing |
| <p>2.3.5. Create and implement a specialist training plan for officers of authorities dealing with financial crime investigations</p> | <ul style="list-style-type: none"> • Training plan prepared • Number of trainings implemented according to the plan • Number of officers trained | PA | I quarter of 2021 | / | Budget funds |

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| 2.3.6. Conduct specialist training in financial forensics and identifying the property acquired through criminal activity | <ul style="list-style-type: none"> • Training plan prepared • Number of trainings implemented according to the plan • Number of officers trained | PA | Continuously | / | Budget funds / External financing |
| 2.3.7. Increase the level of success in financial crime investigations, and confiscation of property acquired through those crimes | <ul style="list-style-type: none"> • The number of criminal reports submitted for criminal offences that generate property gain, the number of criminal offences, the number of persons prosecuted before the competent Prosecutor's office • The number of reports on the determined property gain obtained from this type of criminal offence and the amount of the determined unlawfully acquired property gain • The amount of temporarily confiscated property during the preliminary enquiries | PA, SSPO | Continuously | / | Budget funds |
| Operational goal 4 | The capacities and resources for processing financial crime (including asset forfeiture) have been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 2.4.1. Improve the capacities of the Prosecutor's Office for proactively conducting financial investigations | <ul style="list-style-type: none"> • A training plan for financial investigations has been made • Number of trainings implemented • Number of prosecutors trained • The number of financial investigations conducted in the phase of preliminary enquiries • The value of temporarily confiscated property in the phase of preliminary enquiries | Supreme State Prosecutor's Office | I quarter of 2021, continuously | / | Budget funds / External financing |

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| 2.4.2. Improve the capacities of the Prosecutor's Office for proactively conducting investigations on money laundering as an independent criminal offence | <ul style="list-style-type: none"> A training plan for money laundering has been made, with a special emphasis on investigations of money laundering as an independent criminal offence Number of trainings implemented Number of prosecutors trained | Supreme State Prosecutor's Office-Special State Prosecutor's Office | I quarter of 2021, continuously | / | Budget funds / External financing |
| 2.4.3. Improve the results of the Prosecutor's Office relating to criminal offences of money laundering | <ul style="list-style-type: none"> The number of investigations / indictments for criminal offences of money laundering has been increased The value of temporarily confiscated property subject to money laundering has been increased | Supreme State Prosecutor's Office-Special State Prosecutor's Office | continuously | / | Budget funds |
| Operational goal 5 | | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 2.5.1. Improve the capacities of the courts when making decisions in the cases of money laundering | <ul style="list-style-type: none"> A training plan for money laundering has been made, with a special emphasis on money laundering as an independent criminal offence Introduction to the best practice of the EU countries regarding the acceptance of circumstantial evidence in cases of money laundering as an independent criminal offence Number of trainings implemented Number of judges trained | HC, Centre for Training in Judiciary and State Prosecution Service | I quarter of 2021, continuously | / | Budget funds / External financing |

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| 2.5.2. Improve the results of the courts for criminal offences of money laundering | <ul style="list-style-type: none"> An increased number of verdicts for criminal offences of money laundering An increased value of permanently confiscated property that is the subject of money laundering | HC, Centre for Training in Judiciary and State Prosecution Service | Continuously | / | Budget funds |
| Operational goal 6 | The effectiveness of customs control mechanisms in the matter of money transfer has been ensured | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 2.6.1. Improve the customs information system from the aspect of risk analysis in order to prevent money laundering | <ul style="list-style-type: none"> Customs information system has been improved in the field of risk analysis The number of identified legal and natural persons from the category of higher risk of money laundering / number of controls performed/ number of information submitted to the FIU | CA | IV quarter of 2021, continuously | / | Budget funds / External financing |
| 2.6.2. Improve the capacities of the Customs Administration for the control of cross-border cash transfers | <ul style="list-style-type: none"> The list of indicators for recognising suspicious activities related to reported and unreported cross-border cash transfers has been enhanced | CA, PA - FIU | II quarter of 2021, continuously | / | Budget funds / External financing |

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| 2.6.3. Strengthen the professional capacities of the Customs Administration in the area of recognising suspicious behaviour at border crossings from the aspect of money laundering | <ul style="list-style-type: none"> The education of customs officers has been organised, in order to familiarise them with the indicators and typologies of money laundering The number of reported transfers of cash and valuables by customs officers has been increased | CA, PA - FIU | II quarter of 2021, continuously | / | Budget funds / External financing |
| Operational goal 7 | | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 2.7.1. Improve mutual cooperation among authorities dealing with cases related to criminal offences of organised crime that pose a high money laundering risk | <ul style="list-style-type: none"> Exchange of data among sectors and authorities has been improved; international cooperation has been intensified, in order to obtain data on members of the OCG Property of the members of OCG has been identified The number of analyses of cash transactions of members of the OCG has been increased Natural and legal persons connected with OCGs who appear as investors in Montenegro have been identified | PA: FIU, DFAOC, CCCP, SSPO, TA, CA | Continuously | / | Budget funds |

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| 2.7.2. Improve the efficiency and effectiveness of inter-institutional cooperation between the supervisory authorities and the FIU through the adoption of an innovative Agreement on Cooperation | <ul style="list-style-type: none"> An innovative agreement on cooperation has been adopted The obligation of timely reporting and delivery of statistical data has been defined Number of meetings organised according to the agreement | PA - FIU in cooperation with competent authorities | III quarter of 2021 | / | Budget funds |
| 2.7.3. Improve the efficiency of inter-institutional cooperation of authorities responsible for the prevention and suppression of money laundering | <ul style="list-style-type: none"> Number of meetings between authorities Number of information exchanged Number of information forwarded to the prosecution Number of criminal proceedings for money laundering Number of verdicts for money laundering The number of statistical data submitted to the FIU related to money laundering cases (investigations, criminal proceedings, verdicts) | PA, Mol, CA, TA, SSPO, Directorate for Inspection Affairs, Games of Chance Administration | continuously | / | Budget funds |
| 2.7.4. Improve the professional capacities of authorities in the process of preventing and suppressing money laundering | <ul style="list-style-type: none"> Training plan and topics have been defined The trainings have been conducted on the following topics: <ul style="list-style-type: none"> Virtual (crypto) currencies, dark web and alternative money transfer channels Modern methods in money | PA, CA, TA, SSPO, supervisory authorities under the Law on PMLTF | II quarter of 2021, continuously | / | Budget funds / External financing |

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| | <ul style="list-style-type: none"> laundering and terrorist financing investigations • The use of open sources in the prevention and suppression of money laundering and terrorist financing • Investigations of money laundering and terrorist financing using information technologies, the Internet, cryptocurrencies... • The use of modern tools (application solutions) for automatic analysis and recognition of suspicious activities in daily work • The role of authorities that maintain databases of ownership of movable and immovable property • The role of the supervisory authorities under the Law on PMLTF • Number of trainings conducted • Number of supervisory and other authorities that participated in the trainings • Number of officers who passed the training | | | | |
| 2.7.5. Establish IT preconditions for all authorities for mutual access and electronic protected data exchange in accordance with the signed agreement | <ul style="list-style-type: none"> Established IT systems / created web services for mutual access to databases • A platform for secure electronic | PA, SSPO, HC, REA, APC, CA, MSD, supervisory authorities | IV quarter of 2021, continuously | / | Budget funds / External financing |

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| | <ul style="list-style-type: none"> data exchange has been established Number of electronically exchanged information Number of accesses to mutual databases | | | | |
| Operational goal 8 | The effectiveness of tax laws enforcement has been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 2.8.1. Increase the number of controls of commercial entities from the aspect of tax evasion | <ul style="list-style-type: none"> A typology of criminal offences of tax evasion and money laundering committed by legal entities has been established An analysis of the existing legal entities with regard to the recognition of typologies of tax evasion and money laundering and has been performed, as well as the categorisation of the risks of legal entities from the aspect of money laundering Controls of risky legal entities have been conducted Comparing data on owners of legal entities with data from the register of beneficial owners | TA in cooperation with the Mol and PA - FIU and other supervisory authorities | I quarter of 2021, continuously | / | Budget funds / External financing |
| 2.8.2. Improve the cooperation of the Tax Administration with the FIU and the supervisory authority | <ul style="list-style-type: none"> Increased number of exchanged information The number of persons | TA in cooperation with the Mol and PA – FIU | I quarter of 2021, continuously | / | Budget funds / External |

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| | prosecuted by the Tax Administration, which resulted in the cooperation with the FIU | | | | financing |
| Operational goal 9 | The availability of reliable identification infrastructure has been ensured | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 2.9.1. Amend the Law on Prevention of Money Laundering and Terrorist Financing in terms of enabling electronic identification of clients and practical implementation of electronic identification through certificates | <ul style="list-style-type: none"> The Law on PMLTF has been amended, making it possible to establish a business relationship with clients without physical presence by using electronic certificates By-laws have been adopted and the procedures have been developed regarding the set of data that reporting entities have to submit to the FIU when establishing a business relationship with a client through an electronic certificate. Identity abuse has been disabled through electronic certificate by adopting mechanisms for verifying identity and personal documents | PA – FIU in cooperation with the Mol, CBCG | I quarter of 2021 | / | Budget funds |

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| <p>2.9.2. Establish a system of checking the identity of clients by reporting entities through the FIU</p> | <ul style="list-style-type: none"> The Interpol's SLTD system has been linked through Interpol's NCB with the FIU in order to verify the identity of clients when establishing a business relationship with reporting entities in accordance with the Law on PMLTF. Identity verification procedures have been defined through Interpol's SLTD databases by the FIU in cooperation with NCB Interpol The procedures for notifying reporting entities and monitoring business relationships for clients whose documents are being searched for in Interpol's SLTD database have been defined | <p>PA – FIU in cooperation with NCB Interpol and the MoI</p> | <p>II quarter of 2021, continuously</p> | <p>/</p> | <p>Budget funds / External financing</p> |
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| Strategic goal 3 | The vulnerability of the banking sector to the risk of money laundering has been reduced | | | | |
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| Initial status | The status at the end of the implementation of the action plan | | | | |
| <p>The banking system in Montenegro is still characterised by a significant flow of cash, as well as a relatively low number of reports on suspicious activities. This points to the increased vulnerability of this sector to money laundering, since criminal activities usually generate cash that needs to be integrated into legal flows.</p> <p>On the other hand, the banking sector is largely an organised system, which is regulated and controlled, thus vulnerability is significantly reduced.</p> <p>Banks have adopted internal acts, established „compliance“ functions for this area, defined lines of reporting and conduct constant training for employees in charge of money laundering prevention.</p> <p>The bank management checks the functioning of the internal control and internal audit systems in the area of implementing regulations from the area of money laundering prevention.</p> | <p>The cash flow in the banking system has been reduced. More efficient mechanisms and platforms for using available information on clients and transactions have been established.</p> <p>The legislative changes have been introduced in accordance with the Fifth EU Directive and other legal acquis of the European Union and FATF recommendations aimed at reducing the possibility of abuse of the banking sector for money laundering purposes.</p> <p>More efficient cooperation has been established between the banking sector and the Financial Intelligence Unit through an increased number of reports of suspicious transactions and a more efficient system of internal control and application of standards for the prevention of money laundering.</p> <p>The level of expertise of authorised persons and employees in the banking sector has been increased through the implementation of continuous trainings.</p> | | | | |
| <p>Certain segments have been identified that need to be improved in order to reduce the risk of money laundering:</p> <ul style="list-style-type: none"> • Ensure higher availability of independent and reliable sources of information at the state level, including information on beneficial ownership; • Strengthening the risk-based approach; • Strengthening the functioning of the system of internal controls and internal audit; • More intensive education of bank employees; • Ensure continuous work towards improving the efficiency of supervisory procedures and practices. | <p>Strengthened capacities of the Central Bank for the implementation of the function of supervision over the banking sector.</p> <p>Effective and continuous cooperation between the Central Bank of Montenegro and the Financial Intelligence Unit continued has been continued.</p> <p>The information capacities of banks have been improved in the direction of identifying models of suspicious behaviour of clients according to money laundering typologies and in the direction of efficient monitoring and blocking of transactions</p> | | | | |
| Operational goal 1 | A normative framework that enables efficient implementation of measures for preventing money laundering by reporting entities has been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |

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| 3.1.1. Adopt amendments to the Law on the Prevention of Money Laundering and Terrorist Financing – harmonise it with the Fifth EU Directive, particularly: <ul style="list-style-type: none"> • Enable account opening through an electronic certificate • Define the manner of verifying the identity of such clients • Define the establishment of a register of all account owners (resident and non-resident natural and legal persons) • Define the establishment of a register of safe deposit boxes • Define the establishment of a register of beneficial owners • Ensure the independence of authorised persons in performing the tasks prescribed by the Law on PMLTF | <ul style="list-style-type: none"> • The amended Law on PML/TF harmonised with the Fifth Directive has been adopted • The obligation of keeping a register of accounts of all persons, a register of safe deposit boxes and a register of beneficial owners has been established | Mol in cooperation with CBCG, PA – FIU, TA | I quarter of 2021 | / | Budget funds |
| 3.1.2. Amend the Guidelines for preparing the risk analysis of reporting entities supervised by the Central Bank | <ul style="list-style-type: none"> • Guidelines have been amended in the part of the obligation to raise the level of risk for all clients who were the subject of FIU's request and processing | CBCG | II quarter of 2021 | / | Budget funds |
| Operational goal 2 | More efficient control of reporting entities has been ensured | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |

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| 3.2.1. Carry out continuous control of all reporting entities under the supervision of the Central Bank of Montenegro, on the basis of the assessment of the risk of money laundering and terrorist financing | <ul style="list-style-type: none"> The controls have been conducted with an emphasis on a stronger banking supervision in the area of credit risk and control, from the aspect of detecting and preventing money laundering and terrorist financing based on the risk assessment The reports on the control of reporting entities have been compiled | CBCG | Continuously | / | Budget funds |
| 3.2.2. Prepare money laundering risk matrices for each bank individually | <ul style="list-style-type: none"> Risk matrices have been prepared for every commercial bank | CBCG | Continuously | / | Budget funds |
| 3.2.3. Strengthen the personnel capacities of the Central Bank of Montenegro in the area of monitoring the reporting entities over the implementation of measures for preventing money laundering by increasing the number of controllers in the Supervision Service | <ul style="list-style-type: none"> The number of employees has been increased by 3 positions in the Central Bank of Montenegro's Supervision Service | CBCG | IV quarter of 2022 | / | Budget funds |
| 3.2.4. Continue the intensive cooperation between the Central Bank of Montenegro and the FIU through the efficient implementation of the Agreement on Cooperation between the Central Bank of Montenegro and PA - FIU | <ul style="list-style-type: none"> The number of information exchanged between the Central Bank of Montenegro and the FIU before and after targeted control has been increased The practice of periodic meetings of the FIU representatives and supervisory authorities has been established | CBCG in cooperation with PA – FIU | Continuously | / | Budget funds |

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| 3.2.5. Drafting of by-laws in accordance with the amendments to the Law on Prevention of Money Laundering and Terrorist Financing | <ul style="list-style-type: none"> Drafted by-laws | Mol in cooperation with PA – FIU and CBCG | IV quarter of 2021 | / | Budget funds / External financing |
| Operational goal 3 | The capacities of reporting entities for the application of anti-money laundering standards have been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 3.3.1. Ensure larger availability of independent and reliable sources of information at the state level, including information on beneficial ownership | <ul style="list-style-type: none"> Databases of bank account register, safe deposit box register and register of beneficial owners have been established | CBCG, TA | IV quarter of 2021 | / | Budget funds / External financing |
| 3.3.2. Enhance the existing IT systems from the aspect of: <ul style="list-style-type: none"> Money laundering typology Linking and using available databases for the purpose of verifying clients and transactions Identifying beneficial owners Identifying PEP | <ul style="list-style-type: none"> Reporting entity information system that enables automatic and comprehensive checking of all available databases has been improved in order to comprehensively check clients and transactions Submitting periodic reports on the improvement of information systems to the supervisory authorities and the FIU | Reporting entities in cooperation with CBCG and PA - FIU | Continuously | / | Budget funds / External financing |

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| <p>3.3.3. Improve the reporting entity's IT system in order to effectively apply legally prescribed measures of continuous monitoring and blocking of accounts while respecting at the same time the confidentiality of data</p> | <ul style="list-style-type: none"> An improved IT system for reporting entities that enables: <ul style="list-style-type: none"> Different levels of monitoring transactions on the account (monitoring without taking additional measures, monitoring without the knowledge of counter workers, monitoring with taking measures after a certain amount, timely and automatic information) Simultaneous monitoring of a large number of accounts and automatic generating of information Simultaneous blocking of a large number of transactions on accounts | <p>Reporting entities in cooperation with CBCG and PA - FIU</p> | <p>IV quarter of 2021</p> | <p>/</p> | <p>External financing</p> |
| <p>3.3.4. Improve the system of risk-based reporting entity procedures in working with clients</p> | <ul style="list-style-type: none"> An efficient IT system that automatically defines the level of clients' checks depending on the risk category has been established / improved The system of automatic checks of available databases has been established / improved The system of risk analysis from the aspect of pre-defined typologies of money laundering has been established /improved | <p>Reporting entities in cooperation with CBCG and PA - FIU</p> | <p>IV quarter of 2021</p> | <p>/</p> | <p>External financing</p> |

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| | <ul style="list-style-type: none"> • A system of periodic checking of clients' risk categorisation and automatic increase of the risk category depending on the activities and requirements of the FIU has been established / improved, in accordance with the guidelines • A system has been established / improved in the direction of risk analysis and adequate monitoring of new banking products from the aspect of preventing money laundering | | | | |
| 3.3.5. Improve the system of implementation of internal controls and internal audit; | <ul style="list-style-type: none"> • A mechanism for systematic internal controls and audits of the application of measures from the aspect of money laundering has been established • Number of conducted analyses • Number of detected omissions • Submitted reports on the measures taken in order to eliminate deficiencies | Reporting entities in cooperation with CBCG | Continuously | / | External financing |
| 3.3.6. Carry out continuous training of reporting entities' employees regarding the identification of suspicious transactions, typologies of money laundering and the application of the Law on PMLTF | <ul style="list-style-type: none"> • Training plan has been done • Number of conducted trainings, number of trained officers at the reporting entities • Number of reports on suspicious transactions | Reporting entities in cooperation with CBCG and PA - FIU | Continuously | / | Budget funds |

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| 3.3.7. Conduct continuous training of authorised persons and their deputies for the use of modern IT solutions in the implementation of activities related to the prevention of money laundering | <ul style="list-style-type: none"> • Training plan has been done • Number of conducted trainings, number of trained officers at the reporting entities • Number of reports on suspicious transactions | CBCG in cooperation with PA - FIU | Continuously | / | External financing |
| 3.3.8. Adequate and optimal personnel planning and filling of work places of authorised persons and deputies at the reporting entities in order to adequately respond to the risk of money laundering | <ul style="list-style-type: none"> • Personnel plan from the aspect of problems and risks of money laundering has been prepared • Systematised appropriate number of work places • Filled work places of authorised persons and deputies | Reporting entities in cooperation with CBCG | Continuously | / | External financing |

| Strategic goal 4 | The vulnerability of the capital market to the money laundering risk has been reduced | | | | |
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| Initial status | The status at the end of the implementation of the action plan | | | | |
| The capital market is relatively resistant to the risk of money laundering. However, within the capital market sector, investment companies have a slightly higher vulnerability to money laundering compared to the investment fund management companies. The level of knowledge of employees in institutions dealing with securities is not at the required level due to insufficient number of professional and continuous trainings. The record-keeping system, monitoring and reporting of suspicious transactions is not at a high enough level to counter the challenges. The system and efficiency of supervision and control need to be raised to a higher level, bearing in mind that sanctions for violations in accordance with the Law have not been imposed. The availability and access to information on beneficial ownership, as well as the availability of independent sources of information, is not at the level necessary for quality in-depth checks of clients. | The level of knowledge of employees in institutions dealing with securities has been improved, and the efficient internal function of compliance (organisation) with regulations on prevention of money laundering in institutions dealing with securities has been improved. The systems for record keeping, surveillance and reporting of suspicious transactions have been improved. The efficiency of the surveillance and control system has been improved. The availability and access to information on beneficial ownership has been improved through the enabled access to the register of beneficial owners, and other independent sources of information. | | | | |
| Operational goal 1 | A normative framework that enables efficient implementation of measures for preventing money laundering by reporting entities has been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 4.1.1. Adopt amendments to the Law on the Capital Market, the Law on Investment Funds and the Law on Voluntary Pension Funds | <ul style="list-style-type: none"> The amendments to the law that prevent persons convicted of criminal offences, as well as persons related to them, from being in the management and ownership structures of companies for the management of investment funds, companies for the management of pension funds and investment companies have been adopted. | The Ministry of Finance (MF) in cooperation with the Capital Market Commission (KTK) | IV quarter of 2021 | / | Budget funds |

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| 4.1.2. Adopt amendments to the Law on the Capital Market | <ul style="list-style-type: none"> The amendments to the Law on the Capital Market (which, in the part of international cooperation with third countries that are not members of the EU, prescribes the possibility of carrying out controls at the request of competent authorities of third countries) have been adopted. | MF in cooperation with KTK | IV quarter of 2021 | / | Budget funds |
| 4.1.3. Amendments to the Law on the Capital Market and the Law on Banks with the aim of enabling insight into the data on custodial account holders in commercial banks of Montenegro and their activities. | <ul style="list-style-type: none"> The Law on the Capital Market and the Law on Banks have been amended, thus enabling to view data on the owners of custodial accounts in the commercial banks of Montenegro and their activities. | MF, CBCG, KTK | IV quarter of 2021 | / | Budget funds |
| 4.1.4. Adopt the Amendments to the Law on Prevention of Money Laundering and Terrorist Financing in the part of penalties for misdemeanors regarding the Capital Market Commission's ability to revoke the work permit of institutions that do not abide by the regulations that refer to the prevention of money laundering and terrorist financing | <ul style="list-style-type: none"> The Amendments to the Law on Prevention of Money Laundering and Terrorist Financing have been adopted, and a penalty of the revocation of a work permit has been imposed in the part of penalties for misdemeanors, for institutions that do not abide by the regulations related to the prevention of money laundering and terrorist financing. | Mol, in cooperation with KTK | I quarter of 2021 | / | Budget funds / External financing |
| Operational goal 2 | More efficient control of reporting entities has been ensured | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |

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| 4.2.1. Improve technical and IT capacities and tools for the implementation of measures under the jurisdiction of the KTK in the area of money laundering prevention | <ul style="list-style-type: none"> Technical and IT capacities have been improved - a software has been procured / developed for the monitoring of reporting entities in the area of money laundering prevention | KTK | IV quarter of 2021 | / | Budget funds |
| 4.2.2. Improve personnel capacities for the implementation of measures under the jurisdiction of the KTK in the area of money laundering prevention through: <ul style="list-style-type: none"> Increasing the number of officers for the control of reporting entities Conducting continuous training of employees to perform controls in accordance with the control manual in the area of money laundering prevention | <ul style="list-style-type: none"> Optimal staff recruitment of KTK officers on money laundering prevention tasks has been established through an increase in the number of KTK employees The number of conducted professional trainings from the area of money laundering prevention for KTK employees | KTK in cooperation with PA - FIU | Continuously | / | Budget funds |
| 4.2.3. Continuously carry out targeted controls by the supervisory authority regarding the application of the Law on PMLTF | <ul style="list-style-type: none"> The control over the work of institutions on the capital market and authorised persons for the prevention of money laundering in those institutions has been carried out, with an emphasis on the implementation of internal / external audit of the operations of authorised persons Reports on the conducted controls have been prepared | KTK | Continuously | / | Budget funds |

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| 4.2.4. Improve the cooperation between the supervisory authority and the FIU | <ul style="list-style-type: none"> The number of information exchanged between the supervisory authorities and the FIU before and after the targeted control has been increased The practice of periodic meetings of the FIU representatives and supervisory authorities has been established | KTK in cooperation with PA - FIU | Continuously | / | Budget funds |
| Operational goal 3 | | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 4.3.1. Assess the level of training of authorised persons and employees of reporting entities on the capital market, create a training plan and improve the method and methodology of training the employees of reporting entities that KTK supervises | <ul style="list-style-type: none"> An analysis of the training of officers and authorised persons at the reporting entities has been conducted A methodology and a plan of organising the trainings have been prepared | KTK | IV quarter of 2020, continuously | / | Budget funds / External financing |
| 4.3.2. Organise trainings and passing professional exams to check the knowledge of authorised persons for the prevention of money laundering and for reporting entities / participants in the capital market | <ul style="list-style-type: none"> Number of trainings, number of officers who attended trainings Number of officers who passed the professional exam Number of reports of suspicious transactions | KTK in cooperation with PA - FIU | I quarter of 2021, continuously | / | Budget funds / External financing |

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|---|---|---|----------------------------------|---|-----------------------------------|
| <p>4.3.3. Carry out continuous training of employees of reporting entities that the Commission supervises within the field of money laundering prevention, with an emphasis on money laundering typologies, identifying suspicious transactions and obligations of reporting entities in accordance with the Law on PMLTF</p> | <ul style="list-style-type: none"> Number of trainings, number of officers who attended trainings Number of reports of suspicious transactions | KTK in cooperation with PA - FIU | | / | Budget funds / External financing |
| <p>4.3.4. Improve capacities for monitoring the compliance of actions and internal procedures with regulations in the field of money laundering prevention in institutions participating in the capital market</p> | <ul style="list-style-type: none"> Periodic evaluations have been conducted Recommendations for compliance with money laundering prevention standards in capital market institutions have been prepared Regular reporting to KTK on the implementation of the process of harmonisation and application of standards and best practices | Reporting entities in cooperation with KTK | II quarter of 2021, continuously | / | Budget funds / External financing |
| <p>4.3.5. Enhance the existing IT systems from the aspect of:</p> <ul style="list-style-type: none"> Money laundering typology Linking and using available databases for the purpose of verifying clients and transactions Identifying beneficial owners Identifying PEP | <ul style="list-style-type: none"> Reporting entity information system that enables automatic and comprehensive checking of all available databases has been improved in order to comprehensively check clients and transactions Submitting periodic reports on the improvement of information systems to the supervisory authorities and the FIU | Reporting entities in cooperation with KTK and PA - FIU | Continuously | / | Budget funds |

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| Strategic goal 5 | The vulnerability of the insurance sector to the risk of money laundering has been reduced | | | | |
| Initial status | The status at the end of the implementation of the action plan | | | | |
| The insurance sector is relatively resistant to money laundering risks. Legislation is good. The regulations also determine the competent authorities of the system, which are in charge of verification, as well as prescribed penalties for violating obligations related to the prevention of money laundering and terrorist financing. All active life insurance companies were the subject of both direct and indirect control in the area of PMLTF in the period from 2015 to 2019, and a large number of direct controls of other reporting entities of the Law on PMLTF has been carried out - representation companies, i.e. insurance mediation. In the aforementioned procedures, mostly minor omissions in the implementation of obligations from the Law on PMLTF were recorded. A need for further strengthening of professional capacities still remains, both through training of reporting entities and through training of supervisory authorities for the application of control measures. It is also necessary to improve the IT systems of reporting entities in order to more efficiently identify suspicious business and in-depth checks of clients. | The level of knowledge of employees in the insurance sector has been upgraded. The knowledge of money laundering typologies and models of system abuse for money laundering purposes has been upgraded. The information systems and personnel and professional capacities for monitoring and reporting on suspicious transactions have been improved. The efficiency of the monitoring and control system has been improved. The availability and access to information has been improved. | | | | |
| Operational goal 1 | A normative framework that enables efficient application of measures for preventing money laundering by the reporting entities has been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 5.1.1. Adopt amendments to the Law on Insurance regarding the separation of the compliance function in insurance companies | <ul style="list-style-type: none"> • Amendments to the Law on Insurance have been adopted | ISA | I quarter of 2021 | / | Budget funds |
| Operational goal 2 | More efficient control of the reporting entities has been provided | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |

| 5.2.1. Continuously carry out targeted controls by the supervisory authority regarding the application of the Law on PMLTF | <ul style="list-style-type: none"> A control has been carried out and the reports on the control have been prepared | ISA | Continuously | / | Budget funds |
|---|--|---|--------------------------------------|-------------------|-----------------------------------|
| 5.2.2. Improve the cooperation between the supervisory authority and the FIU | <ul style="list-style-type: none"> The number of information exchanged between the supervisory authorities and the FIU before and after targeted control has been increased The practice of periodic meetings of the FIU representatives and supervisory authorities has been established | ISA in cooperation with PA - FIU | Continuously | / | Budget funds |
| Operational goal 3 | The capacities of the reporting entities for the application of anti-money laundering standards have been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 5.3.1. Carry out continuous training of reporting entities' employees and authorised persons regarding the identification of suspicious transactions, typologies of money laundering and the application of the Law on PMLTF | <ul style="list-style-type: none"> Training plan has been done Number of conducted trainings, number of trained officers at the reporting entities | Reporting entities in cooperation with ISA and PA - FIU | Continuously | / | Budget funds |
| 5.3.2. Enhance the existing IT systems from the aspect of: <ul style="list-style-type: none"> Money laundering typology Linking and using available databases for the purpose of verifying clients and transactions Identifying beneficial owners Identifying PEP | <ul style="list-style-type: none"> Reporting entity information system that enables automatic and comprehensive checking of all available databases has been improved in order to comprehensively check clients and transactions Periodic reports on the improvement of information systems have been submitted to the supervisory authorities and the FIU | Reporting entities in cooperation with ISA and PA - FIU | Continuously | / | Budget funds / External financing |

| Strategic goal 6 | The vulnerability of other financial institutions to the risk of money laundering has been reduced | | | | |
|---|--|--|--------------------------------------|-------------------|-------------------|
| Initial status | The status at the end of the implementation of the action plan | | | | |
| The sector of other financial institutions is relatively resistant to money laundering risks. Legislation is good. However, it is necessary to improve the internal procedures regarding the behaviour of the reporting entities and the procedure of internal controls. The system of cooperation with the Financial Intelligence Unit needs to be improved in practice. The level of knowledge of reporting entities regarding money laundering typologies and trends, and legal obligations regarding client control should be improved. | The internal procedures regarding the actions of the reporting entities and procedures for internal controls have been adopted. The cooperation with the Financial Intelligence Unit has been improved through a more intensive exchange of information. The level of knowledge of the reporting entities in terms of money laundering typologies and trends, and legal obligations in terms of client control have been increased through organised thematic trainings. | | | | |
| Operational goal 1 | A normative framework that enables efficient implementation of measures for preventing money laundering by the reporting entities has been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 6.1.1. Adopt internal acts and procedures that will enable: <ul style="list-style-type: none"> The reporting entities' actions are primarily based on the client's established risk of money laundering Functioning of the system of internal controls and internal audit has been improved; Mechanisms for identifying suspicious clients and suspicious transactions have been improved | <ul style="list-style-type: none"> Amended internal acts / guidelines that ensure the acting of reporting entities towards clients in relation to the risk of ML/TF have been adopted A system of efficient identification of suspicious transactions has been established A system of internal audit and systemic internal controls of the application of procedures by employees of | Supervisory authorities in cooperation with PA – FIU | II quarter of 2021, continuously | / | Budget funds |

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| | all reporting entities has been established | | | | |
| Operational goal 2 | More efficient control of the reporting entities has been provided | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 6.2.1. Carry out continuous targeted controls by the supervisory authority regarding the application of the Law on PMLTF | A control has been conducted and reports have been prepared | Supervisory authorities | Continuously | / | Budget funds |
| 6.2.2. Improve the cooperation between the supervisory authorities and the FIU | <ul style="list-style-type: none"> The number of information exchanged between the supervisory authorities and the FIU before and after targeted control has been increased The practice of periodic meetings of the FIU representatives and supervisory authorities has been established | Supervisory authorities in cooperation with PA – FIU | Continuously | / | Budget funds |

| Operational goal 3 | The capacities of the reporting entities for the application of anti-money laundering standards have been improved | | | | |
|---|---|---|--------------------------------------|-------------------|-------------------|
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 6.3.1. Carry out continuous training of reporting entities' employees and authorised persons regarding the identification of suspicious transactions, typologies of money laundering and the application of the Law on PMLTF | <ul style="list-style-type: none"> Training plan has been made Number of conducted trainings Number of trained officers at the reporting entities | Reporting entities in cooperation with the supervisory authorities and PA - FIU | Continuously | / | Budget funds |
| 6.3.2. Enhance the existing IT systems from the aspect of: <ul style="list-style-type: none"> Money laundering typology Linking and using available databases for the purpose of verifying clients and transactions Identifying beneficial owners Identifying PEP | <ul style="list-style-type: none"> Reporting entity information system has been improved that enables <ul style="list-style-type: none"> automatic and comprehensive checking of all available databases in order to comprehensively check clients and transactions automatic recognition and in-depth verification of politically exposed persons Periodic reports on the improvement of information systems have been submitted to the supervisory authorities and the FIU | Reporting entities in cooperation with the supervisory authorities and PA - FIU | Continuously | / | Budget funds |

| Strategic goal 7 | The vulnerability of the non-financial sector (DNFBP) to the risk of money laundering has been reduced |
|---|---|
| Initial status | Status at the end of the implementation of the action plan |
| <p>The category of reporting entities of the non-financial sector stands out as particularly vulnerable from the aspect of money laundering. There is a noticeable tendency to increase turnover and profit in the sector, which therefore increases the risk and vulnerability of the sector, as well as the need for a stronger response in the form of controls, training (preventive) as well as checks and taking proactive legal measures.</p> <p>A particularly high degree of vulnerability was noticed with the category of lawyers and notaries, due to the evident lack of interest in the application of measures to prevent money laundering (especially lawyers), the minimum number of reports of suspicious transactions (suspicious transactions are reported only by notaries, but still insufficiently, while lawyers do not report suspicious transactions), and the absence of any control by supervisory authorities (especially the Bar Association), i.e. inefficiency in performing the functions of supervision over these categories of reporting entities.</p> <p>The high vulnerability and risk of money laundering is also identified in the category of organisers of games of chance. There is also an evident inefficient legal solution in terms of supervision, and the absence of a system for reporting suspicious transactions, even though it is a segment that has an extremely high share of cash turnover, and extremely high annual turnover. Internet gambling is identified as a special type of vulnerability. There are also no mechanisms to prevent legally convicted persons and their associates from owning or managing casinos. The low number of inspections and the absence of effective supervision are evident, which increases concern in relation to the effective implementation of the obligations defined by the Law on PMLTF. In addition, the obligation to implement CDD measures does not exist for online casinos, which increases the risk of money laundering in this segment. In the field of cooperation between state bodies, insufficient coordination and timely exchange of information is evident.</p> | <p>A training has been conducted for representatives of this sector of reporting entities in connection with their obligations under the Law on Prevention of Money Laundering and Terrorist Financing. The system of registration of persons from the construction sector has been improved, which resulted in easier and more precise identification of natural and legal persons engaged in investment, construction and real estate sales/intermediation. A stronger and more comprehensive supervision of transactions in this sector has been established.</p> <p>An analysis of the existing solutions in the Law on the Prevention of Money Laundering and Terrorist Financing has been conducted, especially from the aspect of monitoring money flows, checking clients and the supervisory authority for the implementation of the Law on PMLTF.</p> <p>Supervisory authorities for the reporting entities have been defined (lawyers, notaries, organisers of games of chance). A training of officers of supervisory authorities has been done. An efficient system of reporting entity control has been established.</p> <p>Education of concessionaires in connection with obligations of preventing money laundering and terrorist financing (PML/TF) has been conducted. The number of inspectors for games of chance has been increased and their professional capacities have been strengthened through training. The cooperation between the competent authorities and the FIU has been strengthened in terms of timely and comprehensive exchange of information and coordinated action to prevent the use of this sector of reporting entities for money laundering purposes.</p> |

| Operational goal 1 | A legislative framework that enables efficient implementation of measures for preventing money laundering by reporting entities has been improved | | | | |
|--|---|--|---|--------------------------|--------------------------|
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 7.1.1. Amend the Law on Prevention of Money Laundering and Terrorist Financing in order to identify a supervisory authority for notaries, lawyers and games of chance organisers that can efficiently supervise the implementation of the obligations defined by the Law on PML/TF | <ul style="list-style-type: none"> The Law on Prevention of Money Laundering and Terrorist Financing has been adopted and the following has been established: <ul style="list-style-type: none"> Supervisory authority for lawyers Supervisory authority for notaries Supervisory authority for games of chance organisers | Mol in cooperation with PA – FIU, ME, MF, Directorate for Inspection Affairs and Directorate for Games of Chance | I quarter of 2021 | / | Budget funds |
| 7.1.2. Amend the Law on Games of Chance in the part of organising games of chance over the Internet, i.e. other telecommunication means, as well as in the part that refers to the beneficial owners of companies that own a concession | <ul style="list-style-type: none"> The Law on Games of Chance has been amended and a mechanism has been defined to prevent convicted persons or persons associated with them from being owners of these companies, as well as in the direction of better monitoring and control of the organisation of games of chance via the Internet. | MF in cooperation with the Directorate for Games of Chance and PA – FIU | II quarter of 2021 | / | Budget funds |

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| 7.1.3 Amend the Law on Accounting: • Introduce the obligation that only persons with a professional certificate from the public registry of ICAM can sign financial statements • Introduce the obligation to submit a copy of the certificate to the Tax Administration along with the submitted financial statements | <ul style="list-style-type: none"> The Law on Accounting has been amended and the obligation to possess a certificate has been precisely defined when preparing and submitting financial reports | MF, in cooperation with ICAM | IV quarter of 2021 | / | Budget funds |
| Operational goal 2 | Efficient control of the reporting entities has been provided | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 7.2.1. Collect data and make an analysis and overview of all categories of companies that fall under the category of DNFBP reporting entities in order to determine the scope of reporting entities according to the Law on PMLTF | <ul style="list-style-type: none"> Data on all DNFBP reporting entities have been collected Periodical updating of data has been performed A list of all companies that fall under this category of the reporting entities has been determined A mechanism for periodic submitting of an updated list of reporting entities to the FIU has been established | Supervisory authorities in cooperation with the Tax Administration | I quarter of 2021, continuously | / | Budget funds |
| 7.2.2. Adopt a by-law that would define specific categories of reporting entities in the Central Register of Commercial Entities by activity codes, on the basis of the collected data | <ul style="list-style-type: none"> By-law has been adopted A precise categorisation of all companies from the aspect of their activities has been done | Supervisory authorities in cooperation with the Tax Administration | II quarter of 2021 | / | Budget funds |

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| <p>7.2.3. Establish a mechanism for the collection, statistics and analysis of data related to DNFBP, through the development of a procedure for creating and sending questionnaires to these reporting entities in order to collect data for risk assessment</p> | <ul style="list-style-type: none"> • A mechanism for collecting, processing and analysing the received information • Form and content of the questionnaire have been defined • A process for sending questionnaires and risk assessment has been defined in relation to the answers received | <p>Supervisory authorities in cooperation with PA – FIU</p> | <p>III quarter of 2021, continuously</p> | <p>/</p> | <p>Budget funds</p> |
| <p>7.2.4. Increase the number of controls of the reporting entities in accordance with the Law on PMLTF with:</p> <ul style="list-style-type: none"> • Lawyers • Notaries • Games of chance organisers • Real estate sector | <ul style="list-style-type: none"> • Number of regular controls conducted • Number of conducted targeted controls based on the risk assessment • Number of controls conducted according to information from the PA - FIU • Number of violations established • Number of sanctions imposed • Number of reports on conducted controls submitted to the FIU • Number of suspicious transactions reported to the FIU by the reporting entities | <p>All supervisory authorities for DNFBP, PA – FIU</p> | <p>Continuously</p> | <p>/</p> | <p>Budget funds</p> |

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| <p>7.2.5. Increase the number of officers who supervise the reporting entities:</p> <ul style="list-style-type: none"> • Lawyers • Notaries • Games of chance organisers • Real estate sector • Precious metals traders • Motor vehicle dealers | <ul style="list-style-type: none"> • The number of officers for control of this category of reporting entities has been increased by 20% | All supervisory authorities for DNFBP | I quarter of 2022 | / | Budget funds |
| <p>7.2.6. Connect the Directorate for Inspection Affairs - Department for Games of Chance with the Information System of the Directorate for Games of Chance for online supervision of games of chance organisers in order to efficiently control the implementation of the Law on Prevention of Money Laundering and Terrorist Financing</p> | <ul style="list-style-type: none"> • An appropriate platform and mechanisms for the exchange of information between competent authorities have been established in order to efficiently control the games of chance organisers. | The Directorate for Inspection Affairs in cooperation with the Directorate for Games of Chance and the FIU | III quarter of 2021, continuously | / | Budget funds, external financing |

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| | <ul style="list-style-type: none"> • Generating periodic reports from the surveillance information system that provide data on the degree, manner and type of use of the online system based on the inspector's activities • Number of performed controls based on data obtained from online monitoring • Number of irregularities determined based on the conducted controls • Number of sanctions imposed for determined violations • Number of information on controls conducted, irregularities identified, left to the FIU | | | | |
| 7.2.7. Improve the cooperation between the FIU and supervisory authorities | <ul style="list-style-type: none"> • The number of information exchanged between the supervisory authorities and the FIU before and after targeted control has been increased • The practice of periodic meetings of the FIU representatives and supervisory authorities has been established | Supervisory authorities in cooperation with PA - FIU | Continuously | / | Budget funds |

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| 7.2.8. Define a program of continuous training for representatives of supervisory authorities in the area of money laundering prevention standards | <ul style="list-style-type: none"> Training plan has been established Number of trainings conducted Number of trained officers | PA - FIU in cooperation with supervisory authorities | I quarter of 2021, continuously | / | Budget funds / External financing |
| Operational goal 3 | The capacities of reporting entities for the application of anti-money laundering standards have been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 7.3.1. Create a plan and conduct training for the reporting entities for the implementation of the Law on Money Laundering and Terrorist Financing, with special emphasis on the categories of reporting entities: <ul style="list-style-type: none"> Lawyers Notaries Games of chance organisers Real estate sector Precious metals traders Motor vehicle dealers | <ul style="list-style-type: none"> Training plan has been prepared Number of trainings conducted Number of training participants by categories of reporting entities Drafting of periodical reports on the conducted trainings - the ratio of the number of trained officers in relation to the total number of officers by category Number of reported suspicious transactions | PA - FIU in cooperation with supervisory authorities | I quarter of 2021, continuously | / | Budget funds / External financing |

| Strategic goal 8 | | The risk of terrorist financing has been reduced | | | |
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| Initial status | | The status at the end of the implementation of the action plan | | | |
| <p>The assessment of the risk of terrorist financing may be defined as low. However, the need for detailed analysis of registered non-governmental organisations (NGOs) has been identified, as well as capacity building through advanced specialist training of banking system officers and money transfer service providers.</p> | | <p>The capacities of all authorities at the national level have been improved in terms of the ability of early recognising terrorist financing modalities using the national financial and non-financial sector through the implementation of trainings, strengthening of IT capacities and networking of available databases.</p> | | | |
| <p>It is evident that the cooperation mechanism of state authorities is insufficiently developed in terms of preventing the use of financial resources by potential terrorist financiers and persons who are on the lists of restrictive measures and the blocking of their assets. In this direction, coordination and rapid exchange of data between state authorities, including mutual access to data in databases, must be established at a higher level.</p> <p>From the reporting entity's point of view, the vulnerability is reflected in the control of NGOs in the part of the impossibility of determining the origin of the money and the purpose for which it was obtained and for which it is used. It is evident that there is insufficient in-depth control of persons when applying for NGO registration, as well as during NGO operations, from the aspect of checking the submitted documentation, checking authorised persons, especially if the persons are from abroad, the geographical position of the country from which they come, checking cash flows, and all other measures and actions that are necessary for preventive action when it comes to the terrorist financing.</p> <p>From a strategic level, it is evident that the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2020-2023 with the accompanying action plan has not yet been adopted.</p> | | <p>The cooperation between authorities at the national level has been strengthened through more intensive exchange of information and implementation of joint activities.</p> <p>The harmonisation of the Law on Prevention of Money Laundering and Terrorist Financing and the Law on International Restrictive Measures with international and EU standards and best practices in this area has been performed.</p> <p>Internal procedures for acting on the basis of lists of designated persons (persons under restrictive measures) have been developed. Mechanisms for freezing assets of designated persons have been improved. A system of efficient NGO control has been established. Personnel, organisational and IT capacities of the FIU have been strengthened.</p> <p>Trainings for NGOs in terms of preventing their use for the purposes of terrorist financing have been conducted.</p> <p>The Strategy with an Action Plan for Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2020-2023 has been adopted.</p> | | | |
| Operational goal 1 | | A system of periodic assessment of threats from terrorist financing has been established | | | |
| Activities that affect the implementation of the operational goal | | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources |
| 8.1.1. Develop periodic assessments of threats from terrorist financing | | <ul style="list-style-type: none"> Periodic assessments of threats from terrorist financing have been prepared | PA – FIU in cooperation with the representatives | Continuously, once a year | / |
| Operational goal 2 | | The normative framework in the field of terrorist financing has been harmonised and improved | | | |

| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
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| 8.2.1. Conduct an analysis of the compliance of the Law on Prevention of Money Laundering and Terrorist Financing with international standards and FATF recommendations | <ul style="list-style-type: none"> An analysis of the current Law in relation to the new international regulation and standards of the FATF has been conducted | Mol PA - FIU | IV quarter of 2020 | / | Budget funds / External support |
| 8.2.2. Conduct an analysis of the compliance of the Law on International Restrictive Measures with international standards and FATF recommendations | <ul style="list-style-type: none"> An analysis of the current Law in relation to the new international regulation and standards of the FATF has been conducted | MFA PA - FIU | IV quarter of 2020 | / | Budget funds / External support |
| 8.2.3. Adopt the Law on Prevention of Money Laundering and Terrorist Financing | <ul style="list-style-type: none"> The Law on Prevention of Money Laundering and Terrorist Financing has been adopted and is in compliance with the Fifth EU Directive and FATF recommendations | Mol in cooperation with PA – FIU, CBCG MJ | I quarter of 2021 | / | Budget funds |
| 8.2.3. Adopt the Law on International Restrictive Measures | <ul style="list-style-type: none"> The Law on International Restrictive Measures has been adopted and is in compliance with FATF recommendations | MFA in cooperation with PA – FIU, Mol, MF, CBCG, ME, NSA | I quarter of 2021 | / | Budget funds |
| 8.2.3. Draft and adopt relevant by-laws in accordance with the Amendments to the Law on Prevention of Money Laundering and Terrorist Financing | <ul style="list-style-type: none"> Relevant by-laws have been drafted and adopted in accordance with the Amendments to the Law on Prevention of Money Laundering and Terrorist Financing | Mol in cooperation with PA – FIU | III quarter of 2021 | / | Budget funds / External support |
| 8.2.4. Draft and adopt relevant by-laws in accordance with the Amendments to the Law on Restrictive Measures | <ul style="list-style-type: none"> Relevant by-laws have been drafted and adopted in accordance with the Amendments to the Law on Restrictive Measures | MFA in cooperation with PA – FIU, Mol, MF, CBCG, ME, NSA | III quarter of 2021 | / | Budget funds / External support |

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| 8.2.5. Adopt the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2020-2023 with accompanying action plan | The Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2020-2023 with accompanying action plan has been adopted | Bureau of Operational Coordination in cooperation with MD, ME, PA, NSA | IV quarter of 2020 | / | Budget funds / External support |
| Operational goal 3 | Cooperation between competent authorities at the national level has been improved in the field of prevention and suppression of terrorist financing | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 8.3.1. Establish mechanisms for efficient cooperation between the MFA, MoI, PA-FIU, the Central Bank of Montenegro and the banking sector | <ul style="list-style-type: none"> Guidelines for the application of restrictive measures have been prepared | MFA, MoI, PA – FIU, CBCG, NSA | IV quarter of 2020 Continuously | / | Budget funds / External support |
| 8.3.2. Create and continuously update the national list of designated persons | <ul style="list-style-type: none"> A list of designated persons has been prepared Mechanisms for continuous updating of the national list of designated persons have been established | MFA in cooperation with MUP PA - FIU, MF, CBCG, ME, NSA | II quarter of 2021, continuously | / | Budget funds / External support |

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| 8.3.3. Improve the practical implementation of mechanisms for freezing the assets of designated persons (persons subject to restrictive measures) | <ul style="list-style-type: none"> Operational procedures for the competent authorities have been prepared in the part of identifying, submitting proposals for placing designated persons on the national list and taking actions against persons from the national list and their property. Number of identified persons from the national list whose property is in Montenegro Number of decisions on the confiscated property Amount of confiscated property of designated persons from the national list | MFA, MoI, PA-FIU, reporting entities, Property Administration | II quarter of 2021, continuously | / | Budget funds / External support |
| Operational goal 4 | International and regional cooperation in the field of terrorist financing has been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |
| 8.4.1. Renew FIU's membership in the Egmont Group | <ul style="list-style-type: none"> FIU re-admitted to the membership of the Egmont Group | PA - FIU | II quarter of 2021 | EUR 5,000 | Budget funds |
| 8.4.2. Improve the exchange of information in the field of terrorist financing with foreign financial intelligence services | <ul style="list-style-type: none"> The number of information exchanged in the field of terrorist financing with foreign financial intelligence services has been increased | PA - FIU | Continuously | / | Budget funds |
| Operational goal 5 | Resources for combatting terrorist financing have been enhanced | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |

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| 8.5.1. Carry out the reorganisation of the Sector for the Prevention of Money Laundering and Terrorist Financing (FIU) in order to finalise the comprehensive concept of the fight against money laundering and terrorist financing | <ul style="list-style-type: none"> Amendments to the Rulebook on Internal Organisation and Systematisation of the Police Administration for the Financial Intelligence Unit have been adopted | PA, Mol | III quarter of 2020 | | Budget funds |
| 8.5.2. Continuously conduct advanced specialist training for officers, as a part of the profiling of officers for an adequate response to the challenges in preventing and suppressing terrorist financing | <ul style="list-style-type: none"> Training topics and plan have been defined Number of conducted advanced specialist trainings Number of officers who attended advanced specialist trainings | PA - FIU in cooperation with Mol | Continuously | | Budget funds / External support |
| 8.5.3. Strengthen the capacities of the private sector - reporting entities, and especially the banking system and money transfer service providers in the area of early identification and blocking of transactions of designated persons, as well as money and property intended for the terrorist financing, through the continuous implementation of trainings | <ul style="list-style-type: none"> Training topics and plan have been defined Number of conducted specialist trainings Number of officers who attended specialist training Number of identified cases Number of information forwarded to the FIU | CBCG, PA, Mol, MFA | Continuously | | Budget funds / External support |
| 8.5.4. Conduct continuous training of NGO representatives in relation to PML/TF obligations regarding typologies, risks and threats from the use of the NGO sector for ML/TF purposes | <ul style="list-style-type: none"> Training topics and plan have been defined Number of trainings conducted Number of NGO representatives who participated in the trainings | MPA in cooperation with PA - FIU | Continuously | | Budget funds / External support |
| Operational goal 6 | The control of NGOs has been improved | | | | |
| Activities that affect the implementation of the operational goal | Results indicator | Competent authorities – activity holders | Deadline for activity implementation | Planned resources | Source of finance |

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| 8.6.1. Carry out an analysis of registered NGOs from the aspect of their activities in the direction of early identification of NGOs that can be used for terrorist financing | <ul style="list-style-type: none"> • An analysis of registered NGOs has been conducted • Monitoring the work of those NGOs that have been identified as suspicious or particularly vulnerable in relation to the terrorist financing | PA - FIU in cooperation with MPA | II quarter of 2021, continuously | / | Budget funds |
| 8.6.2. In relation to the analysis conducted, perform periodic monitoring and analysis of financial operations, transactions and donations of NGOs that were identified as particularly vulnerable | <ul style="list-style-type: none"> • An analysis has been done on financial operations, transactions and donations made by NGOs • The number of measures taken in relation to NGOs that were identified as vulnerable in the analysis | PA - FIU | IV quarter of 2021 Continuously | / | Budget funds |
| 8.6.3. Improve control measures during the NGO registration procedure | <ul style="list-style-type: none"> • A set of measures has been developed for in-depth checks during NGO's registration in order to precisely define the area of activity and check natural persons - founders | MPA in cooperation with PA - FIU | I quarter of 2021, continuously | / | Budget funds / External financing |
| 8.6.4. Define a procedure that will enable consultation or obtaining opinions from officially registered religious communities in Montenegro when deciding on a request for registration of an NGO whose activities refer to the area of freedom of religion | <ul style="list-style-type: none"> • A procedure has been developed that stipulates the possibility of consulting official religious communities in Montenegro when deciding on a request for registration of an NGO whose activity has a religious component. • Number of consultations conducted with official religious communities in Montenegro | MPA in cooperation with MHMR and PA - FIU | I quarter of 2021, continuously | / | Budget funds / External financing |

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| 8.6.5. Amend the Law on Accounting in the direction of introducing the bookkeeping obligation for all religious communities | <ul style="list-style-type: none"> The Law on Accounting has been amended and a bookkeeping obligation for religious communities has been introduced Efficient monitoring of cash flows through bookkeeping analysis during targeted controls and in-depth checks | MF | II quarter of 2021 | / | Budget funds / External financing |
| 8.6.6. Amend the Law on Non-Governmental Organisations in the direction of introducing the bookkeeping obligation regarding the inflow and outflow of funds for all NGOs | <ul style="list-style-type: none"> The Law on Non-Governmental Organisations has been amended and the bookkeeping obligation for NGOs has been introduced Efficient monitoring of cash flows through bookkeeping analysis during targeted controls and in-depth checks | MPA | II quarter of 2021 | / | Budget funds / External financing |
| 8.6.7. Strengthen the control of NGOs in terms of checking the use of funds, as well as control of compliance with the obligation to publish financial reports | <ul style="list-style-type: none"> Number of controls performed Number of irregularities identified Number of reports on identified irregularities submitted to the FIU | MPA, TA | III quarter of 2021, continuously | / | Budget funds |

