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# **The Comparative Overview of The Phenomenon of Money Laundering in Certain European Union and Western Balkan's**

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**Abstract.** The Republic of Kosovo has issued several legal acts which are in place to prevent and combat the phenomenon of money laundering. These acts determine the issue of state response and other institutional mechanisms which have competence in the field of law enforcement to strike this criminal phenomenon. Until now, prevention of money laundering is regulated by: UNMIK Regulation, Criminal Code and Criminal Procedure Code, the Law on Prevention of Money Laundering and Prevention of Terrorist Financing and the Law on Extended Powers for Confiscation of Assets Acquired by Criminal Offence.

**Keywords:** Money laundering, comparative overview, organized crime, prevention and detection.

## **1. Legal instruments in the field of preventing and combating the phenomenon of money laundering in the Republic of Kosovo**

### **UNMIK Regulations**

It is well known that in Kosovo after 1999, was created a new reality on whose foundations were established appropriate legal infrastructure which was the imperative of the time. This legal infrastructure initially created by UNMIK mission, approved the first regulations for the prevention and combating of organized crime<sup>59</sup>, where for the first time provided some valuable definitions of terms related to organized crime and provided measures and punishments that can be implemented and applied to persons who have committed criminal acts foreseen by this regulation<sup>60</sup>. Other UNMIK acts are UNMIK Regulation No.2001 / 04 "On the Prohibition of Trafficking in Persons in Kosovo", UNMIK Regulation No. 2002/6 "On Covert and Technical Measures of Surveillance and Investigation", UNMIK Regulation no. 2001/21 "On Cooperative Witnesses", UNMIK Regulation no. 2004/2 "On the Deterrence of Money Laundering and Related Criminal Offenses" which regulation has some amendments and supplements<sup>61</sup> etc.

### **Criminal Code and Criminal Procedure Code of Kosovo**

Kosovo Criminal Code<sup>62</sup>contains general provisions dealing about cooperation in committing criminal offenses, as well as special provisions concerning with criminal activities especially organized crime, smuggling of migrants<sup>63</sup>, trafficking in persons, counterfeiting of money,

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<sup>59</sup> UNMIK Regulation no. 2001/22 on measures against organized crime.

<sup>60</sup> Gashi, Rexhep, Organized crime (authorized lectures), Pristina, 2011, page. 107.

<sup>61</sup> Ibidem, page. 109.

<sup>62</sup> The Criminal Code of the Republic of Kosovo with no. 04/L-082, on April 20, 2012. entered into force on 01.01.2013.

<sup>63</sup> Means any action in order to benefit directly or indirectly of a financial benefit or to a material benefit, from the illegal entry of a person into the Republic of Kosovo, who is not a citizen of the Republic of Kosovo or of a person whether citizen of Kosovo or foreign citizen in the state in which such person is not a permanent resident or citizen of that state.

organization pyramid schemes, facilities licensed for the organization of games of chance<sup>64</sup>, gambling, casinos, drugs and trafficking in narcotics, etc. This Code, in one way or another foresees strict punishment for any person who converts or transfers the property knowing that such property is derived from any offense by any criminal activity or participation in such offense or offenses and such conversion or transfer with the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of offenses of this illegal activity. For these illegal actions Criminal Code provide punishment up to 10 years imprisonment and a fine three times higher than the value of the transferred or converted property.<sup>65</sup>

Whereas the provisions of the Criminal Procedure Code<sup>66</sup> are provided opportunities and application criteria covert investigations observation and monitoring of conversations, interception of telecommunications, interception of communications by a computer network, search of postal items, simulated buying, simulation of a corruption offense or disclosure of financial data and the authorizations of law enforcement agencies related. This code enables explicitly the relevant state authorities to prevent and detect the perpetrators of these criminal offences with special emphasis on those who interfere in the phenomenon of money laundering.

### **Law on the Prevention of Money Laundering and Terrorist Financing**

Law on the Prevention of Money Laundering and Terrorist Financing<sup>67</sup> contains many provisions which serve to prevent and combat the phenomenon of money laundering and terrorist financing. With this stipulate measures, the competent authorities and procedures for detecting and preventing money laundering and terrorist financing.<sup>68</sup> In order that these procedures are effective and that the phenomenon of money laundering take hitting and catching the perpetrators of criminal offences has done the foundation of the Financial Intelligence Unit<sup>69</sup> as national institution, independent administrative and responsible for requesting, receiving, analyzing and disseminating to the competent authorities of law enforcement in matters relating to money laundering and terrorist financing.<sup>70</sup>

With this Law determines the authorities to which it is addressed the obligation to report this harmful phenomenon required by this Agency. Consequently subjects who have these obligations are: Banks, financial institutions, casinos<sup>71</sup>, agencies of real estate and real estate brokers<sup>72</sup>, natural persons, and legal persons trading in goods and when receiving payment in cash in the amount defined by law or more than 10 000 Euros, lawyers and notaries in their transactions in relation to customers, certified accountants<sup>73</sup>, licensed auditors<sup>74</sup> and tax advisors, trust and company service providers of third

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<sup>64</sup> Here decided on any item where organized games of chance, which may include, but are not limited to, any hotel annex and its associated facilities, retail points, warehouse or any other form of additional commercial property managed or is owned by the company licensed for games of chance and is part of the overall operation. This term includes also the sports bet subjects.

<sup>65</sup> See: Article 280 of the Criminal Code of Kosovo in Chapter XXIII.

<sup>66</sup> Criminal Procedure Code of the Republic of Kosovo with no. 04 / L-123, on 13 December 2012. The Assembly of the Republic of Kosovo. Entry into force on 1.1.2013.

<sup>67</sup> Approved by the Assembly of Kosovo on September 30, 2010 with No. 03/L-196.

<sup>68</sup> Article 1 of Law no. 03 / L-196 on the Prevention of Money Laundering and Financing of Terrorism.

<sup>69</sup> This agency has its scope action under the Ministry of Finance.

<sup>70</sup> Article 4, status of the FIU, of Law no. 03 / L-196 on the Prevention of Money Laundering and Financing of Terrorism.

<sup>71</sup> Facility destined for the organization of special games of chance, which are organized on the tables for sphere, cubes or cards games.

<sup>72</sup> Lands, buildings and dwellings.

<sup>73</sup> An accountant certified by a professional accounting association according to section 6 of UNMIK Regulation no. 2001/30 of October 29, 2001 on the establishment of the Kosovo Board on Standards for Financial Reporting and a Regime for Financial Reporting of Business Organizations.

<sup>74</sup> A person licensed as an auditor in accordance with Article 1 of Regulation No.2001/30 of October 29, 2001 on the establishment of the Kosovo Board on Standards for Financial Reporting and a Regime for Financial Reporting of Business Organizations.

parties, then the relevant bodies for building, operating and management of companies, sale of business entities<sup>75</sup> etc.

Besides these matters, this law provided also provisions related with the criminal liability of legal persons and the scope of international cooperation in relation of information exchange, investigations and court proceedings in relation to temporary measures for securing property and orders for confiscation<sup>76</sup> etc.

### **Law on Extended Powers for Confiscation of Assets Acquired by Criminal Offence**

Law on Extended Powers for confiscation of Assets Acquired by Criminal Offense specifies extended powers for confiscation of assets acquired by the persons who have committed a criminal offence, when the procedures foreseen by other legislation are not sufficient.<sup>77</sup>

This law applies to assets acquired by persons who have committed criminal offenses provided by the Criminal Code of the Republic of Kosovo. Asset which is not a material benefit gained from criminal offences described in the indictment may be subject to confiscation under section 6 of the Law.

Assets subject to extended powers of confiscation, which were acquired by a defendant who is dead may be subject to confiscation under Article 7 of this Law. The assets subject to extended powers of confiscation which were acquired by a defendant who has left the Republic of Kosovo may be subject to confiscation under Article 8 of this Law.

Also, provisions of this law may be applied to assets which have been transferred to another party from a person who is or becomes a defendant or convicted person. According to the Law that party shall have the right to demonstrate that he or she is a *bona fide* purchaser of the asset. An asset may not be confiscated from a *bona fide* purchaser of the asset.<sup>78</sup>

This law regulates also the way that how asset is confiscated, conditions when it can be confiscated in cases when the defendant has died or is on escape as well as aspects of the implementation of execution and administration of confiscated assets.

## **2. Criminal justice comparative overview of the phenomenon of money laundering in some states of the European Union and the Western Balkans**

### **Money laundering according to the legislation of Italy**

According to the Italian public are hundreds of "Clues" to bring supply at "river of dirty money" outlining affairs, intrigues and criminal activity along the mafia who administer and control at the same time of these very important sectors of activities as follows: illegal mercato, illegal groups, trafficking in drugs, human trafficking, smuggling of people and goods, extortion of money through violence and intimidation, bribery and corruption, loan sharking, false billing, construction etc.

According to the Italian government assessment in 1995 in Italy circulated 1.5 US \$ billion mainly from organized crime and trafficking in narcotic drugs.<sup>79</sup>

In the Criminal Code of Italy<sup>80</sup> as in other countries' criminal codes are provided special provisions in which money laundering is incriminated. In fact, Article 648 of the Italian Criminal Code has provided legal provision titled Money Laundering (Ricettazione):

According to this provision, whoever receives or transfers to itself or others money or other material acquired from serious crimes or commit any act to prevent the detection of illicit origin of such assets shall be punished by two to eight years imprisonment and a fine.

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<sup>75</sup> Gashi, opacity. Page. 114.

<sup>76</sup> See: Article 36 paragraph 1 of Law No. 03 / L-196 on the Prevention of Money Laundering and Financing of Terrorism.

<sup>77</sup> See: Article 1 of Law no. 04 / L-140 for Extended Powers on confiscation of assets acquired by a criminal offense, the Assembly of the Republic of Kosovo.

<sup>78</sup> Article 5 of Law no. 04 / L-140 for Extended Powers on confiscation of assets acquired by a criminal offense, the Assembly of the Republic of Kosovo.

<sup>79</sup> Brett F. Woods: The art & Science of Money Laundering, USA, 1998 page. 107.

<sup>80</sup> Italian Criminal Code approved with Law No. 646 date 13.09.1982.

The above article is supplemented, whereby are provided the offenses out of which emanating money and goods and are severe the criminal sanctions.

According to amended article, whoever receives or transfers to itself or others money or goods which result from serious crimes associated with other crimes such as theft or extortion of the person, offenses related to trafficking, production and distribution of narcotic drugs or prevents the identification of illicit origin of these assets will be punished by 4 to 12 years imprisonment and a fine.<sup>81</sup> Consequently, in the second paragraph of this article provided as an aggravating circumstance the commission of crime in the exercise of a professional activity, while in the third paragraph provided mitigating circumstances. Under this paragraph the punishment will be reduced by the court in any case when money, assets or other benefits derived from a crime which is punishable by a maximum of 5 years imprisonment.

So as we see 1991 marks the turning year regard to preventive measures taken in the legislative aspect, measures which were designed and promoted by the National Anti-Mafia Senior Executives.

Within these measures in January 1991 approved the creation of the Institute of Justice Collaborators who first began to be applied as the institute itself. Also in July 1991 has become a re - organization in special structures for a more efficient combat against organized crime. Thus were created institutions like the task force included by three law enforcement agencies those of state police, the Carabinieri and Guardia di finanza all this with the purpose of planning, coordination and organization of investigative actions against organized crime. Subsequently on October 1991 was established Anti mafia investigative agency. This agency is unique structure in entire country. Subsequently are also created 26 Anti Mafia Prosecution with headquartered in Rome which had exclusive competence, the investigation of organized crime.

In Italy investigating the circulation of money and illegal income in the economic segment is provided to convey and monitor a special police department that collects, analyzes and provides data regarding to information of money circulation in exchange offices and which inform National Prosecution Office immediately Anti Mafia. From the practice of this state, I select the biggest case from 2013: 700 million dollars of Cosa Nostra assets sequestrated, the Court of Trapani (Sicily - Italy) has ordered the confiscation of a set of real estate and movable property worth more than 700 million dollars. Affected are 12 companies, 220 buildings and cabins, 60 thousand hectares of land, which are related to Giuseppe Grigoli, which is recognized as the new leader of the mafia "Cosa Nostra". 64 year old Grigoli regarded in Italy as the "king of supermarkets" and has been sentenced by the Palermo Court of Appeal to 12 years in prison after being convicted for conspiracy. The decision was taken by the Court of Trapani (Sicily) and it is one of the biggest confiscations ever undertaken against "Cosa Nostra". "King of the supermarkets" managing these businesses by prison. This "treasure" by investigators is the result of accumulated assets illegally and money laundering.

### **Money laundering according the legislation of Germany**

Germany is recognized as the most powerful state of the European Union. Money laundering is sanctioned in the provisions of Criminal Code amendment in 2004. In Article 261 of this Code reads: "Whoever conceals, covers the origins or hinders or endangers the identification, sequestration, confiscation or capturing of an object that is acquired from: a crime committed by another person; a criminal offense committed by another person under the Article 29/1 of the criminal act by narcotic drugs; a criminal offense committed by a member of a criminal organization shall be punished with imprisonment up to five years and with a fine;

While in the second paragraph<sup>82</sup> of the same punishment provided for the person who: holds for himself or for a third person an object as the one described in paragraph 1 of this article or holds or uses for itself or for another third person an object that knows the illegal origin at the time of receiving or possessing. Also, the third paragraph of this article decisively determines that the attempt is punishable. While paragraph 4 provides reprisal for particularly serious cases when a person on behalf of a company or business or when is a criminal group member which has as its mission the money laundering. According to the seventh Paragraph of Article 261 of the Criminal Code of Germany, objects dealing with the offense of money laundering shall confiscate. While according to the paragraph 9 of this article provided the exemption from criminal liability in cases where the person

<sup>81</sup> Article 648 of Italian Criminal Code approved with Law No. 82, date 15.03.1991.

<sup>82</sup> German Criminal Code, (in English version) Article 261 item 2.

meets the following conditions: Voluntary reporting the offense to law enforcement authorities, especially with emphasis when the offense has not been detected or partially detected or when the person was aware of this offense or through a rational assessment of the situation ought to know this. It should be emphasized that in Germany was approved the Law against Money Laundering which in its content includes recommendations from relevant international conventions. According to this law, every banking transaction in value of over 15,000 Euros is binding to be reported to the authorized institutions.

### **Money laundering according to the legislation of Switzerland**

Swiss Criminal Code contains a number of provisions by which incriminate the money laundering, terrorist financing, or similar behaviors, which are an integral part of the Swiss system against money laundering and terrorist financing and contains specific provisions for confiscation of criminal assets.<sup>83</sup>

Money laundering is included as an offense in the Criminal Code of Switzerland in 1990. This Code penalizes an act aimed at concealing the origin of the assets that the subject knows or should know that have their origin from a serious crime. More than 80 crimes are listed in the category of serious crimes according to the Swiss criminal legislation. These include participation in a criminal organization, terrorist financing, drug trafficking, arms trafficking, corruption, fraud, robbery and hostages taking, etc. The criminal offenses in the fiscal field according to this code does not constitute serious crimes and so concealment of income earned in this field is not considered a criminal offense of money laundering. According to this code punishment for the main criminal offense is not necessary for the applicability of the provisions of the criminal offense of money laundering. Subject keeps criminal responsible, even when the offense was committed abroad and which is not given in the decision on punishment.

The Federal Supreme Court of Switzerland held the stands that the punishment of subject for criminal offenses does not excludes him from additional punishment for money laundering.<sup>84</sup> The maximum punishment for money laundering is up to three years imprisonment, and in serious cases up to five years combined with a fine. In a second additional provision in the Criminal Code emphasize that whoever, on a professional basis, receives or retains in custody the assets belonging to third parties or helps in investment or their transfer, viz as a financial intermediary and obstruction to determine the identity of the beneficial owner of the assets, punished by a supervised punishment up to one year, or with a monetary punishment. Assets should not be the revenues of a crime that this provision be applicable. Organized crime is closely related to money laundering and the Swiss Criminal Code also criminalizes participation or support of a criminal organization to money laundering. Financial contributions of criminal organizations even if they are made by pure money, considered "support" within the meaning of this provision. Conform this code the assets acquired from crime can be confiscated. If assets subjected to confiscation are no longer available, then shall be confiscated the compensating assets an equal value.

Special importance in combating the phenomenon of money laundering has the Federal Act on the Prevention of Money Laundering in the Financial Sector of 1997.<sup>85</sup> This is a law that regulates the supervision of the behavior of financial intermediaries, intently to prevent money laundering. While the criminal provisions of the Swiss Criminal Code determine the means to pursue criminally the criminal behaviors related to money laundering, the purpose of the Act for the Prevention of money laundering, which is part of the administrative legislation is to prevent the possibility that criminal proceeds to enter the in financial legal system. To achieve this goal, this act imposes certain obligations, mainly for financial intermediaries because of the services they provide. Failure to

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<sup>83</sup> (Schweizerisches Strafgesetzbuch; Kodi p'enal suisse). Relevant articles of the Swiss Criminal Code are: Article 305 (money laundering and negligent in financial transactions), Article 260 (criminal organizations and terrorism financing) and Article 69-72 (confiscation). Swiss Criminal Code, available on the internet at [www.admin.ch/ch/e/rs/311\\_0/index.html](http://www.admin.ch/ch/e/rs/311_0/index.html).

<sup>84</sup> (Bundesgericht Federal Tribunal). Anti-Money Laundering: International Law and Practice. Edited by W.H. Muller, C.H. Kalin and J.G. Goldsworth-2007 John Wiley & Sons, Ltd, page. 340.

<sup>85</sup> Geldwaschereigesetz, GWG. (vom 10. Oktober 1997) (Stand am 1 Oktober 2012). Federal act to prevent money laundering. <http://www.admin.ch/ch/d/sr/9/955.0.de.pdf>.

comply with these provisions and deficiencies in fulfilling their supervision subjects are penalized. This law also established the Swiss Financial Intelligence Unit and provides fines in case of exercise the activities by legal subjects without authorization of the Swiss FIU and for violation of the obligation to report. These violations must be clearly distinct with the crime of money laundering and insufficient care offence in financial transactions in the Criminal Code of Switzerland. Act in accordance with the latest developments and taking into particular consideration the expansion of the FATF Recommendations to cover also combating terrorist financing, includes among others assistance by the customs authorities in the scheme AML / CFT to prevent cross border crossing currency, the formal presentation of the obligations to verify and identify representatives or agents of legal subjects etc.

From the practice of this country, I select the specific case in cooperation with the Italian authorities from 2011 to 2014: Investigation against Albanian boss of gold.

The Italian Prosecutor has requested to law enforcement authorities of Switzerland to initiate the investigations against an Albanian-Swiss, called Petrit Kamata, who is accused for trafficking of gold and silver. Also was required to seizure even his cabin in Switzerland called "Fort Knox", from which the case took its name.<sup>86</sup>

Experts realized immediately that the Neapolitan was not the owner of these bullions and then later by the investigation turned out the name of Albanian Kamata as the main organizer and the boss of this illegal traffic. In indictment is expected to be placed 62 people, 40 of them accused for money laundering and tax fraud. During the investigation, experts have followed closely the activities of the organization, through telephone calls that goldsmiths and couriers exchange, without many precautions. Illicit Traffic of gold and silver proceed up to Sicily.<sup>87</sup>

### **Money laundering according to the legislation of Slovenia**

The Republic of Slovenia is among the first countries that approve a special law on prevention of money laundering<sup>88</sup> and then in Article 252 the Criminal Code included criminal offense of money laundering. This article incriminates various ways and forms of putting money in circulation. Consequently, according to this article the money laundering commits whoever receives, exchanges, maintains and put in disposal or used in trading activities or put in circulation money for which knows that they earned by commission of a crime. The punishment for this form is with imprisonment up to three years. Qualifying circumstances come into consideration in cases where the amount of money that is the subject of crime is large. In this case, the punishment is with imprisonment up to eight years and a fine. When this criminal offense committed by a group or criminal organization the punishment is by one to ten years imprisonment and a fine. All forms of criminal activity of money laundering, is not required willfully in commission of actions prohibited by law. This Criminal Code provides liability and punishment up to two years in imprisonment even if a person has no intention to purify money and did not even know that his actions are committing a criminal offense of money laundering, but there are opportunities to know that these money are the result of any crime. In case of commission of any of these crimes mentioned above, the Slovenian legislation provides for compulsory the necessarily expropriation of subject to money laundering crime.

### **Money laundering according to the legislation of Croatia**

The Republic of Croatia has followed the same path as Slovenia and other countries, by providing in Article 279 of the Criminal Code of 1997 criminal offense described as "Concealment of money

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<sup>86</sup> The story started on July 27, 2011, when inside of a vehicle type "Peugeot", whose driver was a Neapolitan age 35, was found half a million Euros, along with 60 kg of silver and 1 and a half kg of gold. Then the silver and gold bullions were sent in Arezzo, which was a major center of connection with Switzerland. Further via couriers in Como organized everything, where money and bullions of precious materials sent to Switzerland, by placing them in double terminal parts of car.

<sup>87</sup> <http://www.shekulli.com.al/web/p.php?id=39894&kat=95>, Published on 05.02.2014 | 22:22.

<sup>88</sup> Official Gazette of the Republic of Slovenia,

No.36/1994.www.km.undp.sk/uploads/public/.../Slovenia\_Criminal\_Code

earned illegally".<sup>89</sup> According to this article, the criminal offense of money laundering can occur in many forms, but its basic form is committed when a person in the banking sector, financial or other businesses, take, exchanges, or conceals the true source of money or items or rights acquired by money known that are the result of a criminal offence, for this form of this criminal offense, the perpetrator shall be punished by six months to five years in imprisonment. As specified circumstances are provided the cases when the concealment or putting illegal money in circulation, is committed by a member of a group or criminal organization. In fact, this is the most serious crime form of money laundering, for the commitment of which provides the punishment by one to ten years in imprisonment. This code also provides less severe form of this offence in cases when it is committed by a person who undertakes some of the above activities related to money laundering, by negligence. This code considers the existence of this criminal offense even in cases when, illegal money, are the result of a crime in a foreign country. Money and items which are material object of this offence should be confiscated regardless of the announcement of the guilt decision. The Criminal Code provides also the possibility to release the subject of criminal offense, on condition that they shall contribute voluntarily in detecting the offense of money laundering acquired illicit.

Croatia has ratified the Convent of Vienna and Palermo, and has implemented the recommendations and standards regarding to the penalization of money laundering. Has issue the Law on criminal responsibility of legal persons that regulates the enforcement of the Criminal Code and the Law on Prevention of Money Laundering.

Freely can conclude that after Slovenia, Croatia is the Balkan state that from 2009 to 2013 has done tremendous progress by demonstrating with the results in combat against organized crime, narcotics trafficking, human trafficking, corruption, money laundering etc. It is worth to mention as indicators; the arrest of Croatian Prime Minister Ivo Sanader and Croatia membership in NATO and the EU.

### **Money laundering according to the legislation of Bulgaria**

While the situation in the former Yugoslavia has forced traffickers to relocate their routes, Bulgaria continued to play a key role as a transit area for Southwest Asian heroin. The geographical position of Bulgaria in the Balkans makes it the most important European country for transit. Difficulty inspection of the large number of bounded trucks (TIR) transiting in the "Balkan Route" increases the attractiveness of Bulgaria for traffickers.<sup>90</sup> According to Bulgarian officials geographical position of Bulgaria is sensitive and favored in the drug trafficking from abroad the Europe and a convenient transit point for human trafficking. Bulgarian authorities consider that the most serious problems of money laundering currently include drug trafficking proceeds and proceeds benefit from financial / economic crime. The banking sector is considered to be mainly unprotected at the placement stage (exchange offices and casinos).<sup>91</sup>

Bulgaria began to engage in the matters of combating the money laundering in 1996, but the first law was never enforced. In 1997 it was determined in more advanced way the criminal offense of money laundering it was done in Article 253 of the Criminal Code. In 1998 was approved a new law for Measures against Money Laundering, providing a coherent framework for combating against money laundering, but has been criticized for failing to prosecute the illegal money transactions. It established a specialized unit responsible for law enforcement, the Financial Intelligence Bureau (FIB), which has the status of the General Directory of the Ministry of Finance. This is an administrative unit responsible for collecting, processing, detection, keeping and analysis of information on transactions to subjects mandatory reporting. Are covered in a wide range of enterprises which are potentially endangered by money laundering, including banks and non-bank financial institutions, insurers, investment companies and intermediaries, organizers of games of chance, notaries, stock exchanges and brokers, auditors and accountants. According to the law, it is not provided that the criminal offense must have been committed in Bulgaria.

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<sup>89</sup>Official Gazette of the Republic of Croatia, No. 110/1997. Croatia criminal cod. [www.vsrh.hr/CustomPages/.../Legislation\\_Criminal-Code.pdf](http://www.vsrh.hr/CustomPages/.../Legislation_Criminal-Code.pdf)

<sup>90</sup> The border checkpoint Kapitan Andreevo processes now up to 1,000 heavy vehicles per day according to the Bulgarian Police report of 2012.

<sup>91</sup> Rulebook on the Implementation of the Law on Prevention of Money Laundering, Republic of Bulgaria.



According to the data of the Financial Intelligence Agency (FIA), from 1999 to 2003 FIA has investigated 530 reports. By December 31, 2003, the FIA had completed 281 of these investigations, referring to 238 cases to law enforcement authorities and 11 cases of supervisory bodies and had ceased investigations in 32 cases due to lack of evidences. In 2003, investigators have worked on 45 cases, including 16 cases reported by FIA.<sup>92</sup>

Recent examples of globalization and non-existence of boundaries in the phenomenon of money laundering this time into Europe include Bulgaria and IRA. It was reported in February 2005 that the IRA was in negotiations to buy a bank in Bulgaria for the purpose of money laundering.<sup>93</sup> However, in recent years Bulgaria has made progress, especially after the accession to the European Union and law enforcement agencies in this state have been demonstrated results with all this pressure of member states of the EU.

## Conclusion

In preparing this paper I have come to these conclusions:

1. The harmonization of local legislation with international standards is a precondition for being a member state in the group of Financial Intelligence Units (FIU).
2. Money laundering submit a threat and potential risk to law enforcement agencies itself but simultaneously for order and public safety in the state of Kosovo. The judiciary must utilize and practice the legal provisions on confiscation of criminal assets and not just focus on imposing of punishments.
3. Kosovo government should prohibit the transfer of money in places that are considered as "fiscal havens", determining that there is a range of measures that the country should undertake. "The government can require that all banks in Kosovo should provide information on the real person who owns any account at their financial institution". Often banks do not know who owns or controls the accounts at their institution. They may have the name of an anonymous company, but they do not know who is the real person that controls this company anonymously - fictitious. "This means in the analog conclusion that banks can not monitor accounts for money laundering".
4. During the research, interviews and analysis of the matter have come to the conclusion that during the past five years a sum of money equal to 1/4 of the Kosovo annual budget is extracted illegally abroad through an intertwining of corruption, fiscal evasion and other illegal activities. It is believed that 55% of this money comes from fiscal evasion, 35% from criminal activities and 10% from corruption. Thus believed that have been transferred illegally abroad Kosovo close to 350 million Euros, while an annual average of 70 million was transferred to the area, qualified as "fiscal havens".<sup>94</sup>
5. Combating the phenomenon of money laundering is gauge criteria for the process of membership of the Republic of Kosovo in the European Union mechanisms.
6. The Republic of Kosovo with special emphasis the law enforcement agencies should pay priority international cooperation because it has reflected that these agencies are not membership in many initiatives of regional and international initiatives. Therefore, we consider that the representatives of these agencies must be proactive and more pragmatic in terms of membership and after participation in regional and global associations. I consider that ignorance that is done to money laundering will be costly for Kosovo.

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<sup>92</sup> Money laundering best practices, lessons to be learnt and steps to be taken in the balkan region. By a thesis presented in partial completion of the requirements of "The certificate of Training in United Nation Peace Support Operations", page. 42.

<sup>93</sup> Po aty, page. 45.

<sup>94</sup> The method used is a approximation of that used by Forbes Magazine in which considering the company's annual turnover, annual profit, capital invested, a approximate assessment of the market value of the business, etc. In this assessment does not consider other factors such as personal property, tax obligations or liabilities to the banking system.

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## Criminal codes

1. Criminal Procedure Code of Kosovo.
2. Criminal Procedure Code of the Republic of Albania.
3. Criminal Code of France.
4. Criminal Code of Greece.
5. Criminal Code of Germany.
6. Criminal Code of Bulgaria.
7. Criminal Code of Kosovo.
8. Criminal Code of Italy.