



Co-funded by the Internal Security Fund (ISF) 2014-2020
of the European Union

“Countering Trafficking in Human Beings,
Protecting Victims and Enhancing Financial
Investigations”

Academy of European Law
2018

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Human Trafficking (HT) – legal basis

1. Bulgaria has criminalized HT (Art. 159a,b,c,d Criminal Code).
 - the list of offences includes different forms of activities in trafficking in human beings and migrant smuggling. * as per the Palermo protocol – 2002.

Main factors determining HT vulnerability

- The two factors below can be considered as major ones for the HT vulnerability in Bulgaria. They are triggering it especially in the last few years but are also historically defined:
 - **Geopolitical factors** – Bulgaria is situated near the main zones of conflicts (Syria, Iran, Ukraine, etc., including previous ones – in Former Yugoslavia and Kosovo). It is also major path for goods and people between Middle East and Europe, which has determine the position of Bulgaria as vulnerable to risks related to human trafficking and migrant smuggling.
 - **Macro-economical factors** –Bulgaria is part of the European Union and is its external border. The macro-economical situation in the county is determined by increased level of GDP growth for the last 2-3 years. These are prerequisites for increased migration pressure from conflict zones.

Bulgarian Financial Intelligence Unit (FIU)

- 1998 – AML legislation enacted
 - Bulgarian FIU established under the Ministry of Finance
- 2008 – Bulgarian FIU transformed into Financial Intelligence Directorate of SANS (FID-SANS)
- 35 categories of reporting entities
- FID-SANS has operational independence and autonomy within the structure of SANS as an administrative type of FIU
- Supervisory functions and sanctioning powers in regard to AML/CFT compliance of the Bulgarian reporting entities
- Supervision assisted by prudential supervisors – BNB, FSC, NRA, SCG

Applicable Laws

- Law on the State Agency for National Security (LSANS);
- Rules on Implementation of LSANS
- Law on Measures against ML (LMML, new, effective March 2018)
- Rules on Implementation of the LMML (currently elaborated)
- Law on Measures against the Financing of Terrorism (LMFT)
- Transpose EU acquis

New AML/CFT legislation

- A newly adopted Law on Measures against Money Laundering (LMML, effective March 2018) transposing the EU Directive 2015/849.
- The new LMML provides for completely new regulation of the measures against ML/FT, incl. new obligations for the reporting entities with regard to ML/FT risk assessment, reflecting its conclusions in their internal rules for control and prevention of ML/FT, application of enhanced and simplified customer due diligence procedures in accordance with the conclusion of the risk assessment, etc.

FID-SANS Overview

- Administrative type of FIU situated in Sofia with no regional branches
- Unit within SANS
- FID-SANS – operational independence within SANS
- FID-SANS – separate databases, archive, registry
- FID-SANS – share information with other agencies and structures within SANS

Mandate of FID-SANS - I

- FID SANS - central administrative unit which
 - Receives
 - Stores
 - Analyses
 - Discloses information, that refers to suspected ML/TF (AML/CFT disseminations)
- Exercises control over the reporting entities in regard to their AML/CFT obligations
- Provides methodological guidelines and training – directly or through www.dans.bg (section on ML/TF)

Mandate of FID-SANS - II

- FID – SANS received STRs related to ML/TF/funds of criminal origin suspicions from:
 - reporting entities under the LMML;
 - state authorities;
 - through international exchange.

Mandate of FID-SANS - III

- Wide powers of international information exchange
 - other FIUs
 - international organizations
 - EU institutions
- Assisting compliance with international standards

FID-SANS participation in international fora

- Membership
 - Egmont Group - 1999
 - Moneyval – Council of Europe – Bureau Member
 - EU
 - FIU.NET
 - EU FIU Platform
 - Expert Group on the Prevention of ML and TF

AML/CTF Information Exchange with LEAs and PO - I

- **Spontaneous disseminations**– in cases when after analysis of received STRs the initial suspicion of ML/TF/associated predicate offences still exists;
- **Disseminations upon request** – when LEAs request information ML/TF/associated predicate offences.
- Relevant competent LEAs/Prosecutor's Office are obliged send **feedback** to FID-SANS on the further use of the disseminated information, incl. any preliminary proceedings/investigations. (Art. 75, para 4 LMML)

AML/CTF Information Exchange with LEAs and PO - II

- Information provided
 - Own databases – in all cases
 - Possibility to gather additional information – conditions (LMML)
- Safeguards
 - Link to ML/TF/associated predicate offences
 - Anonymity of reporting persons
 - Most effective deployment of resources
 - Instruction of cooperation

International Information Exchange - I

- Egmont Principles
- Party to Warsaw Convention
 - Including postponement of transactions upon request from a foreign FIU
- Not subject to MoU
- Exchange also with non-counterparts

International Information Exchange - II

- **Spontaneous disseminations** - when close link to a foreign country is established;
- **Cross-border disseminations** (EU Directive 2015/849) – when a STR received is relevant to a foreign country;
- **Upon request:**
 - Requesting information from foreign FIUs
 - Execution of foreign FIUs requests.

International Information Exchange - III

- Same information gathering powers of FID – SANS for own STRs and foreign requests
 - Including bank secrecy, other professional secrecy
 - Direct access to financial information (no 3rd party authorization)
 - Exchange regardless of presence of STR
 - Regardless of tax predicate
 - Regardless of the predicate known

AML/CTF Information Exchange with Supervisory Authorities

- Supervisory authorities
 - Results of AML/CTF compliance checks
 - Joint Inspections
 - Licensing and supervision
 - Risk-based supervision
 - Suspicion
- Based on Instructions

Restrictions on the use of the information gathered and disseminated by FID – SANS - I

- FID-SANS may use the data received under LMML **only for the purposes stipulated in this law** (Art. 81, para 1 LMML).
- The information disseminated by FID-SANS (including information gathered through the international exchange) to the relevant competent LEAs/Prosecutor's Office is provided **only for the purposes of prevention/counteraction to ML/FT**, i.e. for investigation on ML/FT or any related predicate offence.

Restrictions on the use of the information gathered and disseminated by FID – SANS - II

- Information acquired from foreign FIUs is disseminated only **upon prior consent of the disclosing foreign FIU** and any further disclosure of this information should be approved by that FIU.
- The information disseminated by FID-SANS (including information gathered through the international exchange) shall be **used strictly on intelligence basis and not as evidence** in any proceedings. Information for evidential purposes should be gathered pursuant to the Criminal Procedure Code, including through a letter rogatory.

HT cases reported to the Bulgarian FIU

/data sources/ - Overview

- Suspicious transactions reports (STRs) related to transactions via money remitters (i.e. MoneyGram, Western Union) – most of the cases involve suspicions of ML/FT or other offences; rarely initial suspicions of human trafficking; in some cases though the reporting entity found data from public sources on potential HT (incl. data from LEAs).
- Data from partner FIUs;
- Combination with data from domestic LEAs (following the dissemination of data from the STRs/international data to the LEAs and/or request for information from LEAs).

HT Cases /key findings, FIU point of view/ - I

- The initial suspicions in almost all cases do not include HT.
- The main concerns of the reporting entities are related to the incoming/outgoing transfers from/to high-risk areas or locations known to be human trafficking transit points (e.g. Western Balkan routes). Usually there are multiple receivers from one and the same sender or vice versa. However, there is no concrete data linking the transfers with HT.

HT Cases /key findings, FIU point of view/ - II

- The lack of this explicit link to HT leads to incomplete analysis of the FIU on some cases receiving then low attention from the LEAs (except for cases when initial data on concrete offences is available).
- The mostly used money remittance services offer higher-level of anonymity desired by human traffickers.
- HT schemes often involve subjects with nationality/origin from high-risk countries .
- Funds are allegedly generated from other offences and could be used for TF.

HT Cases /key findings, FIU point of view/ - III

- Issues related to money remitters:
 - They do not execute full control over all of their agents and not all rules of the money remitter are enforced on the agent;
 - Obstacles in the communication with some money remitters acting on the territory of EU;

HT Cases /key findings, FIU point of view/ - IV

- Certain money remittance agents in specific (transit) geographic areas are increasingly involved and/or intentionally set up in order to evade AML/CFT controls, i.e. in certain high-risk regions which could be used for HT;
- In some cases there are discrepancies between the registrations of the agents in the records of supervisory bodies (the Bulgarian National Bank) and the ones of the money remitters themselves.

Thank you for your attention!

