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 2017

Financial Police

Material contains:  
Information on FSJ’s activity and

results for 2017

Bratislava

Material submitted by:

1LT Mgr. Pavol Vorobjov

Director

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Foreword

Just as every year, the Financial Intelligence Unit of the National Criminal Agency of the Presidium of Police Corps (hereinafter referred to as "FSJ") has prepared a report of its activity performed in 2017. Based on the status of the FSJ, its activity in the past year was also to combat the legalization of proceeds of crime and terrorist financing.

The purpose of the submitted Annual Report is to provide a reader with an overview of tasks performed by the FSJ acting as specialized unit of the Financial Police. Texts and graphs present the statistical data related to the assessment of unusual transactions, control activities, international cooperation or analytical work for the past year, compared to 2015 and 2016.

From among activities performed by the FSJ, which cannot be quantified, it is necessary to point out, in particular, its active participation in the preparation of the legislative amendment to Act no. 297/2008 Coll. on the Prevention of Legalization of Proceeds of Criminal Activity and Terrorist Financing and on Amendments and Supplements to Certain Acts as amended (hereinafter the "Legalization Protection Act") according to the requirements for 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 (hereinafter the 4th AML Directive) and the implementation of a national assessment of the risk of money laundering and terrorist financing (hereinafter referred to as the "NRA").

Cooperation with our foreign and domestic partners contributed to the results and activities of the FSJ at the national as well as international level, so I would like to thank everyone for the high quality results.

1. Financial Intelligence Unit

The FSJ is a specialized unit of the Police Force integrated into the structure of the National Criminal Agency of the Presidium of Police Force. With effect from 1 February 2017, there was a change in the FSU's internal organizational structure, when the Property Check-up Department was assigned to the structure of the national unit of Financial Police of the National Criminal Agency, the Presidium of the Police Force. From 1 February 2017, tasks falling within the scope of the FSJ will be executed by four departments (see graph 1). The FSJ is also part of a worldwide network of FIUs whose role is to implement international standards of the Financial Action Task Force (FATF) in the field of combating money laundering and terrorist financing.

The legislative framework of the FSJ's activities consists mainly of the Legalization Protection Act, the Act of the National Council of the Slovak Republic no. 171/1998 Coll. on the Police Force, as amended (hereinafter referred to as the "PF Act"), Act No. 199/2004 Coll. the Customs Act and on amending and supplementing certain laws, as amended (hereinafter referred to as the "Customs Act"), the legal acts of the European Union and the international treaties binding on the Slovak Republic (in particular the Vienna Convention, the Warsaw Convention and the Palermo Convention).

Graph no. 1: Organizational structure of the FSJ

Ministry of Interior of the Slovak Republic

Presidium of Police Force

National Criminal Agency

Financial Intelligence Unit

Unusual Transactions Department

Obliged Entities Control Department

International Cooperation Department

Analytical Department

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 based 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 contained in the particular UTRs indicate that a criminal offence has been committed or that its execution the criminal offence may be committed and there is a danger that its execution may hamper or substantially impede seizure of proceeds of criminal activity or the verified information could be linked with the already conducted criminal proceeding and this information is important for such proceeding FSJ is submitting this information to the relevant law enforcement authorities (hereinafter referred to as "LEAs") or to other Police Force units (hereinafter referred to as "PF") in order to fulfil tasks laid down by the Act on the Police Force. Within fulfilment of the official tasks and within cooperation related to exchange and verification of information necessary for the purpose of prevention and detection of money laundering and terrorist financing this information could be submitted to the foreign financial intelligence units as well (hereinafter referred to as “FIU”). If the case officer within verification of UTR finds out that the obliged entity does not fulfil or breaches obligations laid down by the AML/CTF Law, the officer shall submit this information to the Obliged Entity´s Control Department (hereinafter referred to as “KPO”).

In cases where the verification of UTR report did not identify facts that would be necessary to be forwarded to the LEAs, to competent PF units, the Financial Directorate of the SR (hereinafter referred to as “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 2017, the FSJ received a total of 2,636 UTR reports from obliged persons with a total value of EUR 4,177,857,051,-.

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

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

(hereinafter referred to as "NBS), a total number of 2,555,

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

71,

* UTR reports received from non-financial institutions, a total number of 10.

Graph no. 2: Total number of UTR reports received for 2017

* Banks
* Other financial institutions
* Non-financial institutions

Source: FSJ statistical data

Graph no. 3: Development dynamics UTR reports received for 2015-2017

Source: FSJ statistical data

Table no. 1: Number of UTR reports received for 2015-2017 from banks

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Banks operating in the territory of Slovakia** | | | | | | | |
|  | | |  | Number of UTR reports | | | |
| Obliged entity | | |  |  |  | | |
|  | 2017 |  | 2016 | 2015 |
|  | | |  |  |
|  | NBS |  |  | 59 |  | 79 | 77 |
|  | Commercial banks operating in the territory of Slovakia |  |  | 2,496 |  | 2,994 | 2,876 |
| Total | |  |  | 2,555 |  | 3,073 | 2,953 |

Source: FSJ statistical data

Table no. 2: Number of UTR reports received for 2017 from other financial institutions

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Other financial institutions** | | | | |
| Obliged entity | | Number of UTR reports | | |
| Central Securities Depository, securities dealer |  |  | | |
|  | 5 | | |
| Financial agent | |  | 2 |  |
| Insurance company | |  | 19 |  |
| Pension management company | |  | 5 |  |
| Legal entity/natural person authorised to carry out money exchange business | |  | 1 |  |
| Legal entity/natural person authorised to carry out financial lease, extension of borrowings |  | 8 | | |
| Payment institution | |  | 31 |  |
| Total |  |  | 71 |  |

Source: FSJ statistical data

Table no. 3: Number of UTR reports received for 2017 from non-financial institutions

|  |  |  |  |
| --- | --- | --- | --- |
| Non-financial institutions | | |  |
| Obliged entity |  | Number of UTR reports |  |
| Gambling service operator |  | 2 |  |
| Postal undertaking |  | 3 |  |
| Attorney at law or notary |  | 4 |  |
| Other legal entities and institutions |  | 1 |  |
| Total |  | 10 |  |

Source: FSJ statistical data

In the past year, the FSJ recorded most frequently the following types of UTR reports related mainly to:

* **CEO fraud** - UTR reports on the so-called CEO of fraud in which the perpetrator attacks the e-mail communication of business partners within the standard business relationship of business partners in order to redirect payments to a pre-prepared bank account opened in a bank usually domiciled in a country other than that of the account of sender of payment - business partner. The party who pays for the goods is informed by the perpetrator about a change in the payment system of his business partner by a fake e-mail that is characterized by a high degree of authenticity. There have been reports of cases in which such fake e-mails were sent to the party:

- as sham from the business partner who reported a change in the account for the settlement of transactions for various technical or organizational changes,

- directly from the level of the business party's organizational structure, through which the competent representatives are notified of the change of the payment details with the business partner, and at this level there is probably no consistent control and verification of the accounting data.

Then, after the payment is made - the payment by a trading party to the account that was initially opened by the perpetrator and ready to receive a fraudulent payment, immediately after the funds are credited, mainly non-cash transfers occur to:

- other bank accounts prepared at banks by the perpetrator and administered with banks in offshore countries, or in countries with problematic law enforcement, for example, Nigeria, Ghana, China, Hong Kong,

- accounts with banks domiciled in Great Britain, whereas there are signs that these accounts are opened for persons who have been granted asylum in the United Kingdom in the context of the migration of third-country nationals and they are used in this matter as perpetrators in the position of straw men,

- Accounts with banks domiciled in Hungary so far without any significant indication of payment redirecting.

The cases of CEO fraud have increased in 2017 and are expected to increase in 2018 as there is no unified way of presenting preventive measures to prevent them. Only consistent and constant check of data changes and verification of business partners is effective.

* **Tax optimization** - the cases of UTR reporting with impact on tax issues are (in terms of the number) the most significant group of UTR reporting that the FSU receives and records annually from obliged entities. From the content analysis of the reports, these can be viewed from the point of view of the entity that filed or made a UTR, characterized as transactions mostly executed between accounts of trade companies, traders - natural persons established in the Slovak Republic (hereinafter Slovak entities) and bank accounts of foreign business entities. In cases of Slovak entities there is an increasing trend that in their bodies or in the establishment of holder's rights for business accounts, these positions are occupied by persons - citizens of different nationalities, which, in the next assessment of the UTR, makes it difficult to carry out a comprehensive examination of the facts ascertained with respect to their economic justification. Cases of UTR reports between accounts of Slovak and foreign entities are predominantly carried out in a carousel manner with the combination of cashless transfers with cash operations aimed at making it more difficult to identify the origin of cash on entry to the carousel and in the case of cash transactions in the carousel, at making it more difficult to identify the next financial flow. For non-cash transfers, business entities generally prefer transfers executed through Internet banking, probably also with regard to the international staff of the bodies of business entities and persons with holder's rights to the entities' accounts.
* **Internet fraud** - for UTR reports on Internet fraud characterized by sham sales of consumer goods, passenger cars or various industrial devices, in 2017, a drop was reported compared to the previous year. In this context, it would be bold to assume that perpetrators who have committed this type of fraud could adapt to CEO fraud, which offers the perpetrator much higher financial revenues than would be the case for Internet fraud, where usually cheaper commodities are traded.
* **Virtual currency BITCOIN** - there were cases of bitcoin trading that were executed on the virtual exchange platform or on other virtual trading platforms and were reported by obliged entities mainly because there is virtually no possibility of verifying the trading of this virtual currency. The reports also included information on specific transactions - buying this currency, which initially indicated that the party could suffer damage, but because of anonymous trading on virtual platforms, it was not possible to provide further evidence and information to confirm this assumption. Virtual currencies and in particular the BITCOIN currency are not yet a national currency in the European Union (EU) countries, and is not under the supervision and regulation of the NBS. Since there is no real tool for regulating and controlling anonymous BITCOIN currency trading, such transactions could also be used in drug trafficking or financing a wide range of illegal activities.
* **Use of player accounts** - cases of UTR reporting on the use of virtually created playeraccounts, between which follow-up transactions aimed at legalizing the proceeds of crime, were executed. This scheme of transactions between playeraccounts allows the use of playeraccounts to create a legal framework for transactions with funds originating from anonymous payment channels without proving their origin. The funds are then paid to bank accounts to the holders of playeraccounts. Indicators of potential legalization for UTRs:

- Setting up two playeraccounts, whereas according to the rules there should be two different persons,

- Use of playeraccount by person other that the one for whom the account is registered/set up as for online games, the same IP address is used and one player plays to the benefit of the other player or even to his own detriment,

- Organized use of playeraccounts with the risk that the beneficial owner of the playeraccount and gambling are not the players for whom the playeraccount is registered but other unknown persons, this is true for at least one of them,

- Funds are deposited to playeraccounts, e.g. through the PAY SAFE CARD payment channel, i.e. via prepaid cards that may be bought without identifying the buyer in shopping centres, petrol stations in the Slovak Republic and abroad, and via the Internet,

- Organized participation of several persons in gambling that breach the gambling plan and the ethics of gambling, they do not play against each other but in a coordinated way so that one person will lose in favour of the other,

- The player gives up/leaves the game in the case of gambling even if he has a high probability of winning to ensure the prize are secure for the other player,

- The result of participation in a game is a prize usually in the amount the deposit, with players systematically playing in the gambling game in order to get back the deposited money, regardless of the probability of the winning or even in the event of a high probability of winning, they give up the chance of winning and proceed in such a way as to secure the return of the deposit,

- Payment of the prize to a bank account.

Table no. 4: Statistical summary on types of recorded UTRs in year 2017

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  | Number of UTR reports |  |  | | |
| Type of UTR |  |  | Transaction value in EUR | | |
|  |  |  |  |  | | |
| Wire transfers |  | 1932 |  |  | 3 913 084 973 |  |
| Cash transactions |  | 1360 |  |  | 300 632 965 |  |
| Foreign wire transfers |  | 1177 |  |  | 580 621 218 |  |
| UTRs with the offshore element |  | 52 |  |  | 130 372 976 |  |
| CEO fraud |  | 206 |  |  | 15289209 |  |
| Phishing |  | 27 |  |  | 961 748 |  |
| Insurance |  | 12 |  |  | 1 272 664 |  |
| Real property |  | 48 |  |  | 16 593 070 |  |
| Internet fraud |  | 27 |  |  | 1 259 370 |  |
| False securities | 2 | | | 0 | | |
| Hazard |  | 5 |  |  | 549 189 |  |

Source: FSJ statistical data

2.1 Application of the Concept of Postponement of UTRs and Efficiency of UTR Reports

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.

In 2016, from the number of UTR reports received, a total 123 UTRs were postponed with the total value of EUR 9 895 434,-, out of which in five cases on demand of a partner FIU. In 87 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 2017

|  |  |  |  |
| --- | --- | --- | --- |
| Total number of postponed UTRs | 123 | | |
| Postponement by obliged entity |  | 118 |  |
| Postponement on request by FSJ |  | 0 |  |
| Postponement on request by foreign FIU |  | 5 |  |
| Postponed UTRs submitted to the LEA having the subject-matter and local jurisdiction |  | | |
| 87 | | |
|  | | |
| Total amount of UTRs postponed |  | EUR 9 895 434 |  |

Source: FSJ statistical data

In 2017, FSJ received 661 reports less compared to 2016. Out of a total of 2 636 received UTR reports, 750 information was forwarded to the KIS FSJ for possible 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:

* 354 pieces of information to LEAs,
* 233 pieces of information to national units of the National Criminal Agency of the Presidium of PF (NAKA), out of it
* 69 pieces of information to the Unit for Combating Terrorism of the Presidium of PF SR (after 01 February 2017, the NAKA Antiterrorist Unit),
* 1,138 pieces of information to the FD SR,
* 8 pieces of information to the Obliged Entities Control Department,
* 506 pieces of information to foreign FIUs,
* 419 pieces of information to Regional and District Directorates of PFSR.

In 2017, the refusal to establish a business relationship, termination of a business relationship or refusal of a transaction under Article 15 of the AML Act by the obliged entity occurred in 282 cases for the value of transactions with a total amount of 28,327,551,- EUR.

With respect to the information referred to LEAs, the amount of seized funds for 2017 amounted to 2 614 302,- EUR.

According to the AML Act, FSJ informs the obliged entity on the effectiveness of UTR report and on particular procedures that follow the receipt of such report. For such purpose, FSJ demands information (the so-called feedback) from LEAs on the results of verification of information sent and other procedures taken in the case. An overview of particular procedures and decision-making activity of LEAs for referred information from FSJ under the Criminal Code based on decisions sent or LEAs information, is given in table no. 6. Zo From the monitored data it is possible to observe in comparison with the previous years 2016 and 2015 an overall increase in the number of initiated criminal prosecutions as well as initiated criminal prosecutions for the crime of legalization of proceeds of crime.

In 2017, FSJ reports two cases when an indictment was brought under Article 206 of the Criminal Code. In one case, an indictment was brought against a person prosecuted outside prison of credit fraud under Article 222 of the Criminal Code, and in the latter case a charge was made for a crime of fraud under Section 221 of the Criminal Code, and a judgment was issued by the District Court in Lučenec for fraud under Article 221 of the Criminal Code.

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 (2017)** | **Number of cases (2016)** | **Number of cases (2015)** |
| Commencement of criminal proceeding, Section 199 of Code of Criminal Procedure – in all cases | **78** | 52 | 30 |
| 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 | **52** | 25 | 14 |
| Commencement of criminal proceeding, Section 199 of Code of Criminal Procedure, for different crime | **26** | 30 | 17 |
| 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** | 0 | 2 |
| Indictments pursuant to Section 206 of Code of Criminal Procedure, for different crime | **2** | 0 | 1 |
| Discontinued criminal prosecution pursuant to Section 215 of Code of Criminal Procedure | **1** | 1 | 0 |
| Dismissal of commencement of criminal proceeding pursuant to Section 197 (1) (d) of Code of Criminal Procedure | **19** | 7 | 12 |
| Seizure of the funds pursuant to Section 95 of Code of Criminal Procedure | **20** | 30 | 22 |

Source: FSJ statistical data

A higher number of cases for which criminal prosecution was initiated and a higher number of cases in which indictment was brought, is attributable to more intense methodological activity of the KPO within training activities. Like in the past period, 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 units of the Ministry of Interior SR (hereinafter: MoI SR), 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 "GPO SR"), by the Special Prosecutor’s Office of GPO 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).

The materials provided by PF units show that the NAKA national anti-terrorist unit (established on 01.02.2017 to merger the Unit for Fight against terrorism and extremism and spectator violence in order to centralize and make more effective the fight against extremism and terrorism in the Slovak Republic), in 2017, reports three motions for criminal prosecution for terrorism and some forms of participation in terrorism under Article 419 Criminal Act and in four cases, criminal prosecution was initiated under the cited provision of the Criminal Code.

Other public authorities do not register any case in 2017 where a criminal prosecution was initiated and when prosecution, accusation, indictment, or a final judgment of a terrorist offense and some forms of participation in terrorism under Article 419 par. 2 a) of the Criminal Code, or Article 419 of the Criminal Code, was filed.

In order to have overview of the scope of application of selected seizure concepts of the Code of Criminal Procedure in criminal proceedings in 2017, a statistical summary has been prepared as shown in detail in table no. 7 concerning all criminal acts and specifically money laundering offences. Zero values were obtained for the offense of terrorism and some forms of participation in terrorism under Article 419 Criminal Act for all the selected seizure concept of the Criminal Code in criminal proceedings.

With respect to the above disharmony in statistical data kept by particular ministries, it should be noted that table no. 7 does not contain data from the Criminal and International Units of the GPO SR. Criminal Unit of the GPO SR which monitors statistical data for closed criminal prosecution of known persons, in 2017, records for all crimes, for the seizure of funds under Article 95 Criminal Code, an amount of 3 941 27678,- EUR (for 78 persons), for the offense of legalization of proceeds of crime, the amount is at 1 486 516,- EUR (for 45 persons). The International Unit of the GPO SR for the concept of seizure of property under Article 551 of the Criminal Code for other offenses (except for AML) reports actually seized movable property in five criminal cases, in the amount of 59 164,- EUR and funds in two criminal cases, in the amount of 14 711,- EUR.

Table no. 7: Statistical overview of the scope of application of selected seizure concepts of the Code of Criminal Procedure in criminal proceedings in 2017 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 | | 4 691 | 2 289 119 | 192 | 823 387 |
| 2 | Article 91 Withdrawal of a thing | | 1 151 | 63 131 | 3 | 29 400 |
| 3 | Article 92 Takeover of a seized thing | | 1 254 | 364 102 | 1 | 3 000 |
|  |  | | 77 |  |  |  |
| 4 | Article 95 Seizure of financial assets | | 33 588 107 | 51 | 2 766 514 |
|  |  | |  |  |  |  |
|  | Article 96 Seizure of book-entry securities |  |  |  |  |  |
| 5 |  | 0 | 0 | 1 | 17 614 |
|  |  |  |  |  |  |
| 6 | Article 97 Return of a thing |  | 7 105 | 3 614 723 | 202 | 2 064 573 |
|  | Article 550 Surrender of things (legal assistance with respect to foreign countries) |  |  |  |  |  |
| 7 |  | 3\* | 350 000 | 0 | 0 |
|  |  |  |  |  |  |
|  | Article 551 and Act. 650/2005 Coll. |  |  |  |  |  |
| 8 | Seizure of property (legal assistance with respect to foreign countries) |  | 5\* | 24 122 | 0 | 0 |
|  |  |  |  |  |  |

Source: FSJ statistical data from the units of PF MoI SR, KÚFS, SPO GPO SR, MoJ SR

\* Motions of PF units for seizure, not actually seized things performed by GPO SR

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | | | | | | | | |  | | | | | |  | | | | | | | | |  | | | | | | | | |
|  |  | MoI SR | | | | | | | | | GP’s Office SR | | | | | | MoJ SR | | | | | | | | | Criminal Office of the Financial Administration | | | | | | | | |
|  | Code of Criminal Procedure provisions |  | | | | | | | | |  | | | | | |  | | | | | | | | |  | | | | | | | | |
| 2017 | | | 2016 | | | 2015 | | | 2017 | | 2016 | | 2015 | | 2017 | | | 2016 | | | 2015 | | | 2017 | | | 2016 | | | 2015 | | |
| 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 | 33 | 47 | **34.844.038** | 41 | 54 | 868 019 | 29 | 41 | 29 881 971 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 1 | 0 | 85 950 | 1 | 2 | 0 |
| 2. | Article 199 Initiation of criminal prosecution | 91 | x | **38 686 978** | 111 | x | 13 874 895 | 82 | x | 35 166 279 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | **1** | **1** | **85,950** | 0 | 0 | 85 950 | 0 | 0 | 0 |
| 3. | Article 206 Filing of charges | 13 | 75 | **144 182 829** | 17 | 20 | 750 267 | 12 | 22 | 1 405 627 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4. | Article 209 Termination of investigation and accelerated investigation with a motion to bring indictment | 7 | 7 | **104 265** | 11 | 20 | 3 925 422 | 12 | 45 | 18 383 879 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 2 | 15 673 691.77 |
| 5. | Article 215 Stay of Criminal Prosecution | 7 | 5 | **234 000** | 6 | 2 | 53 558 | 2 | 1 | 22 700 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6. | Article 228 par. 1, 2 Suspension of criminal prosecution | **32** | **9** | **4 863 397** | 45 | 16 | 5 562 890 | 47 | 15 | 1 604 438 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7. | Article 228 par. 5 Resumption of prosecution | **5** | **2** | **725 196** | 11 | 6 | 281 392 | 13 | 10 | 958 593 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8. | Articles 233, 234 Indictment |  |  |  |  |  |  |  |  |  | \* | 82 | 24 | 42 | - | 66 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 9. | Article 331 Guilt and sentence agreement |  |  |  |  |  |  |  |  |  | \* | 13 | 3 | 5 | - | 9 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 10. | Article 284 Judgment (final) |  |  |  |  |  |  |  |  |  | \* | 28 | 14 | 18 | - | 18 | - | 12 | 121 956 | - | 18 | 737 205 | - | 6 | 484 741 |  |  |  |  |  |  |  |  |  |

Source: FSJ statistical data from the units of PF MoI SR,GPO SR (Criminal Dtp. GPO SR + SPO GPO SR, MoJ SR, KÚFS

Table no. 8: Statistical data on AML offences pursuant to Articles 233 and 234 of the Code of Criminal Procedure and terorism and some forms of participation in terrorism under Article 419 Criminal Code

\* Criminal Dtp. GPO SR keeps statistical data for closed criminal prosecution of persons, from the said reason it is impossible to calculate number of things or cases for GPO SR.

2.2. Selected Cases of Addressing UTRs

„Player Accounts“

In 2017, FSJ received from an obliged entity Bank A and from an obliged entity Bank B, UTR reports related to UTRs on personal accounts of person X, person Y and person Z, particular recurring credit, mostly cash or non-cash payments credited in smaller amounts to those persons' accounts followed by cash withdrawals from those accounts held at Bank A and Bank B.

By analysing the data and information from both reports, it was found that the personal accounts of X, Y and Z were credited with financial cash, or cashless payments in amounts of tens of EUR with descriptions of payments that indicated that they were funds - fees for different kinds of financial winnings or winnings in kind made within the competition running on Facebook. Information from UTR reports on these payments, which were related to the competition, was also partly confirmed by information from the Facebook profile of the Police of the Slovak Republic, where the police warned the Facebook page of the competition, with a warning about fraud. As part of this competition, the winners interested in the prize – material prizes - made payments that were the prerequisite for obtaining the prize on accounts owned by X, Y, and Z, i.e. people who organized the competition, while the material prize was not delivered.

In addition, it was found out from the UTR reports that the funds on the accounts of person X, Y and Z came mostly from cash deposits from various persons as well as from non-cash payments from an account of a company operating running lotteries and other gambling games in the SR (hereinafter: the betting company).

The modus operandi of fraudulent eliciting of funds from participants in the contest was that after liking the website of the competition and sharing it, the participant could win various material prizes. After liking, the participant was called upon by the application Messenger to pay a handling fee or the payment of postal charges of up to 10,- EUR. If the participant had a mobile programme from the mobile operator M, he received a message via Messenger that he had a chance to win if he sends a message via Messenger to the account administrator. After sending such message, the participant received a reply about winning and the need to send a confirmation SMS to an abbreviated number 300 within five minutes. Payment from these confirmation SMS that were subject to payment were actually directed to the account of player accounts of the persons X, Y and Z kept by the betting company, of which, however, the participant was not aware. Thus, the player accounts for the persons X, Y and Z were funded.

If the person interested in a competition/winning did not have a mobile programme from the mobile operator M, he was informed via Messenger to pay a handling fee by bank transfer or cash deposit to accounts of persons X, Y and Z, from which the persons later withdrew cash. Persons X, Y and Z acted together and probably knew each other as mutual transfers of funds from the aforementioned competition were detected between their personal accounts and they had a permanent residence in one city in Slovakia.

In the analysis of the data from both reports, it was found that persons X, Y and Z in this way received funds of at least EUR 9,000. FSJ sent the information to the relevant LEA, which has started criminal prosecution in this matter for suspicion of a crime of fraud under Article 221 of the Criminal Act.

„False documents“

In June 2017, FSJ received a report on UTRs concerning the opening of several accounts at Bank A on the basis of the submission of false authorizations and personal identification documents, which were subsequently used by Bank A for several natural persons.

After analysing the reporting data of the UTR, FSJ found that Bank A had opened at least 8 personal accounts to various individuals, with part of the accounts being opened by a courier service without authorization and part by Bank A's employees who opened the account outside of Bank A's branch with a personal identification document. Immediately after the opening of these accounts, their holders asked the Bank A to provide a loan in the form of Internet banking, with loans totalling EUR 150,000. After the provision of loans for newly opened accounts, funds totalling EUR 130,000 were transferred from the accounts to one account, which was also created by Bank A's employees outside the Bank's branches. From the account, funds were gradually withdrawn at ATMs in the total amount of EUR 120,000. Bank A identified only after a lapse of time that the data on persona identification documents were not correct or certified by notary, powers of attorney were not certified by relevant notaries, which indicated a suspicion that probably it is cooperating group of unknown persons who under false identity in a fraudulent manner elicited funds from Bank A in a total amount of EUR 150,000,-. FSJ sent the information of the competent LEA and currently the case is being verified.

Eliciting Money

In November 2017, FSJ received a report from an obliged entity Bank A, which contained information about the cash deposit, which was carried out at Bank A by a senior citizen in the amount of EUR 6,000 per account belonging to person X kept at Bank A. After the deposit in question was deposited, the depositor returned to the bank and asked for the deposit to be cancelled because he was a victim of fraud. His statement showed that before the cash deposit he was contacted by a person who pretended to be his son in a telephone call, and who instructed him to send his money to the account as instructed. The person of higher age collected money in the amount of EUR 6,000 in his bank and deposited it into the account kept with Bank A for a person X.

An analysis of the bank account maintained with Bank A for person X revealed that immediately after the cash deposit, several minutes, several cash withdrawals were made by a payment card from an ATM located in the Czech Republic totalling EUR 4,000. The depositor contacted his son after making the deposit and found that he had been a victim of fraud.

After receiving this information from the injured person, Bank A took technical measures in the account kept for person X for the possible application of the institute of UTR postponement pursuant to Section 16 of the Act on Protection against Legalization. FSJ sent this information to the relevant LEA, which initiated a criminal prosecution for suspicion of a crime of fraud and subsequently the relevant prosecutor's office seized the funds of EUR 2,000 in the account kept with Bank A for person X.

„CEO fraud 1“

In February 2017, FSJ received a UTR from an obliged entity Bank A on unusual operations, i.e. two fraudulent payments from abroad, from France from a foreign trading entity X from two foreign accounts, of about EUR 320,000, - and about EUR 140,000. Both foreign payments in the total amount of approximately EUR 460,000 were credited on the same day to an account kept by Bank A for the S company. S is domiciled in the Czech Republic, and the statutory representative and also the holder of the account kept with the Bank A – was a French national (hereinafter: the representative of Company S). The foreign bank asked to return these funds back to the foreign account of the business entity who was the holder X due to fraud and also sent Bank A a criminal complaint, which was filed in France by the injured entity X.

By analysing the UTR report, it was found that both of the above foreign payments were made from foreign accounts in a manner known as CEO fraud, i.e. hacking of electronic business communication of the holder of foreign account, the entity X and the original paymentswere redirected to another account belonging to the company S.

By comparing the invoices sent electronically by the representative of S to Bank A to seize funds from S's account, it was found that the two invoices were characterized by a simple, untrustworthy layout that could have been made to document the Bank's two foreign payments. However, the supplier on both company S's invoices was not identical in the data about the recipient of the foreign payments stated in swift messages – it was only similar, which is one of the key features of CEO fraud. On the basis of these facts, Bank A assessed the situation as a manifestation of the will on the part of the representative of S to dispose of the funds in the account and carried out a postponement of UTR pursuant to Article 16 of the Act on Legalization.

Subsequently, FSJ comprehensively processed the information sent to LEAs, which, on the basis of this information, began prosecution for the offense of money laundering, and subsequently the Prosecutor's office seized a sum of EUR 450,000 in the Company S's account.

„CEO fraud 2“

In 2017, FSJ received from an obliged entity Bank A a report relating to a foreign payment of approximately EUR 1 400 000, which was transferred from a foreign account held in Chile to a company in a fraudulent manner to an account at Bank held for a Czech trading company X.

After crediting funds in the amount of approximately 1 400 000, - EUR to the account of the Czech company X, two non-cash urgent payments were made immediately from the account of 150 000, - EUR and 20 000, - EUR to a foreign country - to two accounts kept in a bank in Poland.

At the same time, Bank A received a first swift message from a foreign correspondent bank asking for a refund of about EUR 1 400 000 to the account of the Czech company X, in which a foreign bank from Chile reported that the Chilean company had become a victim of CEO fraud. *(In the case of so-called CEO fraud, the perpetrators of the fraud hack the account holder's electronic business correspondence and redirect the original payments entered in a different place, to another, prepared account for that purpose from which the fund are immediately transferred to other accounts or withdrawn cash.)*

Then, the Bank A took technical measures on the account of the Czech company X for the eventual realization of the institute of postponement of UTRE in accordance with Article 16 of the Act on Protection against Legalization for the purpose of preventing further handling of the account balance. The FSJ informed the partner FIU Poland immediately of the above two payments from CEO fraud in the total amount of 170 000, - EUR, made on two Polish accounts. Immediately after sending this information, both payments from Polish accounts were returned to the account of Czech company X at Bank A. FSJ subsequently processed and sent the LEAs comprehensive information. On the basis of the information sent, a criminal prosecution was initiated for suspicion of committing a crime of money laundering, and subsequently the relevant prosecutor's office seized the cash in the total amount of approximately EUR 1,400,000 in the account of the Czech company X.

„Auction“

In January 2017, FSJ received from an obliged entity Bank A a report on UTR concerning recurring cashless payments between business accounts of companies A and B, for which Bank A, as unusual, evaluated the recurring transfers between their business accounts.

Immediately after receiving a UTR report from Bank A, FSJ received a UTR report from the obliged entity Bank B on unusual business transactions conducted on the statutory representative’s account of the said Company B, for which Bank B assessed their combination with non-cash payments in Account 2 belonging to company B.

From open sources it was found that companies A and B participated in a voluntary auction, i.e. Company A as Auctioneer and Company B as submitter and Auction Participant. The auction involved lucrative real property. By analysing the data of the two UTR reports, it was found that the funds were repeatedly transferred several times between the A and B accounts mentioned above during one month, with payments always from the same amount of money between EUR 400 000 and EUR 500 000.- EUR and it was found that these transfers resulted in a turnover of a total of EUR 2 000 000, - EUR in the A account and EUR 2 000 000 in the B account, with payments directed from company A to B being declared always as a reimbursement of the "auction price" and payments directed from company B to A being declared always as "reimbursement of auction proceeds". Thus, in the account of company A fraudulently achieved a turnover of 2 000 000,- EUR and also the total amount of real property sold in auction.

From open sources it was found that the company B was at the same time a pledgee and auctioneer, while it was also the only bidder to auction the auctioned property. A pledge was made in favour of Company B, on the auctioned property. The value of the auctioned real estate was determined by an expert opinion to be EUR 4,000,000. Later, after the unsuccessful first round of the auction, the second round of the auction was announced, but the value of the auction object - the real estate was reduced to EUR 2,000,000, which is exactly 50% of the value from the auction.

The origin of the funds used in the described scheme, or their further financial flow could not be ascertained precisely in the initial analysis, since at the beginning and end of the repeated scheme were deposits or cash withdrawals made by the statutory of the company B.

In both cases of reported UTRs, the facts indicate that, in relation to the auction, the companies A and B may have manipulated it B for speculative acquisition of the property at a price that does not reflect its market value, and damage the owner of the property, since the property was pledged to the benefit of company B, probably with a value corresponding to the valuation. The information was sent to the competent police department, and the investigation has not yet been completed.

2.3. Prognosis of Further Development in the Field of Legalization and Terrorist Financing

By generalizing the cases reviewed in 2017, it can be stated that the methods of legalization are becoming more and more diverse and international, as evidenced by the increase of the so-called CEO fraud. Based on the experience of analytical work of individual reports on UTRs, as well as on recent knowledge and information, the following forms and methods of committing offenses can be anticipated in the future, the purpose of which is to generate as much proceeds (income) as possible:

* So-called CEO fraud - social engineering e-mail attacks that redirect payments by "hacking" business partners' e-mail communications to perpetrators accounts;
* Placing criminal proceeds outside the country where the primary offense is committed, in this context, there is a presumption of commission of various types of fraud, phishing, internet fraud, credit card fraud and payment terminal fraud,
* Internet fraud related to fraudulent sales of goods, especially vehicles and industrial equipment,
* Use of tax havens and offshore companies and the involvement of shell and fictitious companies in complex business schemes,
* Use of player accounts to create a legal title to prove the origin of funds,
* Fraudulent eliciting of funds from natural persons' accounts abroad and their legalization by purchasing virtual names, especially BITCOINS.

1. Control and Legislative 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 2017, 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 UTR dpt. and KPO dpt.). In the preparation of the plan of control activity, the results of the cooperation with the other supervisory bodies were 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.

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Table 9: Statistical data on the number of controls, number of penalties imposed, amount of penalties imposed and paid in 2015 - 2017

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Year | Number of controls | Method of control completion | | | Amount of sanctions in EUR |
| No sanction | Sanction | Not decided |
| 2015 | 16 | 3 | 13 | 0 | 37 800 |
| 2016 | 6 | 0 | 6 | 0 | 41 600 |
| 2017 | 5 | 0 | 0 | 5 | 0 |

Source: FSJ statistical data

Table no. 10: Statistical data on the number of controls at obliged entities, broken down by the scope of activity performed in 2015 - 2017

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | | | Number of controls | | | | | | | | |
| Obliged entity – scope of activity | | |  | | | | | | | | |
|  | | |  | | |  | | |
|  | | | 2015 | | | 2016 | | | 2017 | | |
|  | Corporation |  |  | 0 |  |  | 1 |  |  | 0 |  |
|  | Organizational and economic advisor, accountant |  |  | 2 |  |  | 1 |  |  | 1 |  |
|  | Asset management |  |  | 0 |  |  | 1 |  |  | 0 |  |
|  | Dealer in precious metals |  |  | 1 |  |  | 1 |  |  | 0 |  |
|  | Independent financial agent |  |  | 0 |  |  | 1 |  |  | 0 |  |
|  | Securities dealer |  |  | 0 |  |  | 0 |  |  | 1 |  |
|  | Exchange office |  |  | 0 |  |  | 0 |  |  | 1 |  |
|  | Trading in receivables |  |  | 0 |  |  | 0 |  |  | 1 |  |
|  | Financial lease, loans |  |  | 0 |  |  | 0 |  |  | 1 |  |
|  | Auction company |  |  | 1 |  |  | 1 |  |  | 0 |  |
| Total | |  | 16 | | | 6 | | | 5 | | |

Source: FSJ statistical data

The control activity of the FSJ identified similar violations of statutory provisions compared to the previous year 2016. 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 (Article 14 par. 2 of the AML Act), the failure to report a UTR (Article 17), failure to keep written record on transactions (Article 19), 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 2017, 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”), finished the process NRA in cooperation with the NBS and the World Bank at national level.

Within this process, FSJ, in cooperation with the NBS, LEAs, other interested state authorities, other institutions and obliged entities, carried out identification and assessment of threats and risks of the legalization and financing of terrorism, vulnerabilities, the impact of these threats on vulnerabilities.

In conclusion of this assessment process, there was a working meeting with representatives of the International Bank for Reconstruction and Development, which was attended by the entire KPO department, as in four represented working teams, police officers from the KP dpt. Were appointed as the Heads of working groups for the banking, insurance, securities and non-financial sectors. The result will be an NRA report and proposals for measures to mitigate identified risks in the form of action plans. Promoting a good policy for preventive measures to prevent money laundering and terrorist financing based on the NRA report with the gradual implementation of action plans in practice will be a priority in the next period.

With respect to the forthcoming amendment to the AML Act, the KPO dpt. in cooperation with the Security Legislation of the MoI evaluated comments resulting from the intra-departmental amendment procedure and procedures. Subsequently, they participated in the negotiations of the Economic and Social Council of the Government of the Slovak Republic, the Security Council of the Slovak Republic and the Legislative Council of the Government of the Slovak Republic. The KPO Dpt. organized several training and consultations of obliged entities, mainly auditors, tax advisors and trained the tax officers of the Financial Directorate of the SR who perform controls with gambling operators. Also, meetings with the Slovak Banking Association, the Slovak Insurance Association and the Central Securities Depository were held. The KPO Department conducted a training activity concerning the AML Act for students of the Secondary Vocational School of PF and the PF Academy in Bratislava.

The KPO Dpt. 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, the Ministry of Finance of the SR (hereinafter: MF SR) for the purpose of exchanging experience and information concerning inspections performed and the application of the AML Act. Within cooperation with obliged entities, the KPO Dpt. 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).

Under Article 29 par. 4 of the AML Act, the NBS is obliged to report to the FSJ the conduct of inspection with obliged entities and also the results of such controls that are subject to their supervision according to special regulations. In 2017, the NBS delivered 14 notices of planned inspections to the FSJ which were performed by employees of the Financial Market Supervision of the NBS and 3 notices of the results of individual supervision checks.

1. International Cooperation

All criminal activities are closely related to the issue of money laundering. Undoubtedly, this is one of the most dangerous negative phenomena of this time. The creativity of perpetrators has no limits and they are using more and more sophisticated and more developed methods to launder their illegal proceeds and put them back into circulation as part of the legal economy. As it is money legalized illegally at international level, money laundering and terrorist financing become a global problem. In particular, enhanced international law enforcement cooperation seems to be essential. A successful fight against crime can only be conducted if effective and rapid exchange of information is ensured. The contribution of FSJ International Cooperation (OMS) lies right in this area.

4.1. Forms of Cooperation

International cooperation is not limited only to specific cases of information exchange, but also includes a general exchange of experience, best practices and participation in international working groups and organizations. The FSJ cooperates with partner FIUs on the basis of Decision No. 2000/642/JHA of 17 October 2000 regulating cooperation in respect of exchanging information between FIUs of Member States. The exchange of information in a global context is regulated by national legislation based on the principles of the Egmont FIU information exchange. It is a platform for the safe exchange of financial knowledge expertise, primarily to combat money laundering and terrorist financing. FSJ has been a member of the Egmont Group FIU since 1997. This group is a global grouping of national FIUs and currently includes 155 FIUs.

4.2. Forms of International Cooperation

In practice, communication between in the Egmont Group partner FIUs takes place via secure encrypted network for information exchange, Egmont Secure Web (ESW), 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. In the field of international cooperation, FSJ belongs to relatively active FIUs mainly within EU countries, as shown in the table:

Table no. 11: Summary of selected activities performed by International Cooperation Department between 2015 and 2017

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 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 |
| 2015 | 166 | 288 | 390 | 126 |
| 2016 | 78 | 321 | 321 | 156 |
| **2017** | 89 | 265 | 654\* | 211 |

Source: OMS FSJ statistical data

\* „Number of pieces of information sent to foreign FIUs includes the number of the pieces of information sent, not only information received from UTR reports (e.g., additional information, information obtained from their own activity, etc.).“

Provided that requests from abroad meet the minimum requirements set out in the Egmont Group Information Exchange Principles (i.e. link with the country to which the request is addressed, sufficient grounds to suspect ML or TF, a full description of the case), FSJ may exchange available information with foreign partner units. They are the so-called "Fishing expeditions" which do not meet the minimum requirements specified above, and the FSJ will not process such requests. Subsequently, the exchanged

information can only be used for analytical purposes for further operations. Information may only be sent to LEAs from the TCS with the express consent of the transmitting FIU. If the information is useful and needs to be used as evidence in criminal proceedings, it is necessary to ask for them through international legal assistance.

At bilateral level, FSJ focused on collaborating on specific cases. In 2017, The countries that most frequently requested information from FSJ via the EWS communication network were Germany (7), Austria (6), the USA (5), Italy (5), Russia (5), and colleagues from Hungary, the Czech Republic, France, Poland or Italy mainly via the FIU.NET network. On the contrary, in 2017, FSJ sent its requests for information via the ESW communication network mainly to the USA (6) Russia (3) Switzerland (2), Turkey (2). Requests via the secured FIU.NET network were sent to Hungary, the Czech Republic, Germany and the Netherlands. According to available statistical data received from the FIU.NET Bureau concerning requests sent and requests received via the FIU.NET communication network, FSJ ranked 12th out of 28 in 2017.

Table no. 12: Summary of requests sent and received via FIU.NET between 2016 and 2017

|  |  |  |  |
| --- | --- | --- | --- |
| Year | Requests sent\* | Requests received\* | FSJ ranking |
| 2016 | 1,125 | 681 | 6th place |
| 2017 | 505 | 737 | 12th place |

Source: OMS FSJ statistical data

\* The figures represent the number of entities (natural and legal) that were subject to requests (send and received)

For a more efficient and faster exchange of relevant international information within the meaning of Art. 53 par. 1 4th AML Directive, a new functionally XBD (cross-border sending of information) was implemented in the FIU.net communication network. Under Art. 53 par. 1 4th AML Directive, FIUs are obliged, at their own initiative or on demand, to exchange any information that may be relevant for the purposes of processing or analyses of information by FIU with respect to AML and TF. Before the end of FIU.NET, a total of 853 XBB pieces of information was sent, with the Slovak Republic ranking first in 289 of such forms of information.

Based on the above stated, we may conclude from the above statistical data that the number of requests for information sent abroad or vice versa to the FSJ is still high, which may be explained by that the methods of legalization have become more diverse and international as well as more cross-sectoral, and therefor they require efficient and coordinate reaction not only at national but also international level. OMS brings added value to support the effective fight against these threats. The success of this fight is based primarily on mutual trust and effective cooperation between all the stakeholders. To further strengthen this goal, FSJ has concluded 8 Memoranda of Understanding since its establishment. These Memoranda of Understanding between two FIUs provide detailed provisions on specific issues and processes relevant to the implementation of an effective international exchange of information. In 2017, processes were initiated to conclude Memoranda of Understanding with the FIU Vatican and Israel.

4.3 Representation of FSJ in International Organizations

MONEYVAL was established in 1997 to support Member States in Europe in their fight against money laundering and terrorist financing and is regularly implements the so-called "process" of on-the-spot assessment visits. The aim of this process is to ensure that Member States' AML and CTF systems are effective and comply with relevant international standards in this field, such as FATF recommendations. In 2017, Representatives from OMS participated in the three plenary meeting of the Committee in Strasbourg; where two of them addressed the so-called follow-up assessment of the Slovak Republic to eliminate shortcomings identified during the 4th assessment visit of the Council of Europe Committee of Experts Moneyval, which took place in 2010.

In 2017, OMS representatives also participated in the regular meetings of the Expert Group on Anti-Money Laundering and Financing of Terrorism (EGMLTF) in Brussels, as well as at the FIU Platform discussions, which is an informal grouping of EU FIUs, founded in 2006 by the European Commission. The main purpose of the FIU Platform is to facilitate cooperation between the FIUs and provide advice and expertise to the Commission on issues related to FIUs.

Given the transnational form of money laundering, especially in our neighbouring countries, FSJ considers it important to develop cooperation with partner FIUs, especially in these neighbouring countries, and to supplement their own knowledge in the fight against money laundering and terrorist financing by the information and experience of its closest partners, as the immediate cooperation of the different stakeholders in this field and the prompt coordination of action is the basis for effective progress in this difficult effort. For this reason, regional workshops are organized annually to strengthen international cooperation for the neighbouring partner FIUs of Austria, the Czech Republic, Hungary, Poland and Slovakia, regularly attended by selected FIU representatives from the said countries. In 2017, the meeting was held based on an invitation by FIU Poland and the main topics of the meeting were presented by the participants: Use of FIUs in the fight against tax fraud, discussion on the establishment of the register of beneficial owners, central account register and new functionality of the FIU.NET network – cross-border sending of information (XBD).

On 13 December 2017, the Council of the EU and the European Parliament reached a political agreement on the Commission's proposal to amend the 4th AML Directive on the prevention of money laundering (the so-called 5th AML Directive), the final compromise text for which still needs to be formally approved by all three institutions. After the successful negotiation of this text during the Presidency of the Slovak Republic in the EU Council in 2016, as well as in the following year, OMS representatives provided supportive opinions on the final text, the so-called 5th AML Directive. This introduces a number of measures and provides new possibilities for national authorities to monitor and detect illegal financial flows more effectively and strengthen FIU international cooperation.

5 Cross-Border Reporting

The FSJ, as the only national competent authority, performs the tasks in the scope of the verification of the duty to report for the cash transport based on the Customs Code. Under this Act, a natural person entering the territory of the Slovak Republic from a third state (outside the EU) 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 deliver it at the crossing point at which he enter/exits from the Community and then the customs authorities must send the relevant notifications to the FSJ.

In 2017, within the fulfilment of tasks resulting from the provision of Article 4 par. 4 of the Customs Act, FSJ received from the Customs Directorate of the Slovak Republic a total of 152 cash declarations (declarations) in a total amount of 5 261 245.86 + 1 bond worth 14 975 000 000, - USD. In 16 cases, a block fine was imposed on non-compliance with the reporting obligation from the number of notifications received in the total amount of 1 671, - EUR (12 cases of seizure were reported from the branch of the customs office Bratislava M. R. Štefánika Airport and 4 seizures from the branch of the customs office Vyšné Nemecké). In 53 cases, cash transport was carried out by air, in other cases the EU land border between Slovakia and Ukraine was used.

Obliged persons, under the Customs Act, were in most cases citizens of Ukraine (102), Russian Federation (11) and Hungary (11), who entered our territory mainly via road border Uzhhorod - Vysne Nemecke (75), Mali Selmenci – Velke Semence (15) Maly Bereznyj - Ubla (7) and on arrival / departure to M.R. Stefanika Airport in Bratislava (49) or Kosice Airport (1).

The most common purpose of using the cash transported, which the obliged persons in most cases declared to be their own savings, was to purchase a motor vehicle (47), purchase of real property (26), deposit for bank account (23), doing business (19) and for personal use ( 24), while in most cases the SR was listed as a target country. In some cases, the SR was only a transit country and the obliged persons wanted to spend the money most in Germany, Czech Republic and Poland.

Information from received declarations after the verification was stored in the available information systems of the PF, including the FSJ information system, and open sources in the FSI KIS for further use (134), in 14 cases the spontaneous information was sent for further use to the relevant FIU and in 1 case the information from the declaration was sent to FD SR for possible use in tax procedures.

|  |  |  |
| --- | --- | --- |
| Year | Number of notifications received | Amount of funds transported in EUR |
| 2015 | 72 | 2 885 240.69 |
| 2016 | 124 | 4 016 396.51 |
| 2017 | 152 | 5 261 245.86 + 1 bond 14 975 000 000 $ |

Table no. 13: Summary of cash transport reports from/to the EU received by FSJ and amount of funds transported in 2015-2017

Source: AO FSJ statistical data

Graph no. 4 Amount of funds transported from/to the EU in 2015 – 2017

Source: AO FSJ statistical data

6. 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 2017.

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, based on their own needs, on the initiative of ministries and other central 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 Slovak Information Service.

In 2017, 3 meetings of the MISO LP were held, and these meetings were always convened with respect to activities and tasks that had to be implemented before the 5th round of the MONEYVAL assessment. The reason for the first meeting of the selected MISO (LP) members was the coordination of the tasks and activities before the 5th round of MONEYVAL. An overview of responsible departments for individual recommendations was approved, including an overview of departments for the preparation or materials for assessing the efficiency of implementation of 40 FATF Recommendations. A FATF working group’s report on TF detection was discussed on the meeting. The second and third meetings attended by the representatives of public bodies and institutions that will be subject to MONEYVAL assessment was focused on the provision of detailed information on the new technical assessment methodology compliance and evaluation of the effective implementation of 40 FATF Recommendations issued in 2012. In the Slovak Republic, the above facts will be evaluated by the MONEYVAL Committee within the 5th Round of mutual evaluation, the preliminary date of which was set for the third quarter of 2018. In 2017, one meeting of the MISO Subgroup members to deal with fraudulent truck traffic and one subgroup meeting to address the issue of terrorist financing and the financing of the proliferation of weapons of mass destruction, was held.

In 2017, the working groups continued to work in connection with the obligation to carry out the NRA, which results for the SR from 4th AML Directive and is an obligatory condition for Slovakia to enter the 5th round of MONEYVAL assessment. The established working groups consisted of representatives of the relevant departments of the Presidium of the Police Force, the Academy of PF in Bratislava, the GPO of the Slovak Republic, the Ministry of Finance of the Slovak Republic, the Financial Directorate of the SR, the Slovak Information Service and the Ministry of Defence of the SR. Within the process, FSJ in cooperation with the NBS, LEAs and other stakeholders, other institutions and obliged entities carried out identification and assessing the threats and risks of legalization and financing of terrorism, vulnerabilities, and the impacts of these threats on vulnerabilities.

CONTACT DATA

ADDRESS

Ministry of Interior of the Slovak Republic

Presidium of Police Force

National Criminal Agency

Financial Intelligence Unit

Pribinova 2

812 72 Bratislava

INTERNET

web: www.minv.sk/?financna-policia

E-mail: [sjfpsek@minv.sk](mailto:sjfpsek@minv.sk)

TELEPHONE/FAX

Tel.: 09610/51402

Fax: 09610/59047

CONTACT DATA FOR UTR REPORTING

Personally: Račianska 45, 832 02 Bratislava

By post: Finančná spravodajská jednotka, Pribinova 2, 812 72 Bratislava Electronically: [sifpnoo@minv.sk](mailto:sjfpnoo@minv.sk)

Telephone: 09610/51419

Fax: 09610/59047