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**Annual Report**

**Financial Intelligence Unit**

**2013**

**Submitter: Contains:**

**plk. Mgr. Ján Rapavý information concerning**

**Head FSJ activities and results**

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# Foreword

 By producing and publishing the annual report the Financial Intelligence Unit of National Criminal Agency of Presidium of Police Force performs its statutory tasks of § 27 art. 1 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. The specified act also determines the minimal standard of criteria the report should contain.

However the main purpose of the annual report isn´t only the fulfilment of legal duty but also the interests of Financial Intelligence Unit, at least once in a year, complexly evaluate the level of fulfilment of tasks in order to proceed especially in the area of combating money laundering and terrorist financing.

 The Financial Intelligence Unit results summarized in the annual report suggest the successful but also the less successful activities. At the same time we should consider and take into account that FSJ performs also tasks and activities without statistics duty. Mainly activities concerning the sustainment of the position of Financial Intelligence Unit, as the central unit in the framework of measures against money laundering and terrorist financing in Slovakia.

For all the success achieved in 2013, many thanks belong to all, who actively participated and cooperated with Financial Intelligence Unit in 2013.

# 1. What is FSJ and what is its legislative framework?

Financial Intelligence Unit of National Criminal Agency of Presidium of Police Force (hereinafter referred to as "FSJ") is part of a global network of Financial Intelligence Units, which main task is the application of international standards of Financial action Task Force (hereinafter referred to as „FATF“) in the area of combating money laundering and terrorist financing.

FSJ serves as a central national unit for the area of prevention, identification and detection of money laundering and terrorist financing as defined in the provisions of the 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.

FSJ consists of five departments:

* Unusual Transactions´ Department,
* Obliged Entities´ Control Department
* Property Check-up Department,
* International Cooperation Department,
* Analytical Department.

The legislative framework of FSJ is represented especially by the 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 (hereinafter referred to as “AML/CFT Law”), Act No.: 171/1998 Coll. Act on Police Force on Amendments and Supplements to Certain Acts (hereinafter referred to as “Act on Police Force”), Act No. 101/2010 Coll. on Proof of origin of the property (hereinafter referred to as “Law on Proof of origin of the property”), European Union legal acts (decision of the Council of the European Union No. 2006/960/SVV on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union, decision of the Council of the European Union No. 2007/845/JHA on Cooperation between Asset Recovery Offices of the Member States in the field of searching and identification of proceeds of criminal activity or other property related to criminal activity and international conventions) and agreements to which the Slovak Republic joined (especially Warsaw Convention, Vienna Convention and Palermo Convention).

# 2. Unusual transactions

To receive, register, analyse, evaluate and process reports of unusual transaction (hereinafter referred to as “UTR”) which obliged entities in the prescribed manner and in required scope to report to FSJ is the main task of FSJ. Reports are reported by obliged entities on the form of UTRs, which were in the past accepted by obliged entities upon the recommendation of FSJ. Thereafter the UTRs are analysed, evaluated and verified by FSJ so that in case of a reasonable suspicion of committing a criminal offence, FSJ forwarded the information from UTRs added with information acquired by own activities to the competent law enforcement authorities, tax administrators or to foreign Financial Intelligence Units (hereinafter referred to as “FIU”). Considering the above mentioned information is passed to the competent law enforcement authorities (hereinafter referred to as “LEAs”), competent units of the Police Force, defined by the Act on the Police Force matter, competent Financial administrator of Slovakia or to foreign FIU. In cases where within verification of report weren´t found out any facts that would be necessary to be forwarded to subjects determined in § 26 art. 2 AML/CFT Law, this information is inserted into an electronic database FSJ for its possible further use. In many cases, the information stored in the database of FSJ was used later within the verification of other cases.

 In 2013, FSJ received in total 3886 UTRs which could be in regard to character of obliged entity statistically divided into three groups. The first group contains reports of UTRs received from banks performing their activities in Slovakia (National Bank of Slovakia included), which were received in 2013 in total 3416. The second group consists of reports of UTRs received from other financial institutions which were received in 2013 in total 314 and the third group contains reports of UTRs received from non-financial institutions, which were received in 2013 in total 156.

Chart No.1: Number of UTRs received from banks in 2013

|  |
| --- |
| **BANKS** |
| **OBLIGED ENTITY** | **NUMBER** |
| The National Bank of Slovakia | 163 |
| Banks performing their activities in Slovakia | 3253 |
| **TOTAL** | **3416** |

Chart No.2: Number of UTRs received from other financial institution in 2013

|  |
| --- |
| **OTHER FINANCIAL INSTITUTION** |
| **OBLIGED ENTITY** | **NUMBER** |
| Securities Sealer | 2 |
| Investment Company / Administrator of investment funds | 41 |
| Insurance Company | 155 |
| Exchange office | 116 |
| **TOTAL** | **314** |

Chart No.3 Number of UTRs received from non-financial institution in 2013

|  |
| --- |
| **NON-FINANCIAL INSTITUTION** |
| **OBLIGED ENTITY** | **NUMBER** |
| Gambling games | 12 |
| Postal undertaking | 105 |
| Auditor | 3 |
| Real Estate Agency | 1 |
| Advocate, notary | 15 |
| Others | 20 |
| **TOTAL** | **156** |

Graph No.1 Dynamic development of received UTRs in 2009 – 2013

## 2.1 The postponement of unusual transaction

A significant power (in the justified cases quite frequently used), which AML/CFT Law admits to the FSJ is the juridical institute of postponement of UTRs (Section 16). This power is of great importance since it enables the possible subsequent seizure of funds derived from criminal activities for the purpose of criminal proceedings. The high efficiency of the subsequent securing of funds in criminal proceedings in relation to the use of that institute is based on the monitoring and investigation of financial transactions in near real time. Out of the total number of the received UTRs there were 72 postponed UTRs in a total value of 17,743,422,‑EUR in 2013.

Chart No. 4: Statistical data of postponed UTRs in 2013

|  |  |
| --- | --- |
| Total number of postponed UTR | 72 |
| Postponement of UTR by obliged entity | 71 |
| Postponement of UTR on request by FSJ | 1 |
| Postponed UTRs submitted to the competent local LEA | 45 |
| Total amount of postponed UTRs | 17.743.422,- EUR |

## 2. 2 Types of the recorded UTRs and typology

In the past period of time, which is documented in this annual report, these were the following forms of appearance and methods of legalization and terrorist financing recorded most commonly:

There were more cases reported to FSJ concerning the opening of current bank accounts for natural persons - non-entrepreneurs in banks seated in the Slovak Republic. By the subsequent verification by the bank it was found out that these were used for payments associated with business activities. Another variation of this form of appearance was the opening of current bank accounts for natural persons on the ground of stolen, counterfeit or forged identification documents presented to the banks. The described method of misuse of current bank accounts is also partly enabled by the bank where the contractual documentation for the contractual opening of bank accounts is delivered by delivery services to the client and the subsequent verification of identity depends on the employee of a delivery company and not on the bank.

In the period under review FSJ recorded the placement of funds by Hungarian citizens using bank accounts belonging to companies seated in an off-shore-zone but opened in banks in Slovakia with the subsequent wire transfers to other bank accounts also held in off-shore-areas, whereby the holders of disposal rights to these business bank accounts of legal entities are mostly foreign nationals (e.g. Poles, Czechs). This international element of disposal rights holders is apparently intentional, in order to restrain any documentation of suspicion of money laundering and in particular the process of providing necessary information to the checked transactions.

FSJ has recorded a growing number of UTRs related to investment in real estate, which are paid with funds deposited to bank accounts in cash, without the known origin of this cash.

From the previous period persists the use of the box and shell companies in complex commercial transactions, in order to obscure financial operations, movement of goods and services involving front men in the so-called carousel fraud, in order to claim VAT tax refunds.

There have been cases, in which the payments of large sums (millions of EUR) were fraudulently diverted under the business relationship of selected targeted groups of people and transferred to a prepared account opened in a bank in a country other than the one in which the basic business relationship was realized, whereby the payer and the participant of the business case was wrongly but in a sophisticated way informed on the change of the payment account of his business partner. Immediately after the transferred payment to the prepared account subsequent wire transfers of funds were realized and funds were finally transferred to bank accounts held in banks located in known off-shore-areas such as Hong Kong and China. From the reported cases it was found out that the persons, who in such a sophisticated way performed the mentioned transactions, were citizens of Hungary or Romania and the country of aggrieved persons was in most cases France.

In one case, the FSJ in cooperation with LEAs managed to secure the so transferred funds on „the bank account prepared in advance“ and in the second case after the targeted postponement of funds by FSJ on „the bank account prepared in advance“ - the account holder returned the funds, what prevented the placement of income from criminal activity on other bank accounts held abroad and the funds in question were returned to the injured party.

From the aforementioned forms of appearance of possible legalization of proceeds of criminal activities it can be concluded that they were mostly related to commitment of tax criminal offences and other crime with some signs of fraudulent action.

In the previous year 2013 the FSJ recorded a slight decrease in the number of UTRs related to phishing (50 fewer cases than in 2012) and internet fraud (23 fewer cases than in 2012). The most serious cases of internet fraud were committed by citizens of Romania, mostly living abroad, who have abused the trust of others. These cases of fraud were related to the pretended sale of goods, especially cars and various industrial equipment. The pretended sale was bound to the prepayment of a deposit or the full purchase price prior to an account held abroad, whereby there was no delivery of goods by the seller.

Chart No. 5: Statistical summary on types of recorded UTRs in 2013

|  |  |  |
| --- | --- | --- |
| **TYPE OF RECORDED UTRs** | **NUMBER** | **VALUE (EUR)** |
| Wire transfers | 2098 | 683.341.211 |
| Cash transactions | 2519 | 456.263.276 |
| Foreign wire transfers | 1239 | 620.340.601 |
| Transactions realized by subjects registered in off-shore zone | 104 | 78.110.717 |
| Phishing, Pharming | 90 | 10.825.162 |
| Internet fraud | 31 | 2.790.937 |
| Hazard | 11 | 1.255.705 |

## 2.3 Efficiency of UTRs

FSJ keeps detailed statistics on the number of received UTRs, on the method of their processing, on the number of UTRs submitted to the competent LEAs or to the tax administrator for a calendar year, on the number of criminally prosecuted persons as well as on the number of persons lawfully convicted of money laundering. FSJ also collects data on the value of secured property, seized or forfeited assets.

After rigorous analysis, taking into account the responsibilities of the various actors and relevance of information received from obliged entities, out of the total number of the received UTRs in 2013 FSJ submitted relevant information to the following competent authorities, units or partners:

|  |  |
| --- | --- |
|  | Number of information |
| * to competent LEAs
 | 266 |
| * to competent departments / units of the National Criminal Agency
 | 540 |
| * to Financial Directorate of the Slovak Republic
 | 1636 |
| * to Obliged Entities´ Control Department of FSJ Slovakia
 | 3 |
| * to relevant foreign FIUs
 | 297 |
| * to Department for Combating Terrorism
 | 80 |
| * to Regional and District Headquarters of Police Force
 | 321 |
| * to electronic database of FSJ Slovakia for its possible further use
 | 1483 |

The following chart provides a comprehensive overview of the procedures and decision-making activities of police officers as well as of information submitted within the purview of the Criminal Procedure Code.

Chart No. 6: Further steps of LEAs after the information was submitted pursuant to Section 26 (2) (b) of AML/CTF Act in 2013

|  |  |
| --- | --- |
| **Procedures / further steps of LEAs**  | **NUMBER**  |
| Commencement of criminal proceeding, Section 199 of Code of Criminal Procedure | 26 |
| Commencement of criminal proceeding for Legalization of the Proceeds of Crime pursuant to Section 233, Section 234 of Criminal Code | 6 |
| Commencement of criminal proceeding for different crime | 22 |
| Indictments pursuant to Section 206 of Code of Criminal Procedure | 1 |
| Indictments for Legalization of the Proceeds of Crime pursuant to Section 233, Section 234 of Criminal Code | 0 |
| Indictments for Credit Fraud pursuant to Section 221 of Criminal Code | 2 |
| Case reference number: ORP-425/3-VYS-TT-2013accusation against 1 person |
| Case reference number: ORP-756/OEK-PO-2013accusation against 2 persons |
| Dismiss of commencement of criminal proceeding pursuant to Section 197 (1) (d) of Code of Criminal Procedure | 8 |
| Seizure of the funds pursuant to Section 95 of Code of Criminal Procedure | 7 |
| Total amount of the seized funds | 5.691.638,- EUR |

In order to remove the deficiency constituted in the absence of a coherent and unified statistical output for all the public authorities related to the number of cases of legalization of proceeds of criminal activity and terrorist financing committed by the identified, subsequently criminally prosecuted, indicted and convicted persons, which was criticized by the Committee of the Council of Europe MONEYVAL in the Report of the 4th assessment visit of the Slovak Republic, the FSJ processed the statistics into a coherent output (see the chart No. 8) provided by services of Police Force, Criminal Authority of the Financial Administration of the Slovak Republic, the General Prosecutor's Office of the Slovak Republic and by the Ministry of Justice of the Slovak Republic regarding the number of clarified cases of legalization of proceeds of criminal activity and the number of persons criminally prosecuted, charged and then finally sentenced for these criminal offences in 2013. Depending on the nature of the statistics provided by the Prosecutor General's Office of the Slovak Republic and the Ministry of Justice of the Slovak Republic it will be essential to synchronize these outcomes with the statistical data collected by the other police departments and in the next period to record and keep also the number of the individual realized cases.

From a statistical overview recording the punishment of the crime of legalization of proceeds of criminal activity it is clear, that compared to 2012, in 2013 occurred a decrease in the number of suggestions for criminal prosecution by criminal police officers of 18 cases and the number of decisions to initiate criminal prosecution of 36 cases. In other indicators monitored, an increase was recorded compared to 2012. There was an increase in the number of accused persons (of 20 persons) and persons with whom the prosecutor has concluded an agreement on guilt and punishment (of 2 persons). For the criminal offence of legalization of proceeds of criminal activity under Section 233 of the Criminal Code in 2013 were finally sentenced 12 persons (one person more than it did in the previous year). There was not a single case of terrorist financing identified in 2013.

For an overview of the scope of application of selected securing institutes of the Code of Criminal Procedure in criminal proceedings in 2013 for all the criminal offences and separately for the criminal offences of legalization of proceeds of criminal activity a statistical summary was elaborated in the chart No. 7. The statistical indicators provided by all the above mentioned entities served as a basis for the creation of this chart.

Through the comparison of statistical overview of the application of the securing institutes in respect of all the criminal offences in 2013 there was an increase recorded in almost all the surveyed institutes, in the number of cases, as well as in the value of seized property, assets and funds. A decrease was recorded in the procedure according to Section 89 of the Code of Criminal Procedure (Duty to Surrender a Thing), pursuant to Section 91 of the Code of Criminal Procedure (Withdrawal of a Thing), pursuant to Section 92 of the Code of Criminal Procedure (Taking over of a Seized Thing) and pursuant to Section 96 of the Code of Criminal Procedure (Suspension of the Right to Dispose of Registered Securities).

From the chart No. 7 it can also be concluded that the ratio of securing institutes of the Code of Criminal Procedure used while uncovering the realization of criminal offences of legalization of proceeds of criminal activity in the overall application of these institutes within the criminal proceedings for all the criminal offences mentioned in a select part of the Criminal Code is minimal.

Chart No. 7: Comparison of statistical data on selected regulations of Code of Criminal Procedure in criminal proceedings in the year 2013 between all criminal offences and criminal offences commenced for Legalization of the Proceeds of Crime under Section 233 and 234 of Criminal Code.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Regulations**  | **All criminal offences** | **Section 233 and 234 of Criminal Code** |
| **Number of cases** | **Total value in EUR** | **Number of cases** | **Total value in EUR** |
| 1. | Section 89 - Duty to Surrender a Thing, Section 91 - Withdrawal of a Thing, Section 92 - Taking over of a Seized Thing | 7.782 | 9.181.789 | 249 | 2.066.638 |
| 4. | Section 95 - Placing the Account on Hold | 143 | 6.220.255 | 12 | 5.827.726 |
| 5. | Section 96 - Suspension of the Right to Dispose of Registered Securities | 1 | 150 | - | - |
| 6. | Section 97 - Restituting the Thing | 4.072 | 4.933.857 | 64 | 576.290 |
| 7. | Section 550 - Surrender of Things (International Rogatory Letter)  | 42 | 2.690.397 | - | - |
| 8. | Section 551 - Seizure of Property (International Rogatory Letter)  | 48 | 135.379 | - | - |

Chart No. 8: Statistical data on criminal offences of Legalization of the Proceeds of Crime under Section 233 and 234 of Criminal Code.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Regulations of Code of Criminal Procedure** | **Ministry of Interior of the Slovak republic** | **General Prosecutor´s Office** | **Ministry of Justice of the Slovak republic** |
| **year 2012** | **year 2013** | **year 2012** | **year 2013** | **year 2012** | **year 2013** |
| **Number of cases** | **Number of persons** | **Extent of damage in EUR** | **Number of cases** | **Number of persons** | **Extent of damage in EUR** | **Number of cases** | **Number of persons** | **Number of cases** | **Number of persons** | **Number of cases** | **Number of persons** | **Extent of damage in EUR** | **Number of cases** | **Number of persons** | **Extent of damage in EUR** |
| 1. | Inducement for criminal prosecution | **83** | **61** | **2.096.290** | **65** | **48** | **6.054.246** | - | - | - | - | - | - | - | - | - | - |
| 2. | Section 199 Commencement of criminal prosecution | **133** | **-** | **27.152.664** | **97** | **-** | **11.538.015** | - | - | - | - | - | - | - | - | - | - |
| 3. | Section 206 File charges | **18** | **33** | **6.574.252** | **35** | **35** | **816.656** | - | - | - | - | - | - | - | - | - | - |
| 4. | Section 209 Completion of investigation and of summary investigation with the proposal to charge | **7** | **9** | **171.259** | **17** | **32** | **3.047.526** | - | - | - | - | - | - | - | - | - | - |
| 5. | Section 215 Stay of criminal prosecution | **4** | **2** | **110.770** | **8** | **2** | **26.604** | - | - | - | - | - | - | - | - | - | - |
| 6. | Section 228 paragraph 5 Resumption of criminal prosecution | **27** | **6** | **546.114** | **47** | **11** | **914.594** | - | - | - | - | - | - | - | - | - | - |
| 7. | Section 228 paragraph 5 Resumption of criminal prosecution  | **5** | **3** | **68.650** | **21** | **5** | **-** | - | - | - | - | - | - | - | - | - | - |
| 8. | Section 234 Indictment  | Section 331 Agreement on guilt and punishment | - | - | - | - | - |  | **-** | **15** | **6** | - | **35** | **8** | - | - |  | - | - | - |
| 9. | Section 284 Final judgement | - | - | - | - | - | - | - | - | - | - | **11** | **11** | **352.685** | **-** | **12** | **41.895** |

# 3. Control activity

Consistent compliance to obligations of obliged entities stipulated by AML/CFT Law is indubitably a huge contribution to the prevention of legalization of proceeds of criminal activity and terrorist financing and therefor it is essential to oversee the compliance to obligations determined by the a.m. Act.

According to Section 32 and 33 of AML/CFT Law, the oversight of compliance to obligations of obliged entities laid down by Section 5 of this Act, as well as administrative procedure shall be performed by FSJ. Control activity is realized particularly on the basis of an annual plan of controls on the ground of information obtained from other authorities of the police force and on the basis of an analysis. A significant source for compilation of the annual plan of controls is the analysis of data obtained within the reporting duty and from the outcome of previous controls.

In the year 2013 the controls of the obliged entities were aimed at compliance to obligations of obliged entities stipulated by AML/CFT Law.

* Section 20 – preparation and update of its own program aimed at the prevention of legalization and terrorist financing,
* Section 10 - 12 – performing customer due diligence,
* Section 14 - 18 – procedure to be followed after detecting, evaluating, refusal of establishment of a business relationship, postponement and reporting of unusual transactions,
* breach of the obligations stipulated by AML/CFT Law found out during the controls of the obliged persons.

During the monitored period FSJ performed 14 controls. For the results of these controls see the chart below. In column „paid-up in EUR“ the sum in amount of 82.200,- EUR includes fines for detected administrative offences in the years 2012 and 2013. Two controls were completed with initiative to revoke a license for the conduct of business activity according to Section 34 of AML/CFT Law.

Chart No. 9 Statistical data on way of completion of controls performed in 2013 (one sanction was imposed in the year 2013 for an administrative offence detected by a control in 2012.)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Year | Number of controls | Way of completion | Amount of sanction in EUR | Paid-up in EUR |
| Without sanctions | Sanction | Not completed |
| 2013 | 14 | 4 | 3 | 8 | 23.500 | 82.200 |

The most frequent control findings that were ascertained during the performance of the controls of compliance to obligations of the obliged entities were the following: non-actual program of own activity, shortcomings in customer due diligence and shortcomings in UTRs.

Chart No. 10: Statistical data on the control findings of obliged entities for the year 2013 divided according to their subject of business.

|  |  |  |
| --- | --- | --- |
| **Obliged entity** | **Number of controls** |  **Control findings**  |
| Exchange office | 1 | * non-actual program of own activity
* break of obligations within appraisal of transactions
* shortcomings in customer due diligence
 |
| Leasing | 1 | * no program
* incomplete program
 |
| Providing of loans | 3 | * incomplete program
* break of obligations within appraisal of transactions
 |
| Advisor of organizational and economic services | 1 | * no program
* incomplete program
* withhold of documents
 |
| Non-profit organization | 1 | * no shortcomings
 |
| Trader in precious metal | 1 | * incomplete program
 |
| Insurance company | 1 | * incomplete program
* shortcomings in customer due diligence
* break of obligations within appraisal of transactions
* shortcomings in UTRs
 |
| Courier services | 1 | * no shortcomings
 |
| Bank | 4 | * incomplete program
* shortcomings in customer due diligence
* break of obligations within appraisal of transactions
* shortcomings in UTRs
 |
| **Summary:** | **14** |  |

The performed analysis of the control findings indicates an evident insufficient level of legal knowledge of obliged entities except for most of the providers of loans. Therefor the controls are aimed not only at detection of shortcomings of compliance to obligations of obliged entities stipulated by AML/CFT Law, but also at guidance of obliged entities by application of AML/CFT Law and at searching for optimal solutions for the detected shortcomings especially in relation to program of own activity, customer due diligence and consideration of transactions according to AML/CFT Law.

Within cooperation with obliged entities FSJ provides regulations and viewpoints on particular application problems through the website of FSJ and also directly by sending them in written form straight to the requesting entity. The highest amount of requests for viewpoints on interpretation of the AML/CFT Law application in the reviewed period was sent from advocates and National bank of Slovakia in connection with licensing the payment institutions.

In purpose of the elimination of differences in the application of the AML/CFT Law, FSJ organized in 2013 two training courses at the Slovak bank association. FSJ plans to intensify these edifying activities in the following period.

# 4. International cooperation

Exchange of information on an international level is the essential part of successful fight against legalization of proceeds from crime and terrorist financing. Within FSJ this area is covered by the staff of International Cooperation Department whose aim is to constantly consolidate and develop international cooperation between FIUs from and around the world.

Communication with foreign FIUs is carried out through the encrypted electronic security network ESW (Egmont Secure Web) created for this purpose by the international organization Egmont Group and through FIU.NET network.

At the level of FIUs associated in the EGMONT GROUP, from the total number of 139 member states, FSJ in the reviewed period carried out cooperation mainly with the FIUs of the Czech Republic, Hungary, Italy, Russian Federation and Ukraine. From the total number of 26 member states of the FIU.NET, the most frequent cooperation was carried out with the partnership FIUs of Hungary, Austria, Germany, Netherlands, Latvia, Lithuania and Poland.

In the process of information exchange during 2013, FSJ sent 250 requests for information to foreign FIUs. FSJ processed 258 requests submitted by foreign FIUs. FSJ received 78 spontaneous information and 293 spontaneous information were sent by FSJ to foreign FIUs. *(Spontaneous information is information which is, from the point of view of FSJ, usable within activities of a foreign FIU.)*

Chart No. 11: Summary of selected activities performed by the International Cooperation Department between 2010 – 2013

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **NUMBER OF REQUESTS SENT TO FOREIGN FIUs** | **NUMBER OF REQUESTS SUBMITTED BY FOREIGN FIUs** | **NUMBER OF SPONTANEOUS INFORMATION SENT TO FOREIGN FIUs** | **NUMBER OF INFORMATION REGARDING SLOVAK SUBJECTS SUBMITTED BY FOREIGN FIUs** |
| **2012** | 436 | 147 | 363 | 93 |
| **2013** | 250 | 258 | 293 | 78 |

Following the above mentioned statistical data it can be said that FSJ is very active in the area of international cooperation of FIUs which actively participate in developing international cooperation in the field of AML/CFT.

During the reviewed period, FSJ cooperated most frequently with FIUs of Hungary, Czech Republic, Austria, Poland, Germany and Netherlands (see graphs no. 2, 3 and 4).

Graph No. 2: Graphic representation of countries which sent request for information in 2013 to FSJ most frequently

Graph No. 3: Graphic representation of countries to which FSJ sent requests for information in 2013 most frequently

Graph No. 4: Graphic representation of countries to which FSJ sent spontaneous information in 2013 most often

Cooperation with the Property Check-up Department in the execution of tasks of the FSJ Slovakia resulting from the decision of the Council of the European Union No. 2007/845/JHA from 06.12.2007 on Cooperation between Asset Recovery Offices of the Member States in the field of searching and identification of proceeds of criminal activity or other property related to criminal activity is also significant when assessing the activities in 2013.

The main activities of FSJ on an international level consisted of participating in activities of the working groups and committees of the European Union, Council etc., mainly:

* Committee for the Prevention of Money Laundering and Terrorist Financing which is one of the subcommittees of the European Committee, DG Internal Market and Services;
* FIU Platform which brings together FIUs of the Member States and is one of the subcommittees of the European Committee, DG Justice, Freedom and Security;
* Meeting of the parties of Council of Europe Convention No198/2005 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism;
* Committee of Experts of the Council of Europe on the Evaluation of Anti-Money Laundering Measures and Financing of Terrorism – MONEYVAL.

The most important event was the 42nd plenary meeting of Committee of Experts of the Council of Europe MONEYVAL at which the temporary consecutive evaluation report on the progress achieved by Slovak Republic since the evaluation visit of foreign experts in 2010 was discussed. The report reflected the accordance of AML/CFT measures with the 40 Recommendations and 9 Special Recommendations of the Financial Action Task Force (hereinafter referred to as “FATF”). With the report, in the section of scope of the FSJ and the law enforcement authorities the MONEYVAL Secretariat observed a significant progress.

Participating in the 21st plenary meeting of the international group Egmont Group in the Republic of South Africa in June 2013 was also a very important event for FSJ Slovakia. The meeting was attended by representatives of FIUs from around the world and also of other international organizations – Council of Europe, UN, Interpol, Europol, FATF, IMF, World Bank and others. Such an activity represents the only opportunity where representatives of FIUs from the entire world can meet and discuss common issues. During the plenary meeting, agreement between Slovak Republic and Russian Federation on Cooperation in the Field of Fight against Legalization (Laundering) of Proceeds from Crime and Financing of Terrorism was signed which was preceded by difficult bilateral process. The agreement is focused mainly on the area of exchange of information in order to collect, process and analyze information related to money transactions and other assets where a suspicion of legalization of proceeds from crime, financing of terrorism and related predicate offences exists.

Within the framework of creating high-quality cooperation with neighboring countries it is important to stress the 4th regional working meeting of neighboring Central European countries (Czech Republic, Hungary, Poland, and Austria) was successfully organized by FSJ Slovakia. The core topic of the meeting was “Committing of criminal offences of legalization of proceeds from crime by organized groups”.

**5. Financial and property verification**

The execution of tasks in the area of financial and property verification is entrusted to the Property Check-up Department.

**5.1. Identification of incomes and property derived from criminal activity**

**(financial verification)**

Following the decision of the Council of the European Union No. 2007/845/JHA, the FSJ Slovakia fulfills the role of the national Asset Recovery Office (hereinafter referred to as “ARO”) since October 2008. The task of national AROs is the detection and identification of proceeds from crime and other property related to crime which may be in the course of criminal proceedings frozen, seized or confiscated by order of the competent judicial authority.

Cooperation and exchange of information between national AROs is effected on the basis of the procedures and deadlines set out in the Framework Decision of the Council of the European Union No. 2006/960/JHA using secured electronic networks and channel highly protected from information leak – SIENA, possibly through email communication through the address sjfpopm@minv.sk. The mutual cooperation with third countries is carried out through an informal global network of professionals and experts in the field of cross-border identification, freezing, seizure and confiscation of proceeds from crime and other crime related property ‑ Camden Assets Recovery Inter-Agency Network (hereinafter referred to as “CARIN”).

In 2013 the Property Check-up Department received together 27 requests for a complete property profile sent by various police departments in Slovakia, international cooperation was used in five cases with partner AROs, but also with CARIN. For the evaluated period the Property Check-up Department received 48 requests for information from foreign AROs.

From the year 2012 remained in examination 20 requests (7 requests from Slovak police departments and 13 requests from abroad). The police officers of the Property Check-up Department received together 95 requests for the valuated period. The mentioned police officers sent 28 complete property profiles to police departments in Slovakia and 52 replies to requests from foreign partners. To the date 31.12.2013 remained in examination 15 requests (6 requests from Slovak police departments and 9 requests from abroad).

Chart No. 12: Number of property profiles elaborated by the Property Check-up Department in 2011 – 2013

|  |  |  |  |
| --- | --- | --- | --- |
| **YEAR** | **REQUESTS FROM SLOVAK POLICE DEPARTMENTS**  | **REQUESTS FROM FOREIGN POLICE DEPARTMENTS** | **REQUESTS FOR LEGAL ASSISTANCE SENT BY THE GENERAL PROSECUTOR´S OFFICE OF THE SLOVAK REPUBLIC** |
| **2011** | 20 | 32 | 1 |
| **2012** | 19 | 21 | 0 |
| **2013** | 27 | 48 | 0 |

In the year 2013 FSJ carried out the most intense cooperation with the National Unit of Financial Police, National Anti-Corruption Unit and National Anti-Crime Unit. With regard to the international cooperation the most intense was the mutual cooperation with the ARO of the Czech Republic and with the ARO of the Hungary.

**5.2 Proof of Origin of Property (property verification)**

According to the internal Act on the management of FSJ the Property Check-up Department acts as a coordinator and methodical authority, a reviewer of incomes, property value and the method of acquiring property (hereinafter referred to as „the Proof of Origin of the Property”), in accordance with the Act No. 101/2010 Coll., which regulates the conditions and procedures of public authorities within the confiscation of immovable property as well as movable assets, flats and non-housing premises, other property rights and other property values, cash in EUR and foreign currency, deposits in banks and branches of foreign banks in EUR and foreign currency and deposits in banks located abroad belonging to natural persons and legal entities, about which the court declared in proceedings under this Act that they have been acquired as property from proceeds from crime.

In 2013 FSJ received 11 notifications from natural persons, 1 notification from a public authority. On its own initiative, the proceedings were initiated in 11 cases and 1 proceeding was initiated by exclusion to an independent proceeding. From the year 2012 52 cases remained in review, 1 proceeding was reopened on the basis of the stimulus returned by a prosecutor. It follows that, in 2013 the examination the origin of property in accordance with the Act No. 101/2010 Coll. was executed in 76 cases. Of these, 43 cases were closed. Five suggestions were submitted to the prosecutor, in whose jurisdiction is the competent court for proceeding (of which 2 stimulus were returned by prosecutor to supplement and remained at the stage of verification) in order to initiate proceedings and to declare that the property of an entity was at least 1500 times the minimum wage higher than verifiable incomes (for 2013 this was 1500-fold by setting a minimum wage of 506 550 EUR). Totally in 32 cases, the property was found out to be lower than 1500-fold of the minimum wage (from which in 1 case was stimulus repeatedly returned by prosecutor and during that period the examined person „divested itself of property“) and 8 notifications did not meet the mandatory requirements of the Act No. 101/2010 Coll.. Other 33 cases have remained at the stage of verification.

Graph No. 5: Graphical representation of cases on Proof of Origin of Property in 2013

**6. Analytical activity**

The Analytical Department of FSJ was established on 01.04.2009 in order to ensure the fulfilment of the obligations of FSJ primarily defined in § 27 of AML/CFT Law, especially to keep summary of statistical data covering the number of unusual transaction reports received, the particular ways of processing unusual transaction reports and their number including the number of cases submitted to law enforcement authorities or tax administrators for a calendar year and the number of persons prosecuted, the number of persons convicted of legalization of proceeds from criminal activity and the value of seized property, confiscated property or forfeited property.

The Analytical Department within the needs of obliged entities, which report the unusual transactions to FSJ, is responsible for submitting statistical information on the effectiveness of unusual transaction reports so that the obliged entities have a particular view of their individual reports and their subsequent utilization.

To the additional tasks of the Analytical Department belongs the proposing of modifications and changes of the relevant legislation and related internal management acts, managing the registration, monitoring, implementation and evaluation of tasks resulting for FSJ Slovakia from resolutions of the Government of the Slovak Republic, the annual plan of the Presidium of Police Force, as well as from other documents. The Analytical Department in cooperation with other departments of FSJ disseminates also information on the forms and methods of legalization of proceeds from criminal activity and terrorist financing and on the methods of recognition of unusual transactions.

**6.1 Currency Transportation (Cross-border reporting)**

The control system of cross-border transportation of currency to and from countries which are not members of the European Union is governed by regulation (EC) No 1889/2005 of the European Parliament and of the Council on controls of cash entering or leaving the Community, by the Act No. 199/2004 Coll. on customs law and on amendment and supplement to certain acts as amended (hereinafter referred to as„Customs Act”) and by the of Act No. 652/2004 Coll. on the authorities of the state customs administration and on amendment and supplement to certain acts as amended.

In 2013 FSJ received, pursuant to § 4 (4) of the Customs Act, 58 reports on transportation of currency in a total amount of 1.942.132,56 EUR from the Customs Directorate of the Slovak Republic. The reports on transportation of currency, which were submitted by obliged entities on the form, were received from the road border crossing-point Vyšné Nemecké (in 1 case from the road border crossing-point Ubľa) – in all cases, it was the entry of currency in cash into the territory of the Slovak Republic from a third state, mainly from Ukraine, in 1 case from Kazakhstan and from the Russian Federation. FSJ received the reports on transportation of currency, entering or leaving the territory of the Slovak Republic through air transport, altogether 13 reports from the M. R. Štefánik Airport in Bratislava and 1 report from the Airport in Zvolen and from the Airport in Košice. Whereby in 11 cases the import of currency in cash was recorded (7x Ukrainian citizens and 4x Russian Federation citizens) and in 4 cases Slovak citizens exported the currency in cash from the territory of the Slovak Republic (it was always to supplement the permanent advances for ISAF-Afghanistan and SLOVCON-Cyprus).

Chart No. 13: Comparison of the total numbers of currency transportation reports received by FSJ and comparison of volumes of the currency transported from/to EU in 2009 – 2013

|  |  |  |
| --- | --- | --- |
| **YEAR** | **NUMBER OF THE RECEIVED REPORTS** | **VOLUME OF THE TRANSPORTED CURRENCY****IN EUR** |
| **2009** | 5 | 125.400 |
| **2010** | 36 | 1.241.178 |
| **2011** | 66 | 312.637 |
| **2012** | 63 | 1.649.419,38 |
| **2013** | 58 | 1.942.132,56 |

Graph No. 6: Volume of the currency transported from/to European Union reported to FSJ in 2009 – 2013

The most commonly stated purpose of use of the transported currency in cash was the purchase of motor vehicles in the Slovak Republic, in Germany, in Poland, in Austria, in Italy and in Hungary, but also deposits to bank accounts conducted in the Slovak Republic, or for the personal use, in some cases, the purpose of use has not been given.

Lately FSJ recorded an increase in cases of transportation of currency for the purpose of purchase of real estate in the Slovak Republic (13 cases). In 1 case, a Slovak citizen transported by air from Switzerland 50 gold coins.

FSJ received 1 notification from the Financial directorate of the Slovak Republic, division of taxes and customs, forwarded from the Financial (customs) office in Dublin, concerning the seizure of cash in amount of 20.000 EUR from a Slovak citizen who failed to meet the notification obligation arising from the regulation (EC) No 1889/2005 on controls of cash entering or leaving the Community. FSJ also received 1 notification forwarded from the Customs office in Innsbruck concerning the seizure of documents that pointed to banking transactions realised by a Slovak citizen. After the verification in both cases the information was evaluated and inserted into the database for further utilization.

Information from the received reports on transportation of currency were after examination via the available information systems of the police force, including the information system of FSJ and examination in open sources were subsequently inserted into the internal database of FSJ for further utilization (in number 52 cases), in 3 cases was the information spontaneously forwarded to FIU Ukraine and in 3 cases to FIU Russia.

**7. Prognosis for the future in the area of legalisation of proceeds from crime and terrorist financing**

* Misuse of the institute of payment institutions, particularly its subordinate organizational units and intermediaries providing its services, establishment of such units for purposes of concealment of the financial flows and legalisation.
* Expansion of foreign payment institutions on the territory of the Slovak Republic for purpose of the creation of own payment systems controlled by them.
* Creation of dedicated companies and profiling of experts performing concealment and placement of proceeds derived from criminal activities and legalisation of such proceeds per order.
* Investments of subjects performing criminal activities, mainly in the area of real estate, securities, high value goods and acquisition of business shares.
* Higher level of organization and flexibility of offenders at the international level within placement of proceeds derived from internet frauds and phishing. In the cases of organized crime groups, often there are national minority communities, with real assumption related to the mutual cooperation of the several respective groups with different nationality.
* Increase in the level of organization of offenders of motor vehicles thefts, modification of the identification marks of motor vehicles and consequently their legalisation through false documents in the third countries.
* Expansion of the usage of domestic and foreign bank accounts for on-line gambling.
* Endeavours to expand high-level gambling in the territory of the Slovak Republic.
* Progressive transfer of the executive of human trafficking, drug smuggling, weapon trafficking and trafficking of stolen motor vehicles from natural persons to legal entities in an effort to implement proceeds from the respective criminal activities to the legal business environment, as well as an endeavour to smoothen the realization of monetary transactions.
* Progressive, as well as unconscious integration of the non-financial sector in the process of legalisation, particularly notaries, lawyers, auditors and real estate agents.
* Exploitation of and active implementation of tax advisors, accountants in the phase of placement, conversion and integration of proceed from crime into the legal economy via bank accounts, or via bank accounts of prepared legal entities.
* Enhancing the number of established non-profit organizations, non-investment funds and foundations together with the enhanced number of foreign financial transactions performed through these organizations.
* Placement of proceeds from criminal activities on life insurance´s accounts and on other similar saving products other than those provided by banks.
* Persistent growth of the number of transactions performed in favour of legal entities seated in tax heaven countries, or legal entities registered in the jurisdiction within the EU, but proprietary linked with legal entities seated in off-shore countries.
* Assumption of more frequent presence of transactions, where the payments will be performed via virtual digital currency – bitcoin. Currently on the territory of the Slovak Republic it is possible to use bitcoins for purpose of purchase of goods and services, but bitcoins might be changed for other currencies, for instance US dollars or euros. Bitcoin works as distribution network, where transactions are spread among individual applications installed in the user´s computers. There is no bank, nor other institution between the beneficiaries and the remitters.

**8. Evaluation of cooperation with the national counterparts**

 Representatives of FSJ in cooperation with the Slovak Prosecutors Office attended a work meeting in order to unify the interpretation of some disputatious provisions of the Act on the proof of origin of property so that collected material would be a qualitatively capable basis of initiative, on the which basis a prosecutor would submit a proposal to initiate the relevant proceeding and by which he will seek a decision declaring that an asset was purchased by illegal incomes.

 FSJ very intensively cooperates with the Financial Directorate of the Slovak Republic, particularly with the tax and customs section. As significant, for further cooperation, should be considered a work meeting which took place in March 2013 and where the form of information submitted to the Financial Directorate of the Slovak Republic has been determined. As well as indicators of unusual character were improved. In June 2013 the representatives of the Financial Directorate of the Slovak Republic performed training for members of FSJ in the FSJ premises related to new trends in committing tax frauds, particularly criminal activities committed in connection with VAT.

 For the purpose of raising efficiency and quality of mutual cooperation and information sharing between FSJ and the National Bank of Slovakia in the area of oversight of compliance with obligations imposed on obliged entities by AML/CFT Law, the Cooperation agreement between the National Bank of Slovakia and the Ministry of Interior of the Slovak Republic has been signed on 26th of November 2013. Guarantor of the respective agreement is FSJ.

 FSJ realized one meeting with representatives of the Social Insurance Agency in Slovakia for the purpose of detection of incomes of persons audited according to the Act on the proof of origin of property. As a disputed point appears to be detection of incomes in the past (more than twenty years), as well as cases when the audited person was a self-employer or receiver of sick-benefits, old-age benefits, or other insurance. On this meeting the process of clarification on the terms “income”, “gross income” and with that the related term “base of assess” was agreed upon.

 Representatives of FSJ participated on two meetings of the Slovak Bank Association. The aim of the participation with the representatives of banks responsible for AML (anti money laundering) was to discuss several areas related to reporting obligation, realization of general feedback, presentation of new trends and regulation in the area of legalisation of proceeds derived from criminal activities and terrorist financing, shortcomings in sent unusual transaction reports and shortcomings determined within control activities, as well as presumed progress within the legislative area. Object of the meeting was also the issue related to Act No.: 394/2012 Coll. on restriction of payments in cash, as well as the issue related to customer due diligence (particularly ultimate beneficial owner, origin of funds, purpose and intended nature of the business relationship, etc.).

 Activities of the Multidiscipline integrated group of experts for combating the legalization of proceeds from crime and terrorist financing (thereinafter referred to as “MISO LP”) which is chaired by the Head of FSJ are very valuable for the purpose of the elimination of legalization of proceeds derived from criminal activities and terrorist financing. Members of the respective group are representatives of the following units and institutions: the National Bank of Slovakia, Ministry of Finance of the Slovak Republic, Financial Directorate of the Slovak Republic, General Prosecutor Office of the Slovak Republic, Ministry of Justice of the Slovak Republic, Custom Directorate of the Slovak Republic, Anti-Terrorist Unit of the Police Force Presidium, National Anti-Drugs Unit of National Criminal Agency of Police Force Presidium, Bureau of Criminal Police of the Police Force Presidium and Slovak Information Service. MISO LP deals with matters linked to measures against money laundering and terrorist financing.

 In 2013 two ordinary MISO LP´s meetings took place (on the 17th of May and on the 15th of October). The meetings were focused on the tasks resulting from schedule for feasance of measures accepted within the Strategic plan of fight against money laundering and terrorist financing for the years 2012 – 2016. Each member of MISO LP also participated on the creation of the regular follow up report after the 4th assessment visit of Council of Europe´s Committee of experts on the evaluation of anti-money laundering measures and terrorist financing MONEYVAL. Consequently, the respective members were informed about outcomes from the 42nd MONEYVAL plenary meeting. They were also informed about measures addressing deficiencies identified during the evaluation of the progress which the Slovak Republic achieved on the base of recommendations issued by the respective Committee.

 On the latest MISO LP´s meeting which took place on the 15th of October 2013, detailed information regarding National Risk Assessment has been submitted to members of MISO LP. Creation of the National Risk Assessment is an obligatory condition for the 5th assessment visit performed by Council of Europe´s Committee of experts MONEYVAL; thus this issue will be one of the topics of a MISO LP meeting which will take place in the future.

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