

# **NATIONAL STRATEGY**

## **FOR COUNTERING MONEY LAUNDERING**

**2011-2015**

### **I. INTRODUCTION**

1. The present document is the first strategy dedicated to combating money laundering in Bulgaria. This Strategy complements and expands the National Security Strategy of the Republic of Bulgaria, specifically the sections concerning financial and economic security. This Strategy is based on the premise that national security directly depends on economic and financial security.
2. Money laundering
  - Is a social risk undermining good governance and as a result, threatening the stability of the democratic order;
  - Has disruptive consequences on the national economy, diminishes the effectiveness of the financial system, and impedes the use of European funds;
  - Destroys a healthy competition environment and the incentives for economic growth in the country;
  - Creates conditions for corruption of the business, financial institutions, and the state administration;
  - Serves organized crime and terrorism.
3. Countering money laundering is a main instrument, and sometimes the only available mechanism for combating organized crime and corruption. Taking active measures against money laundering is also the most important mechanism against the financing of terrorism. Today the fight against terrorism involves economic means, and cutting off the cash flows to terrorist organizations must be considered the most significant element in combating this crime. Effective anti-money laundering thus becomes the main weapon against terrorism, by preventing the financing of terrorist actions.

### **II. GENERAL PROVISIONS**

#### **II. 1. Key terms**

4. **Money laundering** is the process of concealing, through various forms and activities, the illicit source of property, so to enable their integration into legal economy.
5. **Financing of terrorism** is any form of [collection and provision] of funds to terrorists, individuals or organizations, for terrorist activities, regardless of the source of the funds used.

## **II. 2. Goal**

6. The primary goal of the anti-money laundering policies is to prevent to the maximum extent possible
  - Property, which is the proceeds of crime, from entering the legal economic and financial system of the country, as well as
  - Their further use by the actors involved for continuing and expanding the criminal activity in other areas.
7. To accomplish this goal, the institutions resolve to take the necessary steps as part of an ongoing process to detect, trace, and prosecute property that is the proceeds of crime, including confiscation of property through civil or criminal law procedures.

## **II. 3. General Framework of the Anti-Money Laundering Policies**

8. The current Strategy determines the general framework of the anti-money laundering policies. The framework will:
  - Increase the capacity of the Bulgarian institutions for immediate and ongoing actions against money laundering and more active involvement in the international efforts to combat this dangerous phenomenon.
  - Help build public consensus concerning the assessment and combat of the money laundering process, by stressing the need for counteraction and the cooperation between state institutions, the business, civil society organizations, and the media.
  - Outline the range of successful anti-money laundering [AML] actions as an effective mechanism for reducing organized crime and corruption.
  - Support the combat of terrorism by cutting off the financing of terrorism [FT].

## **II.4. Principles**

9. The anti-money laundering strategy is based on the following principles:

- Rule of law and respect for human rights,
- Sustainable development and conducive business environment,
- Sustained prevention measures by the state institutions and active involvement of the business and civil society,
- Institutional transparency and accountability,
- Compliance with international policies and counter-measures.

## **II. 5. Approach**

10. The realization of the anti-money laundering policies will follow an integrated approach.
11. First, the policies will encompass a background analysis, information collection and processing, political and administrative decisions.
12. Second, policies will aim to establish a new coordination and cooperation approach between state institutions, and between state institution, businesses and civil society organizations.
13. Third, policies will aim at strengthening the mechanisms of international cooperation in anti-money laundering and financing of terrorism.
14. Fourth, policies will push for improving the administrative capacity of the bodies in charge of anti-money laundering and enhancing their specialization.
15. Fifth, a key feature of the approach is the emphasis on increasing prevention.

## **III. INTERNATIONAL CONTEXT**

### **III. 1. Global and European Level**

16. Terrorism and transnational organized crime are among the major risks on global and European level. Both terrorism and crime feature asymmetry and adaptability to changing circumstances. With the development of computer and information technologies increase the risks for cyber crimes, including money laundering using communication systems and online banking.
17. In the last two decades international anti-money laundering efforts have progressed steadily and rapidly, and have been recognized as a key priority in the combat of organized crime,

corruption, and terrorism. These developments have been reflected in a number of documents, initiatives, and measures adopted by the international community.

18. Setting the fight against money laundering as a key priority on the agenda of the UN in the late 1980s of the 20<sup>th</sup> century, the countries of the G-7 established the special Financial Action Task Force (FATF), whose mandate involves regular development and introduction of policies and specific recommendations for prevention and corrective measures against money laundering. Since the beginning of the 21<sup>st</sup> century, the financing of terrorism has become one of the priorities on the agenda of FATF as well.
19. In the spirit of uncompromising efforts against money laundering and the financing of terrorism, a set of European documents were adopted, such as conventions, directives and framework decisions.
20. Global and European anti-money laundering policies call on the states to make AML a major priority in their national policies, meeting at least the basic standards as defined in international documents. All this determines the urgent need for effective measures against money laundering and the financing of terrorism in the Republic of Bulgaria.

### **III. 2. Regional level**

21. Bulgaria's geographical position on the Balkan peninsula and among the countries of the Black Sea Region, along with being an external border for the European Union, set higher expectations to any measures against organized crime, including against money laundering and the financing of terrorism.
22. The major risks for the states in the region include the high levels of organized crime, corruption, and the activities of some terrorist groups. Key feature of organized crime in this part of the continent is the good cooperation of the organized crime structures, including the transfer and mobility of the proceeds of crime.
23. The information exchange between countries in the region regarding assets acquired from criminal activity does not always run smoothly and faces some challenges. A significant problem is the limited regional cooperation in the fight against the financing of terrorism. Regional cooperation between the law enforcement institutions of the countries in the region must be clearly improved, keeping in mind that most of them are not yet EU members.

## **IV. ASSESSMENT OF THE NATIONAL CONTEXT**

### **IV.1. Current Situation Assessment**

24. The implementation of anti-money laundering efforts in Bulgaria has been delayed by almost a decade, both in relation to the ongoing processes of economic liberalization, privatization and increase of crime and corruption, and in relation to the global and European development

of counter-actions. In the so-called “transition” period in the country, processes of intensive accumulation of assets acquired from crime took place. Because of the lack of counter-actions, the illegal funds entered the economic and financial systems of the state in the period of redistribution of property and privatization. The accumulation of illicit assets led to a wide spread, multi-level organized crime, while the free cash flows triggered corruption in the state and local government. Consequently, organized crime and corruption reached levels threatening the social integrity. According to various studies, the proceeds obtained through crime amount to over one billion BGN a year.

25. The laundering of proceeds and property of illegal origin in Bulgaria takes place in the following four ways:
  - Export of the proceeds acquired from criminal activity in Bulgaria,
  - Import of money generated outside Bulgaria, including by Bulgarian criminals, for the purpose of investment in the country,
  - Cash flows, generated from crime in the country, laundered through Bulgarian institutions,
  - Transit cash flows, generated from crime outside the country, and laundered through Bulgarian institutions.
26. The scale of the Bulgarian economy allows the quick detection and identification of the financial trail of illicit cash flows and other assets. The transnational character of the economic and trade relations facilitates the transfer of the proceeds of crime and the money laundering process among countries. Often, the laundering process involves legal entities, registered off-shore, which is an extra obstacle to tracing the origin of the proceeds.
27. Bulgaria was late in criminalizing money laundering and the initial attempts in this direction failed to meet international standards, which impacted negatively the anti-money laundering efforts in the country. The legal framework related to prevention was also flawed. The responsible institutions did not cooperate effectively; evident was the lack of administrative capacity.
28. Significant defects of the counter-measures against money laundering are both the lack of sufficient information and the poor analysis regarding the scale of the crime in the country. Better analytical work would shed light on the degree of penetration of illicit funds in various spheres of Bulgarian society. This will allow an accurate assessment of the impact of illegal money on the economic, social and political environment, providing in this way a basis for setting the priorities in the fight against money laundering. The lack of a comprehensive picture of money laundering limits the counteracting initiatives of the institutions to only specific areas and issues.
29. The traditional approaches used to assess the success of anti-money laundering does not provide enough information regarding the actual scope of the criminal activity. Without the relevant information, it is difficult to assess the effectiveness of the counteractive measures

and the adequate allocation of resources to support them. All that necessitates more efforts directed to the analysis and identification of trends in the development of crime, design and introduction of new, more reliable indicators for evaluating the dynamics and scale of money laundering.

30. State institutions and government bodies in Bulgaria collect, store and provide up-to-date information regarding the current situation and extent of money laundering. Individual institutions maintain their own data bases with stats and analyses but these cover only the information accessible to the given institution.
31. A number of data can be very useful in this respect: the number of pre-trial investigations, the amount of laundered proceeds, the number of court sentences, the number of reports submitted to the Financial intelligence unit, etc. Bulgaria has already put in place a system for anti-money laundering, which meets the international standards. The country is also a member of the main international organizations engaged in the fight against money laundering and works actively to gain the trust of the international institutions and partners.

#### **IV. 2. Legislation**

32. The monitoring reports of various international organizations engaged in the fight against organized crime acknowledge that Bulgarian legislation is harmonized with the main standards of international law, as concerns both the standards for anti-money laundering and the financing of terrorism. Despite this, the legislative framework as a whole is not flexible enough to address new developments in crime forms.
33. Very important is the role of the provisions in the law for asset forfeiture, either in civil or criminal trials, of property which is the proceeds of crime, other property into which the proceeds have been converted, or the equivalent of such property. Nevertheless, an obstacle to the elimination of money laundering are the limited options defined in the civil law regarding criminal asset forfeiture.
34. Often, however, the anti-money laundering measures are hindered by existing restrictions related to the access that special investigation bodies and law enforcement have to confidential information concerning bank accounts, taxes, or trade secrets.

#### **IV. 3. Institutions**

35. In the Republic of Bulgaria are established and function the relevant institutions in charge of anti-money laundering efforts, such as law enforcement, controlling and supervisory bodies, a specialized state body for the establishment and confiscation of property acquired from criminal activity. Modeled on leading international crime-fighting institutions, special anti-money laundering units have been established as part of the major institutions in charge of combating organized crime.

36. Despite such progress, on national level the institutions in questions still lack sufficient human resources and administrative capacity. Various inter-departmental instructions detail requirements for inter-departmental cooperation and collaboration. However, they fail to adequately address issues concerning the collection and analysis of information.
37. Up to date, the resources and capacity of the agencies within the Ministry of Finance and monitoring bodies, involved in AML/FT, are not fully utilized. This prevents their active inclusion in both AML operations as well as in the process of information gathering and assessment of the scale of ML in the country.

#### **IV. 4. Prevention**

38. The effectiveness of the existing AML preventive measures needs to be improved. Many of the Designated entities specified in the Law on the Measures Against Money Laundering are not compliant, and many of them fail to diligently follow the legal provisions. Some of them have not introduced the required by law internal rules for the control and prevention of money laundering.
39. The main part of the reports, required by the Law on the Measures Against Money Laundering are submitted by several categories of designed entities. Other categories of designed entities submit reports seldom or do not report at all. There are no training and education centers to assist the respective entities. No information and awareness raising campaigns have been conducted or planned so far.

#### **IV. 5. Investigation**

40. The number of money laundering cases brought to court has been steadily rising in the last five years. Still, there are a number of issues which hamper the effective counteractions and fight against money laundering.
41. The counteractive measures against organized crime and corruption do not complement and support in sufficient degree the investigative activities for following the financial trail and the proceeds of crime – the latter need to start in the earliest stages of planning and conducting the investigations. There is no policy in place regulating an obligatory financial investigation in cases of investigating organized crime groups, corruption practices or crimes related to the abuse of European funds. A significant issue in this respect is the adoption of inconsistent and incoherent legislation regarding such crimes and the lack of good court practices.

### **V. ANTI-MONEY LAUNDERING MEASURES**

#### **V.1. International Cooperation and Information Exchange**

42. The cross-border character of money laundering demands international cooperation and information exchange.
43. The Republic of Bulgaria will work to improve significantly the cooperation, collaboration, and exchange of intelligence information with the EU member-states and other partners, through law enforcement and criminal justice cooperation mechanisms.
44. Through the implementation of the global and European policies, the Republic of Bulgaria stands a chance to become a regional center in AML both in the Balkans and the Black Sea Region.
45. To accomplish this goal, Bulgaria will initiate the establishment of a regional network of contact points on issues of AML and FT.
46. Through this regional network, Bulgaria will
- Facilitate the information exchange,
  - Establish itself as a regional center for information analysis, good practices, and training,
  - Support the introduction of new political, institutional, and legislative measures concerning the further control of the money laundering process and the financing of terrorism.

## **V. 2. Monitoring and Effective Decision Making Process**

48. Fundamental for the success of AML is the ongoing monitoring, information collection and analysis, and relevant recommendations for improvement. The information-analytical work will encompass both the money laundering process as well as the overall surveillance of the movement of criminal proceeds and their impact on the economy and the economic progress. Such analysis will provide data on the risks of money laundering and the financing of terrorism for the economy on the whole and in the financial sector, and will allow the elaboration of proposals and recommendations for improvement.

49. The present document envisions the setting up of an inter-departmental council for the coordination of the countermeasures against money laundering and the financing of terrorism; council members will be representatives of the major institutions responsible for the prevention, control, and counteraction of these crimes. The council's mandate will include overall monitoring and implementation of all decisions. The council will be the dedicated body, as agreed by the competent authorities, to coordinate and carry out the monitoring and analytical work. The conclusions and recommendations resulting from such analysis will serve as the basis for proposals for legislative and organizational changes.

50. The monitoring body will



- Collect information and analyses from various sources (state institutions, public organizations and NGOs, professional organizations, external experts, etc.),
- Assess the information and request additional expert situation analyses (branches and sectors at risk), regarding the processes of generation of illegal proceeds and their legalization,
- Accumulate and disseminate knowledge about the money laundering process,
- Carry out ongoing analysis of the legislative framework,
- Assist the responsible institutions in the formulation of their current policies,
- Conduct an evaluation of the overall organization of the anti-money laundering measures and the investigation of ML, and of the institutions involved.

51. Following international practices, the inter-departmental council will discuss and propose the creation of a special fund, subsidized through deduction of a set percentage from the assets confiscated in court cases on money laundering or financing of terrorism. The main purposes of this fund will be:

- Support for the victims of high social risk crimes such as drug trafficking, human trafficking,
- Raising awareness and developing “zero tolerance” public attitude to such crimes,
- Support the preventive activities, the counteraction and investigation activities against money laundering and the financing of terrorism,
- Building up and strengthening the organizational capacity of the institutions involved in combating money laundering.

### **V. 3. Legislative Developments**

52. The newly developed anti-money laundering/financing of terrorism measures on global and European level will be incorporated into Bulgarian law in a timely manner and implemented accordingly. On a regular basis will be conducted an analysis and evaluation of the needs for improvement in the legislation directly relating to AML/FT, as well as the regulations regarding the economic and financial sectors. The necessary measures and good practices will be implemented in accordance with a set timeline in all of the involved institutions.

53. New legislative proposals and organizational regulations regarding the identification of the source of proceeds deposited to/from companies registered off-shore.

#### **V. 4. Strengthening Prevention**

54. To improve prevention, the reasons for the deficiencies in the system will be analyzed and specific steps will be taken, such as:

- Better motivation of the designated entities according to the Law on the Measures Against Money Laundering, through the development and introduction of a system for benefits and sanctions,
- Providing guarantees regarding non-disclosure and confidentiality of the sources of information,
- Establishing of training programs and training centers.

55. Specific measures and incentives for the businesses and the citizens will be introduced, such as:

- Simplified administrative procedures,
- Reducing bureaucracy and unnecessary paper work,
- Eliminating the unnecessary authorization regimes,
- Preparing a registry of companies and persons who have been found guilty of money laundering, for the use of other legitimate businesses.

56. Organizing information campaigns against money laundering to raise awareness of the destructive effect of both money laundering and the financing of terrorism, including development of training and educational programs.

#### **V. 5. Effectiveness of the Investigation**

57. In order to increase the effectiveness of the investigation, the following measures will be taken.

58. First, the planning of each investigation of organized crime or corruption should incorporate following the trail of the proceeds from criminal activity, as well as tracing assets linked to suspects in cases with forfeiture potential.

59. Second, the results of applying this approach will be included in the performance review indicators for the officers and the investigation units.

60. Third, encouraging and valorization of successful investigations and good practices of cooperation.

61. Fourth, constant improvement of investigation methods and timely integration of innovations in the area of information technologies and financial services.

62. Fifth, providing opportunities for ongoing specialization of the investigative bodies and further development of the expert capacity of both staff and units, including continuing professional qualification of the officers.

63. Sixth, identifying new ways for the inclusion in anti-money laundering initiatives of the agencies under the Ministry of Finance and other supervisory bodies.

64. Seventh, discussing the possibilities to authorize tax and customs officers to receive mandates as investigation officers, in order to participate in investigative teams working on serious financial crimes and organized crime groups.

## **V. 6. Access to Information**

65. In order to facilitate easier access to information for the competent authorities, the following proposals will be made:

- Creating centralized information registries for existing bank accounts and income tax declarations,
- Providing electronic access to these registries as well as to existing registries of other data bases of the specialized bodies for counteraction of ML/FT in specific investigation cases,
- Easier access for the specialized bodies for counteraction of ML/FT to bank, corporate, and tax information, provided that the basic civil rights of the citizens are protected by establishing mechanisms for the storage, use, and disposal of information.

## **V. 7. Civil Asset Forfeiture**

66. The criminal assets forfeiture will be further developed by introducing adequate provisions such that the civil asset forfeiture procedures can become an additional instrument in the fight against money laundering and the financing of terrorism. Any steps taken in this direction must ensure the respect of the basic human rights of citizens in Bulgaria.

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67. The current Strategy is open to further developments and changes. The strategy could be implemented on the basis of a specific national action plan, including deadlines, responsible institutions, and control mechanisms, financial and other resources, monitoring, evaluation, and regular updates.

68. This is the only guarantee that the proposed strategy can become the basis for a comprehensive solution of the critical problems linked to money laundering.