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Professional paper

ELENA BUNDALESKA[1]
VLADIMIR NAUMOVSKI[2]

ANALYSIS OF THE EFFECTS FROM SUSPICIOUS TRANSACTIONS REPORTING IN THE REPUBLIC OF MACEDONIA, MONTENEGRO AND THE REPUBLIC OF SLOVENIA

Abstract

Money laundering is a joint problem of the mankind. Along with some other aspects of underground economic activity, rough estimates have been put forward to give sense of the scale of the problem. According to a study conducted by the United Nations Office on Drugs and Crime, in 2009 criminal proceeds amounted to 3.6% of global GDP, with 2.7% (or USD 1.6 trillion) being laundered. However, these estimates should be treated with caution. They are intended to give just an approximation of the magnitude of the problem. Due to the illegal nature of the transactions, precise statistics are not available and it is therefore impossible to produce a definitive estimate of the amount of money that is globally laundered every year.

This study analyzes the statistical data gathered for three neighboring countries (Republic of Macedonia, Montenegro and Republic of Slovenia) related to the number of suspicious transactions reported annually, the corresponding activities taken, and the results achieved, the main purpose

[1] PhD , Assistant Professor,University American College Skopje,
e-mail:bundaleska@uacs.edu.mk
[2] PhD, e-mail:naum.vladimir@yahoo.com

being exploring the effectiveness of the money laundering prevention systems in the selected countries. The study concludes that even though all the countries are similar with respect to territory, population, and structure and organization of their money laundering prevention systems, the results achieved from analysis and activities taken based on suspicious transactions reporting are significantly diverse from country to country.

Key words: money laundering prevention, suspicious transactions, Republic of Macedonia, Montenegro, Republic of Slovenia

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Introduction

Money laundering is the process of making illegally-gained proceeds appear legal (FinCEN 2008). When a criminal activity generates substantial profits, the individual or group involved must find a way to control the funds without attracting attention to the underlying activity or the persons involved. They do this by disguising the sources, changing the form, or moving the funds to a place where they are less likely to attract attention (ed. Turner 2011).The most common sources of funds of money launderers are trade in drugs, weapons, people, prostitution and in some countries tax evasion.

Even though money laundering has been going on for several thousands of years (ed. Turner 2011)[3], according to FinCEN (2008) the laws providing the law enforcement and regulatory agencies with effective tools to combat money laundering have been enacted since the 70tiese, in some countries even much later than that.

Money laundering is a joint problem of the mankind, since it can involve many countries, moreover as many countries and jurisdictions it involves as successful it is. Along with some other aspects of underground economic activity, rough estimates have been put forward to give some sense

[3] No one can be really sure when money laundering first began. However, researchers are confident that it has been going on for several thousand years. In Lords of the Rim, Sterling Seagrave explains how, in China, merchants some 2000 years before Christ would hide their wealth from rulers, then move it and invest it in businesses in remote provinces or even outside China.

of the scale of the problem. According to a study conducted by the United Nations Office on Drugs and Crime, in 2009 criminal proceeds amounted to 3.6% of global GDP, with 2.7% (or USD 1.6 trillion) being laundered. This falls within the widely quoted estimate by the International Monetary Fund, who stated in 1998 that the aggregate size of money laundering in the world could be somewhere between two and five percent of the world's gross domestic product. However, these estimates should be treated with caution. They are intended to give just an approximation of the magnitude of the problem. Due to the illegal nature of the transactions, precise statistics are not available and it is therefore impossible to produce a definitive estimate of the amount of money that is globally laundered every year. The international organizations dealing with the problem (including FATF[4]) therefore do not publish any official figures in this regard (FATF 2011), accordingly when researching for latest data on the magnitude of money being laundered annually, for the purpose of writing this Paper, no recent data was available. It can be however reasonably assumed that with the increase of the technology and the financial crisis these numbers have gone significantly higher in the recent years.

According to FATF (2011), many governments have established comprehensive anti-money laundering regimes aiming to increase awareness of the phenomenon – both within the government and the private business sector – and to provide the necessary legal or regulatory infrastructure and tools to the authorities charged with combating the problem. Some of these tools include giving investigative agencies the authority to trace, seize and ultimately confiscate criminally derived assets, building the necessary framework for permitting the agencies involved to exchange information among themselves and with counterparts in other countries, gathering as much as possible data through reporting and processing the same.

With respect to gathering and processing as much as possible data, generally there are two types of reporting:

1) **Automatic reporting of cash transactions**, which is usually connected to a certain threshold of a cash transaction. This reporting

[4] The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system (http://www.fatf-gafi.org/pages/aboutus/).

does not necessary indicate that the transaction is suspicious, but that it has exceeded a certain threshold above which the institutions are obliged to report and

2) **Suspicious transactions reporting**, which is done through use of certain indicators based on which the regulated institutions have to determine, with certain percentage of certainty, if particular transaction/s is/are considered suspicious, consequently report it. It is not thus connected to a certain amount of money, but to having reasonable grounds to suspect a money laundering offence.

In order to have effective money laundering combat system these reportings should be done by as much as possible regulated institutions (such as banks, life insurance companies, brokers and agents, securities dealers, money services businesses, accountants and accounting firms, real estate agencies,casinos, dealers in precious metals and stones, etc.). The reports are usually being submitted to special money laundering prevention authority (agency, unit, directorate, etc). This authority than has the investigative powers and should have strong network with other institutions such as public prosecutor, financial crimes unit, police, etc. Each institution, within its legal powers performs, certain functions and coordination between these institutions and the functions they perform enables smooth functioning of the system and the needs and interests of its citizens.

As stated above, the suspicious activities reporting is done through use of indicators of suspicious transactions. These indicators are designed to help assess whether or not transactions might give rise to reasonable grounds for suspicion. There are examples of common and industry-specific indicators that may be helpful when evaluating transactions, whether completed or attempted. They include indicators based on certain characteristics that have been linked to money laundering in the past (Romaniuk et al. 2007). The need of establishing indicators has been based on a FATF recommendation. However, since there are no uniform international indicators to be used by all regulated parties, countries define their country specific indicators, in consultation with reporting entities, law enforcement agencies and international organizations. The indicators are not intended to cover every possible situation and are not to be viewed in isolation. A single indicator is not necessarily indicative of reasonable grounds to suspect money laundering activity. However, if a number of indicators are present during a transaction or a series of transactions, then a closer look at other factors prior to making the judgment whether the transaction should be reported or not, might be necessary.

This study shall analyze the statistical data gathered for three neighboring countries (Republic of Macedonia, Montenegro and Republic of Slovenia) related to the number of suspicious transactions reported annually, the corresponding activities taken, and the results achieved, the main purpose being exploring the effectiveness of the money laundering prevention systems in the selected countries. The choice of the countries was made taking into consideration that all the countries are similar with respect to territory, population, history in part (all of them have been part of one country Former Yugoslavia) and structure and organization of their money laundering prevention systems. Out of the three countries, only Slovenia is a member of the European Union. For the purpose of analysis the annual reports for 2014 of the relevant authorities for money laundering prevention and other officially published data were used. The results are given comparatively and are the following.

The Analysis

Basic Info about the Countries

Teritory and Population

Macedonia stretches over 25,713 km2, with a population of 2,091,719, Slovenija over 20,273 km2, with population of 2,050,189, while Montenegro streches over 13,812 km2 and has 650,036 population.

Gross Domestic Product (GDP)

In 2014 Macedonia had $10.92 billion GDP, with $13,200 per capita, Slovenia had $49.48 billion GDP, with $23 999 per capita and Montenegro had $4.66 billion GDP, with $15,200 per capita.

Budgets

The Budget for 2014 for Macedonia was $3.320.000.000, for Slovenia $22.030.000.000, while for Montenegro $1.630.000.000

The above numbers presented together comparatively are as follows:

Country	Macedonia	Slovenia	Montenegro GDP
Teritory and Population	25.713 km2 with a population of 2.091.719	20.273 km2, with population of 2.050.189	13.812 km2 and has 650.036
GDP and per capita 2014	$10.92 billion, i.e. $13.200 per capita	$49.48 billion, i.e. $23.999 per capita	$4.66 billion, i.e. $ 15.200 per capita
Budget	3.320.000.000 USD	22.030.000.000 USD	1.630.000.000 USD

Organization of the Country Money Laundering Combating Authorities

The central authority with money laundering combat competences in Macedonia is named Financial Intelligence Unit, in Slovenia it is named Office for Money Laundering Prevention of the Republic of Slovenia, while in Montenegro it is named Administration for Prevention of Money Laundering and Terrorist Financing.

Macedonian authority in 2014 had 28 (in 2015-34) employees, the Slovenian authority employed 19 employees, while the Montenegrian anthority had 32 employees.

Macedonian and Slovenian authorities are part of the Ministry of Finance, while the Montenegrian authority is not part of the Ministry of Finance, but is still a governmental body. The Directors of the authorities are elected by the Government, on proposal of the Ministry of Finance, for a term of 4 years.

All the authorities have similar organizational structure, having at minimum the following units (with slight differences in terminology):

- Unit for Prevention and Monitoring and Supervision
- Unit for Analysis of Transactions (Regular and Suspicious Transactions)
- Information Technology
- International Cooperation

Apart from the above units, Macedonian authority has special unit for prevention of terrorist financing which is not the case for Slovenia and Montenegro where this function is placed within other functions.

What makes Macedonian authority different from the Slovenian and Montenegrian is also the fact that in Macedonia the monitoring and supervision of all the regulated entities is performed by one body, i.e. by the Financial Intelligence Unit, while in Slovenia and Montenegro it is performed by many bodies, i.e. the relevant supervisory authorities for the respective industries, together with their general supervisory functions, perform monitoring and supervision of the anti money laundering mechanisms of the entities under their jurisdiction.

When it comes to the legislation, Montenegro has adopted new law on money laundering prevention in the second half of 2014, while the last changes of the Macedonian law were made in 2013, and of the Slovenian law in 2014, with pending changes to be made of the Slovenian law in 2015.

Even though much more entities are required to submit reports, the authorities in all of the countries mainly receive information from:

- Banks and other financial institutions
- Insurance companies
- Notaries and very few from lawyers
- Legal and natural persons that trade with vehicles.

Some of the Indicators of suspicious activities based on which most of the reports were submitted in 2014 are stated below, noting that in practice there are much more indicators to be considered when monitoring a transaction:

1. Several linked cash transactions in amounts less than the automatic reporting threshold (currently EUR 15,000) which all together exceed this amount, if such transactions are not consistent with the client's usual business activities;[5]
2. Deposits or withdrawals of large amounts of money (in local or foreign currency) which significantly differ from the client's usual transactions, being inconsistent with the client's income or status, especially if they are not typical for the client's business activity;
3. Depositing a large amount of cash as collateral for a loan. Subsequently, a sudden request by the client to repay the loan before the maturity date;

[5] The Indicators used in this section of the Paper are taken from the List of Indicators of Suspicious Transactions defined by the Serbian Administration for Prevention of Money Laundering. However, indicators defined by other jurisdictions can also be used for the same purpose, since even though there are no internationally defined indicators, they are rather similar for every country, varying slightly dependant on some specifics of the banking sectors of the countries.

4. Large amounts deposited into an account, than anorder to the bank to transfer the funds in favor of several persons' accounts, especially when it is noticed there is no rational explanation or economic justification to such transactions;
5. Transactions requiring several intermediaries or several accounts, especially if the parties to the complex transactions come from the non-cooperating countries and territories, or countries with strong bank secrecy;
6. Transactions marked as "unusual" by bank employees based on their knowledge andexperience;
7. Transactions with persons or entities registered in countries which have a reputation for drug trafficking, or have strict bank secrecy laws in place, or are known as off-shore centers or are on FATF list of high risk or non-cooperative countries/jurisdictions.

Cooperation with other institutions is crucial for effective money laundering combat, therefore it is interesting to state that in 2014 the Macedonian authority for money laundering prevention has initiated total of 31 cases for further investigation, Slovenian authority has initiated total of 247 cases, while Montenegrian authority has initiated total of 20 cases for further investigation. More precisely the numbers are as follows:

Competent authorities	Macedonia	Slovenia	Montenegro
Ministry of Internal Affairs	25	157	3
Financial Police	4	/	/
Public Prosecutor	2	10	15
Revenue Office	/	80	2
Total	31	247	20

Blocked Transactions

During 2014, in Macedonia 4 orders for temporary detention of transactions were submitted to banks in amounts of MKD 4,000,000, EUR 297,173.25, USD 310,928 and GBP 341,500. These amounts converted to US dollars add up to USD 1,385,656. In Slovenia 12 orders for provisional

measures were submitted to banks, in a total amount of EUR 6,746,002 i.e. in USD 9,188,058, while in Montenegro 14 accounts were blocked and 15 transactions detained, in amount of EUR 6,938,037 and USD 486,072. All of these transactions converted to US dollars come to US 9,935,681.

International Cooperation

In 2014 the authorities of the three countries realized cooperation with foreign financial intelligence agencies, and relevant international organizations and bodies. They also fulfilled the requirements imposed with membership in MONEYVAL and the Egmond Group. Up to 2015 macedonia has signed 53, Slovenia 42 and Montenegso 31 Memoranda of Cooperation with other countries.

Below are the numbers related to international data exchange in 2014:

	Macedonia	Slovenia	Montenegro
Requests for data FROM international bodies, organizations, countries	32	164	40
Answered Requests	32	164	45
Requests for date TO international bodies, organizations, coun-tries	29	216	142

A correlation of the total amounts of money blocked under a suspicion with the number of employees in the respective authorities provides that:

- In Macedonia 49,488USD were blocked per employee (total of 28 employees)
- In Slovenia 483,582USD were blocked per employee (total of 19 employees)
- In Montenegro 310,490USD were blocked per employee (total of 32 employees).

Conclusion

According to the Financial Action Task Force (2011) money launderers tend to seek out countries or sectors in which there is a low risk of detection due to weak or ineffective anti-money laundering systems, corruption, political risks. From the data above it can be concluded that there is a considerable deviation in the effectiveness per employee in the relevant countries, Macedonia being the one lagging behind Montenegro and Slovenia.

Taking into consideration the similarities in terms of territory, population and organization of the money laundering prevention authorities of Macedonia and Slovenia, and proportionally of Montenegro it is difficult to propose the real reason for the variations in productivity in the respective countries.

- Considering the fact that a system of money laundering prevention cannot be effective if there is a lack of political will (Hinterseer 1989), a possible reason for these variations may be exactly this. Moreover, in the recent years, no or insignificant information was conveyed to the public in Macedonia and partially in Montenegro about money laundering investigations involving politically exposed persons.

- Considering the fact that the basic prerequisite for efficient functioning of the money laundering prevention system is consistent and strict compliance with legal requirements and performance of responsibilities of all the pillars of the money laundering prevention system, i.e. the regulated entities, money laundering combating authorities and investigative bodies (Macedonian Money Laundering Prevention Directorate 2010), another reason for such variations in performance may also be lack or weakness in the operation of any of these three pillars.

- Lastly, Slovenia is the only country in this group that is a member of the EU Union, which can also lead to a suggestion that possibly the integration in a system of countries, such as EU Union, may by itself impose greater expectations on its members with respect to money laundering prevention and productivity per employee of the respective authority.

Further research can be done in order to test these suggestions, with analysis of the productivity of the respective authorities in a sample of other EU countries, and possibly also analysis of the anti money laundering system and productivity of the US respective authority/ies.

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