

MONEY LAUNDERING IN BULGARIA: STATE OF AFFAIRS AND POLICY IMPLICATIONS

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1. Background

Bulgaria is still in the process of performing a comprehensive National Risk Assessment, as required by the fourth EU Directive on prevention of the use of the financial system for the purpose of money laundering (ML) from 2015, which would potentially put the country in a better position to identify and address the existing risks. According to the Fourth Mutual Evaluation report for Bulgaria, published by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), the country's financial system is misused mostly for placement and layering of criminal assets acquired abroad. At later stages, the integration of the criminal money back into the regulated financial and non-financial system often occurs abroad. The most significant part of the money passes through the Bulgarian financial system for a very short period of time in order to leave only a minor trace in the system and to keep the risk for money launderers to get detected as low as possible.¹ In principle, given Bulgaria's small economy, large volume transactions made in the placement phase should be more easily red flagged. To date this has proven to be difficult to ascertain, especially since organized criminal groups

KEY POINTS

- Bulgaria remains high risk country for the initiation of money laundering schemes. The high share of informality in its economy, coupled with the low level of enforcement against corruption and organized crimes, renders the country's financial system highly susceptible to money laundering.
- Additional risk factors are the country's proximity and attractiveness to investors in real estate from non-EU countries, which might attempt to move assets through Bulgaria on the way to laundering them in the EU.
- Bulgaria has established a stable and high standard legal system for countering money laundering. But its institutional set up remains fragmented and without a central coordinating body, which further weakens the already stretched human resources.
- Bulgaria needs to urgently implement the most recent anti-money laundering rules on establishing final beneficial ownership. Bulgarian law enforcement should work towards establishing a money laundering risk assessment based on information of multiple registries and public databases.
- For Bulgaria to progress in countering money laundering it would need to advance on tackling higher level corruption. Currently the systems seems to self-sensor itself when it comes to investigations affecting politically exposed persons.

operating in Bulgaria are of a multinational character. Therefore, they may use fragmented and relatively small transactions, which make the discovery of the illegal nature of these transactions at the initial stage

¹ CoE, 2013, Fourth MONEYVAL evaluation round: Bulgaria, [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL\(2013\)13_ENG.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL(2013)13_ENG.pdf)



difficult. These factors, combined with the fast pace of technological development and the multiple use of complex financial structures in the context of the globalization of financial markets, are among the core reasons why, despite Bulgaria being a small economy, investigating financial crime remains highly complex.

The influence of the major criminal markets (e.g. drug trafficking, prostitution, smuggling, etc.) on Bulgaria's economy is significant.² The first, and so far only, comprehensive Serious and Organised Crime Threat Assessment, performed for Bulgaria with the support of the Center for the Study of Democracy (CSD) in 2011 concluded that the annual revenue from organized criminal activities and corruption in the most potent criminal markets amounted to more than BGN 4 – 5 billion per year (EUR 2.5 billion) or nearly 6 % of GDP.³ This amount only included criminal income from trafficking and distribution of drugs, smuggling of cigarettes and other excise goods, prostitution, corruption (related to rigging of public procurement) as well as tax and VAT fraud. It excludes revenue from other illicit activities, such as financial fraud, trafficking in cultural goods, as well as money generated by Bulgaria's sizeable hidden economy. Over the past decade, despite the continuous decline in the influence exerted by organized crime, the share of the criminal economy continued to pose a serious risk to the legitimate business, distorting market competition and threatening the democratic functioning of public institutions.⁴

Accurate understanding of the dynamics of the hidden economy is another interrelated aspect, essential for improving the institutional capacity for preventing and combating money laundering in Bulgaria. The stubbornly high level of hidden economic activities signals deficiencies in the functioning of the public

institutions and the rule of law, and undermines the economic development of the country. According to CSD's *Hidden Economy Index* hidden economic activities decreased during the past several years.⁵ Despite the fact that business representatives assess the current hidden economy levels as lower, compared to those in 2009 and 2012, they remain concerned about illegal imports and exports, VAT and excise payment avoidance and fraud.⁶

The cash-based grey economy and high levels of administrative corruption, tax and customs offenses, fraud, electronic crimes (especially cybercrime, ATM and credit card fraud), as well as smuggling of contraband goods (i.e. cigarettes, alcohol, and fuel) illustrate the fertile ground for money laundering in Bulgaria.⁷ Tourism, gaming, retail, construction, healthcare, and energy continue to be among the sectors with highest exposure to money laundering, according to both the US State Department and MONEYVAL. Considering this overall environment, in combination with the country's geo-strategic location as an entry point into Europe, as well as persistent problems with the rule of law,⁸ renders Bulgaria significantly exposed to money laundering also according to the European Commission.

2. Evolution and enforcement of the Bulgarian AML legislation in the context of the international standards

Despite a late start, the **Bulgarian legislative framework has been gradually improved to provide a good anti money laundering (AML) foundation.** The **legal basis for the investigation of ML in Bulgaria** stems from

² CSD, 2011, Serious and Organised Crime Threat Assessment 2010 – 2011, <http://www.csd.bg/artShow.php?id=15991>

³ GDP at market prices as of 2011, according to Eurostat data.

⁴ CSD Brief No. 21, 2010, Investigation of Money Laundering: An Institutional Approach, <http://www.csd.bg/artShow.php?id=15028>

⁵ CSD, 2016, CSD Policy Brief No. 64: Hidden Economy in Bulgaria: 2015 – 2016, <http://www.csd.bg/artShow.php?id=17873>

⁶ CSD, 2016, Corruption Assessment Report (to be published)

⁷ US Department of State, 2015 International Narcotics Control Strategy Report (INCSR), <http://www.state.gov/j/inl/rls/nrcrpt/2015/supplemental/239153.htm>

⁸ See the regular reports of the European Commission on Bulgaria under the Cooperation and Verification Mechanism, available at http://ec.europa.eu/cvm/progress_reports_en.htm

the provisions of the *Law on Measures against Money Laundering* (initially adopted in 1999)⁹ and the *Rules on the Implementation of the Law on Measures against Money Laundering* (2006).¹⁰ Considered inseparable, the adopted in 2003 *Law on Measures against Financing of Terrorism* is also a founding pillar of the Bulgarian anti money laundering framework. The *Criminal Code of the Republic of Bulgaria* criminalized ML initially in 1997,¹¹ covering the execution of financial transactions (or other deals involving money or property) by persons, who have the knowledge or suspicion of the illegal origin of the money. The Criminal Code defines and prescribes as punishment another important aspect to the overall AML system, confiscation of existing property.¹² The *Law on Divestment in Favour of the State of Property Acquired from Criminal Activity* from 2005 and the *Law on Divestment in Favour of the State of Illegally Acquired Property*, adopted in 2012 to replace the former, complete the above provisions.

The evolution of the legal framework, including the introduction of a considerable number of amendments and expanded coverage of the Bulgarian legislation in the area of AML is by a large degree influenced by developments on the international and European level. The Financial Action Task Force sets the standards and promotes the effective implementation of systems to combat money laundering, terrorist financing and other associated threats to the integrity of the global financial system.¹³

The Financial Action Task Force issued its first 40 Recommendations for combating money laundering

in 1990. Based on them, the **first EU Directive on prevention of the use of the financial system for the purpose of money laundering** was adopted in 1991 with the aim of requiring financial institutions to establish the identity of their customers and report suspicious ML transactions.¹⁴ The **second EU Directive** in this area, adopted in 2001, expanded ML provisions significantly to include a large number of types of criminal activities, as well as to cover professionals such as auditors, lawyers, accountants, notaries, managers of casinos, real estate agents.¹⁵ Under the influence of the 2001 Directive current Bulgarian legislation considers ML extensively beyond offences, such as drug trafficking and trafficking of human beings.¹⁶ The **third EU Directive**, adopted in 2005, integrated the Financial Action Task Force's additional 9 special recommendations on terrorism financing rendering the anonymous bank accounts impossible, as well as expanding the coverage of ML measures to include all financial transactions, related to terrorist activities. An additional important requirement was the introduction of mandatory checks for all transactions over EUR 15,000, as well as the requirement for each member state to establish national registry for companies with information on beneficial ownership.¹⁷ The most recent **fourth EU Directive, adopted in 2015**, puts emphasis on ultimate beneficial ownership and enhanced customer due diligence, as well as expanding the definition of politically exposed persons. Additional highlights under the provisions of the Directive include the lowering of the cash payment threshold to EUR 7,500 and the inclusion of the entire gambling sector beyond just casinos.¹⁸

⁹ *Law on Measures against Money Laundering*, <http://www.lex.bg/bg/laws/ldoc/2134420482>

¹⁰ *Rules on the implementation of the Law on Measures against Money Laundering* <http://lex.bg/laws/ldoc/2135533655>

¹¹ Within the provisions of Art. 253 of the *Criminal Code of the Republic of Bulgaria*, <http://lex.bg/laws/ldoc/1589654529>

¹² Art. 44 and Art. 37(3) of the *Criminal Code of the Republic of Bulgaria*, <http://lex.bg/laws/ldoc/1589654529>

¹³ Financial Action Task Force, <http://www.fatf-gafi.org/about/>

¹⁴ Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31991L0308:EN:HTML>

¹⁵ Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 http://eur-lex.europa.eu/resource.html?uri=cellar:57ce32a4-2d5b-48f6-adb0-c1c4c7f7a192.0004.02/DOC_1&format=PDF

¹⁶ Criminal Code of the Republic of Bulgaria, Art. 253, <http://lex.bg/laws/ldoc/1589654529>

¹⁷ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:309:0015:0036:en:PDF>

¹⁸ Directive(EU) 2015/849 of the European Parliament and of the Council of 20 May 2015, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849&from=EN>

Box 1. Recent developments with regard to the issue of beneficial ownership

With the adopted amendments of the *Law on the Economic and Financial Relations with Companies, Registered in Jurisdictions of Preferential Tax Regime, Persons Related to them and their Beneficial Owners* (i.e. offshore entities), as of 1 July 2016, Bulgaria complied with the requirements of the Fourth Anti Money Laundering Directive regarding the figure of the beneficial owner. The amendments introduce a definition for beneficial owner, including the presumptions of beneficial ownership under the new EU rules, as well as requirements for the obliged entities to keep records, which could be used for the identification of the beneficial owner. The information on beneficial owners is contained in Bulgaria's commercial register, which is free and public, upon registered access, and already contains identification data of beneficial owners of offshore entities. According to the adopted amendments, the register contains information on beneficial owners, as well as details and circumstances about companies, registered in jurisdictions of preferential tax regime, which directly or indirectly perform or will perform activities within the scope of the numerous activities prohibited for offshore entities under the law. They are an important step towards transparency in one of the crucial spheres susceptible to corruption – the participation of offshore entities in economic life. Nevertheless, enforcement of the new rules remains a matter of high concern.

Bulgaria has until June 2017 to transpose the **fourth EU Directive** (Directive) into its national legal framework and some legislative amendments towards this direction are already in place. For example, the amended *Law on Limiting Payments in Cash* newly requires transactions equal or above BGN 10,000 (EUR 5,113) to be processed exclusively via banking institutions.¹⁹ This requirement builds on a generally high level of understanding of the enhanced customer due diligence obligations on the side of the compliance departments of Bulgaria's banks. On other issues, such as beneficial ownership, legislative challenges are outstanding. The concept of beneficial owner "does not fully cover the natural person(s) who ultimately own(s) or control(s) a customer and/or the person on whose behalf a transaction is being conducted" (see Box 1 below).²⁰

3. Implementation of the AML framework

The Bulgarian legal AML system has gradually progressed. In recent years, there has been an

increase in the majority of the indicators, provided by the Bulgarian Prosecution (see Table 1). In 2015 the increase was higher, as the number of persons brought to court for alleged ML-related offences was two times higher than in 2014 and even more, compared to 2013. The most significant increase was observed with regards to the convicted and sanctioned persons with enforced court acts, as their number in 2015 was 71.4 % higher than in 2014. It is also interesting to note that there was not a single person acquitted in 2015.²¹

Nonetheless the fact remains, even with the notable increase during 2015, that sentencing ML in Bulgaria is still low when compared to other types of crime (Table 2). It should be noted that proving ML in courts is a complex process, especially in light of the prosecution's need to prove the connection to the predicate offense and the source of the illegally obtained assets. Proving the specific degree to which the predicate offense is the origin of the money in question is also difficult, despite the evolving case law.²² In addition, the practice of

¹⁹ Law of Limiting Payments in Cash, <http://www.lex.bg/laws/ldoc/2135718725>

²⁰ CoE, 2013, Fourth MONEYVAL evaluation round: Bulgaria, [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL\(2013\)13_ENG.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL(2013)13_ENG.pdf)

²¹ The Annual Reports on the application of the law and the activities of the Prosecutor's Office and the investigative bodies for the period 2008 – 2015 are available from http://www.prb.bg/bg/pub_info/dokladi-i-analizi/

²² Pushkarova, P., 2014, Money Laundering. Distinction from similar criminal activities. "Teza" Journal, Vol. 8 and 9 2014.

Table 1. Major judicial indicators for ML (2008 – 2015)

Type of action	2008	2009	2010	2011	2012	2013	2014	2015
Observed pre-trial proceedings	142	190	228	263	293	291	294	318
New pre-trial proceedings	56	94	85	66	87	65	64	73
Resolved pre-trial proceedings	53	63	51	82	102	98	92	119
Prosecutorial decrees submitted to court	19	20	22	31	29	20	30	39
Persons, brought to court	36	33	35	45	59	41	48	94
Convicted and sanctioned persons with enforced court act	22	35	18	29	27	16	14	24
Acquitted persons with an effective judicial act	1	1	4	3	9	3	1	0

Source: Prosecutor General's Office, Bulgaria, 2016.

Table 2. ML offences in 2015 compared to other types of crimes by categories of sentences

Types of criminal activity	Type of sentence				
	Effective	Suspended sentence	Probation	Fine	Other penalties
Total	661	2,268	239	1,759	205
Corruption	17	183	87	198	69
Organized crime	28	37	1	4	0
Human trafficking	16	32	0	23	0
Drug trafficking	444	911	60	1,201	85
Money laundering	4	21	0	4	1
Crimes against the tax system	88	888	69	212	42
Counterfeit currency and payment instruments	62	170	10	57	6
Misuse of EU funds	2	26	12	60	2

Source: Prosecutor General's Office, Bulgaria, 2016.

starting the financial investigation simultaneously with the criminal investigation, remains rarely used in the country. A closer look at the cases shows that none concerns politically exposed persons or higher level political positions, which is at odds with the persistent evidence of high level corruption in Bulgaria.²³

4. Institutional set up: current performance and challenges

The main institutional actor, tasked with combating money laundering and terrorism financing in Bulgaria is the **Financial Intelligence Directorate (FID) within the State Agency for National Security (SANS)**. Formerly established as Financial Intelligence Agency within the Ministry of Finance,

²³ See for example CSD (2016) State Capture Unplugged: Countering Administrative and Political Corruption in Bulgaria, Center for the Study of Democracy, Sofia, 2016.

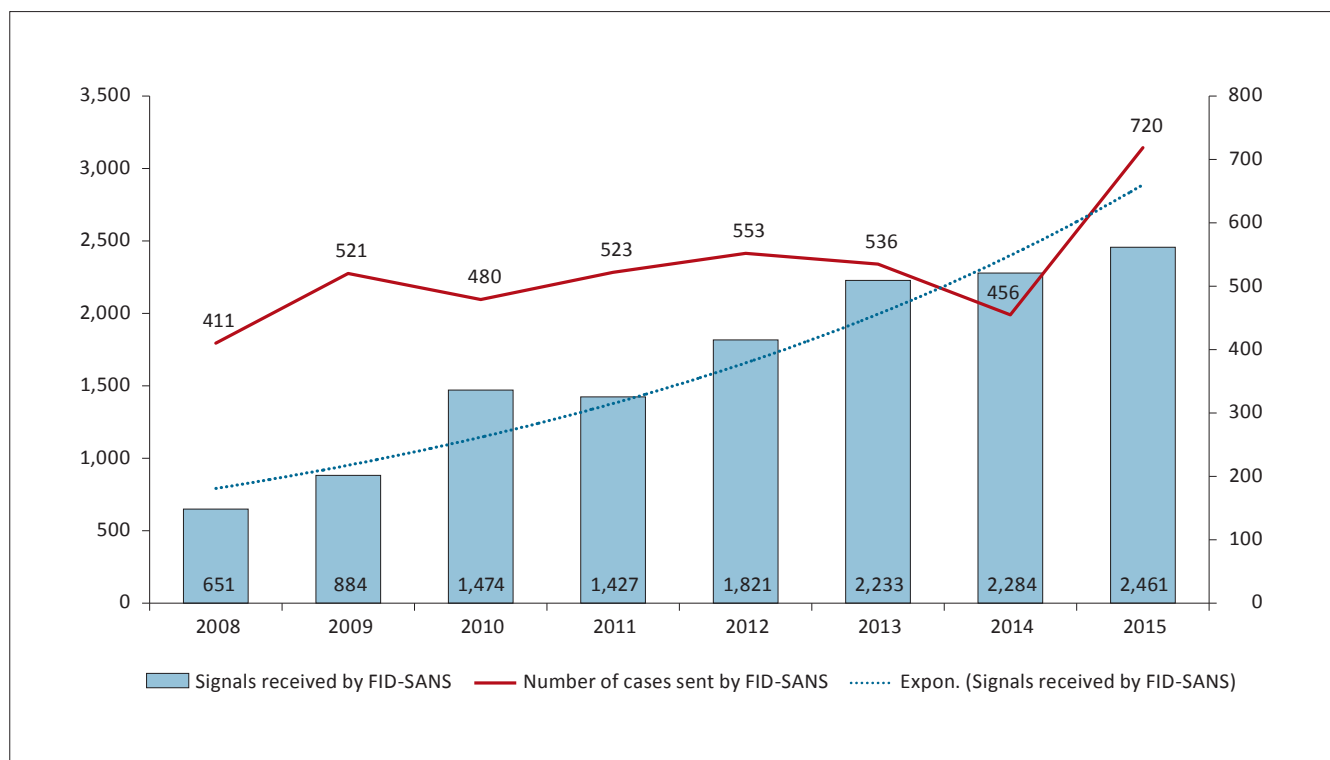
from 2008 FID-SANS receives, records, analyzes and discloses financial intelligence, regulated by the *Law on Measures against Money Laundering* and its *Rules for implementation*, and the *Law on Measures against Financing of Terrorism*. FID-SANS acts as an “administrative-type financial intelligence unit” with no police authority,²⁴ while a specialised AML and anti-corruption unit is established within the **General Directorate for Combating Organised Crime (GDCOC)** at the Ministry of Interior.²⁵ Separate from the FID-SANS, a designated AML department is also established as part of SANS. With their enhanced investigative powers, the AML units within the GDCOC and SANS are supposed to build upon the intelligence information received from the FID. On the prosecution’s side, ML cases are usually prosecuted by the **District Prosecutor’s Offices** or, when there is evidence of organized crime group

activities, by the **Specialised Prosecutor’s Office (dealing with organised crime)**.

The number of signals received and cases carried forward by FID – SANS have increased in recent years, with the financial intelligence having to make a call on more and more cases (see Table 1). At the same time the level of sophistication of the cases and their size has increased, which calls for further specialization and increase in the capacity of the unit to provide reliable cases to the prosecution and the rest of law enforcement. There have been **many risk indicators**, which require further attention from FID – DANS and the wider AML institutional frameworks, such as:

- The boom in real estate and the influx of non-EU capital in this market;

Figure 1. Number of signals received* and cases sent by FID-SANS (2008 – 2015)**



* Art. 11 and Art. 18 Law on Measures against Money Laundering and Art. 9. Law on Measures against Financing of Terrorism.

** Art. 12 para 4 Law on Measures against Money Laundering.

Source: FID-SANS, 2016.

²⁴ CoE, 2013, Fourth MONEYVAL evaluation round: Bulgaria, [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL\(2013\)13_ENG.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL(2013)13_ENG.pdf)

²⁵ General Directorate for Combating Organised Crime (GDCOC), <http://gdbop.bg/bg/corruption>

- The existence of a large pool of unexplained wealth in the country, which is used for willing public procurement, privatization, concessions, etc.
- The implosion of the fourth largest Bulgarian bank in 2014, revealing a knot of conflicts of interest at the highest levels of power, etc.

During the early 2000s drug trafficking was considered to be the major source crime for laundering illicit proceeds, while crimes against the fiscal system (most notably VAT fraud) have firmly become the primary ML predicate offense later on.²⁶ According to FID-SANS analyses, the development of ML schemes, deriving from computer crimes (e.g. trojan horse fraud, phishing, etc.) continues to grow. It is also more common than before to observe the so-called “social engineering frauds”, which are linked to identity theft and personal information scams.²⁷

While the primary responsibility for the supervision of anti money laundering and countering the financing of terrorism (AML/CFT) measures for all obliged persons rests with FID-SANS, all supervisory bodies are required to include inspections for the compliance of obliged persons with the requirements of the *Law on Measures against Money Laundering* and the *Law on Measures against Financing of Terrorism* when they conduct checks.²⁸ Of higher relevance in this regard are the **Commission for Forfeiture of Illegally Acquired Assets**²⁹ and the **Financial Supervision Commission**.

Naturally, the Asset Forfeiture Commission has paid significant attention to ML offences. The analysis of the initiated by the Commission asset forfeiture proceedings by category of crime in 2015 shows that ML cases (Art. 253 of the Criminal Code) have

a 7 % share. The share of ML cases in 2015 shows a significant decrease compared to the preceding year when the Commission initiated the majority of its proceedings against ML cases (23 % from the total asset forfeiture claims).³⁰

The **Bulgarian National Bank** (BNB) is mandated by the *Law on Credit Institutions* (LCI) to ensure the security and soundness of the national currency and monetary policy, part of which is the countering of money laundering risks.³¹ BNB is also responsible for overseeing the activities of banks and, in certain cases, financial holding companies. As part of the national AML/CFT efforts, all banks are required to integrate systems for internal control, while BNB prepares, based on risk assessments, annual plans for on-site inspections.

The overall institutional AML framework in Bulgaria also includes the **Ministry of Finance**, **Ministry of Justice** and the **National Customs Agency**. The latter is also an important actor. It is obliged by the *Law on Measures against Money Laundering* to identify and report suspicious transactions relating to cross border transfers of cash and other instruments, specifically through its dedicated Customs Intelligence and Investigation Directorate within the Central Customs Directorate.³²

The level and quality of cooperation between the different elements of the institutional set up of the money laundering system in Bulgaria remains **underdeveloped**, which partly relates to the understaffing and underfunding of the financial intelligence and in particular serious organized crime investigation. On the one hand, the quality of the overall risk assessment and the specific Suspicious

²⁶ Ibid.

²⁷ FID-SANS, 2014, Annual Report, http://www.dans.bg/images/stories/FID/ANNUAL_REPORT_2014.pdf

²⁸ CoE, 2013, Fourth MONEYVAL evaluation round: Bulgaria, [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL\(2013\)13_ENG.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL(2013)13_ENG.pdf)

²⁹ Commission for Forfeiture of Illegally Acquired Assets, <http://www.ciaf.government.bg/>

³⁰ Commission for Forfeiture of Illegally Acquired Assets, Annual Reports 2006 – 2015, <http://www.ciaf.government.bg/pages/view/godishni-dokladi-56/>

³¹ Law on Credit Institutions, <http://www.lex.bg/bg/mobile/ldoc/2135532723>

³² Customs Intelligence and Investigation Directorate, Central Customs Directorate, <http://customs.bg/bg/page/312>

Transaction Reports (STRs) issued by FID-SANS should be improved and made more actionable for the other participants in the system. On the other hand, there is a need for more clear leadership in the part of the prosecution in prioritizing and leading the AML cases.³³ In addition, there is a need for adopting Criminal Procedure Code amendments, in order to tackle existing procedural deadlocks and formalism within the criminal proceedings process.

International assessments, such as MONEYVAL, state that in terms of institutional and legislative development in the AML framework, Bulgaria is largely compliant with international standards. A more detailed analysis and interviews with various institutional representatives however points to **significant problems arising from fragmented responsibilities** for cases related to financial crime and money laundering, resources spread among the involved agencies, and lack of a national coordination mechanism. The **duplication of functions** is another important challenge, which decreases efficiency and effectiveness of the entire system. The authority granted to the different institutions in the process is both compartmentalized and at the same time often overlaps.

Capacity is another important challenge that requires significant attention. There is evident lack of human resources sustainability in the AML institutions, which was particularly highlighted during the short-lived relocation of the GDCOC into SANS in 2013. The failure of the idea to enhance SANS's powers by adding police authority left the AML system paralyzed for over a year. The followed backward transition of GDCOC to the Ministry of Interior harmed the existing human resources capacity due to high turnover of public officials.³⁴

5. International cooperation

Transnationality is among the most distinctive characteristics of money laundering. The globalization and technological processes significantly increase the range and complexity of ML. These trends predispose the presence of two different streams of criminal proceeds, depending on where the crimes had taken place: the first stream comes from crimes committed in Bulgaria and their proceeds flow to foreign countries; the second comes from crimes occurred abroad but using Bulgaria as a money-laundering destination.³⁵

During the fourth MONEVAL evaluation, the international cooperation of the FID-SANS and law enforcement agencies in Bulgaria was assessed as effective and efficient, in some aspects even more advanced than the minimum standards required by the Financial Action Task Force.³⁶ The Bulgarian National Bank (BNB) and the Financial Supervision Commission also appear to have broad powers to exchange information with foreign counterparts based on domestic law, international treaties and MoUs but their practical implementation is poorly assessed.

The Bulgarian legal framework establishes the Ministry of Justice (for judicial requests) and the Supreme Prosecutor's Office of Cassation (for pre-judicial investigation requests) as the central institutions responsible for international mutual legal assistance. Among the exclusive competencies of the "International Legal Cooperation" department, within the Supreme Prosecutor's Office of Cassation, is the authority to manage and exercise control over the European Arrest Warrant instrument; extraditions from and to countries, outside the EU; the receipt and dispatch of requests for legal assistance; requests for transfer of criminal proceedings and convicted persons.

³³ Identified during interviews with representatives from FID-SANS, GDCOC, the Specialised Prosecutor's Office and other relevant stakeholders.

³⁴ Identified during interviews with representatives from FID-SANS, GDCOC, the Specialised Prosecutor's Office and other relevant stakeholders, as well as during the round table "Tackling Criminal Finances: Anti-Money Laundering in Bulgaria", organized on 14 July 2016. Summary of discussion is available at the official webpage of the Center for the Study of Democracy.

³⁵ CSD, 2012, Serious and Organised Crime Threat Assessment 2010-2011, <http://www.csd.bg/artShow.php?id=15991>

³⁶ CoE, 2013, Fourth MONEYVAL evaluation round: Bulgaria, [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL\(2013\)13_ENG.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL(2013)13_ENG.pdf)

The European Union has also established AML/CFT mechanisms, of which Bulgaria has become part with its accession in 2007. The EU Financial Intelligence Units Platform (FIUs) is such an instrument in pursue of enhanced communication between the Member States.³⁷ Europol and the European Bank for Reconstruction and Development promote the cooperation among their member countries and provide analytical support.

The Egmont Group is a network for FIUs, in which Bulgaria is a member and utilizes it in the fight against money laundering and terrorist financing. The Egmont Group, in contrast to the Financial Action Task Force and MONEYVAL, provides platform for exchanging financial intelligence, aiding FIUs in pursue of expanding and systematizing international cooperation.³⁸ In addition, FID-SANS has established channels for sharing intelligence information through various bilateral and multilateral agreements.

6. Towards a more effective and efficient AML framework: recommendations for Bulgaria

Bulgaria has made significant progress in the area of AML during the last decade, both in terms of institutional set-up and legislative efforts. At the same time investigating and proving ML in court remains challenging, in particular as it relates to higher echelons of power and politically exposed persons. This is confirmed by the small share of ML sentences, compared to other types of crimes, despite the fact that the majority of crimes employ ML mechanisms in trying to integrate illegal money into the financial system. Bulgaria had not had any ML investigations implicating politically exposed persons yet.

Countering ML requires a **holistic approach on multiple levels**. **Enhancing the overall capacity** to investigate ML should be highlighted in this regard, especially when institutional coordination and human resources are concerned. Building and sustaining sufficient level of analytical capacity and reducing employee turnover by providing plausible incentives is pivotal for enhancing not only the quality of financial investigations and improving cooperation (nationally and abroad) but also for the overall efficiency of the AML infrastructure. Provision of **tailored trainings**, varying depending on the level of expertise, and the cultivation of trained staff across the spectrum of institutional actors should thus be the point of departure.

Equally important is the need for **improved coordination of and collaboration** between the FID, law enforcement, the prosecution and other AML-related institutions, especially in terms of abandoning any disruptive practices of internal competition. With a high number of bodies, to a larger or lesser degree, involved in the overall AML process, the present institutional environment requires a **national coordination mechanism**, which would streamline the existing internal processes and contribute to increased efficiency.

Next to substantiating the capacity and institutional coordination, **Bulgaria needs to further highlight the enforcement and implementation of the rules within the AML system**. The non-application of formal internal AML rules and procedures in the private sector companies, which are obliged by law to comply, together with the lack of state control over compliance with such rules, undermine the effectiveness of the national AML efforts.

There is also a need for Bulgaria to put additional focus on **risk assessments and evidence-based measures**, as required by the EU fourth AML Directive. The success or failure of the future National Risk Assessment will serve as a test on whether

³⁷ EU Financial Intelligence Units Platform, http://ec.europa.eu/justice/civil/financial-crime/fiu-intelligence/index_en.htm

³⁸ Egmont Group, <http://www.egmontgroup.org/>

the country's AML system is ready to evolve. The development and further streamlining of the functioning of the **national registry of bank accounts** is another important step towards a more efficient AML framework, as it will facilitate and expedite the gathering of financial information. Bulgarian law enforcement needs to make much more use of the existing numerous registries and database systems at hand locally and internationally. This should be done within a persistent cooperation process between the national bodies managing such registries and databases.

The comprehensive network of mutual bilateral and multilateral agreements gives the Bulgarian authorities a sound basis for policy initiatives, as well. In order to ensure the review of the effectiveness of the AML systems on a regular basis, the Bulgarian authorities should, as quickly as possible, create a **framework for policy makers to review the effectiveness of the system**.³⁹

The discoveries of the "Panama papers" clearly demonstrated the need for enhanced **transparency on the ultimate beneficial ownership** of certain legal

entities. Apart from law enforcement and intelligence services, there is room for journalists and researchers to be more involved in identifying and exposing hidden offshore companies and beneficial owners. The **National company registry** should not only be publicly available but also need to verify the beneficial ownership information and ensure the accuracy of the data. Resources of investigative journalists and civil society organizations should thus be further integrated and supported.

Establishing sound track record of prosecuting ML is challenging. The issue is similar to the problem of countering high-level corruption in the country, where despite being assessed from multiple angles and monitored under various EU instruments, Bulgaria continuously fails to deliver. Bulgaria has established strong legal anti-corruption framework but deficiencies in the institutional set up and highlighted gaps in delivering the needed results remain. As a result, both corruption and ML challenges, including reports of suspicious deals/transactions involving politicians and high level officials,⁴⁰ shed serious doubts as to the effectiveness and integrity of the public sector governance as a whole.

³⁹ CoE, 2013, Fourth MONEYVAL evaluation round: Bulgaria, [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL\(2013\)13_ENG.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/BUL4-MERMONEYVAL(2013)13_ENG.pdf)

⁴⁰ CSD Brief No. 21, 2010, Investigation of Money Laundering: An Institutional Approach, <http://www.csd.bg/artShow.php?id=15028>