MINISTRY OF INTERIOR OF THE SLOVAK REPUBLIC PRESIDIUM OF THE POLICE FORCE



National Criminal Agency

Financial Intelligence Unit

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Annual Report

Financial Intelligence Unit

for 2016

Financial Police

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Material contains:  
Information on FSJ’s activity and

results for 2016

Bratislava

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Foreword

Again, this year, the Financial Intelligence Unit of the National Criminal Agency of the Presidium of Police Force (hereinafter referred to as "FSJ") has prepared an annual report for you to provide an overview of the FSJ's activities as a central national unit in the area of preventing and detecting money laundering and terrorist financing. For this purpose, it receives, pursuant to Act no. 297/2008 Coll. on the prevention of legalization of proceeds of criminal activity and terrorist financing, and amending and supplementing certain laws, as amended (hereinafter referred to as “AML/CTF Act”) reports on unusual transactions (hereinafter referred to “UTRs”) from banks, various financial institutions not being banks and from non-financial institutions.

In 2016, the FSJ received a slightly increased number of UTR reports compared to the previous year, which might be caused by the extension of the group of obliged persons defined in the AML Act, the introduction of a new UTR type in connection with the extension of the definition of terrorist financing and this could also be the result of the methodical action of the FSJ towards obliged persons, albeit the number of inspections performed and methodical training with respect to obliged persons was limited to a certain extent in the past year due to the implementation of a national assessment of the risk of money laundering and terrorist financing (hereinafter referred to as the "NRA").

In the period under review, the FSJ continued with the transposition of the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (hereinafter referred to as the "4th AML Directive") into the national legislative system and participated in the next amendment to the AML Act, which introduces the term of beneficial owner.

The statistical data of the results achieved in 2016 in comparison with the years 2015 and 2014 are shown in the tables or graphs, and although they express in figures the work done and presented activities of various departments of the FSJ for the past year, they are unable to express in numerical terms all the efforts made by the staff of that unit.

For the effective operation of the FSJ, it is necessary to cooperate with the obliged persons, mainly from the banking sector, with the foreign partner intelligence units (hereinafter referred to as "FIUs") due to an increasing international element in many cases of UTR reporting; and the cooperation with the Financial Directorate of the Slovak Republic (hereinafter referred to as the "FD SR") and other partners of the state and public administration is also important. A significant contribution to the results of our work has also brought synergy and cooperation with other police forces.

I express many thanks to the partners for their high-quality and active work, and many thanks belong to all the employees of FSJ, and I express my belief that the next year will be successful for the FSJ and our partners in combating money laundering and terrorist financing.

1. Financial Intelligence Unit

Since its establishment in 1996, the FSJ has performed the role of a financial intelligence unit in the Slovak Republic (hereinafter referred to as the "SR") and serves as a central national unit for the area of the prevention and detection of money laundering and terrorist financing. The FSJ is part of the global network of FIUs, whose role is to apply the Financial Action Task Force (FATF) international standards in the field of money laundering and terrorist financing.

To this end, the FSJ receives UTR reports mainly from obliged persons, which are analysed, evaluated by the FSJ. The FSJ also performs other necessary actions, which is the basis of FSJ’s activities in the field of combating money laundering and terrorist financing, fulfils the role of the inspection and administrative body, participates in the development of legislative proposals of the Slovak system of law and according to related regulations of the European Union (hereinafter referred to as the "EU").

The activity of FSJ at national level is regulated by legislation in particular by the AML Act, the Act No. 101/2010 Coll. on Demonstrating the Origin of Property (hereinafter referred to as the "Property Origin Act"), alternatively, the activity of FSJ is affected by the provisions of the Act of the National Council of the Slovak Republic No. 171/1993 Coll. on the Police Force, as amended (hereinafter referred to as the "Police Force Act") or the Act No. 199/2004 Coll. the Customs Act and on Amendments to Certain Acts (hereinafter: the "Customs Act"). At EU level, FSJ‘s activities are affected by the relevant EU directives and legal acts in the field of combating money laundering and terrorist financing (hereinafter referred to as the "AML/CTF"). The FATF recommendations are considered international AML/CTF standards that have been developed for the purposes of protecting the global financial system from money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction.

The organizational structure of FSJ as one of the units of the National Criminal Agency of the Presidium of the Police Force (hereinafter referred to as "NAKA") is arranged as follows:

Unusual Transactions Department

Obliged Entities Control Department

International Cooperation Department

Analytical Department

Property Check-up Department

Ministry of Interior of the Slovak Republic

Presidium of Police Force

National Criminal Agency

Financial Intelligence Unit

Graph no. 1: Organizational structure of the FSJ



1. Unusual Transactions

According to the AML Act, an Unusual Transaction is defined as encompassing legal acts or other acts which indicate that their execution may enable legalization of proceeds from criminal activity or terrorist financing. A non-exhaustive enumeration of UTRs (§ 4) resulting from a systematic analytical activity of individual UTR reports, generalizing the knowledge gained in the assessment of transactions operations on the "Know Your Customer" principle and from the implementation of international standards issued by the FATF, includes the most frequently occurring UTR forms.

If the facts resulting from individual UTR reports indicate that a crime has been committed and there is a threat that the seizure of proceeds from criminal activity will be frustrated or made difficult, or the verified information is related to already conducted criminal proceedings and the information may be important for such acts, then the information is forwarded to law enforcement authorities (hereinafter referred to as "LEAs") of the local and subject-matter jurisdiction, or to the competent units of the Police Force (hereinafter referred to as "PF") for the performance of duties according to the Police Force Act. In fulfilling work duties and cooperating in exchanging and verifying information needed to prevent and detect money laundering or terrorist financing, the information may also be sent to foreign FIUs. If it is identified with respect to the verification of UTR reports that an obliged person does not perform or violates obligations imposed by the AML Act or the information is relevant for the purpose of verifying the property, the processor shall send the said information on the fact to the Obliged Entities Control Department or the Property Check-up Department.

In cases where the verification of UTR report did not identify facts that would be necessary to be forwarded to the LEAs, to competent Police Force units, the FD SR or a foreign FIU, such information is entered into the FSJ‘s comprehensive information system (hereinafter referred to as "KIS") for the further use of the information in the investigation of other cases.

In 2016, the FSJ received a total of 3,297 UTR reports from all obliged persons with a total value of EUR 1,803,820,832,-.

The UTR reports received may be divided into three basis groups by the type of obliged person:

* UTR reports received from all banks active in the SR including the National Bank of Slovakia

(hereinafter referred to as "NBS), a total number of 3,073,

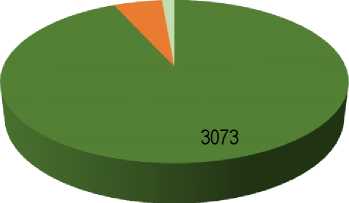
* UTR reports received from other financial institutions not being a bank, a total number of

179,

* UTR reports received from non-financial institutions, a total number of 45.

Graph no. 2: Total number of UTR reports received for 2016

179 45



* Banks
* Other financial institutions
* Non-financial institutions

Graph no. 3: Development dynamics reports received for 2014-2016

4500

4000

3500

3000

2500

2000

1500

1000

500

0

3928

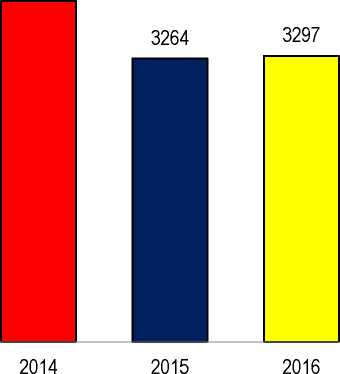


Table no. 1: Number of UTR reports received for 2014-2016 from banks

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Banks operating in the territory of Slovakia** | | | | | | | |
|  | | |  | Number of UTR reports | | | |
| Obliged entity | | |  |  |  | | |
|  | 2016 |  | 2015 | 2014 |
|  | | |  |  |
|  | NBS |  |  | 79 |  | 77 | 126 |
|  | Commercial banks operating in the territory of Slovakia |  |  | 2,994 |  | 2,876 | 3,252 |
| Total | |  |  | 3,073 |  | 2,953 | 3,378 |

Table no. 2: Number of UTR reports received for 2016 from other financial institutions

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Other financial institutions** | | | | |
| Obliged entity | | Number of UTR reports | | |
| Central Securities Depository, securities dealer |  |  | | |
|  | 4 | | |
| Financial agent | |  | 7 |  |
| Insurance company | |  | 65 |  |
| Pension management company | |  | 41 |  |
| Legal entity/natural person authorised to carry out money exchange business | |  | 5 |  |
| Legal entity/natural person authorised to carry out financial lease, extension of borrowings |  | 19 | | |
| Payment institution | |  | 38 |  |
| Total |  |  | 179 |  |

Table no. 3: Number of UTR reports received for 2016 from non-financial institutions

|  |  |  |  |
| --- | --- | --- | --- |
| Non-financial institutions | | |  |
| Obliged entity |  | Number of UTR reports |  |
| Gambling service operator |  | 15 |  |
| Postal undertaking |  | 22 |  |
| Attorney at law or notary |  | 8 |  |
| Total |  | 45 |  |

The most frequent UTRs which were recorded, analysed and evaluated by FSJ in 2016 were mainly:

* Placement of proceeds from criminal activity outside the country where the primary crime occurred, most often the various forms of fraudulent acts and their combinations, phishing, Internet fraud, credit card fraud, POS terminal fraud, all of which used a combination of cashless and cash transactions, exchange and money transfer services. Phishing mainly involved cases where an account holder's computer or mobile was deliberately infected with the virus or fraudulent application for the purpose of subsequent unauthorized transfer of funds from the selected account without the knowledge and consent of the account holder. In the cases of phishing, financial transfer services, which received fraudulent payments, were often used, and these funds were forwarded to prepared bank accounts without the knowledge of that they come from criminal activities.
* Internet fraud related to the fictive sale of goods, in particular passenger cars and various industrial devices. Fictive sale was linked to the payment of an advance or the entire purchase price to prepared account abroad, while the seller did not deliver the goods. A higher degree of organization and flexibility of perpetrators at international level in the placement of money coming mainly from Internet fraud and phishing, with organized groups being often national communities with a real prerequisite for the mutual cooperation of several such groups of different nationalities.
* Increased occurrence of ​​social engineering e-mail attacks, in which payments are directed for standard payment system in high volumes (about millions of euros) based on the "hacking" of e-mail communication of business partners by the perpetrator, where the payment is redirected to a prepared account opened in a bank usually in a country other than the one in which the business relationship is located. The business party who pays for the goods is informed by the perpetrator about a change of the payment system of his business partner by the perpetrator via a fraudulent e-mail. Immediately after making payment to the prepared account, non-cash transfers are carried out, in which the money is finally transferred to accounts held at banks located in "offshore" areas, e.g. in Hong Kong and China, i.e. to countries with difficult law enforcement.
* Use of tax havens and offshore companies for placing revenues, in particular due to legislation allowing for failure to cooperate in criminal investigations, minimum control by government authorities, etc. The funds were subsequently invested in legal business in the country of origin.
* Involvement of letterbox and fictitious companies in complex business schemes and carousel chains with respect to the commission of tax crime, which mainly involves an increase in costs for the purpose of affecting the VAT or the s-called cost optimization for the purpose of reducing the base for tax calculation.
* Gradual and involuntary involvement of the non-financial sector in the process of legalization, in particular, notaries, lawyers, auditors, real estate brokers.
* Virtual foundation of legal entities, mainly limited liability companies, law firms in cooperation with foreign clients via e-mail communication. Law firms are contacted by the so-called agent who confirms his interest in establishing a company for another client, whereas the law firm is not able to legally identify and verify the agent's identification, since the communication is only virtual. Cases have been identified where an agent provided the law firm with forged identification documents. Companies were established mainly at the address of the law firm - the so-called virtual seat. It was also found that accounts kept for these companies as well as foreign persons represented by these companies were involved in transactions showing the signs of legalization of proceeds of crime on an international scale.
* Use of player accounts to create a legal title to prove their origin, by ensuring that funds flow from anonymous payment channels to the player's account as winnings and subsequent payout of the winning to bank accounts.
* Fraudulent scamming of funds from the accounts of natural persons from abroad and legalization

of the funds by purchasing the Bitcoin virtual currency; or after crediting the scammed payments from abroad from the accounts of natural persons (in low amounts), a part of such credited amount is withdrawn in cash by the holder and a part is transferred to foreign countries to the account of a company dealing in Bitcoin.

From the above forms of possible legalization of proceeds from criminal activity we may draw conclusions that they predominantly related to the commission of tax crime and criminal activity showing the signs of fraudulent conduct. The FSJ recorded an increase in cases related to alternative means of payment (bitcoin), when in the year under review, they reported 18 cases (more by 16 compared to 2015) and also from the point of view of possible money laundering, the FSJ monitored virtual currency transactions albeit individual transactions did not show the signs of UTRs.

Table no. 4 shows the most common ways of UTR execution, whereas it may be concluded based on the data provided that compared to the previous year, there has been an increase in the number of Internet fraud including email attacks using social engineering (a false invoice, CEO fraud, false lawyer; a 121% growth):

Table no. 4: Statistical summary on types of recorded UTRs in year 2016

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  | Number of UTR reports |  |  | | |
| Type of UTR |  |  | Transaction value in EUR | | |
|  |  |  |  |  | | |
| Wire transfers |  | 2193 |  |  | 1 036 403 045 |  |
| Cash transactions |  | 1907 |  |  | 631 208 890 |  |
| Foreign wire transfers |  | 1272 |  |  | 617 924 215 |  |
| UTRs with the offshore element |  | 71 |  |  | 75 323 221 |  |
| Phishing |  | 30 |  |  | 1 041 188 |  |
| Insurance |  | 41 |  |  | 12 518 802 |  |
| Real property |  | 60 |  |  | 20273212 |  |
| Internet fraud |  | 106 |  |  | 5 232 541 |  |
| False securities | 3 | | | 50 070 | | |
| Hazard |  | 15 |  |  | 1 442 971 |  |

1. Postponement of UTRs

Pursuant to Article 16 of the AML Act, the postponement by the obliged entity is an important legal act within an effective fight against the legalization of proceeds of crime, which is used in the event that there is a risk that the execution of the UTR may hamper or substantially impede seizure of proceeds of criminal activity or funds intended to finance terrorism.

Starting on 01 January 2016, Act No. 444/2015 Coll. became effective which amends and supplements Act No. 300/2005 Coll. the Criminal Code, as amended, and which amends and supplements certain acts (hereinafter: Act No. 444/2015 Coll.), which also amended the AML Act, which extended periods for the concept of postponement of an unusual transaction performed by the obliged entity from 48 hours to 120 hours, and by the FSJ if the case is referred to the competent LEA from 24 hours to 72 hours, respectively.

In 2016, from the number of UTR reports received, a total 199 UTRs were postponed with the total value of EUR 28,039,385,-, out of which in 4 cases on demand of a partner FIU. In 148 cases, information from the reports was forwarded to LEAs having the subject-matter and local jurisdiction for further investigation according to the Criminal Code.

Table no. 5: Statistical summary on postponed UTRs in 2016

|  |  |  |  |
| --- | --- | --- | --- |
| Total number of postponed UTRs | 199 | | |
| Postponement by obliged entity |  | 194 |  |
| Postponement on request by FSJ |  | 1 |  |
| Postponement on request by foreign FIU |  | 4 |  |
| Postponed UTRs submitted to the LEA having the subject-matter and local jurisdiction |  | | |
| 148 | | |
|  | | |
| Total amount of UTRs postponed |  | EUR 28 039 385 |  |

1. Selected Cases of Addressing UTRs

♦ From the UTRs reports received, we may provide the case in which the FSJ carried out the verification of a non-profit organization based in Slovakia and the UTRs executed on its account held in one of the banks in Slovakia. In the above case, it was found that to a relatively new account of the non-profit organization represented by a foreigner – a EU higher amounts of funds were credited in many payments, with payments made via a POS terminal which was leased to the non-profit organization. For a period of three months, payments were made through the said POS terminal using foreign payment cards in an amount exceeding EUR 400,000,-. Then after crediting the money, the account holder executed 45 non-cash transfers to the credit of various accounts abroad in an amount exceeding EUR 240,000,-, or 60 cash withdrawals were executed from ATMs abroad for a total amount of over EUR 24,000,-. Payments abroad in lower amounts were recorded in foreign countries through a payment card as the payment for goods or services. The total amount transferred or withdrawn money by means of ATMs amounted to more than EUR 270,000,-. Further investigation has revealed that the persons not known before copied at least 21 payment cards from a device keeping the information, the so-called skimming and using the POS terminal leased by the non-profit organization with its account, the fraudulently copied data were misused from cards and used to credit the non-profit organization‘s account. Then, the bank received 61 applications (complaints) from various card companies for the verification of payments made to the non-profit organization‘s account in an amount exceeding EUR 160,000,- as the actual card holders did not execute any financial transactions via the POS terminal. The bank later contacted the client for the purpose of documenting the transactions under complaint and submitting the copies of documents based on which the payments had been made, however, the representative of the non-profit organization did not communicate with the bank.

At a time when the bank found out that different payment cards issued abroad had been misused, a balance of funds of about EUR 136,000 was on the non-profit organization's account. According to the AML Act, the FSJ, in co-operation with the bank, seized the funds on the non-profit organization‘s account and referred the case to the LEA immediately. Due to the fact that other fraudulent funds were credited to the account of the non-profit organization at the time when the account was seized, the total amount seized for the purposes of criminal proceedings according to Article 95 of the Code of Criminal Procedure exceeded EUR 200 000,-. The investigator of the Regional Inspection Office of the PC in Bratislava commenced criminal prosecution for a very serious crime of legalization of proceeds from criminal activity under Article 233 par. 1 a), b), par. 4 a) of the Criminal Code.

♦In another selected case, the FSJ in cooperation with a foreign partner FIU obtained information on accounts administered with a French bank of a company A based in France on which funds probably coming from organized CEO fraud were concentrated in a short time period, in a total amount of roughly EUR 2,500,000. The funds should then have been legalized as the proceeds of crime in such a way that they should have been layered and placed into a network of prepared bank accounts in several European countries. The FSJ verified two business companies B and C in cooperation with all banks based in the SR focusing on accounts administered by the companies with some of Slovak banks. Then it was found out that both the companies B and C had new accounts X and Y opened with one of banks based in the SR, which had no movements before then. On the basis of the above, the FSJ initiated measures at the bank to monitor the accounts X and Y under review. On the monitored account Y, the bank reported a credit foreign payment from France in an amount exceeding EUR 670,000,-. The FSJ, in cooperation with the obliged entity, in accordance with the AML Act initiated the postponement of UTRs, preventing any further disposing of those funds for 120 hours. On the same day, the FSJ referred the case to the LEA based on which the postponement period extended to 196 hours. For the purposes of criminal proceedings, the full amount of money was seized by the LEA under Article 95 of the Criminal Procedure Code. The competent French authorities asked for legal assistance in the case.

The funds seized on the account are highly likely the proceeds of criminal activity and an unknown perpetrator has committed a very serious crime of fraud under Article 221 par.1, par. 4 a) of the Criminal Act, due to which the investigator of the Regional Inspection Office of the PC in Bratislava commenced criminal prosecution in the case.

1. Efficiency of UTR Reports

In 2016, the FSJ received 33 more reports compared to the previous year. From a total of 3,297 received UTR reports, 1,040 pieces of information were entered into the FSJ‘s comprehensive information system for further use. After a thorough analysis of the UTR reports received, the processing and subsequent evaluation, and with respect to the facts identified and information that may be relevant to specific entities, the FSJ provided:

* 522 pieces of information to LEAs,
* 185 pieces of information to national NAKA units,
* 1,361 pieces of information to the FD SR,
* 2 pieces of information to the Obliged Entities Control Department,
* 1 piece of information to the Property Check-up Department,
* 324 pieces of information to foreign FIUs,
* 93 pieces of information to the CTF Unit of Presidium of Police Force,
* 567 pieces of information to Regional and District Directorates,
* 8 pieces of information to other Police Force units,
* 8 pieces of information to the Criminal Office of the Financial Administration,
* 6 pieces of information to public authorities (26 par. 3 of the AML Act).

With respect to the information sent to LEAs, the amount of seized funds in 2016 amounted to EUR 9,471,152.09.

In addition to keeping its overall statistical data, according to AML act, the FSJ is entitled to demand information on the method of using the information disclosed from the above entities (the so-called feedback) concerning our obligation laid down by law to inform the obliged entity or the national administrator of the efficiency of UTR reporting.

A detailed overview of the usability of information sent to LEAs for further procedure is stated in table no. 6.

Table no. 6: LEAs procedure after receipt of information pursuant to Article 26 par. 2 b) of AML Act

|  |  |  |  |
| --- | --- | --- | --- |
| **LEAs procedure after receipt of information from FSJ** | **Number of cases (2016)** | **Number of cases (2015)** | **Number of cases (2014)** |
| Commencement of criminal proceeding, Section 199 of Code of Criminal Procedure – in all cases | **52** | 30 | 66 |
| Commencement of criminal proceeding, Section 199 of Code of Criminal Procedure, for Legalisation of the Proceeds of Crime pursuant to Section 233, Section 234 of Criminal Code | **25** | 14 | 44 |
| Commencement of criminal proceeding, Section 199 of Code of Criminal Procedure, for different crime | **30** | 17 | 35 |
| Indictments pursuant to Section 206 of Code of Criminal Procedure, for Legalisation of the Proceeds of Crime pursuant to Section 233, Section 234 of Criminal Code | **0** | 2 | 1 |
| Indictments pursuant to Section 206 of Code of Criminal Procedure, for different crime | **0** | 1 | 1 |
| Discontinued criminal prosecution pursuant to Section 215 of Code of Criminal Procedure | **1** | 0 | 0 |
| Dismissal of commencement of criminal proceeding pursuant to Section 197 (1) (d) of Code of Criminal Procedure | **7** | 12 | 16 |
| Seizure of the funds pursuant to Section 95 of Code of Criminal Procedure | **30** | 22 | 50 |

There is an absence of the legislation regulating single statistical output for public authorities on the number of motions for criminal prosecution, the initiation of prosecution and indictments, the method of termination, the number of identified, subsequently prosecuted, accused and convicted persons in cases of money laundering and terrorist financing. From data provided to FSJ by PC units, by the Criminal Office of the Financial Administration (hereinafter referred to as "KÚFS"), by the Criminal Unit of the General Prosecutor’s Office of the SR (hereinafter referred to as "GP SR") and the Ministry of Justice of the SR (hereinafter referred to as "MoJ SR"), single statistical output was prepared by FSJ which contains the information in a summary (see table no. 8).

From the monitored data, compared to the previous year 2015, it is possible to identify a higher number of persons legally convicted by courts for the crime of money laundering (more by 12), but still the number of people convicted is minimum when we consider the effort made to detect and document this criminal activity.

The so-called CTF legislation which introduced the term ‘terrorist offence’ (Article 140b of Criminal Act; adopted by Act no. 444/2015 Coll.) and which makes it possible to penalize the financing and supporting terrorist offenders also for their activities that are not directly related to the commission of a terrorist offense as such (Article 419 par. 2 b) of the Criminal Act; adopted by Act no. 397/2015 Coll., which for the purposes of the Criminal Act determines a list of substances with anabolic or other hormonal effect and which amends and supplements certain laws) directly affects the activities of the FSJ and the said amendments were gradually implemented into the AML Act to include the said amendments with effect from 01 January 2016.

On the basis of the documents provided from PC units it was found that at the PC Regional Directorate Žilina they have two proposals for criminal prosecution of two persons suspected of terrorist offenses and some forms of participation in terrorism under Article 419 par. 2 a) Criminal Code, in 6 cases criminal prosecution was initiated according to the cited provision of the Criminal Act, and in 1 case, a charge was brought against one person pursuant to Article 206 the Code of Criminal Procedure for the said crime.

In 2016, other public authorities do not even keep record of the cases when a proposal for prosecution was filed, prosecution was initiated, a charge was brought, an indictment was presented, or a final judgment was delivered in the case of terrorist offence and some forms of participation in terrorism pursuant to Article 419 par. 2 a) Criminal Act or pursuant to Article 419 Criminal Act.

GP SR provided information on the legal assistance provided in the criminal case of a citizen of the Czech Republic suspected of committing a crime of terrorist attack, the subject of which was, among other things, carrying out a home inspection in the suspect's flat, in which material evidence was gained in the suspect's flat.

In order to have overview of the scope of application of selected seizure concepts of the Code of Criminal Procedure in criminal proceedings in 2016, a statistical summary has been prepared as shown in detail in table no. 7 concerning all criminal acts and specifically money laundering offences. The table shows that the share of the seizure concepts of the Code of Criminal Procedure used in connection with the execution of the criminal proceedings for the criminal offense of the legalization of the proceeds of crime in the total application of these concepts used in criminal proceedings is only minimum also this year.

An overview of the applicability of the provided information to the FD SR for the initiation of the tax procedure, or applicable in the pending tax procedure, in connection with the application of the concept of Article 27 par. 2 of the AML Act, is given in table no. 9.

Table no. 7: Statistical overview of the scope of application of selected seizure concepts of the Code of Criminal Procedure in criminal proceedings in 2016 for all criminal offences and AML criminal offences according to Articles 233 and 234 of the Code of Criminal Procedure

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  | | AML criminal offences according to Articles 233 and 234 CCP | |
|  | Name of Code of Criminal Procedure provisions |  | All offences | |
| Number of cases | Total value in EUR | Number of cases | Total value in EUR |
| 1 | Article 89 Duty to surrender a thing | | 3864 | 1 783 435 | 9 | 56 000 |
| 2 | Article 91 Withdrawal of a thing | | 1664 | 1 791 381 | 126 | 8 900 |
| 3 | Article 92 Takeover of a seized thing | | 490 | 847 633 | 24 | 362 660 |
|  |  | | 123\* |  |  |  |
| 4 | Article 95 Seizure of financial assets | | 20 195 895 | 5 | 662 742 |
|  |  | |  |  |  |  |
|  | Article 96 Seizure of book-entry securities |  |  |  |  |  |
| 5 |  | 0 | 0 | 1 | 43 890 |
|  |  |  |  |  |  |
| 6 | Article 97 Return of a thing |  | 4906 | 1 770144 | 56 | 388 722 |
|  | Article 550 Surrender of things (legal assistance with respect to foreign countries) |  |  |  |  |  |
| 7 |  | 60 | 326 550 | 0 | 0 |
|  |  |  |  |  |  |
|  | Article 551 and Act. 650/2005 Coll. |  |  |  |  |  |
| 8 | Seizure of property (legal assistance with respect to foreign countries) |  | 8 | 972 054.05 | 2 | 55 268.41 |
|  |  |  |  |  |  |

\* The MoJ SR does not monitor the number of cases showing statistically the application of the concept of seizure of financial assets per the number of people = in 2016, financial assets in the value of EUR 20,047,- of 11 persons, were seized (it was not an offence according to Article 233 or Article 234 CCP)

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | | | | | | | | |  | | | | | |  | | | | | | | | |  | | | | | | | | |
|  |  | MoI SR | | | | | | | | | GP’s Office SR | | | | | | MoJ SR | | | | | | | | | Criminal Office of the Financial Administration | | | | | | | | |
|  | Code of Criminal Procedure provisions |  | | | | | | | | |  | | | | | |  | | | | | | | | |  | | | | | | | | |
| 2014 | | | 2015 | | | 2016 | | | 2014 | | 2015 | | 2016 | | 2014 | | | 2015 | | | 2016 | | | 2014 | | | 2015 | | | 2016 | | |
| No. of things | No. of persons | Damage in EUR | No. of things | No. of persons | Damage in EUR | No. of things | No. of persons | Damage in EUR | No. of things | No. of persons | No. of things | No. of persons | No. of things | No. of persons | No. of deeds | No. of persons | Damage in EUR | No. of deeds | No. of persons | Damage in EUR | No. of deeds | No. of persons | Damage in EUR | No. of deeds | No. of persons | Damage in EUR | No. of deeds | No. of persons | Damage in EUR | No. of deeds | No. of persons | Damage in EUR |
| 1. | Motion for criminal prosecution | 26 | 38 | 980 546 | 29 | 41 | 29 881 971 | 41 | 54 | 868 019 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 1 | 2 | 0 | 1 |  | 85 950 |
| 2. | Article 199 Initiation of criminal prosecution | 81 |  | 30 708 363 | 82 | x | 35 166 279 | 111 | x | 13 874 895 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 1 |  | 85 950 |
| 3. | Article 206 Filing of charges | 30 | 48 | 10 658 606 | 12 | 22 | 1 405 627 | 17 | 20 | 750 267 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 0 | 0 |  |
| 4. | Article 209 Termination of investigation and accelerated investigation with a motion to bring indictment | 19 | 22 | 1 690 113 | 12 | 45 | 18 383 879 | 11 | 20 | 3 925 422 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 1 | 2 | 15 673 691.77 | 0 | 0 |  |
| 5. | Article 215 Stay of Criminal Prosecution | 3 | 3 | 8 011 851 | 2 | 1 | 22.700 | 6 | 2 | 53 558 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 6. | Article 228 par. 1, 2 Suspension of criminal prosecution | 42 | 5 | 1 125 264 | 47 | 15 | 1 604 438 | 45 | 16 | 5 562 890 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 7. | Article 228 par. 5 Resumption of prosecution | 16 | 7 | 448 171 | 13 | 10 | 958 593 | 11 | 6 | 281 392 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 8. | Articles 233, 234 Indictment |  |  |  |  |  |  |  |  |  |  | 36 |  | 66 | 24 | 42 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 9. | Article 331 Guilt and sentence agreement |  |  |  |  |  |  |  |  |  |  | 7 |  | 9 | 3 | 5 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 10. | Article 284 Judgment (final) |  |  |  |  |  |  |  |  |  |  |  |  | 18 | 14 | 18 |  | 23 | 1 429 |  | 6 | 484 741 |  | 18 | 737 205 |  |  |  |  |  |  |  |  |  |

Table no. 8: Statistical data on AML offences pursuant to Articles 233 and 234 of the Code of Criminal Procedure

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
| An assessment of the use of information provided from UTR reports | **2016** | 2015 | 2014 |
|  |  |  |  |
| From the UTR reports received, the number of cases referred to relevant tax offices | 1255 | 1335 | 1432 |
| Number of tax audits based on verification | 49 | 10 | 95 |
| Number of tax audits based on verification with a finding (= no. of taxable entities) | 8 | 4 | 8 |
| Total findings from tax audits in EUR | 2 172 440.59 | 5 831 343.61 | 3 277 197.61 |
| Number of local investigation based on verification | 539 | 390 | 612 |
| Number of penalties imposed | 43 | 25 | 0 |
| Total amount of penalties imposed in EUR | 33 400.00 | 23 025.00 | 0.00 |
| Number of entities whose VAT registration was cancelled | \* | 9 | 24 |

\* Figure not provided by FD SR

Table no. 9: Statistical data on the assessment of information provided to the FD SR from UTR reports

1. Control Activity

The compliance function in the relevant area plays an important role in preventing and combating money laundering and terrorist financing. The control of the fulfilment and performance of the obligation imposed on the obliged entities by the Act on the prevention of legalization of proceeds of criminal activity is ensured by the FSU in accordance with the provisions of Articles 26 and 29 of this Act.

The basic starting point for performing the FSJ control activity was, in particular, the annual control plan for 2016, the preparation of which was based on lessons learnt from specific development in the field of protection against terrorism and terrorist financing and the lessons learnt from previous FSJ activities. The results of the cooperation with the other supervisory bodies (the Ministry of Finance SR; hereinafter: MoF SR and the NBS), were also used to exchange information and specific knowledge that may be used in the performance of control activity (supervision), its improvement and avoidance of duplicity within individual controls of the obliged entities.

The legal basis for the exercise of the control activity in relation to the obliged entities (Article 5) was developed by the provisions of the AML Act and in the imposition of sanctions for a violation or failure to observe the obligations laid down by the AML Act, the FSJ applied Act No. 71/1967 Coll. on administrative proceedings, as amended (Administrative Procedure Code). In the control activity, the FSJ concentrated on customer due diligence, transaction assessment, postponement and reporting of UTRs, and the application of the Know Your Customer principle, which means obtaining sufficient information about the nature of expected transactions of the customer and any predictable scheme of financial transactions executed by the customer as this issue is fundamental to the entire business relationship between the obliged entity and its client.

In 2016, the FSJ executed a total of six controls, with the ratio of controlled entities in the financial and non-financial sectors being balanced. As part of the correct punishment of the total number of controls, administrative proceedings were initiated in all six cases where decisions were made on the implosion of a penalty in a total amount of 41 600,- EUR. Plus, the FSJ carried out steps to complete finally 2 administrative files of the controls carried out in 2015, where in one case a petition for recovery of the imposed penalty was made, and in the second case, a remonstrance was filed by the obliged entity against the FSJ’s decision to impose a penalty, which was rejected by decision of the Minister of Interior of the SR. Then, an action was brought for reviewing the legality of the decision of the Minister of Interior of the Slovak Republic, which has not yet been decided by the competent court.

Table no. 10: Statistical data on the number of controls, number of penalties imposed, amount of penalties imposed and paid in 2014 - 2016

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Year | Number of controls | Method of control completion | | | Amount of sanctions in EUR |
| No sanction | Sanction | Not decided |
| 2014 | 22 | 4 | 13 | 5 | 14 400 |
| 2015 | 16 | 3 | 13 | 0 | 37 800 |
| 2016 | 6 | 0 | 6 | 0 | 41 600 |

Table no. 11: Statistical data on the number of controls at obliged entities, broken down by the scope of activity performed in 2014 - 2016

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | | | Number of controls | | | | | | | | |
| Obliged entity – scope of activity | | |  | | | | | | | | |
|  | | |  | | |  | | |
|  | | | 2016 | | | 2015 | | | 2014 | | |
|  | Corporation |  |  | 1 |  |  | 0 |  |  | 1 |  |
|  | Organizational and economic advisor |  |  | 1 |  |  | 2 |  |  | 1 |  |
|  | Asset management |  |  | 1 |  |  | 0 |  |  | 1 |  |
|  | Dealer in precious metals |  |  | 1 |  |  | 1 |  |  | 0 |  |
|  | Independent financial agent |  |  | 1 |  |  | 0 |  |  | 1 |  |
|  | Auction company |  |  | 1 |  |  | 1 |  |  | 0 |  |
| Total | |  | 6 | | | 16 | | | 22 | | |

The control activity of the FSJ identified similar violations of statutory provisions compared to the previous period. They were based mainly on the failure to prepare the obligatory elements of the programme of the obliged entity’s own activity within the scope required by law (Article 20 par. 1 and 2), the failure to carry out customer due diligence (Article 10; insufficient identification of the client and its verification in the scope of Articles 7 and 8 of the AML Act, the failure identify the purpose and planed nature of the business relation and whether the client acts in his own name, depending on the risk of legalization, failure to find out the beneficial owner and the origin of the funds), and failure to carry out enhanced due diligence (Article 12), failure to assess transactions as per Article 14 par. 2 of the AML Act, the failure to refuse establishing a business relationship or carrying out a transaction (Article 15), as well as failure to provide all necessary cooperation and refrain from any actions that may hamper the execution of the control (Article 30).

It is clear from the above statistical data, that in 2016, fewer controls were carried out than in the previous years. The reason for the downward trend was the fact that the FSJ with respect to the fulfilment of the obligation to carry out a National Risk Assessment, which SR follows from the 4th Anti-Money Laundering Directive and is a mandatory condition for Slovak Republic to enter the 5th round of evaluation by MONEYVAL Committee of Experts of the Council of Europe (hereinafter: the “MONEYVAL Committee”), started the process NRA in cooperation with the NBS and the World Bank at national level.

As part of this process, the FSJ, in cooperation with the NBS, the LEAs, other interested public authorities, other institutions and obligated entities, identifies and assesses the threats and risks of legalization and terrorist financing, vulnerable points, the impact of these threats on vulnerabilities, whereas the outcomes of the process will be proposals of other complementary measures to mitigate identified risks in the form of action plans.

Pursuant to Article 29 par. 4 of the AML Act, the NBS and the MoF SR are obliged to notify the FSJ of the execution of control with obliged entities subject to supervision according to special regulations.

In 2016, the MoF SR delivered two reports to the FSJ on the control with an obliged entity, and the NBS delivered ten reports of planned controls to the FSJ, which were performed by the employees of the NBS Financial Market Supervision Unit, and four reports on the results of individual supervision activities.

In 2016, the FSJ within its activity performed various training, consultations and attended meetings focused on many application issues related to performing its tasks according to the AML Act. Similarly, meetings and appealing procedures were held with individual associations and professional associations with respect to the forthcoming amendment to the AML Act, namely with the Slovak Insurance Association, the Association of Industrial Associations, the Slovak Banking Association, the Slovak Chamber of Commerce and Industry, the Slovak Bar Association and the Slovak Chamber of Executors.

The FSJ also participated in various departmental workshops in addressing issues with respect to administrative proceedings or the legislation as well as cross-sectoral workshops with the NBS, MoF SR, FD SR for the purpose of exchanging experience and information concerning inspections performed. Within cooperation with obliged entities, the FSJ issued opinions and guidelines on particular application issues resulting from the practice, mainly based on request of the obliged persons, professional organizations and associations of obliged persons. Opinions in most cases concerned ambiguous definitions contained in the AML Act and uncertainty as to the practical application of the individual obligations of obliged persons (e.g., transfer of a payment account, opening of a payment account with basic functions, exchange of information, confidentiality under Article 18 of the AML Act).

In cooperation with the Slovak Insurance Association, training was conducted for insurance companies in the area of ​​protection against legalization and terrorist financing, and an article titled "Systems of prevention of legalization of proceeds of criminal activity and terrorist financing" was published in the magazine Poisťné Rozhľady. In cooperation with the Association of Real Estate Agencies of Slovakia, the article "Obligation of Real Estate Agencies to perform client identification" was published.

1. International Cooperation

A sound financial system with due inspection, effective preventive measures and established analytical tools is very important in preventing offenses of money laundering and terrorist financing. Recent tragic events in and outside the EU have revealed that the threat of terrorism as well as its funding has developed and that there are still significant gaps in the transparency of financial transactions in the world. A globally-linked financial system driven by technological developments makes it easier to hide funds and carry out their movement all over the world by virtual crossing the borders and territories of our countries, thereby preventing the effective fight against financial crime. And since these threats know no borders, they must be addressed at national and international level. A key element in the combating these threats is a well-functioning and effective system of FIU international cooperation.

The FSJ cooperates with partner FIUs on the basis of Decision No. 2000/642/JHA as well as the rules for the exchange of information adopted within the international organization Egmont Group, taking into account the relevant national system of law.

Bilateral cooperation, in terms of the content and usability of the intelligence information exchanged, focuses mainly on the exchange of information on business entities and the sphere of their business, the identification of persons, bank accounts and the flows of funds, intelligence and criminal information about persons and obtaining other relevant information that is necessary to check the lawfulness of the activity of the entities.

Communication between partner FIUs takes place via two computer networks, either through the secure encrypted Egmont Secure Web (ESW) electronic communications network developed within the Egmont Group, using which it is possible to communicate with FIU globally, or through the Financial Intelligence Unit Network (FIU.NET) computer network. It is a decentralized computer network providing information exchange between FIUs EU. Within FIU.NET, sophisticated Ma3tch technology has been developed that allows FIUs connected to FIU.NET to compare the match of their data in an anonymous way with other FIUs. Very simply, this functionality converts FIU data into uniform anonymous filters without the use of sensitive personal data. These filters can therefore be safely shared and used with other FIUs. A great benefit of Ma3tch is the ability to detect the objects of interest to individual FIUs in other countries, even though they were not aware of the fact that the entity could be related to the relevant country. Thus, the FIUs can work as a whole and thanks to FIU.NET as a virtual entity, they may detect various criminal links in other countries. And although criminals and terrorists can move freely within our open borders, the FIUs can, thanks to international cooperation, track their financial activities, whether within the EU or around the world.

One of the key prerequisites for a successful combating money laundering and terrorist financing is the ability of the FSJ to collect, analyse and evaluate information on the financial activities of individuals or organized groups in a timely manner, and to respond quickly to requests for information exchange and cooperation between stakeholders both in this country and abroad. In the field of cooperation, the FSJ belongs to a relatively active FSJ, strongly contributing to the development of international cooperation in combating money laundering and terrorist financing, as can be deduced from the following table:

Table no. 12: Summary of selected activities performed by International Cooperation Department between 2014 and 2016

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Year | Number of requests sent to foreign FIUs | Number of requests submitted by foreign FIUs | Number of spontaneous information sent to foreign FIUs | Number of pieces of information regarding Slovak subjects submitted by foreign FIUs |
| 2014 | 333 | 301 | 430 | 70 |
| 2015 | 166 | 288 | 390 | 126 |
| **2016** | 78 | 321 | 321 | 156 |

In the process of information exchange during 2016, the FSJ sent a total of 78 requests for information to foreign countries. For foreign FIUs, 321 requests for information were addressed. The FSJ received 156 pieces of spontaneous information and sent 321 to foreign countries.

90

80

70

60

50

40

30

20

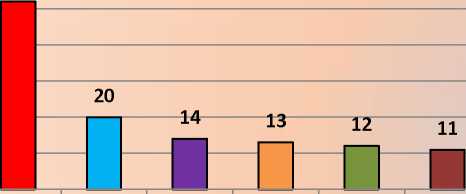
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|  |  |
| --- | --- |
|  | 85 |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

Graph no. 4: Graphic presentation of countries, which most frequently sent request for information to the FSJ in 2016

52



Hungary Czech rep. Poland Italy France Lithuania Latvia Germany Great Britain Luxembourg

Graph no. 5: Graphic presentation of countries, where FSJ Slovakia most frequently sent requests for information in 2016

7

6

5

4

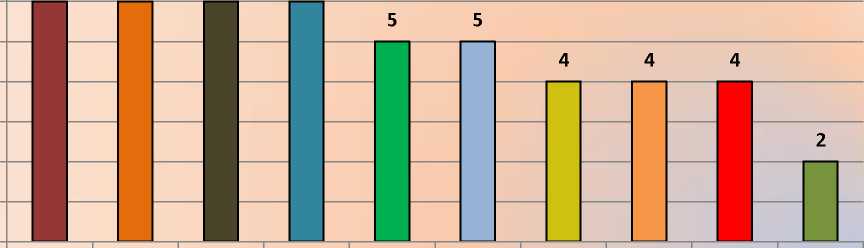
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2

1

0

6 6 6 6



Czech Republic Switzerland USA Great Britain Austria France Indonesia Germany Italy UAE

Graph no. 6: Graphic presentation of countries, where FSJ Slovakia most frequently sent spontaneous information usable for foreign FIUs, in 2016

Hungary Czech republic Italy Poland Great Britain Austria Ukrajine France Romania Russian Federation

Based on the above stated statistical data, it can be said that the number of requests for information sent abroad or vice versa to our FSJ countries is in high numbers every year, which can be explained by the fact that the threats of money laundering and terrorist financing are of a growing international character and that today, national organized crime is rare. FIUs play a crucial role in identifying terrorist network operations, particularly cross-border, and in detecting their sponsors.

As part of the strengthening of high-quality international cooperation, regional workshops for neighbouring FIUs (Austria, the Czech Republic, Hungary, Poland) and FSJ are organized annually and are regularly attended by selected FIU representatives from the relevant countries and the FSJ. In the summer 2016, the meeting was held on the basis of the FIU Austria invitation and three topics were presented as the main topics of the meeting: "Social engineering fraud - the so-called CEO fraud", "Transposition of Directive 2015/849/EC" and the "5th round of the evaluation by the MONEYVAL Committee".

At the end of 2016, in particular between 14 and 16 November 2016, an introductory workshop was held on the implementation of the NRA on the basis of a concluded contract between the Ministry of the Interior of the Slovak Republic and the World Bank. It is a comprehensive system of assessing the possibilities of the misuse of financial and non-financial sector products for the purpose of money laundering and terrorist financing, while assessing the effectiveness of the measures taken to eliminate the said serious anti-social activity by the relevant central government authorities, state institutions and organizations and other entities active in this field. The coordinator of the whole project was the FSJ. The complete NRA working group also consisted of the representatives of NBS, MoJ SR, MoF SR, GPO SR, the Slovak Information Service (hereinafter: the “SIS“), the National Security Analytical Centre, the Academy of the Police Force in Bratislava, FD SR and selected units of the Presidium of PF. It is a several-month intensive process, the end of which is expected in November 2017.

In the second half of 2016, for the first time in history, the SR became the presiding country of the Council of the EU, one of the three main institutions of the European Union. The main priorities of the Slovak Presidency were to combat international terrorism and discussions on tax issues and, for these reasons, negotiations on the legislative amendment to AML measures intensified. In July, the European Commission adopted a compromise proposal of the 4th AML Directive. For this purpose, a special working group for financial services was established within the Slovak Presidency, which was actively attended by the experts from the FSJ in cooperation with the staff of the Ministry of Finance of the SR. They jointly coordinated EU-level negotiations, conducted bilateral negotiations with Member States and prepared compromise drafts of the Directive. In addition to the issues of terrorist financing, within the proposed text of the 4th AML Directive, also such topics as virtual currencies, prepaid cards, the introduction of a central register of payment accounts, more intensive FIU cooperation and closer information exchange, were discussed. The compromise proposal was finally unanimously approved at the last meeting of the working group under the leadership of the Slovak Presidency, which can be assessed very positively. It can be concluded that FSJ experts presented themselves during the Slovak Presidency at the international level in a dignified and highly professional manner.

Other important activities of the FSJ in the international area include the active participation of FSJ staff in the discussions of working groups and committees of the European Commission, the Council of Europe, etc., and in particular:

* The Committee on the Prevention of Money Laundering and Terrorist Financing, which is a subcommittee of the European Commission, DG Internal Market and Services,
* FIU platform, which is a subcommittee of the European Commission, DG Justice, Freedom and Security, which unites the FIUs of EU Member States,
* Session of the Conference of the Parties to the Treaty No.198. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism,
* MONEYVAL Committee.

1. Financial and Property Verification

Pursuant to Article 1 of Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime (hereinafter: the “2007/845/JHA Decision“), each Member State shall set up or designate a national Asset Recovery Office, for the purposes of the facilitation of the tracing and identification of proceeds of crime and other crime related property which may become the object of a freezing, seizure or confiscation order made by a competent judicial authority in the course of criminal proceedings.

The designated Asset Recovery Office (Asset Recovery Office - "ARO") has been the FSU since October 2008, under which the said activity is performed by the Property Check-up Department. This Department is an executive operational unit implementing the tasks derived from the 2007/845/JHA Decision based on the application of procedures and deadlines within the meaning of Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (hereinafter: the “2006/960/JHA Decision“), which defines rules for the execution and provision of documents and information for members of the international network of agencies dealing with cross-border identification, freezing, seizure and confiscation of criminal proceeds and other property related to criminal activity.

The basic tasks resulting for the FSJ from the Council Framework Decision 2006/960/JHA include cooperation and the exchange of information and intelligence information between national AROs, the provision of which is limited to the information considered to be important and necessary for the successful detection, prevention or investigation of crime. Mutual communication was carried out through secured electronic networks and a channel with a high level of protection against misuse or information leakage - SIENA, or by electronic communication from the address [sjfpopm@minv.sk.](mailto:%20sjfpopm@minv.sk.)

Exchange of information and cooperation with third countries is also carried out through the Camden Asset Recovery Inter-Agency Network (hereinafter: the “CARIN“), which covers a worldwide informal network of specialists and experts to improve mutual knowledge of methodologies and techniques for cross-border identification, freezing, seizure and confiscation of criminal proceeds and other property related to crime.

Within its activity, the FSJ searches for, concentrates, evaluates and uses, in particular, economic and financial information relevant to the identification of criminal proceeds, searches for and acquires the evidence that the LEAs use in the further procedure aimed at property confiscation. The preparation of a property profile is carried out by the FSJ for LEAs for the purpose of consistent application of the provisions of Article 119 par. 1 f) the Code of Criminal Procedure, based on which it is necessary to demonstrate in criminal proceedings also the proceeds from the crime and the means of committing it, their placement, the nature of the condition and the price, for other purposes as defined in the Code of Criminal Procedure (securing the sentence execution, a protection measure, securing the claim of the victim in criminal proceedings).

An overview of the number of requests for the preparation of a property profile for LEAs and the search for property for foreign Asset Recovery Offices in connection with the performance of the tasks arising from the 2007/845/JHA Decision received and completed by the FSJ in 2016, is shown in tables no. 13 - 1

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | | | | | | | | | | | | | |
| LEAs requests for property profiles | | | | | | | | | | | | | |
|  | NAKA P PF | | | | Other OČTK | | | | | | | Own |  |
| Year |  | | | |  | | | | | | |  | Total |
| NJFP | NPZJ | NPDJ | NPKJ | GPO SR | RPO | DPO | RF PF | DR PF | KÚFS | SKIS | FSJ |
| 2014 | 1 | 9 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 1 | 14 |
| 2015 | 3 | 8 | 0 | 0 | 1 | 1 | 2 | 0 | 1 | 1 | 0 | 0 | 17 |
| 2016 | 8 | 10 | 2 | 0 | 3 | 0 | 0 | 1 | 3 | 0 | 1 | 0 | 28 |

Table no. 13: Summary of requests for property profiles sent from LEAs to FSJ in 2014 - 2016

Table no. 14: Summary of requests sent to FSJ from foreign AROs in 2014 - 2016

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Requests received from foreign AROs | | | | | | | | | | | |
| Year | Hungary | Czech Republic | Austria | Poland | France | Germany | Italy | Russia | Ukraine | Other countries | Total |
| 2014 | 19 | 17 | 6 | 11 | 3 | 2 | 4 | 0 | 6 | 7 | 75 |
| 2015 | 17 | 14 | 6 | 5 | 4 | 3 | 2 | 2 | 0 | 8 | 61 |
| 2016 | 20 | 15 | 5 | 6 | 4 | 13 | 1 | 0 | 4 | 13 | 81 |

Table no. 15: Comparison of the total number of the handled requests sent from LEAs and from foreign AROs to FSJ in the years 2014 - 2016

|  |  |  |  |
| --- | --- | --- | --- |
| Statistical data on number of requests | 2014 | 2015 | 2016 |
| Number of requests remained in examination from the last year | 17 | 21 | 9 |
|  |  |  |
| Number of received requests | 92 | 78 | 109 |
|  | 88 | 90 | 93 |
| Number of processed (and closed) requests |
|  | 21 | 9 | 25 |
| Number of pending requests at the end of the year |

5.1 Verification of Origin of Property (property verification)

The Act on Proof of Origin of the Property, the purpose of which is to regulate the conditions and procedures of public authorities within forfeiture of movable and immovable assets, residential and non-residential spaces, other property rights and assets, funds in cash in EUR and foreign currency, deposits of funds in EUR and foreign currency, which were made in favour of natural and legal persons at foreign bank branches and at banks seated abroad, whose assets were acquired from illegal incomes pursuant to the court ´s decision within the proceedings initiated according to the Act on Proof of origin of the property, entrusts the fulfilment of the tasks according to the Act on Proof of origin, to the Financial Police, specifically to the organisational units of the National Criminal Agency of the Police Force Presidium, which are FSJ as well as the National Unit of Financial Police (hereinafter: the “NJFP“).

In accordance with the internal regulation, which determines the procedures of Financial Police within the fulfilment of tasks resulted from the Act on Proof of Origin of the Property, the position and the obligations of FSJ (the Property Check-up Department) in relation to the National Unit of Financial Police were defined. Pursuant to that act FSJ is the coordinator and methodical authority in relation to the National Unit of Financial Police.

The FSJ performs property verification on the basis of written notification from public authorities, on the basis of notifications from natural and legal persons or on the basis of its own initiative, i.e. written motion for performing property verification submitted by financial departments of Police Forces due to the fact that within their own activities the well-founded suspicion that person´s assets was acquired from illegal incomes was found out.

In 2016, the FSJ executed the property verification in 27 cases. From the mentioned 27 cases there were 8 cases examined on the basis of the received notifications (6 cases from natural persons and 2 from legal entities, respectively). In 15 cases property was verified which remained in examination until the end of 2016; 3 cases were re-opened due to the fact that the submitted notifications were returned by the Prosecutor´s office for supplementation and 1 case was closed by the Prosecutor´s office after filing the third motion. In 2016, no notification from public authorities was received.

Out of the total number of 27 cases, 17 cases were closed in 2016. Out of this number, 3 initiatives were submitted to the appropriate Prosecutor´s office pursuant to Article 6 of Act on Proof of Origin of the Property in order to initiate proceedings to declare that the property comes from illegal funds (once for the first time and twice repeatedly after an amendment).

In 11 closed cases, the identified property was less than 1500 times of the minimum wage (6 after initial verification, 2 after returning for amendment by the Prosecutor, 2 after repeated returning for amendment and 1 case was set aside by the Prosecutor after an explanation of the examined person on the acquisition of property), in 3 cases, the identity of the notifier was not confirmed or the notification was incomplete (see table no. 16). On the basis of the Slovak Government Ordinance No. 279/2015 Coll., establishing the minimum wage for 2015, the 1500 times of the amount was EUR 607 500,- (in 2017, it is EUR 652 500,-).

Table no. 16: The proof of origin of property cases in 2014 - 2016

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Cases of property verification | | | | | | | | |
|  | Remained in examination | Numbers of files received | | | Number of files closed | | | Examination  continued in 2017 |
| Year | Notificatio ns from natural persons | Notificatio ns from legal entities | Own initiatives | Initiative proposed to the Prosecutor´s Office | Noncompliance with legal requirements | Lack of property |
| 2014 | 36 | 6 | 4 | 8 | 2 | 5 | 19 | 28 |
| 2015 | 30 | 6 | 3 | 5 | 3 | 9 | 17 | 15 |
| 2016 | 19 | 6 | 2 | 0 | 3 | 3 | 11 | 10 |

1. Analytical Activity

The performance of FSJ's obligations under Article 27 of the Act on Prevention of Legalization, in particular keeping aggregate statistical data, including the number of received UTR reports, individual ways of processing UTR reports, their number, including the number of cases sent to LEAs or to tax administrators for a calendar year, the number of prosecuted persons, the number of persons convicted for the offense of legalization of the proceeds of crime, the value of the seized, forfeited or confiscated property, is performed by the Analytical Department.

To the additional regular tasks of the Analytical Department belongs also the providing of written information to obliged entities on the effectiveness of UTR reports sent by the obliged entities so that the relevant obliged entity has a clear picture of its individual reports and mainly on their follow-up.

To the tasks of the Analytical Department belongs also the proposing of modifications and changes of the relevant legislation, where appropriate, the related relevant legislation, concentration of documents required for the processing of statements concerning generally binding legal regulations and internal regulations submitted for amendment procedure, keeping record and inspection of the performance of tasks and its assessment, which are imposed on the FSJ from the Slovak Government resolutions, the annual plan of the Presidium PF, as well as from other planning documents. The Analytical Department publishes, at the initiative of the other FSJ departments, information on forms and methods of legalization of proceeds of crime and terrorist financing and ways of recognizing UTRs. Last but not least, the Analytical Department performs activities related to the maintenance of the full functionality of KIS FSJ.

The FSJ, as the only national competent authority, also performed the tasks in the scope of the verification of the duty to report for the cash transport and the notification of the Customs Code violations in 2016. Under this Act, a natural person entering the territory of the Slovak Republic from a third state or exiting from the territory of the Slovak Republic to a third state and transferring cash in a minimum amount of EUR 10 thousand has the duty to report this fact in writing on the prescribed form and consequently the customs authorities must send the relevant notifications to the FSJ. In 2016, the FSJ received a total of 124 reports on cash transport (hereinafter: the "notification") from the Customs Directorate totalling EUR 4 016 396.51, and on bond of 25 million USD. In most cases, the citizens of Ukraine were obliged entities (88). From the accepted number of notifications, in 7 cases a penalty notice was imposed for non-fulfilment of the duty to report in a total amount of EUR 875, - (2 cases from the Michalovce Customs Office, branch of customs office Vyšné Nemecké and Veľké Slemence, and 5 cases from the Customs Office Bratislava, branch of Bratislava Airport customs office (Bratislava Letisko M. R. Štefánika). In 17 cases, the cash transport was organized by air, in other cases the land border between the EU and Ukraine was used.

The most frequent purpose of using the transferred cash was to buy a motor vehicle in Slovakia, Italy, Slovenia, Poland, Germany and the Czech Republic (a total of 33), an account deposit with a bank based in the Slovak Republic (24) and 1 case in the Czech Republic, 24 notifications related to the purchase of various types of goods in Slovakia, Poland and the Czech Republic, and in 20 cases, the purpose of use was the purchase of real property mainly in Slovakia and in Poland, in 1 case in the Czech Republic. Even in 10 cases, obliged entities stated that they wanted to invest the cash transferred in business in Slovakia.

The information from the received notifications was stored in the KIS FSJ after the verification in the available information systems of the PF, including the FSJ information system and the open sources for further use (102), in 3 cases, spontaneous information was sent to FIU Moldavia; information from 7 notifications was sent as spontaneous information to FIU Great Britain, from 15 notifications to FAU Czech Republic, from 16 notifications to FIU Ukraine, and 1 spontaneous information with a request for information was sent to FIU United States. In 15 cases, the information from the notification was sent to the FD Slovakia for its use in tax procedure.

The FSJ verified 4 spontaneous notifications of cash from citizens of Slovakia reported by the foreign customs authorities of the Criminal Office of the Financial Administration of the SR (3 cases from the airports in Austria and 1 from the airport in Hungary)

|  |  |  |
| --- | --- | --- |
| Year | Number of notifications received | Amount of funds transported in EUR |
| 2014 | 59 | 1 764 189.93 |
| 2015 | 72 | 2 885 240.69 |
| 2016 | 124 | **4 016 396.51** |

Table no. 18: Summary of cash transport reports from/to the EU received by FSJ and amount of funds transported in 2014-2016

Graph no. 7 Amount of funds transported from/to the EU in 2014 – 2016

|  |  |  |  |
| --- | --- | --- | --- |
| 5,000,000.00 |  |  |  |
| 4,000,000.00 |  |  |  |
| 3,000,000.00 |  |  | 4,016,396.51 |
| 2,000,000.00 |  | 2,885,240.69 |  |
| 1,000,000,00 | 1,764,189.93 |  |  |
| 0.00 | 2014 | 2015 | 2016 |

1. Legislative Activity

The FSJ prepared a number of opinions on motions to initiate prejudicial proceedings before the EU Court of Justice concerning the scope of the 4th AML Guidelines or customer due diligence.

In connection with the adoption of the 4th AML Directive, legislative work on the forthcoming amendment to the Act on Prevention of Legalization started, which was elaborated by the FSJ as the coordinator in cooperation with the Legislative Security Department of the Ministry of Interior of the Slovak Republic. The FSJ, in addition to the amendment to the Act on Prevention of Legalization, also drafted a proposal for a regular preliminary opinion of the Slovak Republic on the draft directive, which represents revision of the 4th AML Directive.

1. Assessment of Cooperation with Partner Entities

The willingness to cooperate and interact with all partner FIUs and at the same time all other police, state and public administration bodies and other entities involved in combating the legalization and terrorist financing represent a significant contribution to the quality and efficiency of the FSJ. Within this cooperation, several meetings were held at national or international level in the course of 2016.

As part of the implementation of individual recommendations and plans in the fight against money laundering and terrorist financing, the activity of the Interdepartmental Expert Coordination Body on Combating Crime (hereinafter: the MEKO) is of great benefit. As a coordination body, on the initiative of ministries and othercentral government bodies, requests and initiatives from non-governmental and international bodies and organizations, the Body establishes multidisciplinary integrated expert groups for the purpose of long-term monitoring and addressing the framework issues in the fight against crime.

The AML and CTF Group (hereinafter referred to as "MISO LP"), chaired by the Director of the FSJ, is one of such multidisciplinary integrated expert groups (hereinafter referred to as "MISO"). The members of this group are representatives of the NBS, the Ministry of Finance of the Slovak Republic, the Financial Directorate of the SR, the GPO SR, the Ministry of Justice of the SR, the Unit for Combating Terrorism of the Presidium of the PF, the National Anti-Drug Unit NAKA P PF, the Criminal Police Office of the Presidium of the Police Force and the SIS.

In 2016, 6 meetings of the MISO LP were held, and these meetings were always convened for another reason. The reason for the first meeting of the selected MISO (LP) members was the coordination of the tasks and activities of the members of the Slovak delegation for the MONEYVAL Committee in the preparation of the so-called exit follow-up report of the Slovak Republic in order to remove the shortcomings identified by the Committee in the 4th round of mutual evaluations. The second meeting, with the participation of selected MISO (LP) members, was convened to discuss the use of specific provisions of the so-called Warsaw Convention - the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. The third session was held with the participation of all members of the MISO (LP) to provide information and the results and conclusions of the evaluation of the Slovak Republic's progress based on the so-called exit follow-up report. Due to the fact that some of the identified shortcomings have not been eliminated yet, the SR was invited to submit a further exit follow-up report. The fourth meeting was held with the participation of selected MISO (LP) members due to a discussion on the establishment and operation of the Central Bank Accounts Register. This is the duty imposed on the SR in the forthcoming amendment to the 4th AML Directive. In relation to the activities of the sub-group, the aspects of crime in the field of fraudulent truck transport, the identification of legislative deficiencies in the Slovak legislation and the conditions for mutual cooperation between the relevant entities, were discussed.

In performing the tasks in the previous year, the FSJ worked very closely with MoJ SR as a guarantor of the forthcoming amendment to the Act on Proof of Origin of the Property, the need for which resulted from the "Action Plan for Strengthening the Slovak Republic as a legally consistent state". In connection with this, the Minister of Justice of the Slovak Republic established a working group to which the FSJ is a member.

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