

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY SERBIA**

ARTICLE 14 UNCAC

PREVENTION OF MONEY-LAUNDERING

SERBIA (SIXTH MEETING)

1.

- Regulatory and supervisory regime in the Serbian AML CFT system has been established in line with international standards, at the first point with FATF standards and initiatives as well as standards and procedures of other relevant international organizations, like UN, OECD etc.

Standing Coordination Group (hereinafter: SCG) has been established in April 2009, and it is competent to supervise National Strategy for Combating Money Laundering and Terrorism Financing. SCG is dealing with ML and FT sectors on-going analysis of complete AML/CFT system. The state authorities relevant for prevention and detection of money laundering and terrorism financing whose representatives are engaged in work of the SCG are as follows: Ministry of Justice, Prosecutor's Office for Organised Crime, Ministry of the Interior, Ministry of Foreign Affairs, Security Information Agency, Military Security Agency, Military Intelligence Agency, Customs Administration, National Bank of Serbia, Securities Commission, Tax Administration, Administration for the Prevention of Money Laundering (APML), Ministry of trade – Trade Inspection, Anti Corruption Agency...

Article 82 Para 1 of the LAW ON THE PREVENTION OF MONEY LAUNDERING AND THE FINANCING OF TERRORISM (AML CFT Law):

The supervision of the implementation of this Law by the obligor and lawyer shall be conducted by the following bodies, within their respective competences:

- 1) APML;
- 2) National Bank of Serbia;
- 3) Securities Commission
- 4) Tax Administration;
- 5) Ministry competent for supervisory inspection in the area of trade;
- 6) Foreign Currency Inspectorate;
- 7) Administration for Games of Chance;
- 8) Ministry competent for finance;
- 9) Ministry competent for postal communication;
- 10) Bar Association;
- 11) Chamber of Licensed Auditors.

- **Article 4 of the AML CFT Law:**

For the purposes of this Law, obligors shall include the following:

- Banks;
- Licensed bureaux de change;
- Investment fund management companies;
- Voluntary pension fund management companies;
- Financial leasing providers;
- Insurance companies, insurance brokerage companies, insurance agency companies and insurance agents with a licence to perform life insurance business;
- Persons dealing with postal communications;
- Broker-dealer companies;
- Organisers of special games of chance in casinos;
- Organisers of games of chance operated on the Internet, by telephone, or in any other manner using telecommunication networks;
- Auditing companies;
- Licensed auditors.

- 'Obligors' shall include both entrepreneurs and legal persons exercising the following professional activities:

- Intermediation in real-estate transactions;
- Provision of accounting services;
- Tax advising;
- Intermediation in credit transactions and provision of loans;
- Factoring and forfeiting;
- Provision of guarantees;
- Provision of money transfer services

Article 8 Para 1 of the AML CFT Law:

Unless otherwise stipulated in this Law, the obligor shall be obliged to:

- 1) Identify the customer;
- 2) Verify the identity of the customer based on documents, data, or information obtained from reliable and credible sources;
- 3) Identify the beneficial owner and verify the identity in the cases specified in this Law;

- 4) Obtain information on the purpose and intended nature of a business relationship or transaction, and other data in accordance with this Law;
- 5) Regularly monitor business transactions of the customer and check the consistency of the customer's activities with the nature of the business relationship and the usual scope and type of the customer's business transactions.

Article 20 of the AML CFT Law:

- (1) The obligor shall identify the beneficial owner of a legal person or person under foreign law by obtaining the data in Article 81, paragraph 1, item 14 of this Law.
- (2) The obligor shall obtain the data referred to in paragraph 1 of this Article by inspecting the original or certified copy of the documentation from the official public register, which may not be issued earlier than three months before its submission to the obligor. The data may be also obtained by directly inspecting the official public register in accordance with the provisions of Article 15, paragraphs 4 and 6 of this Law.
- (3) If it is not possible to obtain all the data on the beneficial owner of the customer from the official public register, the obligor shall obtain the missing data by inspecting the original or certified copy of a document and other business documentation submitted by a representative, procura holder, or empowered representative of the customer. If, for objective reasons, the data cannot be obtained as specified in this Article the obligor shall obtain it from a written statement given by a representative, procura holder or empowered representative of the customer.
- (4) The obligor shall, based on a money laundering and terrorism financing risk assessment, identify the beneficial owner of a legal person or person under foreign law in such a manner as to know the ownership and management structures of the customer and to know the beneficial owners of the customer.

Article 77 Para 1 of the AML CFT Law:

- (1) The obligor and lawyer shall keep the data and documentation that are obtained under this Law concerning a customer, established business relationships with a customer and executed transactions for a period of 10 years from the date of termination of the business relationship, executed transaction, or the latest access to a safe deposit box or entry into a casino.

Article 12 Para 1 of the Rulebook on Methodology for Implementing Requirements in Compliance with the Law on the Prevention of Money Laundering and Terrorism Financing:

The obliged entity and lawyer shall keep electronic records of data and information obtained according to the AML/CFT Law and the present Rulebook, as well as of documentation relating to such data and information, chronologically and in a manner which allows for adequate access to such data, information and documentation.

Article 37 Para 1 of the AML CFT Law:

- (1) The obligor shall furnish the APML with the data laid down in Article 81, paragraph 1, items 1 to 4 and 8 to 11 of this Law in case of any cash transaction amounting to the RSD equivalent of EUR 15,000 or more, immediately after such transaction has been carried out and no later than three business days following the transaction.

(2) The obligor shall furnish the APML with the data laid down in Article 81, paragraph 1 of this Law whenever there are reasons for suspicion of money laundering or terrorism financing with respect to a transaction or customer, before the transaction, and shall indicate, in the report, the time when the transaction is to be carried out. In a case of urgency, such report may be delivered also by telephone, in which case it shall subsequently be sent to the APML in writing, but no later than the next business day.

Article 58 Para 1 of the AML CFT Law: If there are reasons for suspicion on money laundering or terrorism financing in relation to certain transactions or persons, the APML may initiate a procedure to collect data, information and documentation as provided for in this Law, as well as carry out other actions and measures within its competence also at a written and grounded initiative by a court, public prosecutor, police, Security Information Agency, Military Intelligence Agency, Military Security Agency, Tax Administration, Customs Administration, National Bank of Serbia, Securities Commission, Privatization Agency, competent inspectorates and State bodies competent for state auditing and fight against corruption.

Article 59 Para 1 of the AML CFT Law: If the APML assesses, based on the obtained data, information and documentation, that there are reasons for suspicion of money laundering or terrorism financing in relation to a transaction or person, it shall inform the competent State bodies thereof in writing, in order that they may undertake measures within their competence, and send them the obtained documentation.

Article 61 Para 1 of the AML CFT Law: The APML may request data, information and documentation required for the prevention and detection of money laundering or terrorism financing from the competent bodies of foreign countries.

Article 62 Para 1 of the AML CFT Law: The APML may send data, information and documentation regarding transactions or persons with respect to which there are reasons for suspicion of money laundering or terrorism financing to State bodies of foreign countries competent for the prevention and detection of money laundering and terrorism financing at their written and grounded request or on its own initiative, under the condition of reciprocity.

- The Administration for the Prevention of Money Laundering has been established as an administrative body within the ministry competent for finance. Regardless of that, APML has distinct core functions from Ministry of Finance: collect, process, analyse and disseminate to the competent bodies the information, data and documentation obtained as provided for in the AML CFT Law and shall carry out other tasks relating to the prevention and detection of money laundering and terrorism financing in accordance with the AML CFT Law. The Administration for the Prevention of Money Laundering acts as a Serbian FIU.

- The Administration for the Prevention of Money Laundering, as a Serbian FIU, has been a Egmont Group member since 2003. Republic of Serbia is represented in the Committee of CoE - MoneyVal, one of the FSRBs.

Article 67 Para 1 of the AML CFT Law: Any natural person crossing the state border carrying bearer negotiable instruments amounting to EUR 10,000 or more either in RSD or foreign currency, shall declare it to the competent customs body.

Article 12a of the AML CFT Law:

(1) Payment and collection service provider shall collect accurate and complete data on the originator and include it in the form or message accompanying the incoming or outgoing wire transfer, regardless of the currency. Such data shall accompany the wire transfer throughout the entire payment chain, regardless of whether intermediaries participate in the payment chain and regardless of their number.

(2) Data referred to in paragraph 1 of this Article include:

- name and surname of the wire transfer originator
- address of the wire transfer originator
- account number of the wire transfer originator or the unique identifier

(3) If obtaining the data concerning the address of the wire transfer originator is impossible, the payment and collection service provider shall obtain, instead of the address, some of the following data:

- unique identifier;
- place and date of birth of the wire transfer originator;
- national ID number of the wire transfer originator

- Activities in the last few months: FATF Public statement on high-risk and non-cooperative jurisdictions was put on the APML's website on 27 October 2014, as well as on 2 March 2015. Also, MoneyVal Public Statement on Bosnia and Herzegovina of 12 December 2014 was put on website on 26 December 2014, and was also sent to financial sector.

- The APML has signed MOUs with: National Bank of Serbia, Customs Administration, Tax Administration, State Prosecutor Office, Securities Commission, National Security Authority, Anticorruption Agency, Business Register Agency.

Article 64 of the Law of State Administration (*Official Gazette of the RS*, No. 79/05, 101/07, 95/10 и 99/14: State authorities are obliged to cooperate regarding all issues of common interests and to exchange information and notices required to work. State authorities establish common bodies and project groups to execute tasks that require involvement of few state authorities.

The National Strategy Against Money Laundering and Terrorism Financing (2015 - 2019) was adopted on 31 December 2014 by Government of the Republic of Serbia. A specific feature of this National Strategy is that it highlights the importance of cooperation among all the competent authorities given that the AML/CFT system can only be effective through such cooperation, including through information and expertise sharing, access to databases, and setting-up of task forces.

Article 55 Para 1 of the AML CFT Law: In order to assess whether there are reasons for suspicion of money laundering or terrorism financing in relation to certain transactions or certain persons, the APML may request data, information and documentation required to detect and prove money laundering or terrorism financing from the State bodies, organizations and legal persons entrusted with public authorities.

- **Ensure the agencies involved in anti-money laundering can cooperate and exchange information at national and international levels**

Republic Public Prosecutor's Office has signed Memoranda of cooperation with Administration for the Prevention of Money Laundering and Privatization Agency. Also, on the basis of a verbal agreement, cooperation with the Anti-corruption Agency was established; liaison officers were determined regarding prosecution's and agency's competence.

According to Article 64 of the Law of State Administration, state authorities are obliged to cooperate regarding all issues of common interests and to exchange information and notices required to work. State authorities establish common bodies and project groups to execute tasks that require involvement of few state authorities.

In that regard, representative of the Republic Public Prosecutor's Office is one of the members of Permanent Coordinating Group which consists of representatives of state authorities and institutions involved in anti-money laundering.

- **Demonstrate use of mutual legal assistance, administrative or judicial cooperation in cases of money laundering among law enforcement, judicial authorities and financial regulatory authorities**

Republic Public Prosecutor's Office has signed 19 MoU with respective Prosecutor's Offices from EU and world regarding organised crime, money laundering and other serious criminal offences. That way, direct cooperation between prosecutors is established and less time is needed to gather and exchange necessary information.

In cases in which no ratified international treaty exists or certain subject matters are not regulated under it, mutual assistance in criminal matters is governed by the Law on mutual assistance in criminal matters of the Republic of Serbia.

Mutual assistance shall include:

1. extradition of defendants or convicted persons;
2. assumption and transfer of criminal prosecution;
3. execution of criminal judgments;
4. other forms of mutual assistance.

The authorities competent to exercise mutual assistance are national courts and public prosecutor's offices specified by law.

Requests for mutual assistance are submitted in the form of letters rogatory.

Letters rogatory and other annexed documents of the national judicial authority shall be transmitted to foreign authorities through the Ministry of Justice. At the request of the requested state, letters rogatory and other supporting documents shall be transmitted through diplomatic channels.

Other forms of mutual assistance include:

- 1) conduct of procedural activities such as issuance of summonses and delivery of writs, interrogation of the accused, examination of witnesses and experts, crime scene investigation, search of premises and persons, temporary seizure of objects;
- 2) implementation of measures such as surveillance and tapping of telephone and other conversations or communication as well as photographing or videotaping of persons, controlled delivery, provision of simulated business services, conclusion of simulated legal business, engagement of under-cover investigators, automatic data processing;
- 3) exchange of information and delivery of writs and items related to criminal proceeding pending at the requesting party, delivery of data without the letter rogatory, use of audio and video-conference calls, forming of joint investigative teams;

- 4) temporary surrender of a person in custody for the purpose of examination by the requesting party's competent body.

If the circumstances of the case justify it, joint investigative teams may be formed by an agreement between the competent authorities of the Republic of Serbia and a foreign country.

Under the condition of reciprocity, national judicial authorities may transmit, without letter rogatory, information relating to known criminal offences and perpetrators to the competent authorities of the requesting party if this is considered to be of use to criminal proceedings conducted abroad.

NOTA BENE: Given the broad scope of competences encompassed by the respective provisions of UNCAC as well as institutions involved in its implementation in Serbia, this contribution might be amended, in which case the amendments will have been communicated to UNODC in a timely fashion, i.e. prior to the commencement of the Sixth Inter-sessional Meeting.