

**MONEY LAUNDERING TYPOLOGIES | MONEY LAUNDERING CASE STUDIES**

Money Laundering Typologies  
Money Laundering Case Studies  
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The background of the slide is a collage of Brazilian banknotes. On the left, there are 100 Real and 50 Real notes. On the right, there are 100 Real and 1000 Real notes. The text is centered over the 100 Real notes.

**MONEY LAUNDERING  
TYPOLOGIES  
MONEY LAUNDERING  
CASE STUDIES**

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# MONEY LAUNDERING



According to the United Nations Office on Drugs and Crime (UNODC), it is estimated that the full scale of money laundering worldwide amounts to between two and five per cent of global GDP or between EUR 615 billion and EUR 1.54 trillion each year.<sup>1</sup>

Money laundering is a global problem which has adverse effects on the society, security and economy of any country. Those adverse effects have repercussions on the legally operating private sector; they negatively affect exchange rate movements, reduce public revenues, weaken the control of economic policy and threaten the privatisation process.

Considering the threat posed by money laundering and the fact that it represents a criminal activity which undermines the economic stability of

any country as well as an element that commonly accompanies organised crime, it is clear why special attention is given to the suppression of this criminal offence and why it is classified among serious criminal offences even when it does not result from the activities of an organised crime group.

The money-laundering phenomenon was recognised in the legal system of the Republic of Serbia for the first time in 2001, when the Law on Prevention of Money Laundering criminalised the concealment or misrepresentation of illegal origin of assets. An anti-money laundering (AML) system was also established by the Law, which resulted in imposing an obligation on certain categories of reporting entities to undertake actions and measures to identify customers. The Administration for the Prevention of Money Laundering (APML), which is the financial-intelligence unit of the Republic of Serbia in charge of collecting, analysing and disclosing financial intelligence, was established under another Law passed in 2005; the 2005

<sup>1</sup> EUROPOL SOCTA 2013, EU Serious and Organised Crime Threat Assessment.

Law imposed obligations on additional categories of reporting entities.

With the passing of the new Law on Prevention of Money Laundering and Financing of Terrorism in March 2009, the system has undergone a radical change. A novel approach based on the assessment of money-laundering risks was adopted: those who implemented the Law, known as reporting entities,<sup>2</sup> were for the first time given the right to take either a smaller or larger set of preventive measures in relation to a specific category of customers, depending on the extent of risk those customers posed for money laundering. Furthermore, that same year, the offence of money laundering was criminalised under the Serbian Criminal Code. The offence of money laundering may be committed in a number of ways: by conversion or transfer of illegal proceeds or by acquisition, use or possession of such proceeds with the knowledge that they have been acquired through crime, including any such act of commission defined alternatively. Even though three stages can be distinguished in the traditional money laundering process (the placement stage, the layering stage and the integration stage), the very definition of the offence as well as the case law have shown that this distinction has diminished in importance and that it is sufficient that any of those acts is carried out for the offence of money laundering to be committed.

<sup>2</sup> Article 4 of the Law on Prevention of Money Laundering and Financing of Terrorism.

With the adoption of the new FATF Recommendations<sup>3</sup> and the introduction of the risk-based approach which permeates all the Recommendations and every segment of the prevention and law enforcement system, it has become evident that the right approach to dealing with this problem is to devote more attention to high-risk areas and less to low-risk areas. In other words, it has become obvious that risks specific to each individual country cannot be adequately dealt with by using the same preventive and repressive measures (a one-size-fits-all approach needs to be avoided).

A noticeable improvement in the system, which was a result of the risk-based approach, encouraged the competent state authorities to undertake a comprehensive analysis of risks to which the anti-money laundering and counter-terrorist financing (AML/CFT) system was exposed in the Republic of Serbia (National Risk Assessment – NRA).

<sup>3</sup> FATF – Financial Action Task Force, February 2012.

By carrying out the national money-laundering risk assessment, the Republic of Serbia became one of the first countries in the world to comply with the FATF Recommendation no.1<sup>4</sup> as well as one of the first countries to understand the need for taking a different approach to combating money laundering. Namely, the National Risk Assessment has provided information about criminal offences which carry a high money-laundering risk: corruption offences, drug trafficking, and tax evasion.

<sup>4</sup> Recommendation 1 urges countries to identify, assess and understand the money-laundering and terrorism-financing risks they face. Identification, assessment and understanding of ML risks are essential to the implementation and development of the AML/CFT system in a country. This system includes laws, other regulations, enforcement measures as well as other measures taken with the aim of mitigating the AML/CFT risks. A risk could be understood as a function of three factors: the threat, the vulnerability, and the consequences. In ideal conditions, a risk assessment implies making a judgement on threats, vulnerabilities and consequences.



They represent the gravest threat with regard to obtaining illegal material gain. In addition, through the sectors assessed as the most vulnerable ones (banks, exchange offices, real estate industry, etc.),<sup>5</sup> they cause the most severe damage, primarily to the Serbian treasury and then to the public and private sectors and their further development. The highest risk of money laundering through the non-financial sector<sup>6</sup> can be found in the real estate industry, in particular if it is taken into account that there are many natural persons (individuals) in Serbia who make themselves appear first as developers and later on as sellers of newly built property.

These Money Laundering Typologies aim to give a better understanding the roles of all the stakeholders in the AML/CFT system and of the money-laundering risks and threats in the areas that carry considerable risks to Serbia. By providing an overview of the situation in these sectors, starting with suspicious transactions, and moving on to financial intelligence translated into information to be used by the APML and arriving finally at the indictment process, these Typologies can be used for educational purposes. That way, all the stakeholders in this system, such as reporting entities, supervisory bodies as well as prosecuting authorities, can more easily grasp the money-laundering risks.

<sup>5</sup> The risk assessment in the Serbian financial system was carried out for the banking sector, the securities sector, the insurance sector, the sector of financial leasing service providers, the sector of voluntary pension funds, exchange offices, factoring and forfeiting and money transfer agents.

<sup>6</sup> The assessment of the money laundering risk through the non-financial segment of the system of the Republic of Serbia was made in the following sectors: games of chance, auditors, accountants, attorneys-at-law and real estate agents.

# ANTI-MONEY LAUNDERING SYSTEM



Money laundering is a complex phenomena and it is to be expected that in order to effectively combat and detect it, a number of government entities and persons from both the financial and non-financial sectors would need to get involved in dealing with such cases. Another specific quality of this criminal offence is that it can have various criminal manifestations.

Considering the limitations of available information and powers vested in the APML on the one hand and in the police on the other, as well as limited information available to prosecutor's offices at certain moments, it can be concluded that perpetrators of the offence of money laundering cannot be detected or prosecuted if there is no cooperation from other government authorities.

Aside from the criminal justice system, whose role is to punish criminal offenders and have an indirect impact on crime prevention, one should not disregard the importance of system's preventive segment. It manifests

itself in the fact that banks, insurance companies and other reporting entities have an obligation under the Law on Prevention of Money Laundering and Terrorist Financing to undertake measures which, among other things, pertain to identification of customers, identification of their customers' true owners and reporting of suspicious transactions.

The exchange of information is a two-way process. Reporting entities submit information about suspicious activities that points to money laundering to the APML, which, following some additional checks, usually forwards it to prosecutor's offices or the police. Information received from reporting entities is the most significant source of financial intelligence to the APML. On the other hand, cases may be opened even by the prosecution or the police, while financial intelligence from the private sector is submitted through the APML.

## Working on Money Laundering Cases (Sources of Information and Statistics)

The task of proving any criminal offence of money laundering represents a great challenge. During such investigations, it is necessary to obtain a vast amount of various pieces of information, which must be correctly screened in order to decide if it is valid or not.

Another specific quality of the offence of money laundering is reflected in the fact that a wide range of information and documents needs to be obtained in the course of an investigation because they are required for its successful outcome; furthermore, in some instances, even the availability of information is considerably restricted and its obtaining often involves overcoming different types of “obstacles”. Correct screening of such information is not any less important as well as its further processing and classification so that it could be properly used in an investigation.

In this day and age, social networks have been gaining in importance when it comes to detecting criminal offences, including as well the one of money laundering.

Information received from informants<sup>1</sup> and consultants<sup>2</sup> played a very important role in a number of cases in which the offence of money laundering was uncovered. Above all, the engagement of informants and consultants has a significant part

1 Information received from informants leads the police to the sources of physical evidence and probative data. It serves as a signal or a signpost for finding actual evidence, whereas in some cases they may also serve as evidence itself.

2 Consultants are most commonly persons employed in certain institutions that can reveal the occurrence of criminal activities due to the specific knowledge they have. They participate in the detection of a criminal activity and continuously gather information.

3 This type of money transfer is known as hawala.

in the detection of serious crimes with the elements of organised crime, such as terrorism, narcotics, corruption and tax-related offences.

Information relevant to working on money laundering cases includes as well all the information about an increase in money supply or capital with regard to either natural or legal persons over a certain period of time. Information that is relevant to any investigation into money laundering relates to increases in the assets of natural persons, a growth of assets of legal entities, a share in the property of other legal or natural persons either in Serbia or abroad.

As regards corruption cases, in particular when it comes to various types of abuse in companies in which such persons work, informal connections (acquaintances, friendships, relatives) provide valuable information; this also applies to information about drug trafficking, for instance information about persons they heard were using or “dealing” drugs, etc.

## Statistical Indicators for Money Laundering Cases

| Year | Criminal offences | Criminal charges | Persons |
|------|-------------------|------------------|---------|
| 2012 | 123               | 65               | 143     |
| 2013 | 25                | 8                | 41      |
| 2014 | 25                | 10               | 38      |

In 2012, the police filed a total of 65 criminal charges with competent prosecutor’s offices in the territory of the Republic of Serbia, charging 143 suspects because there were reasonable grounds to suspect that 123 criminal offences of money laundering had been committed in violation of Article 231 of the RS CC; there were eight criminal charges filed in 2013, accusing 41 suspects because there were reasonable grounds to suspect that they had committed 25 criminal offences of money laundering; finally, in the period January 1 – November 1, 2014, ten criminal charges were filed against 38 suspects because there were reasonable grounds to suspect that they had committed 25 criminal offences of money laundering. The circumstance that in the above-mentioned period, 78 of those charges were filed by police inspectors from regional police departments supports the fact that

## Using Social Networks

One of the money-laundering cases which was uncovered when initial information was obtained using social media is the case of a patriarchal family with several members who temporarily worked in Germany. Since family members had to work, they could not frequently visit their relatives who lived in Kosovo. They communicated via social networks because it was inexpensive. The family used to send regular financial assistance, a sum of EUR 5,000, to their relatives in Kosovo through a person living in Nis, who cooperated with a foreign exchange dealer in Germany. The family from Germany would give money to the dealer in Germany, who would then inform the person from Nis to give the above sum to their relatives in Serbia.<sup>3</sup> For this type of “service”, dealers charged a commission, in this particular case at 5%. Then, they would integrate these proceeds from the commission into legal financial flows through their firms specialising in the purchase of real estate. It is typical that in such cases both the dealer and the persons using their services belonged to the same ethnic group.

inspectors from such departments are also involved in detecting, clearing up and proving criminal offences of money laundering and finding the perpetrators.

A considerable amount of assets believed to have been acquired through crime was identified in the course of investigations into predicate offences.

| Year | APML – Prosecutor’s offices |
|------|-----------------------------|
| 2012 | 112                         |
| 2013 | 123                         |

One hundred and twelve cases were forwarded to various prosecutor’s offices in 2012 because they were suspected by the APML of being related to money laundering; one hundred and twenty-three cases were forwarded in 2013.

Obviously, there is a vast disproportion between the amount of information disclosed by the APML and the number of cases that have been prosecuted. The reason for this could be found in the fact that the APML disseminates and forwards information to other government authorities expeditiously, within a relatively short period of time from the moment it receives a suspicious activity report. On the other hand, more time is needed for conducting a successful investigation into a criminal offence as complex as that. Such a disproportion is still indicative of a need for more effective cooperation among all government authorities that are engaged in detecting this criminal offence: the APML, the police and prosecutor’s offices.

Considerably more investigations were launched in the period from 2012 to 2014 than prior to 2012, which supports the fact that the Ministry of the Interior had intensified its efforts to bring offenders to justice. The offence of money laundering is committed by using complex schemes and applying very sophisticated knowledge. In addition to domestic infrastructure, criminals also use the infrastructure of foreign legal entities dispersed across the globe in order to satisfy their need

for personal enrichment with a clear motive to acquire material gain and the intent to frustrate or slow down any actions taken to track the flow of money. The acts of commission occur and their consequences are felt within a larger society, which undoubtedly has an impact on the course of investigations.

Prosecutorial investigation, whereby prosecutors have finally taken on the well-deserved leading role in the process of proving criminal offences, will certainly lead to better coordination and exchange of information between state authorities.

### Previous Experiences and Work on Money Laundering Cases in Serbia

New money laundering methods are constantly being devised; some of them are simple, others highly sophisticated. In a large number of cases, the sums of laundered money are relatively small, whereas others involve vast amounts of money.

Nevertheless, an operational analysis of money laundering cases has led to a conclusion that individuals and groups exhibit typical behaviours and established patterns of behaviour whereby dirty money is integrated in Serbia’s financial and non-financial systems.

The Money Laundering Typologies are an attempt to answer the question about the models of behaviour identified in our country, with special reference to models of criminal behaviour in offences assessed as the ones that carry a high risk for money laundering.

The very nature of the offence of money laundering is specific when compared to other economic offences since it presupposes the existence of certain criminal activities. Money laundering represents a connecting link between a large number of

various criminal offences. Money laundering offences usually involve many participants, numerous legal transactions and complex money flow patterns. In the previous years, money was most commonly layered through accounts held by legal entities whose true owners were individuals coming from the criminal milieu. A major obstacle encountered during investigations into ML cases was how to find out who were the true owners of companies and then to identify all the other related persons through whose accounts those transactions took place both in Serbia and abroad.

Offshore destinations, the so-called tax havens, countries with liberal tax legislation, low rates of taxation and tax advantages as well as countries in which banking secrecy is strictly maintained were particularly interesting to criminal networks from Serbia. Individuals would frequently open accounts and register business activities in such destinations. Their intention was not to pay less tax on the enormous income earned from illegal business activities than they would have paid in their respective countries of origin; instead, it was to conceal the illegal sources of their assets. Money was then transferred from those destinations to Serbia, most often as loans or credits, and further layered through companies registered in Serbia, the ultimate goal of which was for it to be later on withdrawn in cash.

Another reason for using offshore financial centres and offshore accounts for illegal purposes was that their account opening procedures suited individuals from the criminal milieu – accounts could be opened online.

In particular, money-laundering cases connected with organised crime require careful handling. Organised crime is inseparable from corruption, above all from the corruption in government authorities. When corruption occurs, its results are compromised work procedures and corrupted professional ethics and morals.

Corruption represents a serious social problem and its extent is difficult to establish. In money laundering cases, corruption may occur in many forms, for instance as bribery, conflict of interest, interest peddling, or subornation. The corruption offence that presents the highest risk for money laundering in Serbia, as identified based on the NRA, is the abuse of office. However, even though this form of corruption has thus far carried a major risk from the aspect of money laundering, other forms and types of corruption must not be disregarded.

It has been identified that elements of corruption represent an integral part of the activities of any criminal group. The main method used in such cases involves investing illegally obtained money into legal flows, corrupting public administration employees in order to get hold of classified information and exert influence over the course and outcome of some criminal proceedings. In addition, case studies have revealed that “dirty” money was invested through the privatisation process in Serbia, with help from responsible officers from the public sector, by acquiring legal entities going through the privatisation process.

An analysis focusing on organised crime has shown that members of organised crime groups abused the possibility of registering companies in tax havens. It was found out that the sole task of some members of organised crime groups (OCGs) from the examined cases had been to set up companies in offshore jurisdictions. Money was thereafter transferred further from those companies’ accounts based on simulated legal transactions with the intention of hiding its origin and the identity of companies’ true owners. It was concluded, as a result of implemented surveillance measures, that persons who were listed as formal owners of those companies registered in offshore financial centres, as well as persons who were listed as owners of those companies in Serbia, were not their true owners; instead, they ran their businesses exclusively by following

orders and instructions from criminals. Apart from this, OCG members did not only use banking products; namely, while these cases were investigated, it was observed that they had contacted people who were heads of various banks in order to ensure that certain information would not reach the APMU as a suspicious activity report.

Initial information in money laundering cases was obtained based on a variety of sources (the media, newspapers, the Internet, rumours, etc.)<sup>4</sup> and various evidence-gathering techniques were used as well; in many instances, the only way to determine if members of criminal groups were behind certain accounts or companies while individuals without any criminal background (the so-called front persons)

#### Using Offshore Jurisdictions

In one of the money laundering cases, charges were filed against as many as 71 directors, owners and responsible offices in a company from the territory of the Republic of Serbia who had used fictitious invoices for allegedly rendered services to deposit money into offshore accounts; two individuals who had set up this scheme would afterwards bring back the money as cash, but on a commission basis.

were listed as owners in official registers was to intercept telephone communications between criminals.

Dirty money was also integrated into the legal system through cash payments made into accounts held by legal entities, direct loans from company owners – authorised persons who worked for people involved in organised crime or cashless transfers when alleged loans were paid into accounts held by legal entities mutually granted by companies doing business within the OCG chain of activities. The money was then used for upcoming current transactions of legal entities,

<sup>4</sup> This refers to persons without a criminal record who act in the name of another person – the criminal.

renovations and construction of facilities within said legal entities, all of which had been funded using dirty money.

In addition to exercising control over legal entities and being involved in simulated business activities, criminals had even gone a step further by giving dirty money as loans in cases when legal entities had gone bankrupt or in order to take over their shares. In such instances, dirty money given as loan was presented as a lawful claim against a specific legal entity and accepted as such by its administrative receiver; when the procedure was concluded, the administrative receiver would return the laundered money to criminals, who would then appear as creditors in bankruptcy proceedings. A portion of dirty money invested into

purchased firms would be returned to them as laundered, namely as the revenue generated by the legal entities.

Experience from uncovering money laundering cases suggests that it is not uncommon that perpetrators and those who actively assist in the commission of such criminal offences with a clear motive to acquire material gain are members of several interest, ethnic, national or otherwise organised groups.

The conversion of property from illegal into legal is often done out of the country, by individuals as well as members of organised crime groups. Cases have been identified in which money obtained by tax evasion or by other types of fraud was transferred through related companies into the neighbouring countries and then withdrawn from accounts set up abroad and used to acquire real property.

Persons who want to place money acquired through illegal activities into the legal financial system frequently use banking transactions in an attempt to avoid transferring the money across the state border and the possibility of having that money seized; this is supported by the case described above.

Money laundering done through the so-called shell companies (also known as “front” companies or phantom firms) is yet another specific type of money laundering.

In addition to tax havens, fictitious business transactions, i.e. engaging in fictitious business transactions, has been observed as one of the most prevalent money laundering types and methods; this was done by drawing up fictitious business documents about alleged deliveries and acceptance of goods and/or fictitious documents about services rendered, in particular concerning completed construction work. Aside from construction work, it has been observed that fictitious documents were also created about performed marketing and consulting services were created.

Three organised crime groups founded precisely with the aim of laundering money and having among themselves 82 members were detected in 2010. They had contacted responsible officers from many companies in Serbia and offered to provide money-laundering services for a certain fee. The services entailed drawing up false business documents about alleged deliveries of goods, services rendered (construction, marketing, consulting), etc.

In the previous period, activities related to corruption and money laundering were also typical of the banking sector. Apart from the above-mentioned case of avoiding the submission of suspicious activity reports to the APML, an organised crime group made up of 14 members from four different towns was uncovered in 2008; they targeted natural persons who would then apply for credit with a commercial

## Using Shell Companies and Fictitious Business Documents

Two organised crime groups who had founded numerous shell companies in Belgrade and Novi Sad were detected in June 2010; they used those companies to create false documents about alleged transactions and “launder” RSD 450 million (approximately EUR 3.6 million). The groups were active in the period between 2006 and 2010.

Another group, consisting of 14 individuals, was detected in a different case; they used to draw up fictitious business documents about alleged delivery or acceptance of goods for several hundreds of companies in Serbia; thereby, they managed to hide the sale of goods on the black market worth around RSD 424 million (approximately EUR 3.5 million). Around RSD 20 million in proceeds was placed by the group members into legal financial flows by running a business or buying real estate or movable property.

Fictitious transactions were often used as a manner of “siphoning off” money and for personal enrichment of managers and heads of state-owned companies. Over the period of six years, a criminal group had managed to conceal, i.e. “launder” more than EUR 1.8 million and RSD 160.8 million (approximately EUR 1.3 million) through numerous fictitious multilateral compensations with domestic legal entities, misfeasance in the privatisation process, simulated foreign trade transactions and domestic trade of goods. Commercial and business structures of a state-owned company and a bureau (a government body), as well as a branch office of a bank and a branch office of the lottery, were used in this type of business “manipulations” and “fabricated” contracts.

bank using forged documents. Over the period of only three years, 278 credits were granted and EUR 2.5 million and around CHF 700 thousand were appropriated, which the person who had organised the group attempted to integrate into the legal flows.<sup>5</sup>

The number of cases of smuggled consumer goods (clothing, food, appliances, etc.) has risen in the past several years, which is certainly the result of the existing criminal milieu and reflects how corruption has spread to a considerable extent through the customs, border police service, inspection authorities, etc.

The fact that consumer goods are checked only as a matter of form or not checked at all when entering the country leaves room and time for criminal activities of individuals and groups or for selling such goods on the black market. Large sums of money are acquired in that way and then placed into the legal financial flows in the country and abroad.

By looking at the money laundering stages as typical phenomena characteristic of certain phases, the following elements have been identified:

### Placement

- Cash payments
- Loans/credits
- Registration of companies
- Nominal capital

### Layering

- Fictitious trading in goods
- Assistance
- Credits/loans
- Consulting/marketing services
- Various other services

### Integration

- Acquisition of companies
- Acquisition of shares
- Construction business
- Investments
- Reconstruction
- Movable/ property

<sup>5</sup> A complete case study can be found in the Annex.

# AIM OF MONEY LAUNDERING TYPOLOGIES





These Money Laundering Typologies will attempt to identify the phenomena as well as patterns of behaviour and activities that have been recognised as typical of the three criminal offences that present high risk for money laundering, including services that have proven particularly interesting to offenders. The Typologies will also endeavour to pinpoint financial and non-financial services “abused” by criminals for the purpose of integrating into the system the money they acquired through illegal activities as well as the elements in the system that have proven substantially vulnerable with regard to money laundering. There are some notorious cases in which not only banking products were abused for the purpose of money laundering, but people working in those banks assisted individuals from the criminal milieu in integrating illicit funds into the financial system.

The three criminal offences that carry a high risk of money laundering are distinguishable by not only

their nature but also by distinct models of behaviour and their international or domestic character.

Consequently, drug trafficking, for example, is predominantly a transnational crime in all of its stages, from the production and distribution of narcotics to their mass consumption. In the majority of cases, groups that are involved in drug trafficking are well organised and conduct operations internationally and overseas. On the other hand, there are offences which involve the distribution of illegal products only in Serbia. For instance, many previous tax evasion and money laundering cases occurred within the national setting or in other words, the proceeds from tax evasion were invested in Serbia, to support the development of business activities or purchase real property. Even if such proceeds were not invested into the national economy, they were alternatively invested in the economies of neighbouring countries.

These Typologies will not prove useful only to government authorities in the process of recognising certain phenomena which have thus far been identified in various investigations, but they will also be beneficial to reporting entities since they will facilitate the future identification of their services and products most frequently “abused” for illegal purposes.

A summary of behaviour and activity models of persons involved in criminal activities will be given along with effected transactions and business relationships, the aim of which is to expedite the identification of such models of behaviour in the future.

# TAX EVASION AND MONEY LAUNDERING



## OUTLINE OF THE SITUATION

By looking at the period spanning from the 1990s until today, it can be concluded that Serbia is fertile ground for the expansion of shadow (also known as grey) and underground economies. The crisis of the 1990s, sanctions and the manner of doing business had all led to financial transactions being conducted very frequently without paying taxes. What is more, the very taxes whose payment was evaded were those that provided the greatest source of revenue for the government (formerly, this referred to the sales tax, whereas this role is presently taken by the value-added tax). Several research projects done in Serbia in 2013 revealed that businesspersons and citizens had attempted to evade taxes amounting to around RSD 30 billion per year.

Tax evasion, as a predicate offence that carries a high risk for money laundering, accounts for 15.49 per cent of all reported criminal offences. Information from certain cases has revealed that

the amount of evaded taxes equals several dozens of million of Serbian dinars, as well as that around 40 per cent of all indictees were charged with serious forms of this criminal offence. Even MONEYVAL in one of its reports states that tax evasion represents one of the most widespread forms of a lack of financial discipline of legal entities in the Republic of Serbia.<sup>1</sup>

Assets derived from business activities on the so-called grey and black markets were integrated into legal financial flows in a number of ways. One of the reasons why tax evasion presents such a high risk for money laundering is that a considerable share of business transactions in Serbia is still done in cash. The majority of cash is withdrawn from the legal flows and

<sup>1</sup> National Risk Assessment of Money Laundering.

the money is further used to finance some other forms of business.

A study conducted in 2013 by the USAID and the Foundation for the Advancement of Economy (FREN), according to which the shadow economy was one of the greatest challenges facing the Serbian economy, revealed the gravity of the problem posed by tax evasion and the extent of monetary assets acquired through the criminal offence of tax evasion. The study warned that over the last ten years, Serbia's shadow economy had contracted a mere three per cent from 33.2 per cent of GDP in 2003 to 30.1 per cent in 2013; in addition, the extent of shadow activities in Serbia was greater than in any EU member state from Central and Eastern Europe, except for Bulgaria. The study also indicated that new start-ups, construction firms, sole proprietors and companies from Central Serbia were more likely to engage in shadow economy.

What is typical of tax evasion and money-laundering cases is that false transactions are registered in the books of shell companies, documents are forged and smuggled or illegally manufactured goods are placed into the legal flows through companies.

Illegal proceeds were most often invested into the financial system through loans made by company founders for the purpose of maintaining the solvency of the company and through various types of investments into movable and immovable property (purchase of flats, office space, cars, etc.). It has also been observed that such proceeds were used to buy shares in legally operating firms as well as to pay for goods related to other legal operations of the company.

The construction industry, foreign exchange operations, trading in clothing and footwear, trading in raw materials, agricultural production, etc. have been identified as the most vulnerable economic activities.

### Suspicion of Tax Evasion and Money Laundering

The fact that criminal charges of tax evasion totalling no less than RSD 520 million (nearly EUR 4.2 million) were filed only in ten cases to which the APML called attention attests to the degree of risk of money laundering and the amount of money circulating in transactions which result in tax evasion.

In the majority of cases involving tax evasion and money laundering, goods were sold on the black market (without registering the sale or paying tax liabilities). The proceeds of the sale of goods on the black market were integrated into the financial system in a number of ways, which not uncommonly happened even abroad. An organised crime group that used cash to purchase goods abroad and resell them also for cash in Serbia, thereby evading taxes and "laundering" more than EUR 10 million, was uncovered in only one operation carried out by Serbian authorities.

False (fictitious) export was rather frequently used for the purpose of reducing tax liabilities and using thus "earned" funds in the future: even though goods had never actually been exported, their export was registered in business records (export was exempted from VAT), i.e. an invoice with a zero-rate tax was issued.

It has been observed that in a major number of cases shell companies were involved in the sales process. Companies that were set up as shell companies served as a link between two actual companies (one of which was the buyer, the other one the seller). In such business relationships, shell companies played the role of an intermediary used to reduce the amount of VAT liabilities. The entire case was full of false invoices – invoices issued to non-existent buyers or by non-existent suppliers.

A share of assets acquired through such manipulations was most frequently used for property acquisitions, while

the remaining portion was used to stimulate business activities.

Tax evasion was closely related to money laundering in all of the above scenarios. Even the fact that the majority of transactions which gave rise to suspicions of money laundering and which were reported to the APML by reporting entities pertained to tax evasion and money laundering attested to the extent to which these two offences were entwined. This information leads to a conclusion that reporting entities, banks above all, have been very successful in identifying transactions which give rise to suspicion about business activities on the so-called grey and black markets. The aim of such transactions is not any kind of business activity, but tax evasion and money laundering.

In 2013, nearly 30 per cent of all the reported transactions referred to the suspicion of tax evasion and money laundering. To be specific, the majority of suspicious transaction reports (STRs) gave rise to suspicion about deposits, withdrawals and transfers of money for which there were no economic or other reasonable grounds. The second most frequent suspicion mentioned in STRs was of deposits into accounts held by legal entities which were subsequently further transferred to natural persons who made cash withdrawals as well as suspicion concerning ready money paid into accounts of various firms as loans from their founders. Precisely such transactions are a typical warning sign that the criminal offence of tax evasion may have been committed, which further points to the offence of money laundering.

An interesting fact was that tax evasion totalling RSD 391,056,108.21 (roughly EUR 3.2 million) was discovered in only one case the APML had referred to other competent authorities for further action on grounds of suspicious transactions. In this case, an indictment was issued against 18 individuals charged with the commission of the criminal offence of tax evasion, but not with the offence of money laundering. It is questionable whether or not the crime of money laundering had been committed in that particular case and if anything beneficial to the proceedings would have been achieved by bringing the money laundering charges (more expeditious conduct of the proceedings, seizure of property, reverse burden of proof, etc.). This issue should be addressed by all those who initiate the bringing of criminal proceedings. It seems that joint efforts of public authorities would yield answers to such difficult questions.

Loans from company founders made for the purpose of keeping companies afloat are allowed under the law and represent a no-taxable form of assistance provided to companies; however, judging from previous experiences, they have been fairly frequently abused as grounds for the placement and integration of dirty money into legal financial flows. In numerous cases that have been analysed so far, frequent cash payments pointed to the possibility that the offences of money laundering and tax evasion had been committed. Cash payments made by founders of legal entities as loans for maintaining their solvency were rather frequently abused for the purpose of integrating illegally obtained assets into legal flows. Further checks in numerous cases have also shown that the paid-in money originated from the sale of goods on the black market. Thus "concealed" illegally acquired assets were very difficult to detect because they were further used for the legal operations of the same legal entity.

In addition to the above, the most common indicators of money

laundering in each specific case were transactions with persons whose registered offices were in the so-called tax havens. Judging from previous experiences with such cases, offshore destinations, i.e. countries with low tax rates, were very attractive to individuals who owned large amounts of monetary assets of dubious origin as well as that those destinations were frequently exploited for concealing such assets. Even though not all transactions related to countries with low tax rates were conducted with the aim of money laundering, what was typical of Serbia was that transfers from offshore jurisdiction were rather frequently used precisely for concealing illegally acquired assets and various other manipulations whose goal in numerous cases was not only tax evasion but also money laundering. Considering there are no strict checks of people and capital in tax havens, persons who wanted to avoid such checks would take advantage of those circumstances to perform illegal activities.

Offshore jurisdictions were used for various forms of fictitious payments, i.e. to make payments to a legal entity whose registered office was in one of tax havens and thus reduce tax liabilities in Serbia. It was not uncommon that tax havens were also used for the purpose of hiding monetary assets derived from the crime of tax evasion committed in Serbia. Those proceeds were subsequently returned to Serbia by means of various investments.

Business transactions with persons from offshore destinations carried a greater risk of money laundering. Most commonly, assets were taken into Serbia from offshore financial centres by means of loans, credits and capital increase; however, what was interesting was that by tracking how transactions had moved between accounts held by domestic legal entities for which such loans were intended, no transactions were observed in the next period whereby those credits or loans transferred from offshore financial centres would have been

repaid. The money was subsequently layered through accounts held by related legal persons, who had not even used those funds to advance their business activities; instead, the money was withdrawn in cash or invested in the real estate sector.

In order to "take certain advantage" of the state, offenders often resorted to using forged documents, i.e. invoices. Thereby, they simulated the sale and purchase of goods and services with the aim of receiving a VAT refund. Afterwards, a portion of funds was re-invested into a new start-up, while the remaining share was used for personal enrichment.

Activities that are highly vulnerable to tax evasion and money laundering have in particular been observed in instances of purchase of raw materials, agricultural products and timber. In recent years, a discernible trend has been noticed in Serbia: firms are started only to be closed down after just one year. Namely, during that period of time funds were repeatedly transferred in connection with fictitious sale and purchase of goods and services between related, newly set up firms. Thereafter, funds were most often transferred to the accounts of numerous individuals as payments for the purchase of raw materials; the individuals would then make cash withdrawals and use the money for personal needs.

In addition to the models of behaviour described above that are characteristic of the two criminal offences currently being discussed, namely tax evasion and money laundering, it could be said that their most important feature is the setting up of shell companies.

## SHELL COMPANIES AS POTENTIAL THREAT OF MONEY LAUNDERINGS

Shell companies (also referred to as phantom firms) are a phenomenon that occurs in the category of tax evasion and money laundering offences at the global level and in Serbia as well. Experiences gained from the work on specific cases suggest that the establishment and operation of such companies was a typical manner in which persons who wanted to integrate proceeds derived from tax evasion and use them for their personal enrichment and tentatively speaking, for the further advancement of the business activities, operated through shell companies. Shells are usually set up using forged identity cards and in non-existent names and addresses. In the majority of cases, they are engaged in trading in excise goods (alcoholic beverages, cigarettes, oil, coffee, etc.). The precise number of such firms is not even known, since their existence can be discovered only by uncovering offences committed through them.

It is estimated that on the annual level, shell companies in Serbia cause the state to lose around 5 million EUR in tax revenue. Shells or the so-called money launderers should be looked for mostly among legal entities or sole proprietors with one employee or without any employees at all. Namely, owing to the fact that such companies do not conduct any kind of considerable business activity and because they are mostly set up for the purpose of committing some sort of embezzlement, they do not require large workforce. Since they are most often founded in non-existent names and based on forged documents, they are also suitable for concealing the origins of illegally acquired proceeds.

One of the features of these shell companies is that in most cases they are established as limited liability companies. This is primarily due to the fact that not a lot of monetary resources are needed to found a legal person in Serbia and its owner is liable

for arrears up to the amount of their nominal capital. The situation involving sole proprietorships has proven even more difficult given that their owners are liable for the firms' debts with all of their movable and immovable property.

It has been perceived, based on the work on specific cases and case analyses, that such types of companies were used in instances when they were established by owners of some other, already existing company. What happened was that debts of the existing company would accumulate and therefore the owner would set up a new company in order to be able to conduct business in case the original company went bankrupt.

In addition, such a manner of registering firms was also used in cases when it was necessary to siphon money from state-owned companies through the procurement process in which companies with made-up background took part and took over the contracts.

In only one operation carried out jointly by the Prosecutor's Office for Organised Crime and the Ministry of the Interior in two Serbian towns, an organised crime group was uncovered that specialised in money laundering for which purpose they had used numerous phantom firms. In this particular instance, the organised crime group had managed to launder more than RSD 450 million.

Taking into account all of the above typologies, if the structure of an organisation involved in the crimes of tax evasion and money laundering was shown in the form of a diagram, it would look like a pyramid. This pyramid organisational structure starts with a leader (the head of the group involved in criminal activities) and descends further to persons that occupy lower levels in the criminal hierarchy (founders of shell companies, sales agents, couriers, drivers in shell companies and associates). There are also horizontal and transverse links at the same level for the purpose of successful conduct of business and task assignment.

## STATISTICAL INDICATORS

| Year | Tax Evasion | Criminal Charges |
|------|-------------|------------------|
| 2013 | 220         | 127              |
| 2014 | 110         | 65               |

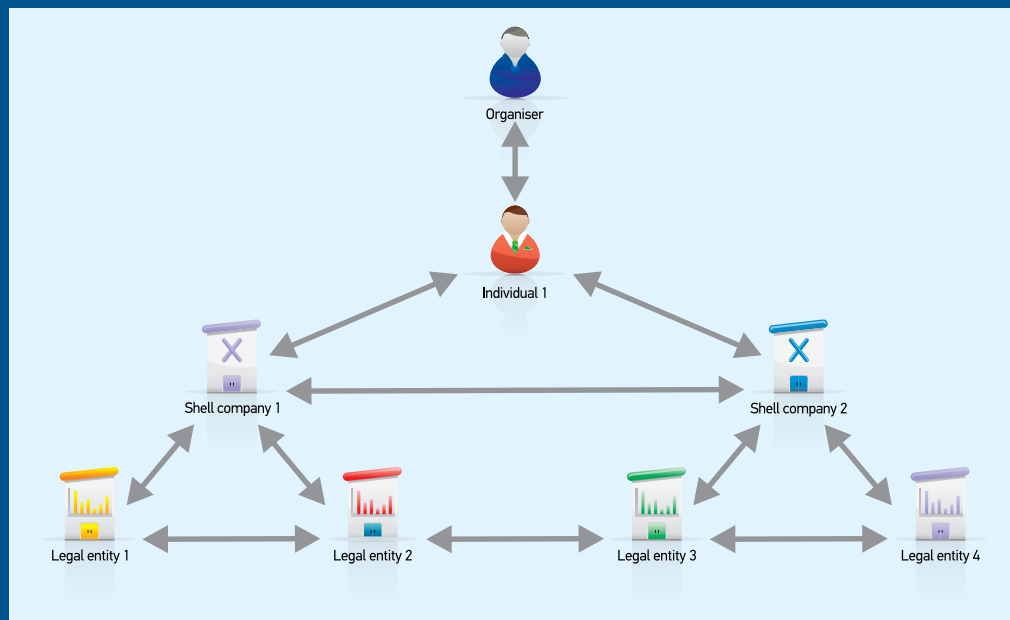
Data from the Ministry of the Interior show that 220 offences connected with tax evasion were uncovered in Serbia in 2013, in connection with which 127 criminal charges were filed, whereas 110 offences were detected in the first eight months of 2014, in connection with which 65 criminal charges were filed.

According to the same source, eight criminal charges were filed because there were reasonable grounds to suspect that 25 criminal offences of money laundering had been committed in violation of Article 231 of the Criminal Code. As can be seen from the records, nine criminal charges were filed for 19 offences in the first eight months of 2014, indicating that the number of investigations into potential cases that point to money laundering launched by the Serbian Interior Ministry had risen.

The above information leads to a conclusion that a portion of criminal charges filed in connection with the crime of money laundering (which have been on the rise) pertained as well to tax evasion as a predicate offence for money laundering. It is not at all uncommon that with the aim of proving tax evasion and money laundering offences, investigative authorities in Serbia engage the so-called undercover investigators and set up "fictitious firms" to serve as a vehicle for conducting simulated legal transactions and feature as active participants in financial transactions through a range of activities designed to facilitate tax evasion and subsequent money laundering. This method yielded some good results and led to the discovery of organised crime groups that managed to "launder" large amounts of the proceeds derived from the criminal offence of tax evasion.

According to information from the Ministry of Justice and the Directorate

Schematic representation of the structure of the organization for criminal offenses of tax evasion and money laundering



for Administration of Seized Assets, the following assets acquired through the commission of tax evasion and money laundering had been seized up to November 1, 2014: EUR 33,500; RSD 300,000; five flats in Belgrade; three parking spaces in Belgrade; three office premises in Belgrade and one shop, also in Belgrade.

Red flags which give rise to suspicion about potential tax evasion offences resulting in money laundering:

- Large amounts of cash are deposited into accounts of legal entities as loans;
- Transactions that do not have any clear economic justification, i.e. the underlying reason of effected transactions cannot be easily uncovered;
- There are mutual transactions between many related legal and natural persons, mostly in connection with the sale of goods and services, provided they are without any clear economic justification;
- Offshore legal entities enter into transactions with legal entities

from Serbia in connection with various types of services, loans, credits and sale of goods;

- There are frequent payments made as assistance to relatives, gifts or inheritance to persons whose kinship or other type of relation is subject to suspicion;
- Payments that are made for consulting or other types of services whose value is difficult to prove;
- Large amounts of cash that are paid into personal bank accounts of individuals (characteristic of the construction industry).

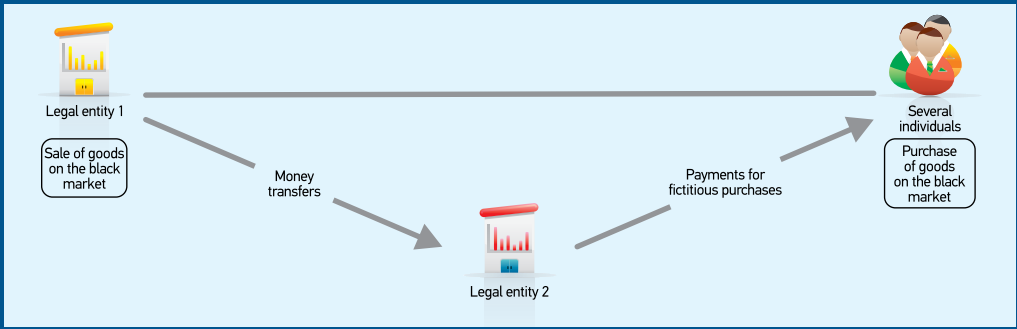
#### TAX EVASION – MONEY LAUNDERING TYPOLOGIES

The proceeds of tax evasion are mostly used for personal needs of individuals who have actually committed the crime and for paying obligations owed to the state. A portion of the proceeds is also used for running regular business activities, which makes the task of uncovering the crime of tax evasion even more difficult in certain cases.

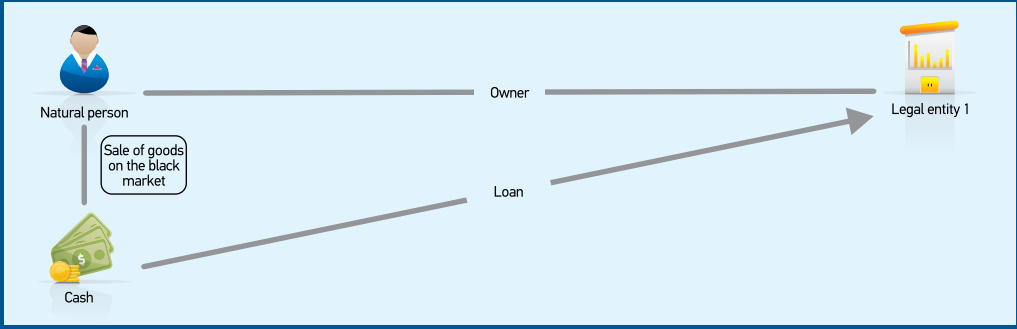
In addition, it is very difficult to make a clear division between methods of money laundering used in business activities which result in tax evasion. To put it differently, money laundering schemes are very complex and in the majority of cases represent a "mix" of several typologies.

#### Laundering proceeds from the sale of goods on the black market

Sale of goods on the black market represents the most common type of tax evasion committed in Serbia. Namely, goods are sold for cash, without having registered their sale in business records. Thus earned cash must be "placed" into legal financial flows and its true origin must be covered up. The most common methods for achieving those goals include:



Fictitious purchase of products



Loans from founder for the purpose of keeping the company afloat



Payment of liabilities towards the Privatisation Agency

**Fictitious purchase of products (mostly agricultural products and raw materials)**

A legal entity is involved in the sale of goods on the black market and its responsible offices “place” proceeds from such sales into the legal entity’s accounts in various manners. The money is then transferred to another legal entity, after which it is paid out to a number of individuals as payment for fictitious purchases. The individuals use the money they have withdrawn for purchasing more goods on the black market as well as for personal needs.

**Loans from founder for the purpose of keeping the company afloat**

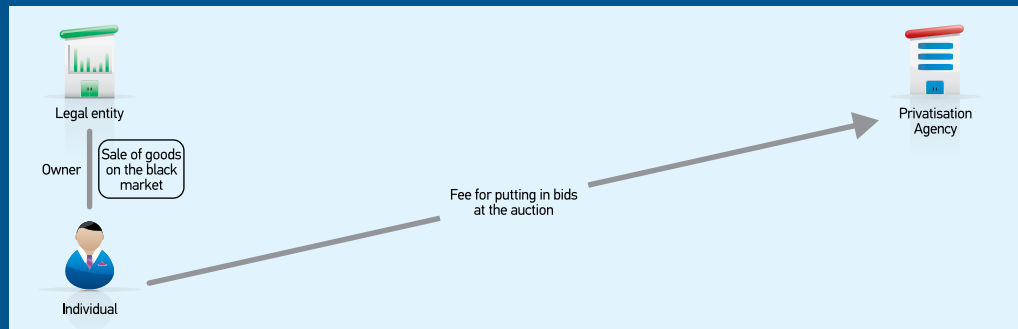
A responsible officer with a legal entity has made a large profit in cash by selling goods on the black market. Loans made by the founder are used for the purpose of integrating the proceeds into legal financial flows.

**Payment of liabilities towards the Privatisation Agency**

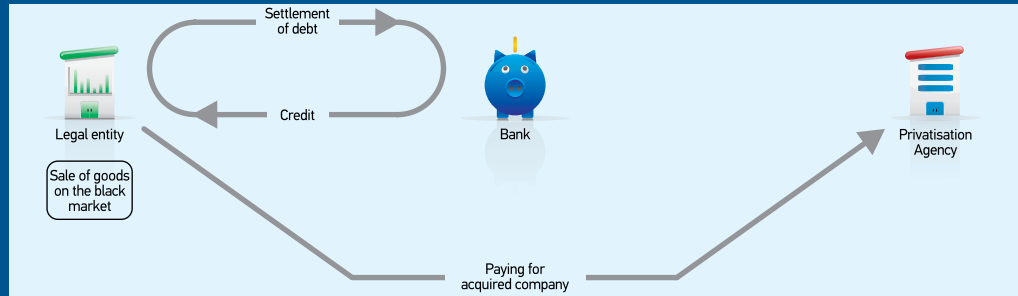
It is a very common occurrence in Serbia that money obtained through the sale of goods on the black market is used for the acquisition of companies undergoing the process of privatisation. The proceeds are mostly placed into the accounts of legal entities as deposits of day’s takings or loans from the founder made for the purpose of maintaining the solvency of the company. Money is then transferred from the legal entity’s bank account to the account of the Privatisation Agency.



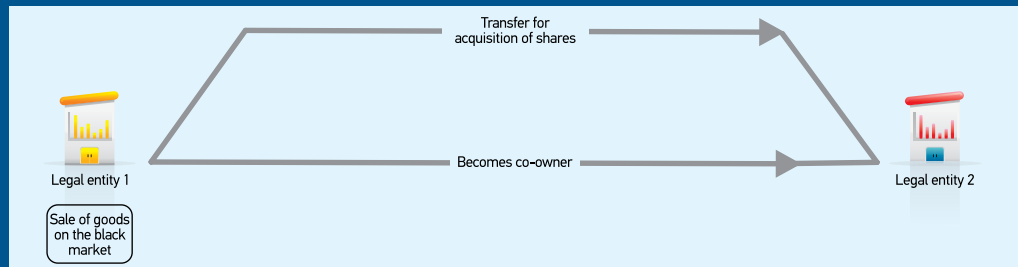
Fee for bidding at an auction for the purchase of a company



Payment of financial obligations owed to a bank whose funds have been used for the acquisition of a company



Acquiring a share in another legal entity



### Fee for bidding at an auction for the purchase of a company

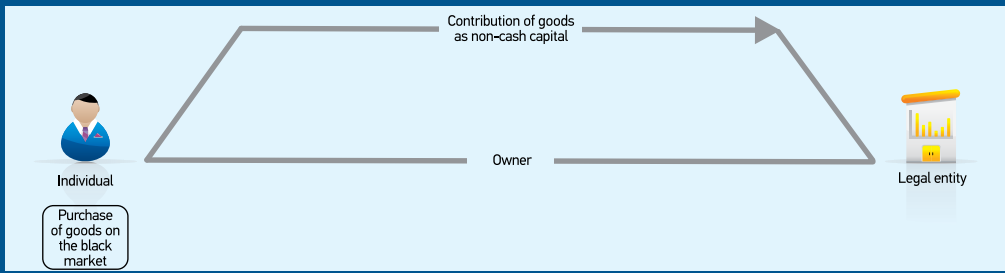
The owner of a legal entity engaged in the sale of goods on the black market uses proceeds from the sale to pay a fee so that he could make a bid at an auction at which a legal entity undergoing the process of privatization has come up for sale.

### Payment of financial obligations owed to a bank whose funds have been used for the acquisition of a company

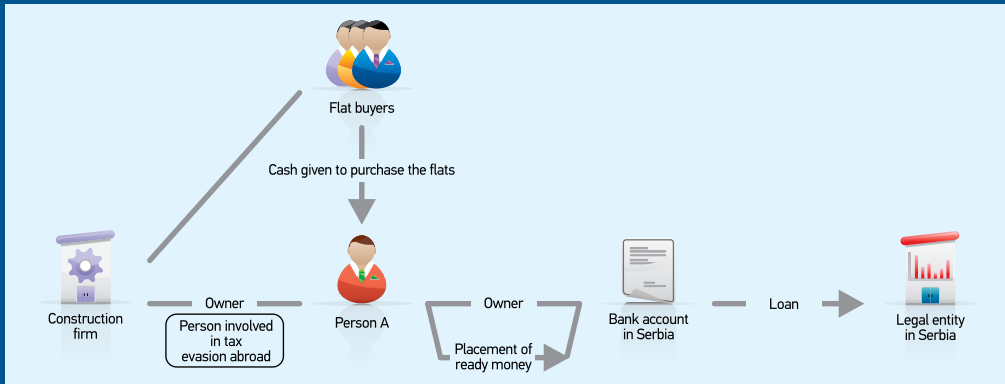
A legal entity involved in the sale of goods on the black market uses proceeds from the sale to settle his debts towards a bank, i.e. to pay out a credit used to acquire a company undergoing the process of privatisation.

### Acquiring a share in another legal entity

In order to be integrated into legal financial flows, proceeds from the sale of goods on the black market are transferred into the accounts of other legal entities as payments for the acquisition of shares; thereby the company becomes the entities' co-owner.



Non-cash capital contributed to company's nominal capital



Dirty money acquired abroad paid in as loan

### Non-cash capital contributed to company's nominal capital

After purchasing goods on the black market, a responsible officer with a legal entity contributes them as non-cash capital to the legal entity's capital, after which they are placed and sold on the legal market.

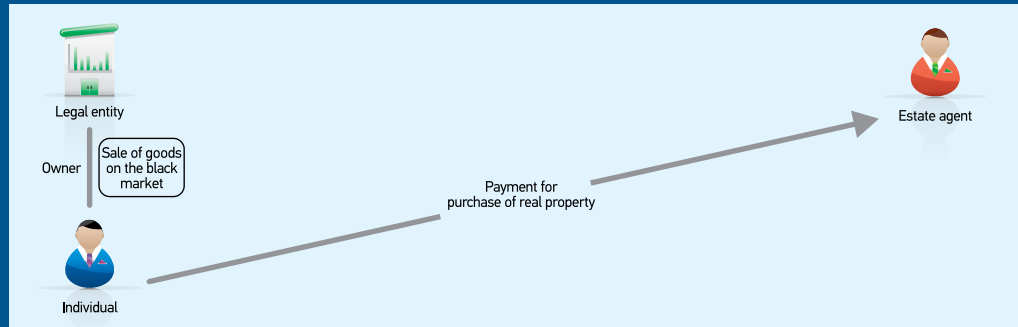
### Tax evasion abroad and money laundering in Serbia (international character of integration of dirty money)

Recently, it has been observed that persons from foreign countries have made frequent attempts to integrate the money "earned" abroad through the commission of the offence of tax evasion into legal financial flows in Serbia. Newly founded Serbian firms engaged in investment and construction activities are mostly used for such type of undertakings.

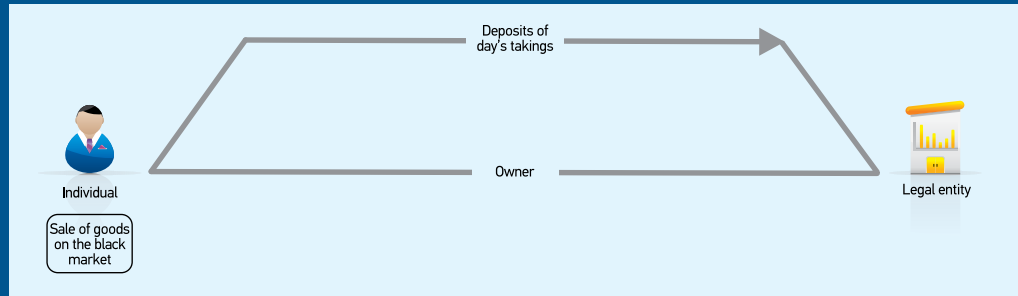
### Dirty money acquired abroad paid in as loan

A natural person is engaged in a construction activity in a foreign country where they sell flats for cash and then deposit the proceeds into banks accounts in Serbia. The proceeds are subsequently used for making investments into businesses in Serbia.

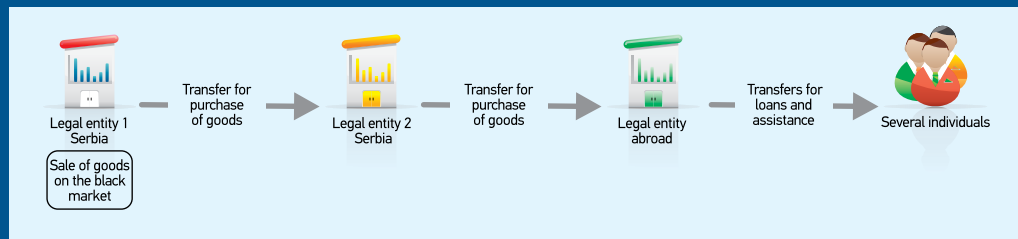
Purchase of real estate



Deposits of day's takings – mixing "clean" and "dirty" money



Transfers of money as assistance or loan



### Purchase of real estate

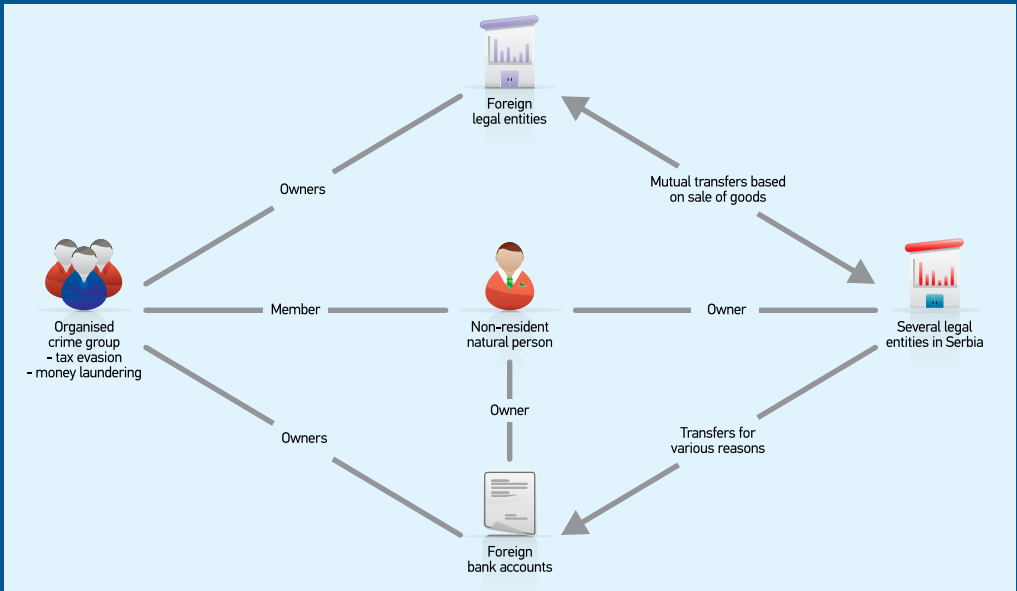
The owner of a legal entity involved in the sale of goods on the black market uses the proceeds from the sale for his personal needs, i.e. purchase of real estate.

### Deposits of day's takings – mixing "clean" and "dirty" money

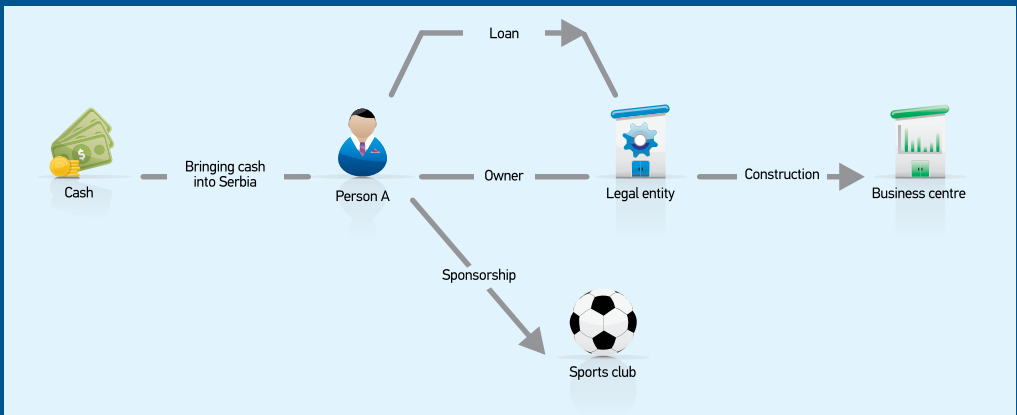
Proceeds from company's regular business operations are mixed with the proceeds from the sale of goods on the black market and deposited into accounts held by a legal entity as deposits of day's takings.

### Transfers of money as assistance or loan

A legal entity transfers its proceeds from the sale of goods on the black market to related legal entities abroad as payment for purchase of goods. Money is most commonly transferred as loans or assistance and it is subsequently withdrawn in cash. The true reason behind such transfers is the payment for goods acquired on the black market.



Placement of dirty money into Serbia through fictitious sale of goods and services



Integration of money of unknown origin into Serbian financial system through sponsorship and investment into the construction business

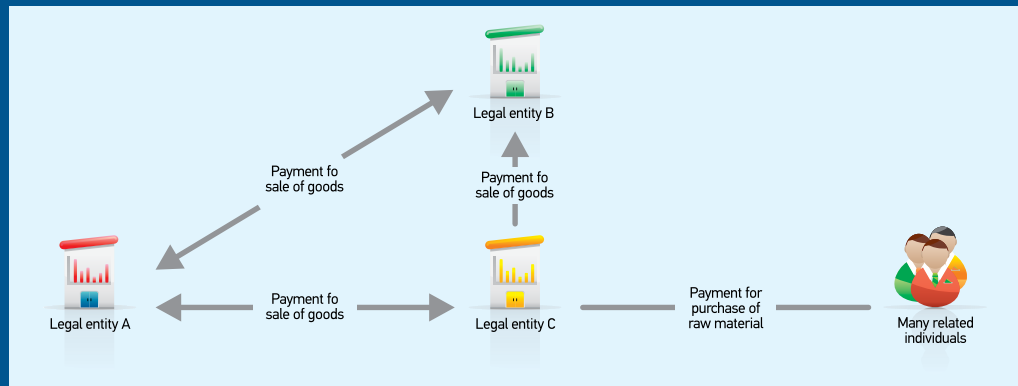
### Placement of dirty money into Serbia through fictitious sale of goods and services

Individuals from foreign countries set up a number of firms in Serbia. Funds are transferred through accounts held by legal entities in consideration of “fictitious” sale of goods. Namely, the funds are transferred from the accounts held by legal entities abroad to Serbia only to be returned to the country of origin through transfers to related legal entities or directly into the accounts of firms’ founders. Those persons then use the money for their personal needs, acquisition of real property, etc.

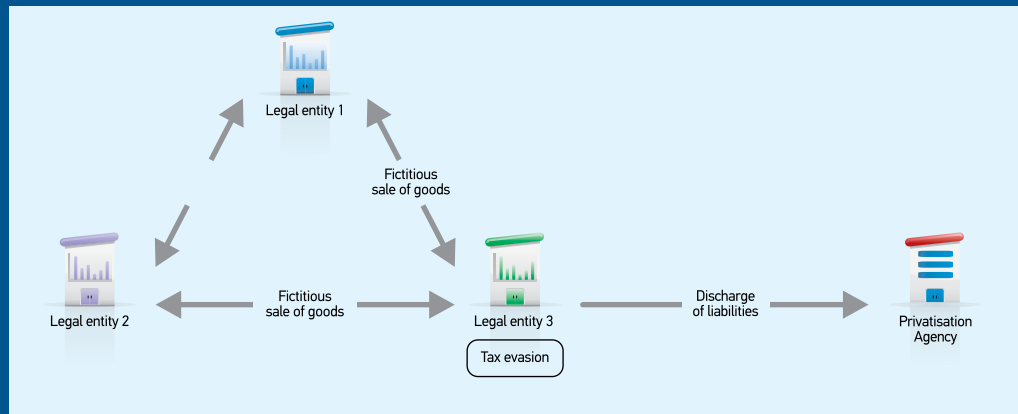
### Integration of money of unknown origin into Serbian financial system through sponsorship and investment into the construction business

An individual is involved in business activities out of the country. Proceeds from those activities are brought into the country and they are declared when crossing the state border. A portion of the proceeds is deposited as loans into the accounts of a legal entity engaged in the construction of office space, while the remaining share is given as sponsorship money.

Purchase of raw materials



Tax evasion and covering liabilities owed to Privatisation Agency



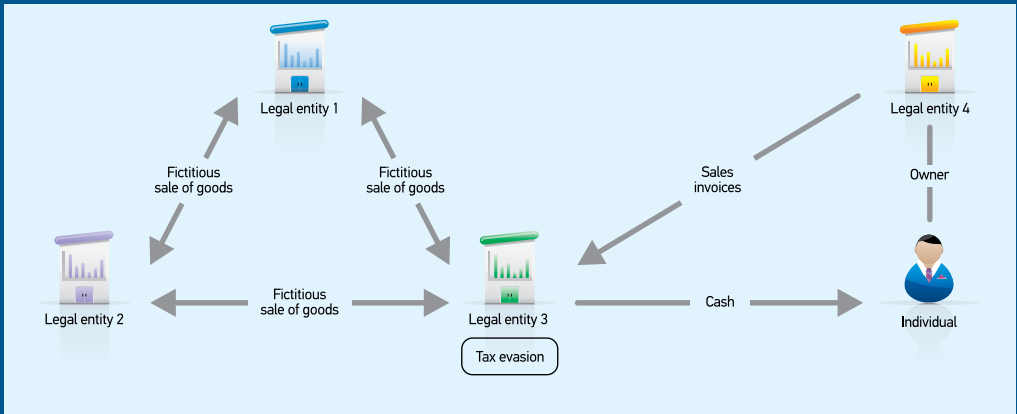
### Purchase of raw materials

It has been observed that in recent years, firms have been frequently started in Serbia only to be closed down after less than a year. What happens over that one-year period is that funds are frequently transferred between the accounts of newly started related firms in consideration of the fictitious sale of goods and services. Thereafter, the funds are transferred in consideration of the purchase of raw materials to the accounts of a large number of individuals who make cash withdrawals and use the money mostly for personal

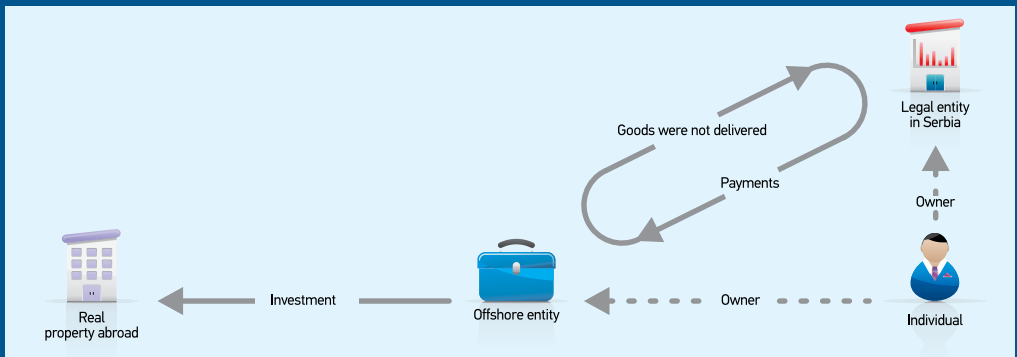
needs. This scenario is used with the aim of decreasing the amount of company's revenue and therefore to reduce the amount of its tax liabilities.

### Tax evasion and covering liabilities owed to Privatisation Agency

It is not uncommon that a scheme involving simulated legal transactions and forged documents is carried out in order to use the received VAT refunds and cover one's liabilities incurred in the privatisation process.



Provision of funding for persons in need of cash



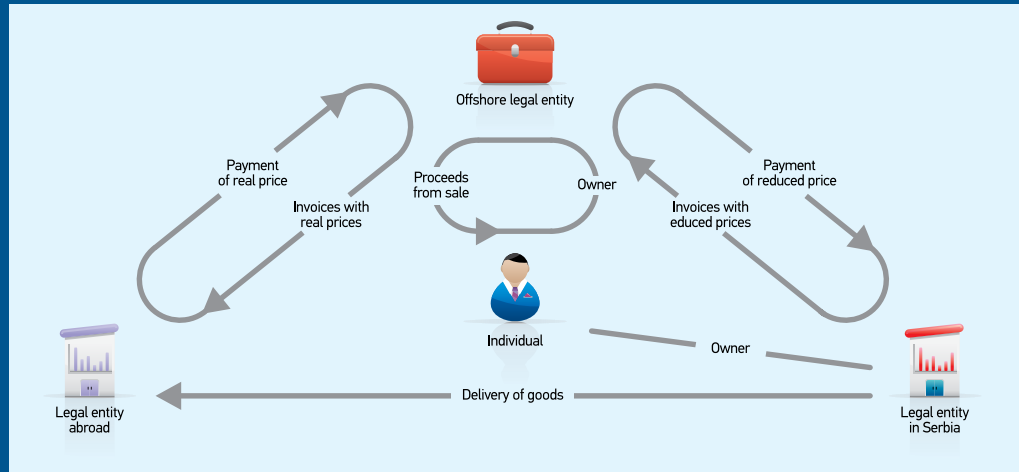
Advance payments for goods that have never been delivered

### Provision of funding for persons in need of cash

An organised crime group sets up a range of shell companies and acquires substantial material gain due to the refund of VAT through a number of simulated legal transactions. In order to conceal the origin of assets available to them, they manage to find the owner of a certain legal entity in need of ready money. The owner is paid in cash to issue invoices for goods that are never actually sold, while the owners of the shell companies charge him a commission for providing him with ready money.

### Advance payments for goods that have never been delivered

There are instances of advance payments made towards certain offshore companies for goods that have never crossed the Serbian border. In such a manner, legal entities attempt to siphon money from the country through various foreign trade transactions. The identities of true owners of domestic companies and persons from offshore financial centres are questionable. A portion of the proceeds is indirectly taken back into the country to be used for regular business operations, while the remaining share is used to acquire real property in a foreign country or invest into some other illegal activities.



### Under-invoicing of goods

A legal entity from Serbia issues invoices for goods to an offshore legal entity stating a price as being less than the price actually paid and the latter then issues invoices with real prices to a company in a neighbouring country. The goods are delivered directly from Serbia to the neighbouring country. The proceeds from the difference between the real value of sold goods and the reduced value of purchased goods are kept by the offshore company.

## CASE STUDY – BLACK MARKET AND MONEY LAUNDERING

The importation of textile goods originating from Asia and Euro-Asia, predominantly from China, presents a great challenge for customs areas of all developed countries worldwide since they are bought at a very low cost as opposed to the same type of goods manufactured in other parts of the world.

In order to protect the customs area of the Republic of Serbia from the import of such goods, three customs houses – namely Sid, Dobanovci and Nis – have been designated by a decision of the Customs Administration as customs houses specialised in the clearing and collecting customs duties on goods originating from Asia and Euro-Asia. At the above-mentioned customs houses, prices stated on invoices issued by foreign suppliers are not taken into account when determining the value on which customs duty or the value of imported goods is calculated. Instead, it is determined based on one kilo of textile goods or based on the price of each individual item as established when customs duty was previously collected on similar textile goods of the same origin.

An organised crime group was formed with the aim of releasing such goods for free circulation through the Subotica Customs Office in violation of the procedure defined under the Decision on Designating Custom Houses and their Organizational Units for Customs Collection on Certain Goods.<sup>2</sup> Their aim was to avoid meeting their tax and customs obligations in the process

of importation of goods into the territory of the Republic of Serbia.

For the purpose of a successful importation of textile goods in Serbia, cooperation from business entities registered abroad and in Serbia was enlisted, namely from:

- Legal entity 1, with a registered office in an Asian country. The entity was controlled by the OCG and it featured as a simulated seller of controversial textile goods (the goods were purchased and paid for by individual who took cash out of Serbia) to companies in one of the EU countries; it was also in charge of the transport of goods from Asia into EU countries;
- Legal entities 2 and 3, with registered offices in one of the EU countries; they were controlled by members of the OCG and featured as simulated buyers of the controversial textile goods from Asia;
- Legal entity 4, with a registered office in another EU country; it was controlled by the OCG members and featured as a simulated buyer from the company from the first EU country and seller of the controversial textile goods;
- Legal entity 5, with a registered office in Serbia; it was controlled by the OCG organisers and featured as a simulated buyer of the controversial textile goods, which would afterwards distribute them to the so-called money-laundering companies in Serbia (also set up by the OCG members);
- Several other legal entities, the so-called money-laundering companies, started by the OCG members in Serbia.

Well-established channels through which Serbian citizens travel to countries in the Eurasian region have existed ever since economic sanctions were imposed against Serbia. Recently, or more precisely since 2010, this manner of provision or transport of goods has substantially compromised

the system of collecting customs duties and tax revenue. This has caused the Serbian Treasury to lose many millions of dinars and has led to large-scale corruption among the employees of the Customs Administration.

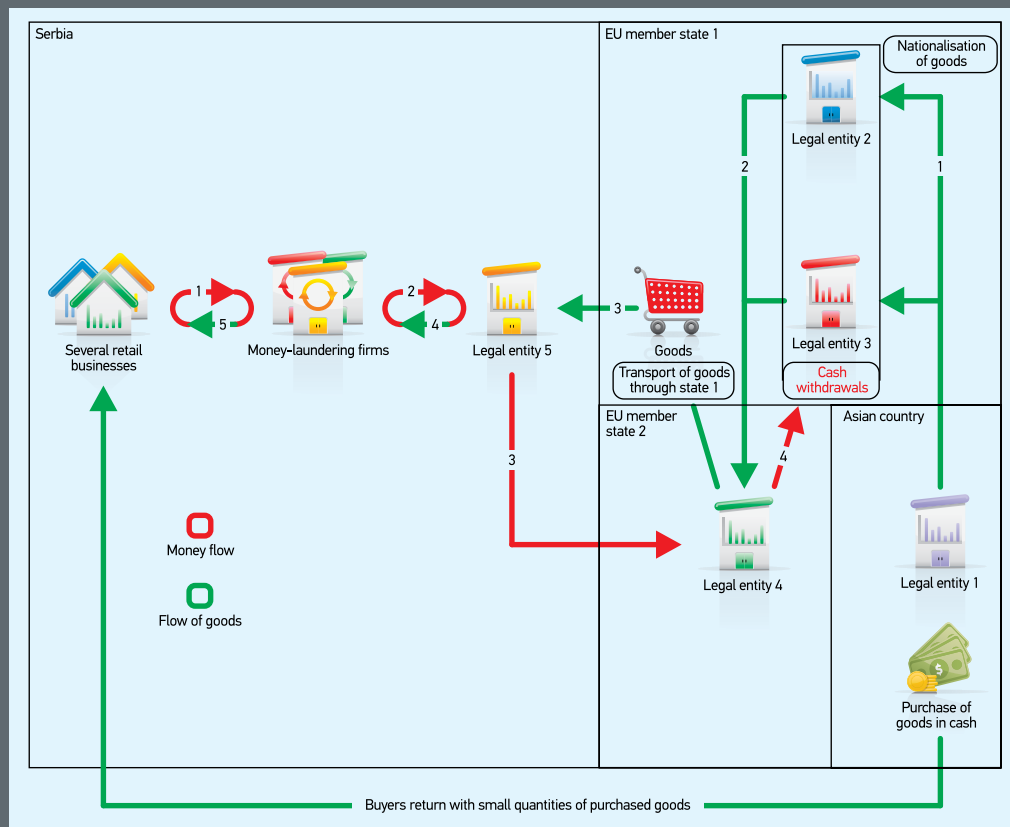
In order to bring goods to Serbia, Serbian citizens (shop owners) used buses owned by the members of the OCG. The buses collected passengers in towns across Serbia. In addition to preferential bus fares, the OCG members ensured that the passengers paid preferential hotel accommodation prices.

After reaching Asia and checking in at a hotel, the passengers were sent to do shopping in shopping centres, bazaars, and from street vendors. They paid for goods in cash taken out of Serbia; the goods were packed in bags on which numbers they had received on the bus were written and sent to the hotel. After the shopping was done, smaller amounts of goods were put into the boot and returned along with the passengers to Serbia, while the majority of goods packed in bags were transported by truck. The passengers would give to the OCG members the so-called requisition forms with the number of items and prices they required to cover the minimum sale made through their shops. Invoices and dispatch notes would be received from the money-laundering companies controlled by the OCG members when the purchased goods were delivered in Serbia. Transportation costs were calculated by the OCG members, who inspected bags at the hotel, made a list of items and calculated the amount of transportation costs to be covered by the OCG.

When the above undertaking was completed, an Asian carrier was engaged and the goods were transported by their trucks along with a forged invoice across the two EU countries and into the third one, i.e. to the legal entities 2 and 3. The goods were then reloaded onto trucks belonging to the Serbian company and together with the invoice and the

<sup>2</sup> Official Gazette of the Republic of Serbia, no. 4/10 and 20/10





dispatch note stating a slightly increased value of goods, they were sent to the legal entity 4. That step allowed the legal entities 2 and 3 to be exempted from tax liabilities in their own country, an EU member state; also, since the invoice by the Asian supplier, a phantom firm, had a stamp attesting to a payment made in cash, it served as a cover for cash withdrawals by the OCG members from a bank account held by the companies and its bringing into Serbia (whereby the elements of the crime of money laundering had been fulfilled).

After crossing the border, trucks sent to the state in which the legal entity 4 had its registered office would turn back and with previously prepared documents, go to their final destination, the Serbian legal entity 5; as such, they passed through the

state in which the legal entities 2 and 3 had their registered offices.

According to an agreement previously reached between the OCG members and customs officers, the goods stored in the trucks were inspected in such a way that cargo was looked at only in part and even if some irregularities were observed, the vehicles would be released as if the standard statutory procedures for conducting inspections had been followed. The customs officers were compensated for their cooperation by the OCG members (both in kind and in money). In return for gifts received from the suspects, the customs officers omitted to discharge their official duties, i.e. they failed to inspect the textile goods and determine their value as provided under the law and other bylaws of the Customs Administration. Instead, they would only slightly increase the

value of goods listed on commercial invoices from the EU countries; based on thus established value, they calculated the amount of customs duty and tax to be paid, which was extremely lower than the amount that would have been calculated had the customs officers adhered to the law and the bylaws of the Customs Administration.

According to organiser's information, goods conveyed only by one truck owned by a Serbian carrier were worth around EUR 300,000.

Goods were reloaded from the Serbian carrier's trucks into the vehicles of OCG members already waiting at a car park; the reloading was done in delivery areas in such a way that all passengers' bags from hauling routes were loaded into the vehicles. A large number of persons with family links were engaged

to convey goods to home addresses, collect payments for services and transportation expenses from the Asian country to the residence of the owners of the goods, including the handing over of forged invoices from the “money-laundering” firms as if the goods had been purchased on the Serbian market (not in Asia) as per ordered quantities (which were considerably smaller) and prices (set at purchases’ will). Because of trust placed in them as family members, those persons were also involved in the collection of cash payments from the owners of the goods for services rendered by the OCG based on lists of owners faxed from the Asian hotel. When the task was completed, the collected money was handed over to the OCG members.

Using forged dispatch notes, owners of retail business would then place the delivered goods on the market through their boutiques and market stalls. They sold the goods for which they had paperwork (invoices and dispatch notes) in the boutiques, while the rest of the goods (brought to the country without any accompanying documents) were used to replace the sold goods, i.e. to acquire the proceeds

from their sale as personal gain and evade VAT by declaring lower turnover.

Two flows of cash can be identified with regard to the financial aspect of this case.

1. The first one took place in Serbia and went from end-buyers through “money-laundering” firms to the importer (legal entity 5). The scheme was based on received forged invoices stating the value and quantity of goods. The money was used to cover the expenses incurred by the OCG and earnings of its members in the following manner:
  - Persons who set up the so-called money-laundering firms received five per cent of the invoice value issued to retail businesses;
  - Bookkeepers who took care of the paperwork for the “money-laundering” firms received EUR 5 hundred per month;
  - Each person involved in the operation as a labourer loading and unloading goods received between 20 and 30 EUR per day;
2. The second one occurred abroad and went from the legal entity 5 from Serbia to legal entities 2 and 3. Since those companies were not the actual buyers and since money was just „moving“ from one account to another with the intention of obfuscating the entire scheme of money flow, the movement of money stopped at the legal entities 2 and 3; it was then withdrawn from their bank accounts under the pretext of covering their expenses (the documents contained incorrect information that the Asian supplier (another shell company) was paid for goods in cash, even
  - Customs officers were given between 1,000 and 1,500 EUR per cargo inspection;
  - The rest of the sum stated on the invoice in the amount ranging from 12,000 to 25,000 EUR was divided among the group organisers.

though the supplier was never the owner of the goods); however, the money withdrawn from the bank accounts was returned to Serbia as ready cash and handed over to the OCG organisers to be shared out in the manner related above.

The OCG members would split the money they acquired in the above manner (withholding the payment of customs duties and taxes) and use it to buy cars, build houses and flats, and acquire land and commercial premises.

Red flags detected in the above-mentioned case study included as follows:

- Transport of goods through a large number of countries with the aim of evading adequate customs controls and concealing the true origin of goods;
- The goods were passed through the customs at border crossings that were not "specialised" in that type of goods;

- Cash payments for goods or cash withdrawals from the bank of the same legal entity;
- A large number of related legal entities;
- Sale of risky goods and purchase of such goods in countries often related to tax evasion.

#### OUTCOME OF THE CASE

Criminal charges were brought against 26 persons, 15 of whom were responsible officers in legal entities (two of them were the organisers of the OCG) and eleven were employed with the Customs Administration; they were charged with the commission of the following offences:

- Conspiracy to commit criminal offence;
- Abuse of office;

- Accepting bribes;
- Bribery;
- Tax evasion;
- Money laundering.

During the search of the houses and safe deposits of OCG members, the following was found: EUR 400,000 in cash, two buses, one truck with a trailer and seven luxury vehicles.

There is reasonable suspicion that in the manner detailed above, this organised crime group managed to cause at least RSD 1,015,036,171.32 (around EUR 10 million) in loss to the Serbian budget, because the customs duties and VAT they paid were less than they were supposed to pay under the law. At the same time, the said sum represents the amount of illegal material gain acquired by the group.

**UNLAWFUL PRODUCTION AND  
CIRCULATION OF NARCOTICS  
AND MONEY LAUNDERING**



### **OUTLINE OF THE SITUATION – SURROUNDING COUNTRIES AND INTERNATIONAL POSITION OF THE REPUBLIC OF SERBIA**

Drug trafficking is the most dynamic area of activity when it comes to illegal activities. Drug distribution routes are constantly being changed and adapted to new developments and growing efforts to combat this type of crime. The production and distribution of narcotics is one of the most profitable sources of illegal income. Negative effects of narcotics on the society and economy of any country are incalculable. Drug trafficking, illicit financial flows and transactions cause massive economic losses and they are responsible, among other things, for enormous costs of medical treatment and social care for drug addicts. Also, drug trafficking leads to the escalation of violence, undermines the health of the population and contributes to the lack of safety in any country.

As regards the correlation between drug trafficking and money laundering, they

both share a very important element and it is precisely their transnational character. This aspect is present in all the stages, starting with the production and then sale of narcotics, and finally ending with the collection of profits.

According to an estimate by the United Nations, as much as 80 per cent of money laundering on the global scale has been done through drug trafficking. This is indicative of the fact that traditional types of crime, such as international drug trade, still remain the principal cause of concern and the greatest threat of money laundering.<sup>1</sup> The value of European narcotics market has increased and it is estimated at

<sup>1</sup> EUROPOL SOCTA 2013, EU Serious and Organised Crime Threat Assessment

nearly EUR 12 billion.<sup>2</sup> Cannabis is by far the most widespread illicit drug and it is estimated that around 2,500 tonnes of cannabis is consumed in Europe annually, as well as that there are 23 million consumers of cannabis. Europe is also one of the most important consumer markets for cocaine in the world.<sup>3</sup> With four million consumers and 124 tonnes of cocaine consumed per year, it is the second most consumed drug in the EU after cannabis.

Given that the supply of narcotics on the domestic market is directly influenced by its movements on the global market, this trend has also been noticed in Serbia. The processes of disintegration of the former social system and the establishment of a new, emerging system along with an overall impoverished nation have done nothing but contributed to the growth of the narcotics-related problem.<sup>4</sup>

Heroin has a dominant share in the total narcotics "business" in Serbia. The production and distribution of synthetic drugs (such as ecstasy and amphetamines) has been on the increase on the Serbian territory. In one of such cases, a newly set up legal entity used its premises to produce a synthetic drug. All of the business relations established by this legal entity were mere smokescreens created to fulfil the true purpose behind its registration.

According to latest research and by comparing the current situation with the previous period, it can be seen that the number of drug consumers saw a constant rise. In 2003, the total number of registered drug users was 46,040, whereas in 2013 that number had risen to 87,169, which is an increase of 89.33 per cent over

**Table 1 Total number of drug users (addicts who regularly use narcotics)**

|              | 2003   | 2013   | % increase (decrease) in the number of users |
|--------------|--------|--------|--|
| Heroin       | 17,611 | 24,822 | 40.95%                                       |
| Cocaine      | 3,194  | 5,784  | 81.09%                                       |
| Cannabis     | 22,453 | 43,504 | 93.76%                                       |
| Ecstasy      | 1,490  | 6,878  | 361.61%                                      |
| Amphetamines | 1,292  | 6,180  | 378.33%                                      |
| In total     | 46,040 | 87,168 | 89.33%                                       |

**Table 2 Total cost of narcotics purchase incurred by consumers (in million euro)**

|              | 2003  | 2013  | % cost increase (decrease) |
|--------------|-------|-------|----------------------------|
| Heroin       | 88.4  | 113.2 | 28.05%                     |
| Cocaine      | 8.3   | 15.0  | 80.72%                     |
| Cannabis     | 4.7   | 8.5   | 80.85%                     |
| Ecstasy      | 0.6   | 2.9   | 383.33%                    |
| Amphetamines | 0.6   | 3.2   | 433.33%                    |
| In total     | 102.6 | 142.8 | 39.18%                     |

**Table 3 Average consumption per user (in EUR)**

|              | 2003     | 2013     | % cost increase (decrease) |
|--------------|----------|----------|----------------------------|
| Heroin       | 5,019.59 | 4,560.47 | -9.15%                     |
| Cocaine      | 2,598.62 | 2,593.36 | -0.20%                     |
| Cannabis     | 209.33   | 195.38   | -6.66%                     |
| Ecstasy      | 402.68   | 421.63   | 4.71%                      |
| Amphetamines | 464.40   | 517.80   | 11.50%                     |
| In total     | 2,228.50 | 1,638.22 | -26.49%                    |

the period of ten years (Table 1). Likewise, what was alarming was the fact that the number of consumers of "synthetic" drugs was dramatically rising. The group of "synthetic" drugs had also seen the rise in the average consumption per user as opposed to heroin, cocaine and cannabis, all of which had seen a slight fall (Table 3).

The share of narcotics consumption had fallen in the overall GDP over the period from 2003 to 2013.<sup>5</sup> It decreased from 0.55 per cent in 2003, to 0.49 per

<sup>2</sup> EMCDDA & Europol EU Drug Markets Report 2013, SOCTA.

<sup>3</sup> UNODC World Drug Report (WDR) 2011, SOCTA.

<sup>4</sup> National Strategy for Fight against Organised Crime (Official Gazette of the Republic of Serbia, 23/09).

<sup>5</sup> Statistical data used for the purpose of comparative analyses, Statistical Office of the Republic of Serbia.

cent in 2006, 0.45 per cent in 2010, and finally to 0.42 percent in 2013. However, the decrease of the share of the narcotics consumption in the GDP was not brought about by a decrease in personal consumption (on the contrary, as can be seen in Table 2, it increased by 39.18 per cent in 2013 relative to 2003); instead, it was due to an increase in the national GDP, whose rate was higher than the rate of increase of the narcotics consumption.

The fact that drug trafficking poses the greatest risk of money laundering to Serbia simply because of the sheer volume of money acquired through it is supported by a piece of information that one of the first money laundering cases was related to drug trafficking. In July 2002, at the time when the anti-money laundering system was being created and the APML was being established, the profits of around RSD 272.5 million derived from drug trafficking were laundered.

Due to Serbia's geographical position and its location on international trafficking routes, large quantities of narcotics do not only pass through, but they also remain in the country.

In a SECI Report on Drug Seizure,<sup>6</sup> Serbia is mentioned as a country in which considerable quantities of heroin have been seized. There are indicators suggesting that large quantities of heroin located in Kosovo are intended for further distribution into Western Europe through Albanian ports, Montenegro and Bosnia and Herzegovina. There has been a gradual shift in trafficking corridors in such a way that a corridor that traverses Romania and Hungary has grown in importance, whereas the previously used corridor went through Serbia. The main route for transporting cocaine to Serbia starts in Latin America,

<sup>6</sup> Southeastern European Cooperative Initiative, SECI.

runs through countries in Western European and ends in Serbia. A number of criminal groups detected in Serbia have had direct contacts with cocaine suppliers from South America (Brazil, Argentina, Columbia, and Venezuela). Cocaine purchased from those suppliers is priced at USD 5,000 to 6,000 per kilo. It is conveyed from South American ports in Argentina, Brazil, Paraguay and Columbia mostly to ports in Western Europe (Antwerp, Rotterdam, Hamburg, Bremerhaven and Gioia Tauro).<sup>7</sup>

With the aim of preventing and suppressing the laundering of proceeds from drug trafficking, Serbia and other Balkan countries have boosted mutual cooperation on investigating and uncovering channels for laundering the proceeds of drug trade. The best example of this was when police authorities from former Yugoslav republics joined forces in an operation coded the Balkan Warrior, the aim of which was to arrest and prosecute members of main criminal groups involved in drug trafficking, as well to seize the proceeds of such activities. The Serbian police found and seized narcotics worth around EUR 2 million.

In the case of Serbia, the offence of drug trafficking can be linked to specific countries (namely, Albania, Holland, Sweden, Turkey, and Bulgaria). The investments of dirty money have been facilitated for the most part by the privatisation process, particularly through the acquisition of legal entities undergoing that process. The proceeds of drug trafficking return to the country through offshore companies, where they are made to appear as if they were legal, i.e. originating from various business activities, after which they are used to purchase companies.

In only one case, five indicted members of an organised crime group, who

<sup>7</sup> Drug Situation Analysis Report South Eastern Europe, UNODC, Paris Pact.

were also owners and CEOs of certain economic entities, had on a number of occasions carried out conversions and transfers of proceeds derived from the offence of unlawful production and circulation of narcotics totalling EUR 2.35 million; in collusion with the organisers of the criminal group, they used the said proceeds to acquire socially-owned capital of companies going through the privatisation process.

Illegal proceeds are transferred out of Serbia, mostly through the banking system, and into the countries which are known as major drug trafficking hubs, where they are withdrawn as cash. Rather frequently, they falsely state assistance to family, payment for various types of contracts, etc. as the purpose of such money transfers.

In addition to some typical threats observed in the banking sector when drug trafficking is concerned, reports about suspicious activities submitted by money transfer agents must not be disregarded. Namely, in their attempt to avoid going through the banking sector, persons involved in drug trade transfer funds by making use of the services of such agents. The factor that further complicates the detection of this criminal offence is that such transfers involve small sums of money and take place sporadically. However, by keeping certain individuals under surveillance, it was seen that significant amounts of money were transferred in the above manner over the period of one year.

What is highly characteristic of this type of crime is that many players from various countries are linked into a network. Thirty per cent of organised crime groups identified in Europe are involved in nothing less than drug trafficking.

Money laundering often goes hand in hand with organised crime groups. When the Internet is searched for the query "money laundering", search results will include the activities of organised crime groups in nine out of ten cases. Organised crime is the

most complex and most dangerous type of crime. It has been identified that drug trafficking, corruption and money laundering are precisely the forms in which organised crime is manifested in Serbia.<sup>8</sup>

An international criminal group organised by an individual from Belgrade was uncovered in a joint operation carried out by the Serbian and the authorities of the neighbouring countries in 2010. The group was suspected of committing the most serious crimes, ranging from murders and arms trafficking to extortion, blackmail, robbery and finally drug trafficking. This criminal activity occurred in the territory of Serbia and adjoining countries, while the proceeds of criminal offences were invested into the purchase of cars and real estate and establishment of companies.

Considering the stages involved in concealing the origin of such proceeds, as well as taking into account the international aspect of this type of illegal activity, it is obvious why this type of crime involves many individuals “charged” with the task of integrating money into the legal system. The above is also backed up by the fact that drug trafficking generates enormous profits, or in other words large amounts of dirty money, and that stakeholders have an intention that a portion of thus acquired proceeds should fructify. Drug trafficking is one of the most profitable types of organised crime.

What is characteristic of drug trafficking and money laundering in Serbia is that many companies are registered with the intention of integrating the proceeds of illegal activities into the system. The goal is to “comingle” dirty money with clean money through business activities of such companies and numerous

transfers of money between them (most frequently alleging sale of goods or services). Another aspect, which is particularly prominent in the sphere of drug trade, should not be overlooked. Namely, in addition to illegal activities which could be said to represent their primary source of income, criminals consider that it is very important that they can continue working in the legal industry and maximise their profit through legal economic activities. Criminals, especially those at higher levels in the hierarchy of criminal groups involved in the drug trade, need a reliable and tentatively speaking, a legal source of income in order to be able to account for their life style and origin of their assets. They do not want any attention from investigative authorities because of their way of life.

As can be seen from practice, OCGs have devised another ways of laundering money. On the one hand, individuals are engaged by an OCG to perform tasks related to drug trafficking; on the other hand, highly educated individuals with many years of experience in law and economics are hired to carry out the tasks of money laundering within the OCG. The latter are experts in their fields, economic specialists and advisors as well as attorneys. In addition to the fact that many individuals charged with such crimes hold university degrees, two persons with a PhD in economics were indicted by the Prosecutor’s Office for Organised Crime because there was reasonable suspicion that they had committed the crime of money laundering.

### STATISTICAL INDICATORS

Data from the Statistics Report released by the Serbian Ministry of the Interior show that 4,564 criminal offences were committed in violation of Article 246 of the Criminal Code in 2013; the number had slightly fallen to 5,460 in 2014.

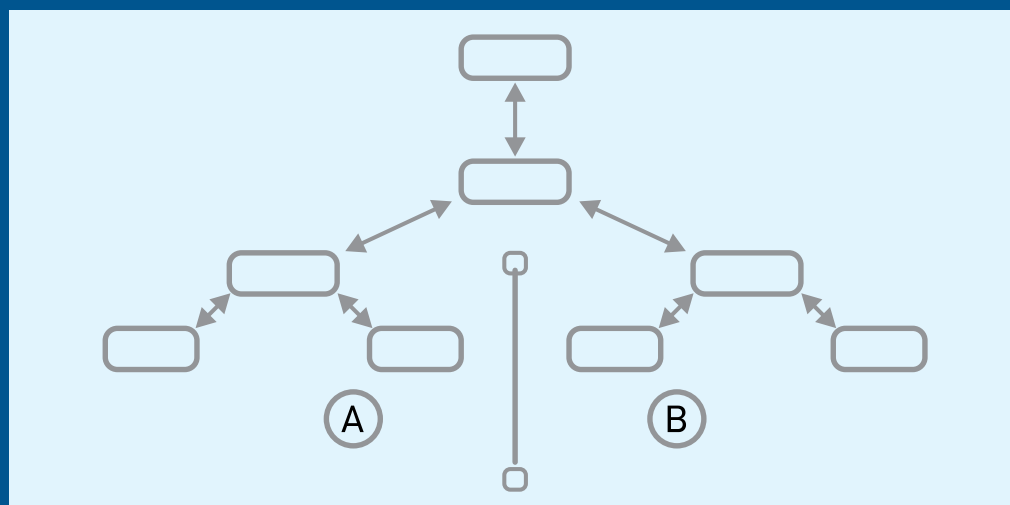
Over 70 per cent of investigations (a little less than 4,000) were conducted in connection with the circulation of narcotics by a single perpetrator and involved smaller amounts (approx. 3 to 5 g). The perpetrators were at the same time consumers of illegal narcotics. In many instances, they did not obtain any material gain from drug dealing.

Substantial material gain was acquired and perpetrators acted with the intention of concealing the origin of their proceeds in around five per cent of investigations in connection with drug trafficking. Those offences had the elements of organised transnational crime and it was discovered that various means of transport were used to convey the narcotics to their final destination.

Aside from some sporadic cases in which it was possible to presume based on STRs received primarily from banks and then money transfer agents that individuals involved in the production of narcotics were behind those transactions, this criminal offence is very difficult to detect only on the basis of STRs sent from the private sector to the APML. Namely, in certain situations persons who carry out the analysis of suspicious transactions may recognise some patterns of behaviour characteristic of persons suspected of being involved in drug trafficking. Geographic risks posed by countries in which transactions were effected or the search of information available on the Internet were the most used indicators in detecting suspicious circumstances. Out of the total number of STRs received from the banking sector in 2013, in less than three per cent of cases the individuals could be associated with drug trafficking only based on the reports. The above indicates that when drug trafficking is concerned, the APML relies on the police and the intelligence work of investigative authorities. Police work in connection with the offence of drug trafficking would in the majority of cases begin based on information published in the press or media, even though the so-called communication sources of information have proven

<sup>8</sup> National Strategy for Fight against Organised Crime (Official Gazette of the Republic of Serbia, 23/09).





relevant to launching investigations into drug trafficking cases. The most commonly used evidence-gathering techniques included testimony by expert witnesses, crime scene investigation, collection of samples and the special technique of continuous interception and recording of communications.

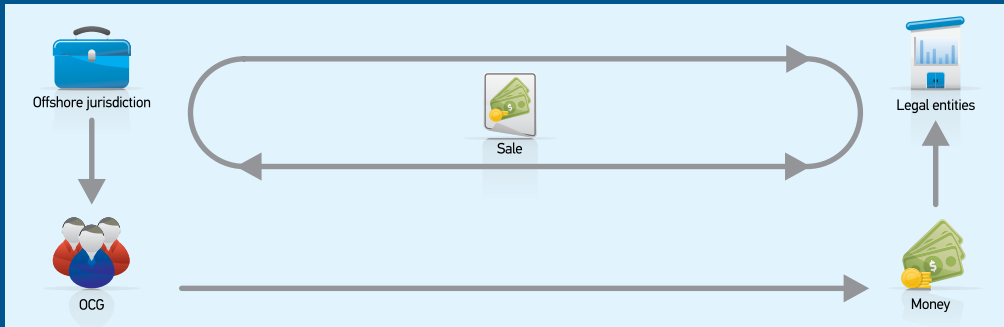
It is important that the APM, the prosecution service and the police establish direct communication for the purpose of uncovering perpetrators, in particular related persons; it is also necessary that joint teams are formed so that they could work on such cases in the future. Different options and access to information will facilitate faster exchange of data and intelligence and both investigations into such cases and their solving will therefore be more efficient.

What was characteristic of previous money laundering cases is that money was most often invested by individuals from the criminal milieu through the acquisition of immovable property (houses, flats, business premises, building land), movable property (passenger and goods vehicles, valuables), whereas the proportion of investments made into buying securities has been somewhat modest.<sup>9</sup>

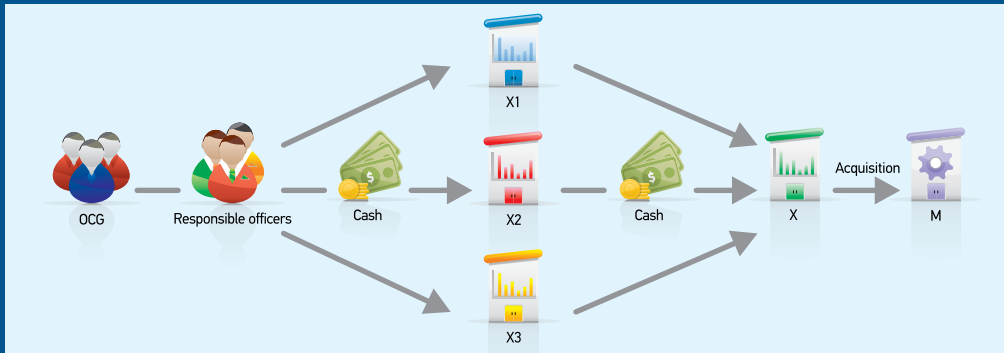
<sup>9</sup> Information from the report released by the Directorate for Administration of Seized Assets reveals that no assets were seized in 2014 in connection with offences from Articles 246 and 231. However, the report states that assets temporarily seized in connection with the offence from Article 246 in 2009 included 1 house, 2 flats and a 6-acre lot; in 2010: 19 flats, 10 cars, land, EUR 297,265 and RSD 1,764,533; in 2011: 1 house, 9 flats, a safe deposit, 12 vehicles, 1 SUV, 1 shop, 4 parking garages, 1 suite, 1 building under construction, 1 vessel and commercial premises. Assets permanently seized in 2010 in connection with this criminal offence included: 1 flat, 1 vehicle and EUR 146,695.

### TYPOLOGICAL DIAGRAM

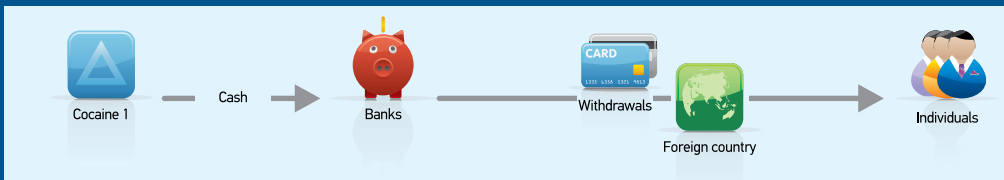
Diagrams showing connections among the perpetrators of the offence “unlawful production and circulation of narcotics” can range from the simplest to very complex ones, branching into many activities, levels of distribution (local, regional, and international) or involving several groups of members or groups concentrating around one leader. In such cases, there are no horizontal transverse links or the links leading to the chief organiser are most commonly cut off or they take on the dimension of an imaginary question mark – there is no visual contact or communication (couriers pass on information from point A to point B and the information is usually coded or written). Point A is controlled by the leader, while point B is under the control of his associates. Points are shifted depending on the organisers’ estimate of the situation and they can be some ordinary places by the side of the road for instance, a traffic sign, a public space or a building, private property, etc.



Acquisition of legal entities through offshore jurisdictions



Cash payments through related legal entities



Abuse of payment cards

### DRUG TRAFFICKING – MONEY LAUNDERING TYPOLOGIES

The following typology has been identified based on uncovered and prosecuted money laundering cases:

#### Acquisition of legal entities through offshore jurisdictions

Persons from the criminal milieu buy legal entities in the country, while securing funds from abroad for making the acquisitions. After those legal entities are placed under the control of the criminals, the money is further paid into the accounts of acquired companies through simulated legal transactions and loans.

#### Cash payments through related legal entities

Many individuals, owners of private companies, make payments into the accounts of various legal entities. Those individuals represent the interests of criminal groups. Many related cash payments are registered on legal entities' bank accounts, the end goal of which is for the money to be integrated on a bank account belonging to one selected legal entity and further used in the privatisation process for purchasing companies.

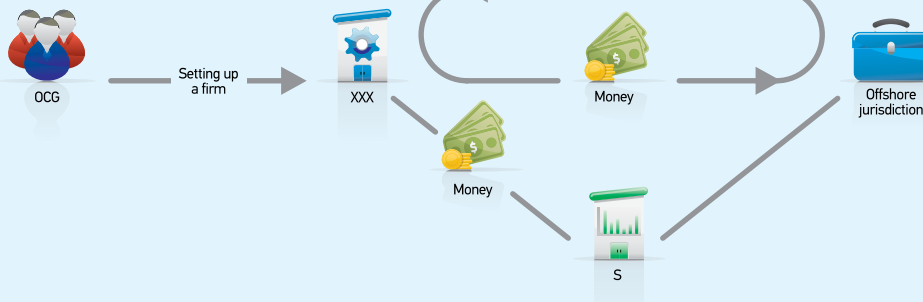
#### Abuse of payment cards

Small sums of money are frequently deposited by various persons into several accounts in commercial banks in the country. There are many persons who are authorised to use these accounts. Funds are withdrawn using payment cards soon after the deposits are made in a foreign country; in that manner, criminals avoid the entire process of transferring the money across the border.

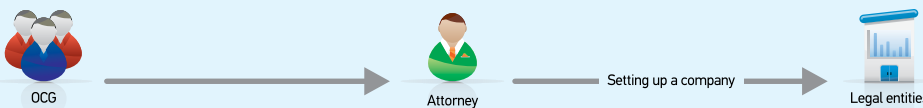
Countries known as drug trafficking hubs



Front persons and offshore companies



Attorneys are used to set up legal entities



### Countries known as drug trafficking hubs

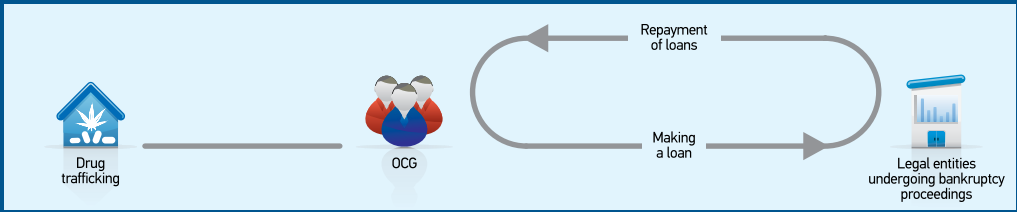
Cash deposits are made in the country (the amounts of individual transactions are irrelevant, while their sum total amounts to several hundred thousands Euros); immediately after deposits have been made, transfer orders are given and money is transferred to entities in countries that are known as drug trafficking hubs (Columbia, Mexico, Chile, etc.).

### Front persons and offshore companies

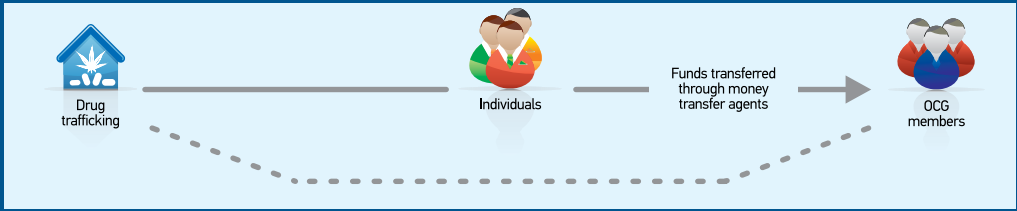
Members of an organised crime group set up several firms through persons they authorised to act on their behalf, known as front persons. Soon after the firms are established, there are frequent transactions with offshore companies in connection with various services. Thereafter, money is returned to the country from the offshore jurisdiction using companies from the neighbouring countries and based on simulated transactions in connection with the sale of goods and services.

### Attorneys are used to set up legal entities

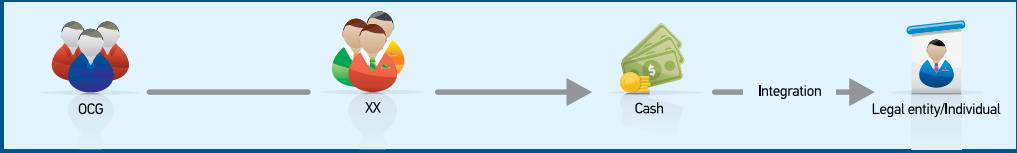
An attorney sets up a company. A tendency towards frequent transactions could be seen in company's bank accounts, on the pretext of giving a loan for expanding business activities. The company is run by a criminal.



Loans to legal entities going through bankruptcy proceedings



Using the services of money transfer agents



Deposits made by young adults



Family assistance

**Loans to legal entities going through bankruptcy proceedings**

Cash is deposited as loan into bank accounts of companies that have declared bankruptcy; the companies are under the control of individuals from the criminal milieu. The loans are made to appear as if they were lawful claims towards the companies going through the bankruptcy proceedings and when the proceedings are completed, the money is returned to the alleged creditors, who are in fact criminals.

**Using the services of money transfer agents**

There is a tendency towards frequent use of money transfer agents, but no accounts are opened with commercial banks. There are no transactions involving any major sums; however,

these transactions are conducted frequently and their sum total is not typical of money transfer services. This type of money transfer is commonly used by individuals involved not only in drug trafficking, but also in human trafficking with the aim of avoiding going through the banking system.

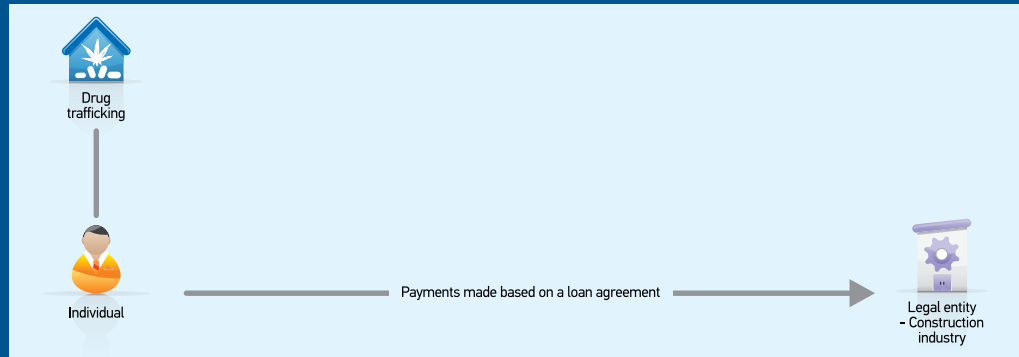
**Deposits made by young adults**

There are frequent cash deposits made by many young adults (persons authorised for making such deposits, the so-called money mules) and transfer orders whose beneficiary is only one company (usually from the real estate sector) or only one natural person. All transactions are effected over a rather short period of time, usually one to three days.

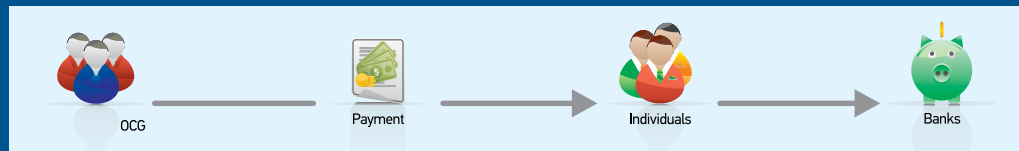
**Family assistance**

Funds are transferred from the accounts of individuals to many foreign citizens alleging assistance to family as the basis for transactions. Neither family relations nor financial aid to family members are the true purpose of such transfers; it is actually the purchase of narcotics.

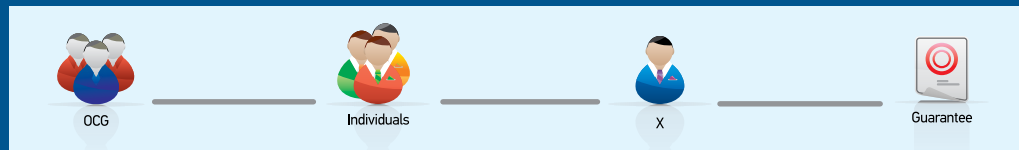
Loans and construction



Avoiding identification process



Issuing guarantees



### Loans and construction

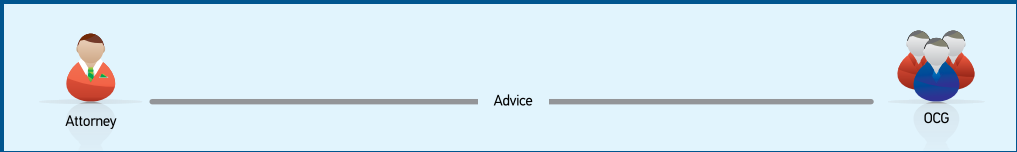
The proceeds of drug trafficking are deposited into the accounts of legal entities related to the investment and construction industries on the basis of loan agreements setting forth substantial sums of money and alleging the reimbursement of expenses, renovations or construction.

### Avoiding identification process

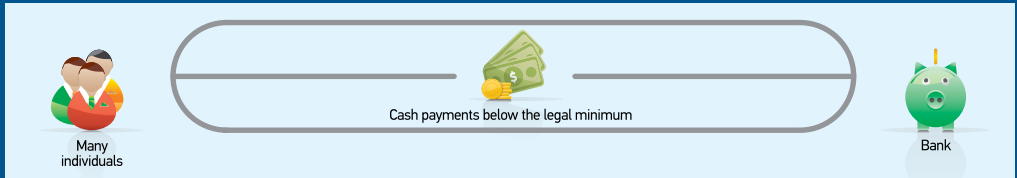
Various individuals are paid in consideration for making all kinds of transaction in the banking sector on behalf of criminals so that individuals from the criminal milieu could stay away from the identification process.

### Issuing guarantees

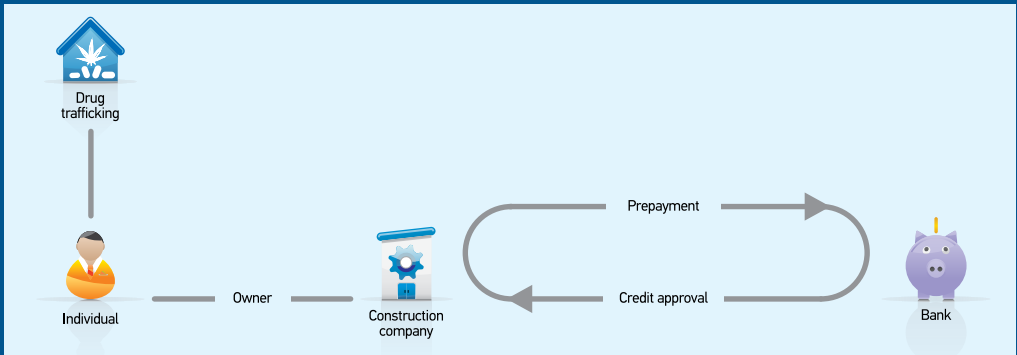
There is a tendency towards large cash deposits with no clear origin into the bank accounts of individuals acting on behalf of persons from the criminal milieu; fast transfers are as well made from the bank accounts towards third parties, who then use those funds as guarantees in the process of acquiring fixed assets.



Legal counsel



Payments below the legal minimum for reporting cash transactions



Credit settlements using the proceeds of illegal activities

**Legal counsel**

An attorney advises his client on how to integrate his money. In the process of making transactions in the banking sector, the client is very familiar with the regulations governing the prevention of money laundering. In such situations, there is usually a link with the real estate industry or the acquisition of companies.

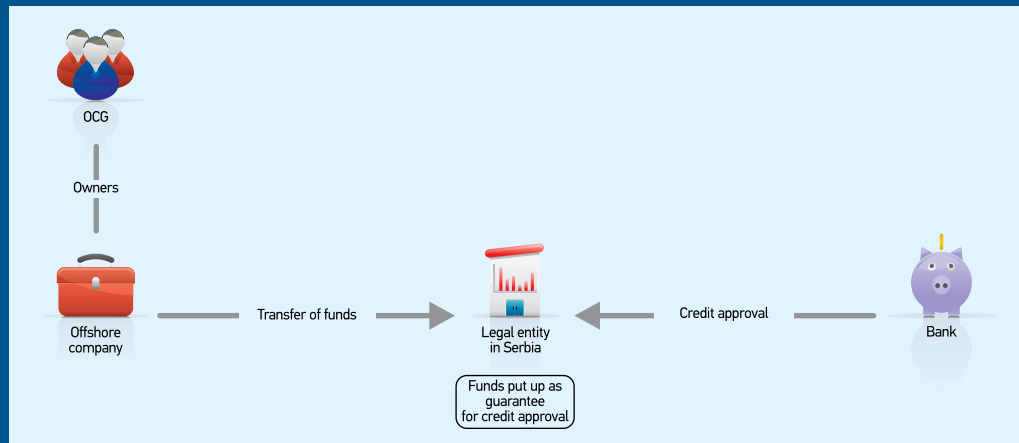
**Payments below the legal minimum for reporting cash transactions**

Money is deposited and then quickly transferred in successive cash transactions (below the legal minimum for reporting them to the APML) through the banking sector on behalf of third parties, most frequently to buy valuable real estate or companies. Another similar situation includes cases in which an attorney opens a bank account in his own name, but uses it for the transactions of his client, a person from the criminal milieu.

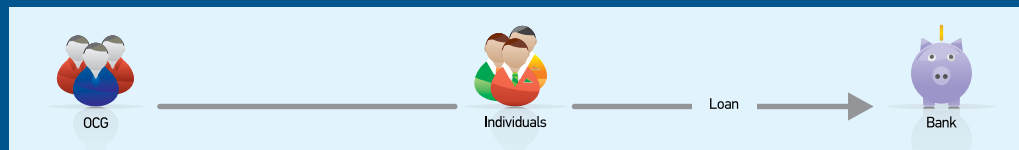
**Credit settlements using the proceeds of illegal activities**

Credits are approved by responsible officers occupying important positions in financial institutions to persons involved in criminal activities for making investments, expanding businesses or buying equipment. Instalments are paid with dirty money and prepayment is requested after a certain period of time.

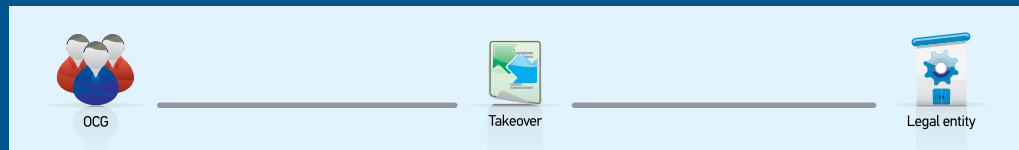
Credits and offshore jurisdictions



Loan agreements



Taking over company shares



### Credits and offshore jurisdictions

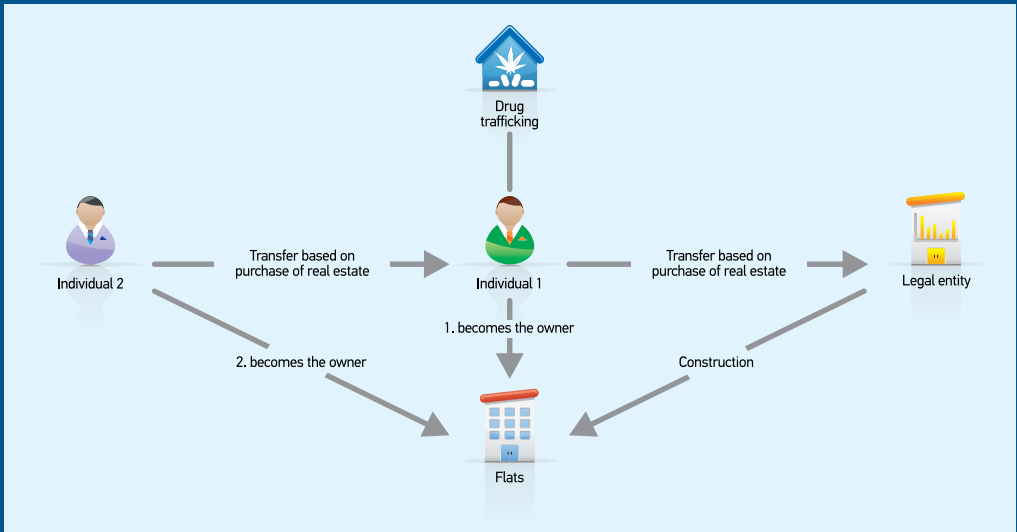
Funds are placed from offshore financial centres and put up as collateral, a guarantee for credits to be approved by a financial institution. Offshore companies are under the control of individuals from the criminal milieu. The sources of funds originating from the offshore jurisdictions or countries with strict banking secrecy are very difficult to identify.

### Loan agreements

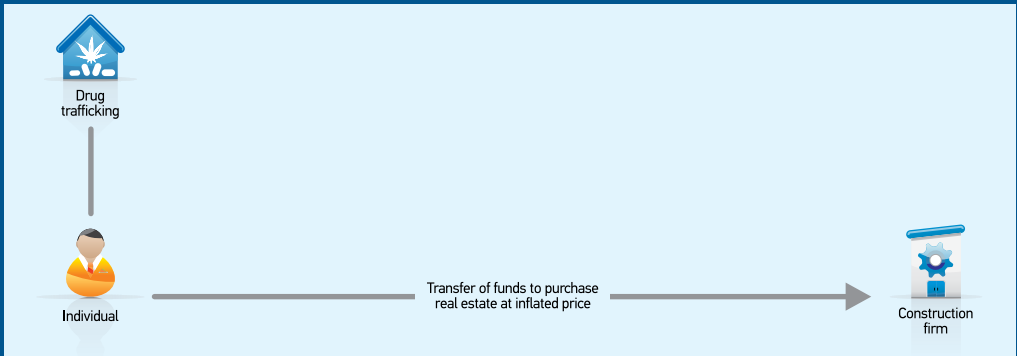
Considerable sums of cash are deposited to the accounts of various legal entities and individuals on the basis of loan agreements. No connection between the lender and the borrower can be found (no family or business relations, etc.). Agreements do not contain enough information to establish the nature of their business relationship, i.e. basic information is missing, such as the precise deadline for the paying off the loan, no interest has been set out, etc.

### Taking over company shares

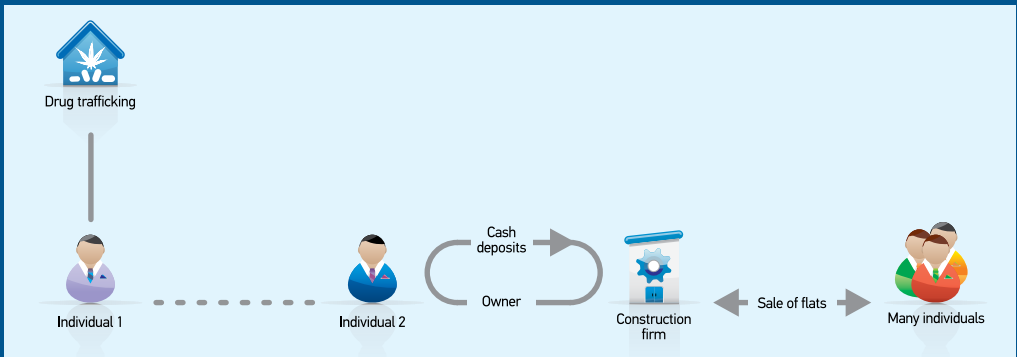
Individuals from the criminal milieu take over the ownership of profitable companies by paying high compensations to their previous founders – they actually acquire companies with sound financial statements by paying for them in cash. The criminals then use the taken over legal entities to expand their business activities, buy more companies or get into the capital market, etc.



Purchase of immovable property (business premises, housing premises, catering establishments, etc.)



Purchase of real estate above the market value (business premises, housing premises, catering establishments, etc.)



Construction of housing facilities using dirty money

### Real Estate Market and Narcotics

What was typical of Serbia was that the illicit drug market and the real estate market went hand in hand or in other words, criminals most often opted for laundering the proceeds of their drug trafficking activities through the real

estate and construction sectors. Over the previous period, the real estate market boomed due to the major accumulation of capital, a relatively short period of time needed for the turnover of invested capital and high profits. A growing demand in the real estate sector had been created

by migrations occurring due to the economic situation, the war, etc.

Dirty money was mostly layered through several individuals who appeared as investors in the course of the construction process and constructed buildings using the dirty



money – which in actuality is the money originating from drug trafficking. In such cases, the individuals who had dirty money would not only construct buildings, they would also buy building permits and pay for fees. When a building was completed, flats were sold or rented, thus earning a “legal” income.

#### Purchase of immovable property (business premises, housing premises, catering establishments, etc.)

The intention is to place money into the legal flows through the real estate market and then place it into the system and make it appear as if it were legal through further resale of real estate.

#### Purchase of real estate above the market value (business premises, housing premises, catering establishments, etc.)

Contract prices for the purchase of real estate are considerably above the market value. Criminals often inflate the price of anything they buy (sometimes they can even double it) with the intention of integrating dirty money into the financial system as soon as possible and making it appear as if it were legal.

#### Construction of housing facilities using dirty money

There is a tendency towards frequent cash deposits into the accounts of companies involved in construction work and the construction of housing facilities. The owner has links with individuals from the criminal milieu. Individuals involved in drug trafficking resell housing units and thus make it appear as if the dirty money they have invested were legally obtained.

#### Red flags

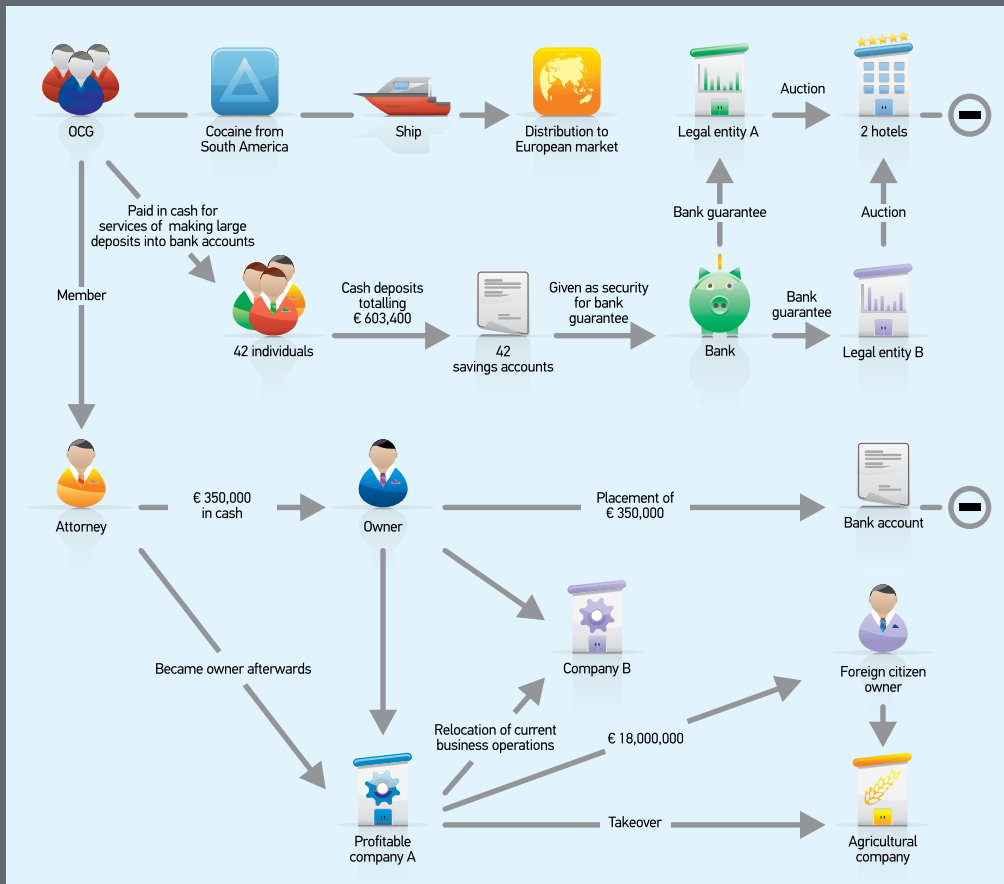
The following warning signs, models of behaviour characteristic of previous cases of money laundering and drug trafficking, have been isolated:

- Use of the so-called money mules (couriers) or persons authorised for making transactions;
- Purchase of real estate, frequent renovations and investments into the reconstruction of commercial buildings;
- Frequent deposits of substantial amounts of cash, very often below the legal minimum for reporting cash transactions to the APML (EUR 15,000);
- Frequent cash deposits made in Serbia and withdrawals made abroad (payment cards are also used very often), in countries known as drug trafficking hubs;
- Front persons are used to set up companies and run business. The true owners are actually individuals involved in organised crime;
- Legal entities are registered and founded by companies from offshore jurisdictions and there are frequent transactions from such jurisdictions under the pretext of loans, credits, assistance or various types of services;
- Takeover of ownership of profitable companies.

## CASE STUDY – LAUNDERING THE PROCEEDS OF COCAINE TRAFFICKING

Members of an organised crime group had set up a scheme involving several Serbian banks with the intention of legalising a large amount of proceeds generated from drug trafficking through the purchase of shares of state-owned companies. In this particular instance, the goal of these individuals from the criminal milieu was to avoid their suspicious transactions being reported to the Financial Intelligence Unit or the reporting of cash transactions.

The OCG attended an auction held by the Privatisation Agency in the guise of a consortium consisting of two companies (controlled by the OCG), both of which had a common interest when buying the share of state-owned assets (namely hotels). To be specific, in order to be allowed to bid at an auction in the privatisation process, bidders must have an adequate bank guarantee (security that the successful bidder will pay the price). To ensure the bank’s approval, the members of the OCG hired professionals, attorneys and a number of economic experts, who helped them devise a scheme for legalising dirty money. More precisely, the role of the economic advisors was to come up with a suitable way for placing the proceeds of illegal activities into the system while steering clear from government’s control mechanisms; at the same time, the attorneys had the task of finding an appropriate legal form for such transactions. Some of the hired economic advisors had previously worked with government institutions, such as the National Bank of Serbia and some government agencies.



A managing director working for a commercial bank was also involved in this case and his task was to accept the guarantee from the consortium for making a bid at the auction. Intending to avoid a report being sent to the APMU, the organised crime group had found 42 individuals who agreed to deposit into their personal bank accounts sums just under EUR 15,000 as savings deposits (deposits ranged from EUR 14,100 to EUR 14,900). The individuals would then make a statement that their savings could be used for bidding at the auction. The individuals who had been used as depositors did not belong to the OCG, but they worked in the hotels put up for the auction and were forced to make those transactions or they would have lost their jobs.

Upon the completed transfers, the managing director of the bank and the consortium run by the OCG concluded a contract on the bank guarantee, ensuring that the consortium could bid at the auction. Under the contract, the bank was under the obligation to pay the final sum after the auction for hotel shares and in case the buyer did not have the financial capacity to do so, the bank had the obligation to cover the value of the collateral.

After a successful auction, the consortium run by the OCG took over the hotels and continued to invest dirty money into their reconstructions. They used the same scheme in the reconstruction processes as well: seven individuals made cash deposits in the amounts just under EUR 15,000 to secure a guarantee to be used

by the bank as collateral if the need arose. The contract stipulated that the bank should, based on the bank guarantee, make all the required payments to contractors engaged to carry out the reconstruction work.

In the course of the investigation, banking officers claimed that they had reported to the bank's management transactions indicative of money laundering related to the activities of individuals described above. The managing director, on the other hand, denied any responsibility during the investigation, claiming that the responsible officer with the bank had a duty to recognise suspicious transactions as well as to report them to the Financial Intelligence Unit without asking for permission from the managing director.

Apart from the acquisition of the hotels, the OCG managed to take over some Serbian profitable private firms with large capital turnover, sound business and owners who had shown readiness to sell them. Owners' readiness for sale was just the first step towards a well thought out money laundering scheme. The OCG had the objective of buying a large agricultural company. One of the conditions for achieving this was that the company acting as a buyer had the ownership of several thousand of ares of rich land and food manufacturing facilities. The law provided that such agricultural companies might be bought only by companies with capital turnover of more than EUR 10 million.

The attorney representing the OCG contacted the owner of a profitable company A and they agreed that the company could be taken over for EUR 350,000. Company's operations had already been relocated to another company B and so the OCG had practically bought just a sound financial statement attesting to company A's business success. The first goal of individuals from the criminal milieu had been achieved since the company A had everything they wanted to buy, an agricultural company with a lot of real property (land). The previous owner was paid out EUR 350,000 in cash. Having taken over the company A, the OCG purchased the stocks of the agricultural company for EUR 18 million, which was the sum they paid to the vendor, a foreign national charged with being an OCG member.

Following the acquisition of the agricultural company, the OCG invested dirty money into its current production. In making the investments, they used the previously tested method for structuring and layering money amounting to EUR 303,000.

Fifty-eight defendants, members of the OCG, were prosecuted in this case. Plea agreements were concluded with nine members of the group prosecuted in connection with illegal drug trade under whose terms they would be sentenced to four to eleven years' imprisonment. Millions of Euros had been seized, as well as many flats and luxury cars.

All bank accounts held by related persons were uncovered in cooperation with the APML and at the request of the prosecution, the court issued an order to freeze the assets in the uncovered accounts.

The prosecution concluded a plea agreement with the previous owner of the purchased company A. Based on the agreement, the court made a decision that the accused owner was guilty and sentenced him to one-year prison term and confiscated the funds he had in his bank accounts.

The managing director was sentenced to serve one year in prison and prohibited from engaging in any kind of banking activity for a period of three years. The National Bank of Serbia revoked the bank's operating licence. The hotel shares were temporarily seized, pending the final judgment in the case against the group's organisers. The state, represented by the Directorate for the Administration of Seized Assets, a part of the Ministry of Justice, has taken charge of the administration of the shares.

Assets worth around EUR 100 million were temporarily seized in the proceedings against this OCG pending their conclusion.

What was interesting in this particular case was that the evidence of money laundering had been collected before the evidence relating to the predicate offence, trafficking in cocaine. The prosecutor faced major difficulties in gathering evidence to support the drug trafficking charges (the international element was relevant to the process) as opposed to the evidence to support the money laundering charges.

Indicators:

- Many transactions involving deposits in the amounts just under EUR 15,000;
- Transfers of money from the accounts of many individuals whose beneficiary is one and the same person for the purpose of issuing a guarantee for buying a company;
- Ceding the ownership of a profitable legal entity;
- Payments made in cash to the owner of a legal entity for taking over his company;
- Acquisition of companies and further investments into their business activities and reconstruction works.

# **CORRUPTION AND MONEY LAUNDERING**



## OUTLINE OF THE SITUATION

Corruption is a social, political and economic phenomena that imposes hardships upon any country to a lesser or higher extent; furthermore, it affects the building of institutions, slows down the economic development and causes instability. Similar to any other criminal offence, corruption offences are usually committed with the main goal of making profit, which is, of course, illegal.

Corruption offences are closely interrelated with money laundering and they overlap to a great extent. Successful concealment of the illegal origin of proceeds allows individuals who have made tidy profits through corruption to “enjoy” their fruits without any fear of being caught.

The recent FATF recommendations, which impose some new obligations upon government authorities, specifically public officials, promote the stepping up of efforts to combat corruption and money laundering, which may facilitate the detection

of corruption-related activities (recommendation no. 12). To be more precise, financial intelligence units should request from reporting entities who answer to them to carry out, aside from the regular data-collection procedures, additional analyses with regard to both domestic and foreign officials as well as to conduct enhanced monitoring of the business activities of such persons. As regards the national legislation, the Law on Prevention of Money Laundering and Financing of Terrorism provides that the measures described above shall be taken with respect to foreign officials, whereas its amendments, which are currently being drawn up, will encompass domestic officials as well. It should also be mentioned that the prescribed measures are intended to be taken in relation to public officials’ family members and close associates.

Understanding of the risks, as provided for in the recommendation mentioned above, suggests that the goal is not

only to determine if a specific person is a public official, but also to ensure adequate analysis and assessment of risks associated with such clients.

In some ways, officeholders (known as PEPs or politically exposed persons) who amass large quantities of money through corruption are more vulnerable than some other types of criminals. Drug traffickers possessing vast amounts of money are more likely to stay anonymous, while an office holder will certainly draw attention if they can be linked to significant sums of money.<sup>1</sup>

The National Risk Assessment of Money Laundering in the Republic of Serbia identifies corruption offences as one of those that pose a high risk for money laundering. Abuse of office has been the most frequently committed offence against official duty as well as the main corruption offence. Even though abuse of office has been pinpointed as the most frequently occurring crime against official duty and the main corruption offence, other corruption offences identified as those involving a high risk for money laundering should not be disregarded either; this includes embezzlement, soliciting and accepting bribes and bribery.

The results of a survey conducted by Transparency International for 2013 underline the importance of this problem. The Republic of Serbia was ranked 72 among 177 countries according to the public perception of the prevalence of corruption, thus climbing eight positions when compared to the 2012 list. Even though this indicates that a positive trend has been developing in the field of anti-corruption efforts, the information that virtually all former Yugoslav republics with the exception of Bosnia and Herzegovina scored better than Serbia should not be discounted

since it further implies that such efforts must be further intensified.<sup>2</sup>

Available information shows that criminal proceedings which are being conducted before the Prosecutor's Office for Organised Crime in connection with corruption in state-owned companies, the health-care sector, the judiciary and the real sector involve illegally acquired material gain worth over EUR 75 million.<sup>3</sup>

The analysis of typological and specific cases which were prosecuted because it was suspected that a corruption or money laundering offence had been committed has shown that they rarely involved the so-called self-laundering which, to be precise, means that the offender of the predicate offence tries to hide themselves the proceeds or assets that they got by the predicate offence. Namely, many cases were identified over the previous period in which the sums of ready money obtained through the commission of the offences mentioned above were so high that they had led to surpassing the laundering of money by just buying luxury homes, flats and passenger cars to serve the personal needs of the offenders. In such cases, an entire team of mostly experts in various areas would be put together to layer and conceal the true origin of illegal proceeds by setting up a number of legal entities both in country and abroad. The main goal of their activities was to transfer the proceeds outside Serbia in order to conceal the true identity of their owner and hinder the seizure procedure.

During investigations into these cases in which the APML exchanged data and information with the prosecution and the police, it was perceived that abuse of office was the most common predicate offence in cases of suspected money

laundering. The analysis of corruption-related cases dealt with by the APML in the previous period indicates that in the majority of cases, corruption could be associated with the privatisation process, public procurements, sports associations and the private sector. More precisely, as many as thirty-five cases or nearly one in four cases were linked to corruption offences out of the total of 131 cases in which the APML exchanged information with the prosecution only in 2013. Considering that the APML is a state authority of administrative type, its activities are primarily limited to the analysis of money flows. A disproportion between person's total income (e.g. earnings from various sources) and some of their investments (e.g. large deposits into bank accounts, buying luxury homes, flats and cars) in certain cases gave rise to suspicion about the origin of assets and raised the question of corruption.

In one of those cases, in the course of a money flow analysis related to an individual who was a public official, a significant discrepancy was observed between their average monthly income and real property they had acquired over the same period of time. That fact arose suspicion of potential elements of corruption, i.e. that the official had obtained considerable assets through misfeasance in public procurements, which had then been used to purchase real property.

Apart from these sporadic cases, the majority of initial information related to suspicion about certain corruption offences was submitted to the prosecution by the Ministry of the Interior. Police officers working on assignments involving the curbing of corruption obtained information about such offences mostly from current affairs television programmes (such as the Insider), then from the print media, as well as from their consultants or informants. Simulated legal transactions, undercover investigators and marked bills are also used for the purpose of detecting offences such as abuse of office or

<sup>2</sup> Transparency International: Corruption Perception Index 2013.

<sup>3</sup> National Risk Assessment of Money Laundering.

<sup>1</sup> Laundering the Proceeds of Corruption, FATF.

accepting bribes. Another valuable source of information for launching investigations into corruption cases is naturally the Anti-corruption Agency.

Experiences from previous cases attest to the fact that the process of privatisation of state-owned companies has proven particularly vulnerable to corruption. Specifically, high-placed individuals in such companies helped persons closely linked to the criminal milieu to acquire the ownership of entities subject to the bids. They provided such service for adequate compensations and use them later for personal needs.

In addition, situations came to light in which individuals in high places made "concessions" to potential buyers by reducing the real value of companies sold in the privatisation process in various manners, thus allowing those companies to be sold at a price that was considerably lower than the market price. Many instances of misfeasance were also noticed in the course of privatisation processes carried out by tender. When such privatisation models were investigated, it was noticed that interested buyers were given access to information and values of bids submitted by other bidders for an adequate consideration and thus easily make the best possible bid and acquire the ownership of the subject of the bid. This modus operandi was also noticed in public procurements carried out by tender in which potential buyers learned about the values of other bids and then offer the most favourable price based on the information they had obtained.

Apart from misfeasance in privatisation and public procurement processes, what has been characteristic of money laundering cases are the instances of misfeasance by officials holding high office in financial institutions. They facilitated the approval of credits under favourable conditions to individuals with close ties to the criminal milieu and in return, favours were done to them (purchase of real estate or monetary compensations). Situations have

come to light in the credit-approval process in which persons in high positions helped companies to have their multi-million credits granted based on fictitious documents. What was also characteristic of these cases was that the obtained funds were not used for the purpose for which they had been extended; instead, they were transferred to related persons, withdrawn in cash and afterwards used to buy luxury homes, flats, vessels and motor vehicles.

Other interesting cases of misfeasance included the acceptance of pieces of land of considerably smaller value as a pledge in procedures for granting multi-million credits with help from persons occupying management positions (the land was usually located in rural regions of Serbia).

In addition to the above, a case has been recorded in which a responsible officer from the finance sector avoided reporting suspicious transactions to the APML in order to facilitate the entry of dirty money into the Serbia banking system.

A growing trend for smuggling consumer goods (textile, food, appliances, etc.) has been detected in recent years, which has certainly been reinforced by a rather high level of corruption in border services. The import and export of consumer goods along with formally carried out control or in some instances even without it leaves room for organised crime groups and individuals to obtain vast amounts of ready money by selling thus imported goods on the black market. The proceeds of such activities are in the majority of cases later on integrated into domestic legal flows or deposited into non-resident accounts abroad.

What has been noticed in the previous work on corruption cases is that persons from the criminal milieu were allowed to build many, very valuable structures on the land owned by the state. In order to realise their investments, they needed help from

responsible officers from the state sector, who in return were given various forms of compensations.

In all of the instances described above, corruption offences were closely linked to money laundering. The manner in which money was laundered depended on the amount of assets acquired through corruption. More precisely, high amounts of money were used to buy fixed and movable assets in the country and abroad, make investments into legal businesses (construction projects, the service industry) or make deposits into non-resident accounts abroad, while smaller amounts were used for personal expenses. It happened very rarely that offenders would deposit illegal proceeds into personal accounts held at commercial banks with registered offices in Serbia.

The offence of violation of law by a judge, public prosecutor or his deputy has been estimated to present a low risk for money laundering. However, the public perception of this issue is not in accordance with such a conclusion and it is considered that corruption in the justice system is very much present, which is further supported by lengthy trials before Serbian courts. It should be mentioned that there is a range of factors which contribute to the fact that it takes several years for judgments to be passed and the most important factor includes frequent amendments to laws and regulations, as well as the incompetence of certain office holders in the judicial system.

The effects of corruption do not involve only the impoverishment of the society and the state, but they are also reflected in a dramatic loss of public trust into democratic institutions as well as in the creation of an uncertain and instable economic system manifested as a fall in investment spending. According to a survey conducted by the World Economic Forum for the period 2011-2012, corruption was ranked as one two top problems identified in the

process of making decisions about starting a business activity in Serbia.<sup>4</sup>

The results of a survey carried out by the Serbian Statistical Office in 2013<sup>5</sup> show that 52.5 per cent of business entities believe that corruption poses a serious obstacle to conducting business in Serbia. The same survey has also revealed that 9.2 per cent of all business entities has abandoned the realisation of a major investment in Serbia for fear of corruption, whereas in 43.5 per cent of the cases, a business entity offered bribes even though they had not been asked for any, simply in order to expedite the process or make it less complex.

It is not possible to solve and prosecute corruption cases without ensuring effective cooperation among all the state bodies, precisely for the reason of their diverse competences and information available to them. Only through concerted efforts from all of the above-mentioned state bodies and frequent exchange of data between them can progress on combating corruption and money laundering be achieved.

## STATISTICAL INDICATORS

|  | Criminal charges |
|--|------------------|
| Misfeasance in public procurement        | 63               |
| Abuse of position by responsible officer | 829              |
| Abuse of office                          | 2304             |

It can be seen from statistics reports drawn up by the Serbian Ministry of the Interior that in the period from early 2012 to August 2013, the number of criminal charges related to corruption offences was as follows:

- Misfeasance in public procurement – 63,
- Abuse of position by responsible person – 829,
- Abuse of office – 2304.

Likewise, 113 criminal charges were filed for the offence of accepting bribes over the period spanning between 2012 and 2013.

The offence of abuse of office has been replaced by the offence of abuse of position by a responsible person (also known as responsible officer) in the Serbian Criminal Code; however, considering how many proceedings are underway before Serbian courts in connection with the former criminal offence and to prevent the acquittals of defendants simply because the crime they are charged with has been abolished, the abuse of office is considered a criminal offence for the duration of such proceedings.

Having analysed the number of filed criminal charges per each year, it has come to light that their number related to the offence of abuse of office has plummeted due to the circumstances related above (1324 charges in 2012, 718 charges in 2013, and 262 charges from January to August 2014). Consequently, the number of criminal charges brought for the offence of abuse of position by a responsible person has been on the rise.

Further analysis has shown that Belgrade and Novi Sad have been leading the way in the number of charges brought for the offence of forgery and misuse of credit cards, whereas the majority of charges for the offence of abuse of authority in economy were lodged in Belgrade, Subotica, Bor and Pozarevac.

It has also been noticed that the greatest number of criminal charges for the offence of accepting bribes was filed in Belgrade and Uzice.

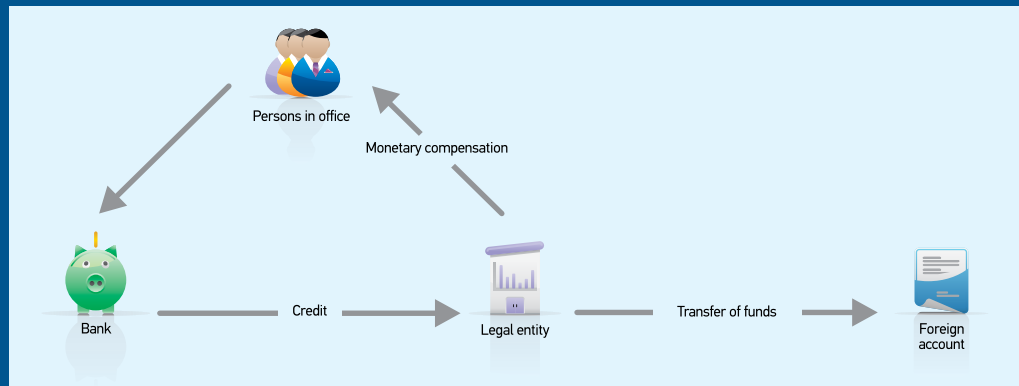
The above information reveals that two factors have influenced the number of corruption offence or the intensity of corruption activities in a region: its population size and economic circumstances (standard of living, unemployment, etc.). Considering that Belgrade is the most heavily populated city in Serbia, it should not come as a surprise that it is ranked high based on the number of corruption offences.

<sup>4</sup> National Anti-Corruption Strategy in the Republic of Serbia for the period 2013–2018.

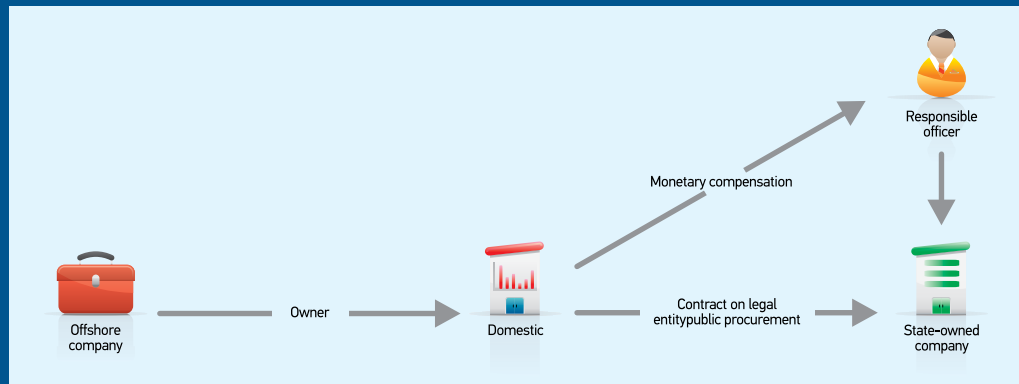
<sup>5</sup> Security and Criminal in Business Surroundings, a Survey (2013).



Granting credits to legal entities that do not satisfy requirements



Misfeasance in public procurement



### TPOLOGIES – CORRUPTION AND MONEY LAUNDERING

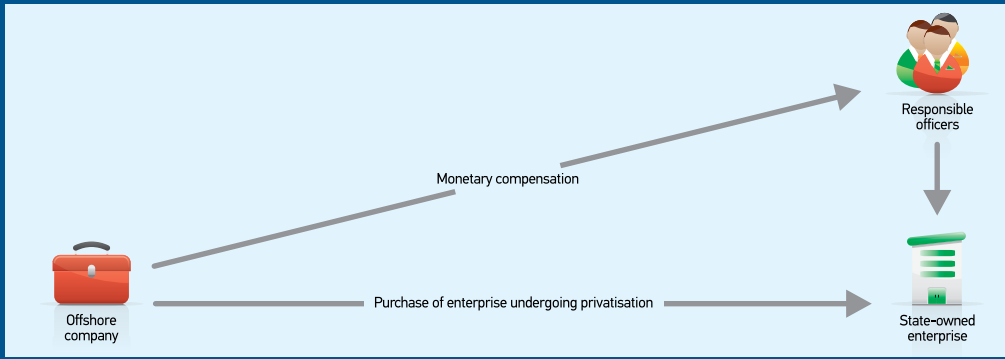
The analysis of thus far processed cases has revealed the following modes of behaviour:

#### Granting credits to legal entities that do not satisfy requirements

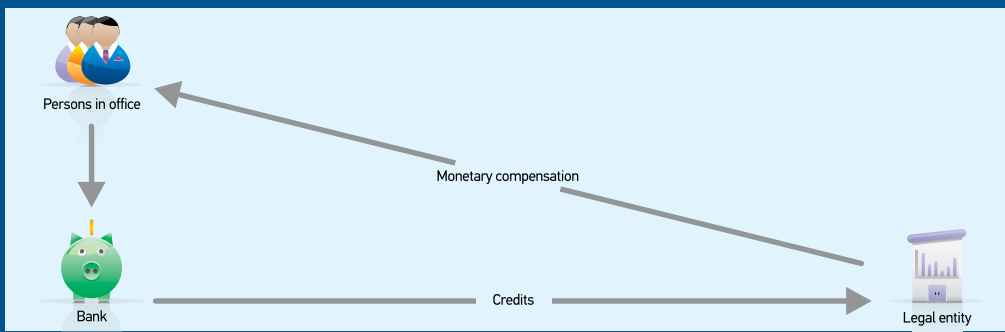
Large amounts of credit are extended to legal entities that do not meet the relevant requirements for being granted a credit; this is done with support from persons in high office in the financial sector and for a certain monetary compensation or a favour done in return. Money from the credit is subsequently transferred back to the country through bank accounts opened abroad and then used for personal expenses.

#### Misfeasance in public procurement

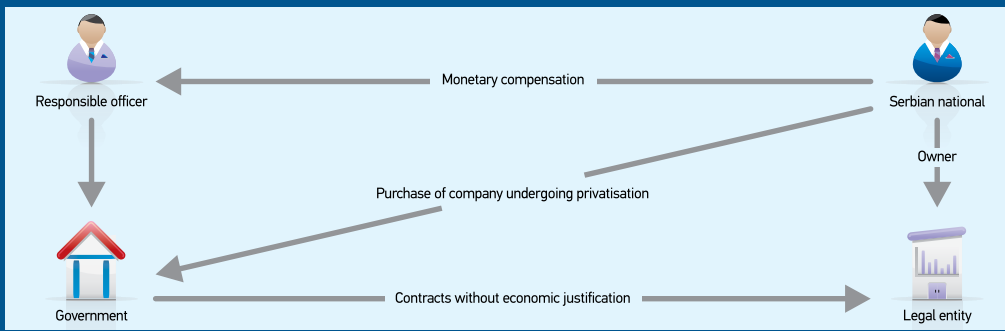
A contract on public procurement is concluded with a domestic legal entity whose owner is an offshore company. The true owner of the latter is a Serbian national who thus prevents the information about the ownership from becoming transparent and gives substantial amounts of money to the responsible officer with the state body as compensation for signing the contract; that money is later on used for personal expenses.



Misfeasance in the privatisation process through offshore companies



Granting credits under more favourable conditions



Misfeasance in the privatisation process by making transactions without economic justification

### Misfeasance in the privatisation process through offshore companies

An offshore company buys a state-owned enterprise going through the privatisation process with help from responsible officers from those enterprises who are given large monetary compensations in return. The owner of the offshore company is a Serbian national.

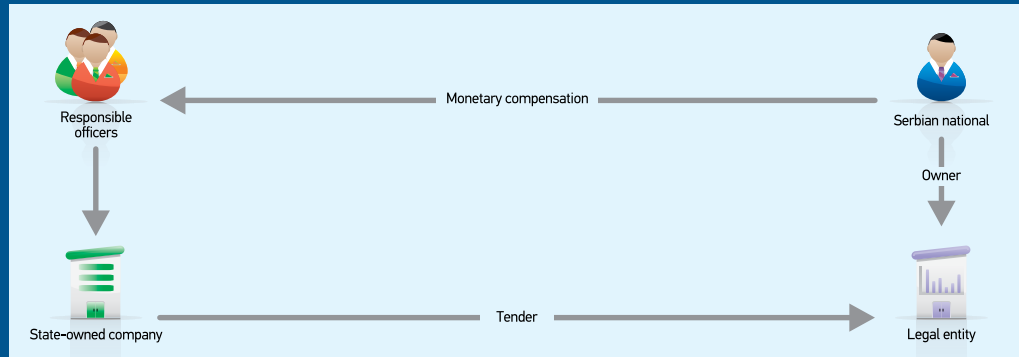
### Granting credits under more favourable conditions

With help from individuals in high offices in the financial sector, credits are extended to legal entities under more favourable conditions, while the owners of those entities give certain assets to the above-mentioned individuals. Money from the credit is most often used for purposes other than the intended; to be specific, it is used to buy immovable property or for personal expenses.

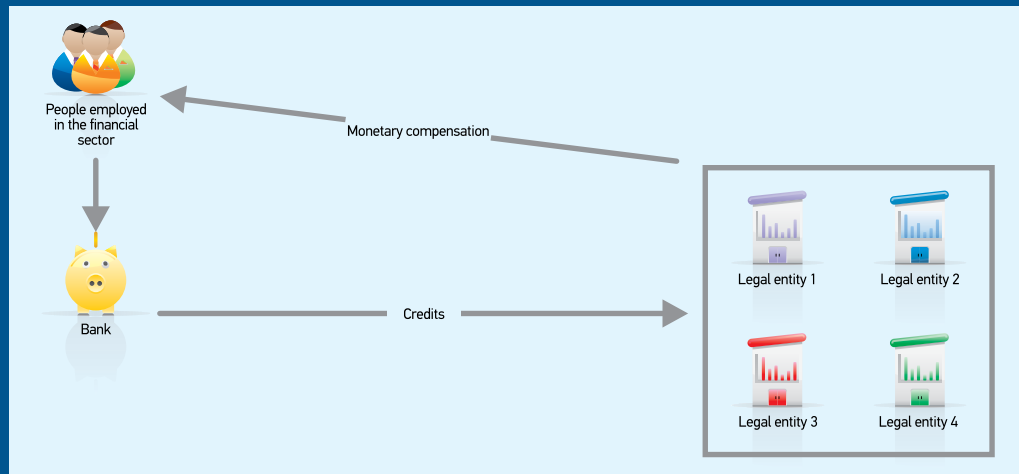
### Misfeasance in the privatisation process by making transactions without economic justification

The assets of state-owned companies being sold in the privatisation process are devalued by entering into contracts which are not justifiable from the economic point of view. In return for their favours, responsible offices from those companies receive from the new owner a monetary compensation, which is later used for buying movable and immovable assets.

Misfeasance in tender procedu



Granting credits based on forged documents

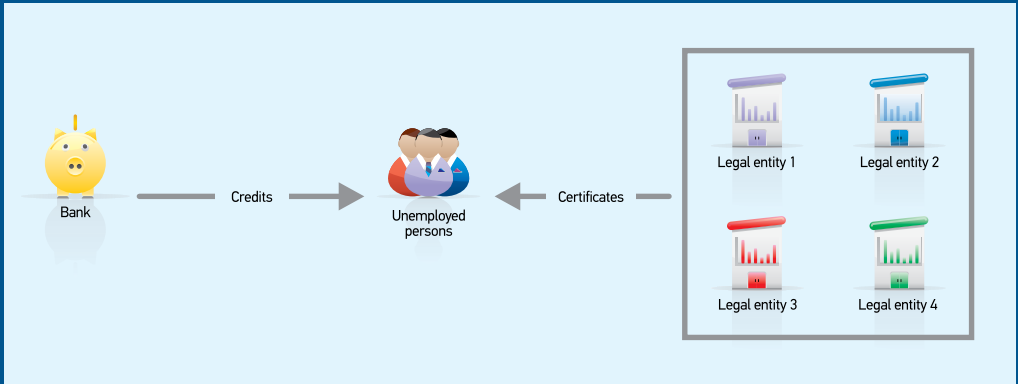


### Misfeasance in tender procedures

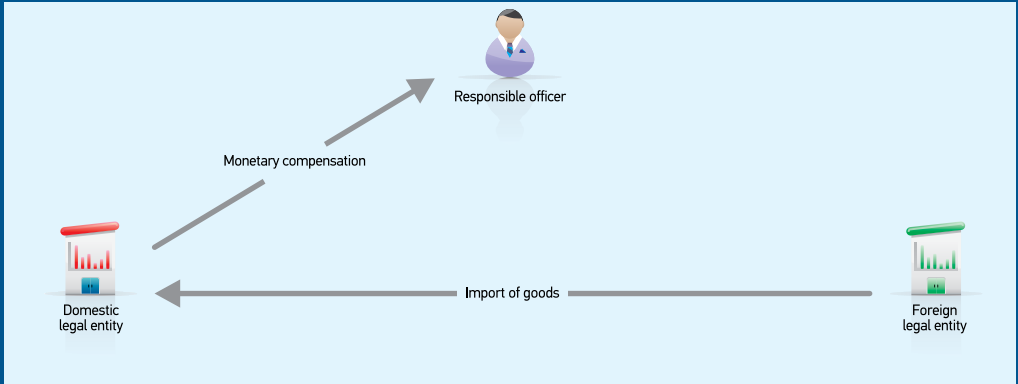
Conditions of a tender are made to suit legal entities whose owners are on friendly terms with responsible officers in a certain state-owned company. After being awarded the contracts, the owners of those legal entities give the responsible officers a monetary compensation.

### Granting credits based on forged documents

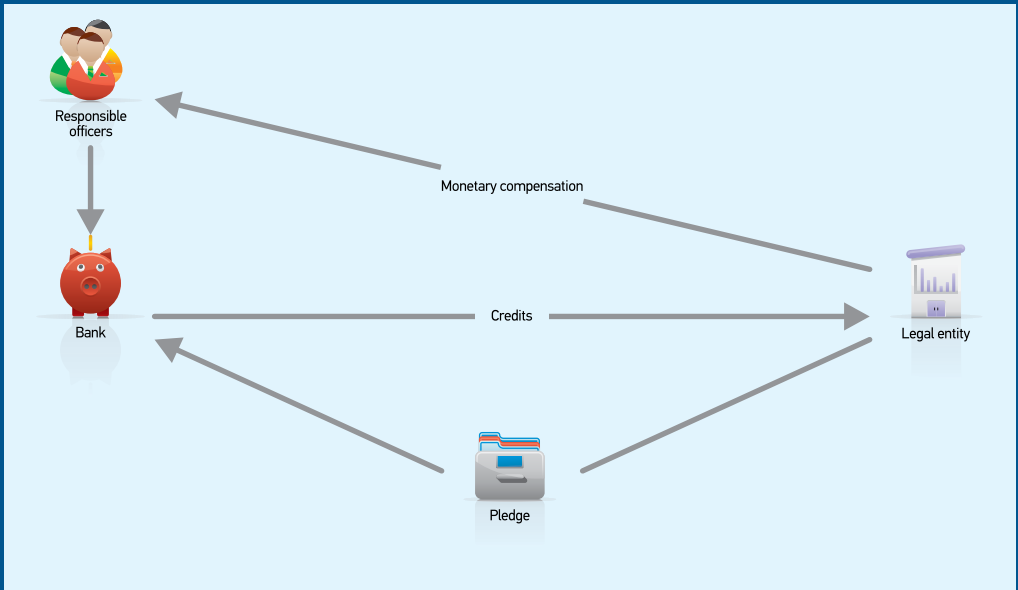
Large amounts of credit are extended to newly founded legal entities based on forged documents with help from people employed in the financial sector for a certain monetary compensation. These credit resources are later on used to buy immovable and movable assets.



Granting credits to unemployed persons



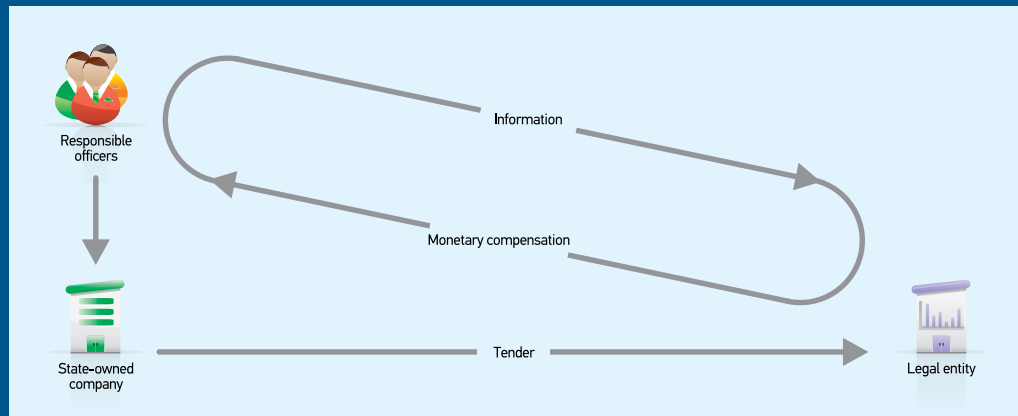
Misfeasance related to importation of goods



Granting large amounts of credit based on pledges of small value



Misfeasance related to advance payments



### Granting credits to unemployed persons

Persons in high office employed in the public sector use front persons to set up companies in the country. These newly founded legal entities issue forged certificates of average monthly income to many unemployed persons to whom credits are extended by persons employed in the financial sector based on invalid documents. In return for their favours, the persons in high office receive a portion of the extended credit, which they later use for personal expenses.

### Misfeasance related to importation of goods

Large quantities of goods are imported using forged accompanying documents stating substantially less quantities. For a monetary compensation, responsible officers at a border crossing calculate duties to be paid only on the value of goods stated in the forged documents.

### Granting large amounts of credit based on pledges of small value

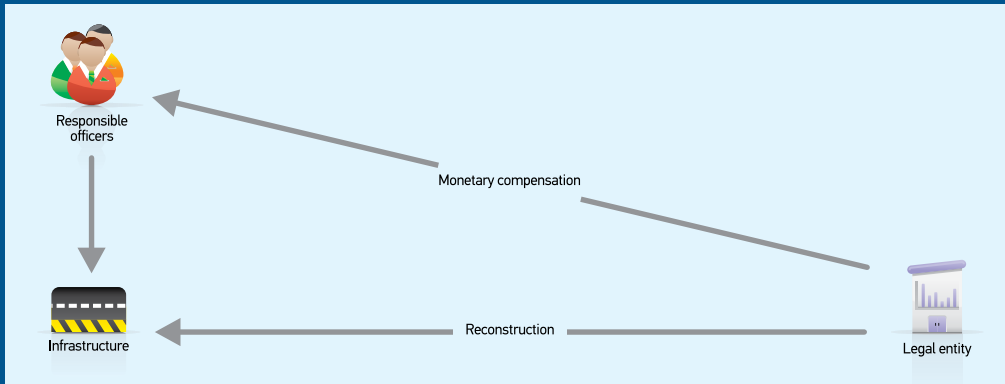
With help from persons in high office in the financial sector, multi-million credits are extended to legal entities who take out a mortgage on a piece of land as security for repayment of the credit, even though the value of the land is far less than the value of the extended credit. In return for this favour, the owners of the legal entities give a portion of the credit to the office holders.

### Misfeasance related to advance payments

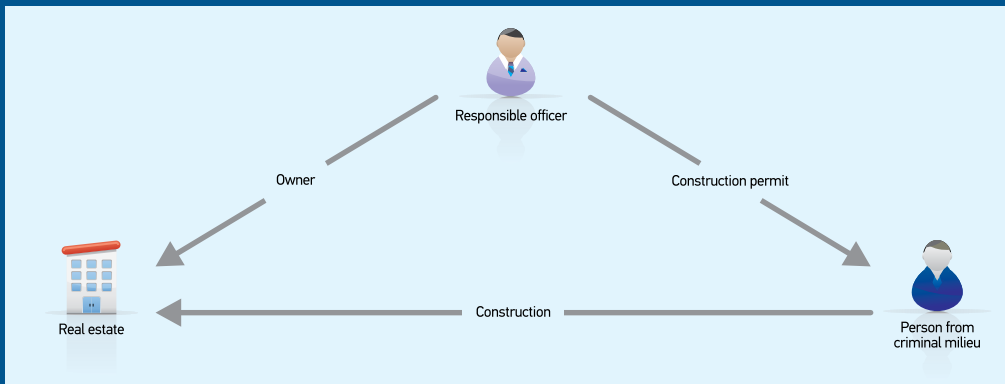
Funds are transferred as advance payments for the purchase of equipment and material from the accounts of state-owned companies to the accounts of offshore companies. The sales contract is terminated prior to being executed at the initiative of responsible officers from the state-owned company, while the transferred funds are later used to purchase immovable and movable assets.

### Misfeasance in tender procedure for privatisation of state-owned companies

In a tender procedure for the privatisation of state-owned companies, responsible officers provide interested buyers information about the value of contracts of other bidders for a monetary compensation. Based on received information, the interested buyers set prices which subsequently allow them to acquire the ownership of the company which is being sold.



Misfeasance in infrastructure overhaul



Investments into construction facilities by persons from the criminal milieu

### Misfeasance in infrastructure overhaul

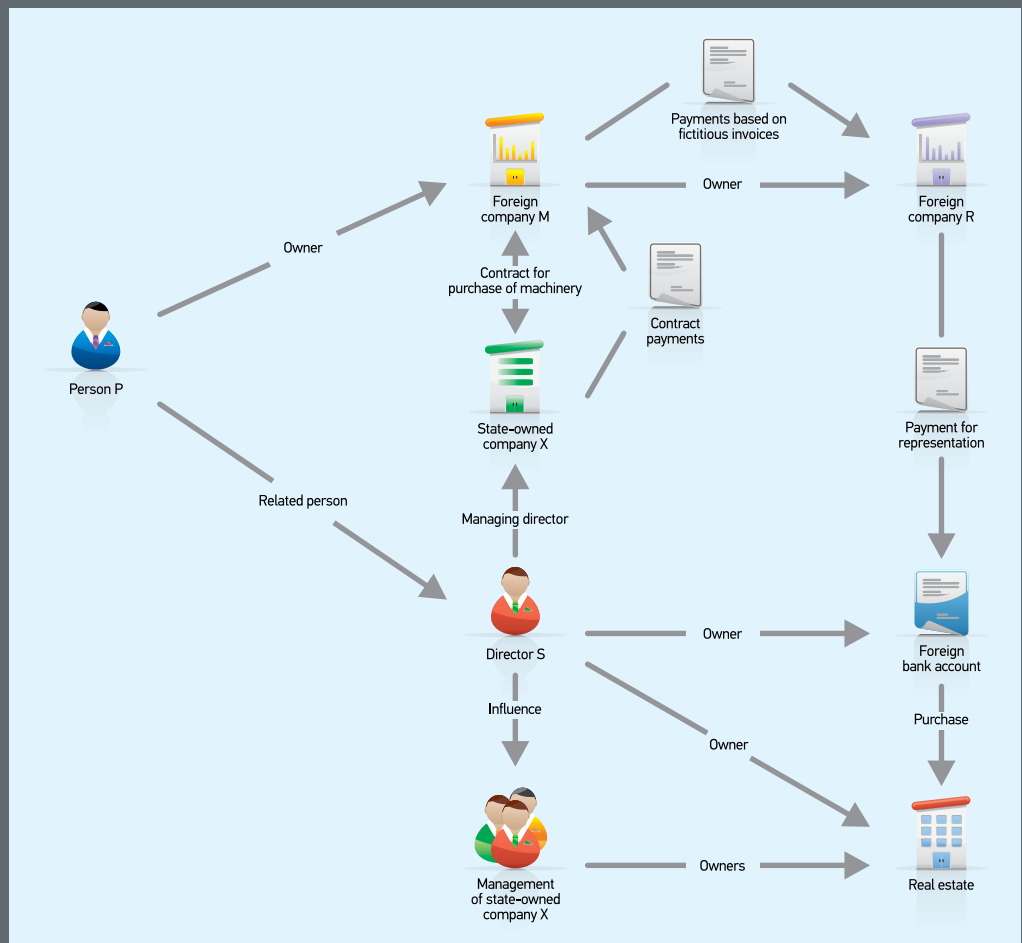
Responsible officers provide assistance to related legal entities with being awarded contracts for the overhaul and construction of infrastructure facilities; following a transfer of funds to the accounts of the said legal entities for executed works, a portion of them is paid to individuals in high public office, who later use them for making investments into legal business activities.

### Investments into construction facilities by persons from the criminal milieu

Persons from the criminal milieu lease state-owned land for longer periods of time while being granted all necessary licences for building civil engineering structures with help from responsible offices. Following the completion of the construction work, the responsible officers become owners of living or business premises or receive a monetary compensation.

## CASE STUDY- ABUSE OF POSITION BY RESPONSIBLE OFFICER IN STATE-OWNED COMPANY

The managing director of a state-owned company had signed a major contract for the purchase of machinery with a foreign company. The owner of the foreign company was a person related to the said director. After the state-owned company had transferred money into the bank account of the foreign company in consideration for



the machinery subject to the contract, the money was further transferred into the bank account of its daughter company based on fictitious invoices. The daughter company then transferred the money to a non-resident account held abroad by the managing director, alleging representation as the basis for the transfer. The machinery had never been delivered even though they were supposed to under the contract and the venture was funded using forged documents, of which the management of the state-owned company had knowledge. The funds that had been transferred to the foreign bank accounts were later used to buy real estate, motor vehicles and vessels by said individuals.

This case was prosecuted and the court passed a judgment, whereby the persons who had been involved in the corruption scheme were sentenced to several years in prison for the offences of abuse of office and money laundering.

- Managing director S was sentenced to nine years and six months' imprisonment,
- Person P was sentenced to eight years and six months' imprisonment
- Persons in management positions at the state-owned company were sentenced to prison terms ranging from one year to seven years.

In addition to receiving prison sentences, assets worth RSD 310,926,626.59 acquired through the commission of the crimes of which they were convicted by a final judgment were seized from the defendants.

# TRENDS





The financial and non-financial system are both dynamic and constantly evolving. Criminals are able to adapt quickly to these changes. They are constantly seeking new and improving their well-established ways of placing illegally obtained money into legal flows. On top of everything else, they are proactive and adjust to new situations by using modern technologies.

All the circumstances that could be used to put the fight against crime and the anti-money laundering regimen into an inferior position and cause them to lag behind the neighbouring countries and the international community make the system more vulnerable. Criminal groups linked to various spheres of interest are very keen on prolonging the weaknesses of the combat against crime as long as possible.

Having examined the circumstances surrounding corruption in Serbia, it has come to light that many misfeasance/abuse offences are linked to the privatisation and public procurement processes, which is

further supported by the typical cases we have already analysed.

Considering that Article 6 of the Privatisation Law provides that the privatisation process in Serbia must be completed not later than by the end of 2015 and that according to information available on the website of the Privatisation Agency, there are only 502 legal entities that remain to be privatised, it could be assumed that following the completion of the said process, another type of corruption would overtake its lead or in other words, new corruption-related activities would evolve.

Since public procurements will certainly continue to take place in the future, efforts must be made to find effective solutions to prevent abuse or misfeasance from occurring in the process over which better control needs to be established to prevent any further spending of the funds from the state budget for purposes other than designated as well as manipulations of responsible officers. The principle of

transparency applied to all the stages of the public procurement process represents a sound anti-corruption mechanism, while its consistent and exhaustive application will result in less room suitable for corruption.

The adoption of the new National Anti-Corruption Strategy for the period 2013-2018 as well as of the Action Plan for its implementation certainly represents a move in the right direction. One of the measures foreseen in the Strategy involves the facilitation of interconnection between databases on criminal investigations of all relevant government authorities. This would substantially expedite and simplify the work on the suppression of corruption offences. Likewise, the National Risk Assessment also proposes that databases of all competent authorities should be integrated as a measure intended to lead to more efficient resolution of money-laundering cases. If these databases are indeed to become interrelated in the future, the state's response will undoubtedly be stronger and act as a deterrent to would-be offenders.

Previous investigations show, as does the National Risk Assessment of Money Laundering, that the banking system has thus far been particularly vulnerable to the offence of money laundering as well as to offences that carry a high risk for money laundering. It is estimated that banking products will become the most common subjects of abuse in the forthcoming period.

The analysis of money laundering cases indicates that individuals from the criminal milieu have very often made investments in the financial sector with help from persons working in the banking sector, both in managerial and non-managerial positions.

It is presumed that offshore jurisdictions will continue to be a relevant factor, precisely because of how easy it is to establish a company there as well as because of how difficult it is to obtain information from them. Criminals will

endeavour to register their firms in Serbia using companies and investment funds from offshore financial centres with the intention of making their dirty capital legal. It would be necessary to take a critical look at the procedure for founding companies in Serbia and take into consideration how the simplicity of the process increases the risk from money laundering.

The construction industry has shown a tendency towards decreased activities and the construction of buildings has been sinking into slump due to the economic crisis. At the same time, the industry itself has already been identified as carrying a high risk for money laundering precisely because of how simple it is to integrate dirty money into the system, which is why it will be more closely monitored in the future. Criminals will want to find a new, more thriving business into which they may try to invest their proceeds. The introduction of notaries public into the Serbian legal system and their willingness to take preventive measures and steps aimed at curbing and detecting money laundering will improve the management of money laundering risk posed by real estate transactions. Nevertheless, criminals will always want to have a lavish life style, which requires the purchase of luxury real estate, so this type of risk will always be present.

Market, building and labour inspections and other inspection bodies, as well as coordination between government bodies, have all led to substantially less room for criminal activities of individuals and groups. The efficiency and speed with which such cases are resolved, from the filing of charges to final judgments, are also relevant factors.

In the forthcoming period, more attention should be devoted to various games of chance, since a growing trend towards starting and expanding companies involved in offering games of chance has been detected. The number of sportsbooks and games of chance has been increasing

constantly relative to previous years. A lack of regulations governing the games of chance directs individuals involved in crime towards starting this type of business. Online betting and partaking in betting and games of chance through intermediaries will definitely present a challenge to the authorities in the forthcoming period with regard to detecting illegal activities.

Criminals have been more frequently hiring attorneys and accountants to give them expert advice on how to launder their proceeds, i.e. how to place their illegally obtained money into the legal flows and how to account for it in financial statements and business documents. Special attention must be directed at such groups in the future.

Detection of illegal activities will be made more difficult due to the use of electronic bookkeeping systems by businesses and because it is possible to alter any information in a split second.

Even though enormous efforts to suppress and reduce the number activities leading to tax evasion and therefore money laundering have been made recently, this phenomenon cannot be rooted out. New times and new ways of doing business have caused new tax evasion schemes to emerge. What is characteristic of our region is that cash-intensive economies are still prevalent, which is why it is very challenging to monitor and curb money flows and business activities that are still paid in cash. Furthermore, tax evasion and money laundering schemes carried out through fictitious purchase of agricultural products and raw materials have been detected in the region over previous years, showing a trend towards a future growth.

It is well known that tax evaders hide their money from tax authorities in their own country by transferring it to foreign accounts and then integrating it by purchasing real estate. In late October 2014, fifty-one countries signed an agreement on exchange of information in tax matters. Following the signing

of the agreement, such exchange of information will help the authorities control the movements of money and curb tax evasion and embezzlement. Agreement signatories include EU member states as well as countries with strict banking secrecy rules, such as Liechtenstein and Switzerland, and tax havens, the Cayman Islands and the British Virgin Islands. The agreement is indicative of moves being taken in the right direction and implies that the times of the old banking secrecy have passed.

The development of Internet technologies has served as a catalyst for accelerating reactions and exchange of information, thereby making the geographic location and detection of seats of criminal groups a less of a priority since nowadays criminals can operate from anywhere in the world. Under such circumstances, following the flow of money has been taking main priority. A variety of possibilities offered by the Internet increase the chances of making connections and the emergence of new types of crime.

What we are likely to see in the future is that Internet technologies will increasingly facilitate other types of abuse, such as identity thefts and the use of bank accounts held by persons without a criminal record for various types of money transfers, especially fast transfers of money to foreign countries by criminals. Presumably, such *modi operandi* will be used more and more, in particular in connection with drug trafficking.

Virtual currencies (e.g. bit coin) and the insufficiently examined and regulated field of virtual communications and new methodologies give ample room to criminals for implementing new ways of investing the proceeds of their illegal activities. The fact that these are the so-called non face-to-face business transactions may also lead to abuse or misfeasance. Such activities should come under close scrutiny in the upcoming period and the virtual currency market should be closely monitored.

# RECOMMENDATIONS



The forming of joint teams whose work is coordinated by prosecutors will lead to more efficient resolution of money laundering cases and intensify the efforts of government authorities. In particular, this step will have a significant effect on the resolution of cases related to organised crime groups since they involve the greatest material gain from illegally obtained proceeds and many predicate offences closely linked with money laundering.

Relevant feedback about each case and constant exchange of newly obtained information are both mandatory for a high clear-up rate of money laundering cases.

If centralised records were kept for all types of property at all levels of government, the efficiency of collecting and analysing information in money laundering cases would be improved. Currently, records are kept at different levels, such as at the local or town government level, which reduces the reliability of data and makes the

entire process of data collection and property identification more difficult.

The asset seizure mechanism provided for by the Law on Seizure of the Proceeds from Crime has proven especially relevant, in particular in cases involving the charges of abuse of office, unlawful production and circulation of narcotics and money laundering. Its implementation will remain significant in the future as well. The seizure of the proceeds of crime undoubtedly comes as the most serious blow to any criminal.

The transnational aspect of crime (cross-border activities, offshore companies, purchase of real estate in foreign countries, etc.), the fact that criminal groups (especially in drug-related cases) are often inaccessible to the outsider, the expansion of modern means of data transfer and communications (e-mail, facebook, Skype, etc.), all pose an obstacle and a challenge which need to be overcome and responded to in a timely fashion.

In the majority of cases, dirty money is transferred through a number of countries with the aim of concealing its true origin. International cooperation plays an important part in money laundering cases (information exchange through the Egmont Group, INTERPOL, EUROPOL and liaison officers as well as through the mutual legal assistance programme). Various types of data need to be collected when resolving money-laundering cases, such as information about companies' foreign bank accounts, about founders of foreign companies, legal transactions and business arrangements that accompanied monetary transactions, etc.

Information from other jurisdictions is necessary for ensuring efficient prosecution of criminals and seizure of their assets, which is why all government authorities should use, in accordance with their competences, mechanisms for obtaining various items of information as quickly as possible.

The enforcement of better fiscal discipline in terms of tighter control of tax payers and the curbing of shadow market have brought about positive results in the fight against money laundering; therefore, further steps should be taken in that direction. Continuous supervision by inspection authorities will also have a positive effect.

The level of risk for money laundering posed by the offence of tax evasion is demonstrated by the fact that tax evasion has been put on the list of serious offences according to the recent FATF recommendations. Therefore, other states that are members of relevant international organisations must adapt their legal systems to this recommendation or in other words, must ensure that tax evasion also becomes a predicate criminal offence for money laundering. This will facilitate unhindered exchange of financial intelligence in cases when

it is suspected that the proceeds of tax evasion are being laundered.

The use of APML reports on financial analysis and suspicious money flows as evidence in court will increase, thus improving the efficiency with which the offence of money laundering is prosecuted. Using these reports as evidence should have wider practical application in money laundering cases and this model of behaviour should be encouraged. What should be taken into consideration in the first place is the possibility of using information received from foreign FIUs as evidence since it would result in more efficient prosecution of such cases.

A very useful measure is the so-called freezing of assets belonging to the members of criminal groups since it precludes assets appropriation pending the conclusion of the proceedings. Freezing orders also forbid any disposition of movable and immovable property, including shares

and stocks. They are used whenever assets suspected of originating from the commission of a crime are discovered in bank accounts as well when there is a danger that further disposition of assets would preclude their subsequent seizure. Freezing orders temporarily preclude the disposition of assets and they are thus temporarily secured so that they could be permanently seized later on.

As regards the assets in the financial system, the APML has been granted a very important power even though it is only an administrative body. To be specific, the APML has the authority to suspend the completion of any transaction for 72 hours or another 48 hours if its deadline expires on a non-working day. The APML may also issue a transactions monitoring order, which is a very useful measure to be taken when a person from the criminal milieu needs to be stopped from trying to “siphon” money from the financial system. Timely use of

this statutory mechanism may lead to improving the efficiency with which persons from the criminal milieu are prevented from withdrawing or transferring money when swift action needs to be taken before a prosecutor makes a decision to freeze the assets.

Over the previous period, red flags that signal possible money laundering have not been taken seriously due to the poor training in the money-laundering phenomenon and a lack of knowledge about it as well as about techniques to be used to detect it, etc. Efforts to detect the offence of money laundering would most often end when the evidence of a predicate offence has been collected, including as well evidence of property damage and acquired material gain by individual offenders or a group. Due to the fact that all stakeholders in the anti-money laundering system have not been adequately professionally trained, there is a marked discrepancy between statistics on detected criminal offences involving financial gain as predicative

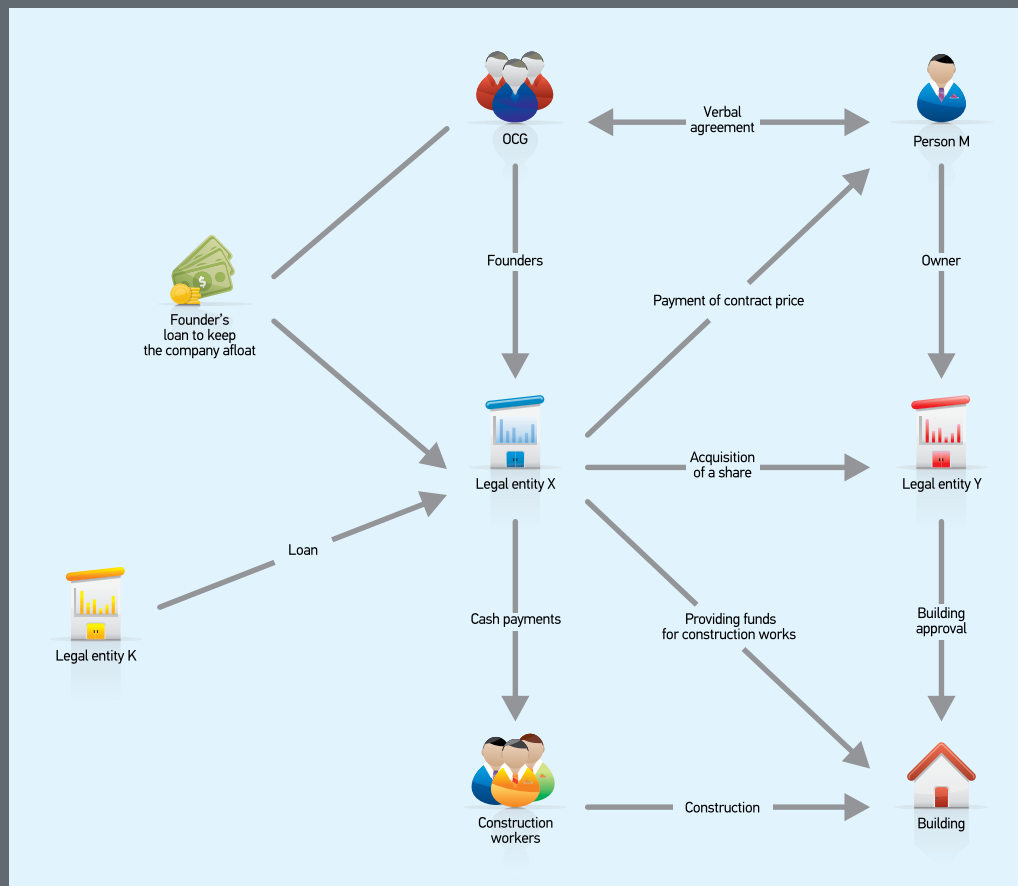
offences and the number of money laundering offences. Professional development and undergoing more intensive training programmes by all the persons taking part in the anti-money laundering regime, the police, the prosecution, and judges will lead to more efficient detection of this crime.

In order for the fight against money laundering to be efficient, all the relevant government and social factors must assume responsibility and take an active part in it, while being aware of their responsibilities arising from their respective competences.

# MONEY LAUNDERING CASE STUDIES







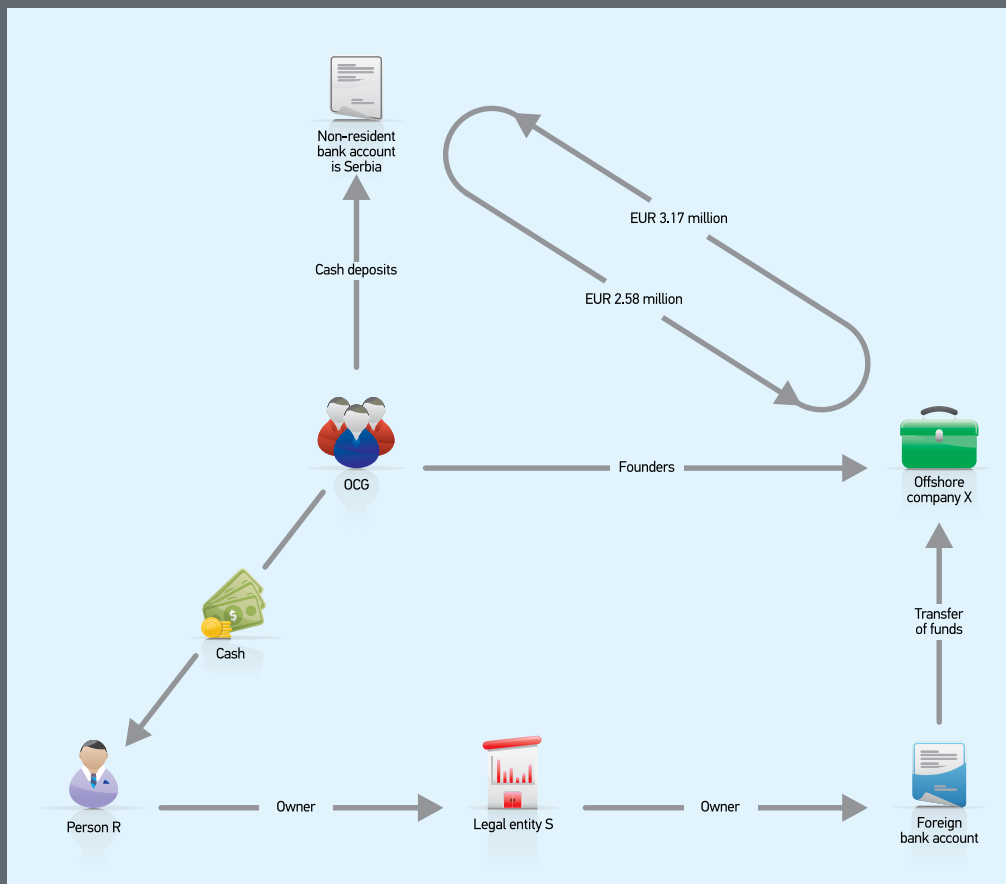
## CASE STUDY NO. 1

### Acquisition of a share in a legal entity and investments into a building project

An OCG had learned that even though a company Y had obtained a building approval for a civil engineering structure in Belgrade, it was not in a position to finance it. They contacted the company's owner (person M) and wanted to know if he would sell them his share in the company, which would give the OCG an opportunity to use its illegal proceeds and finance the construction for which all necessary permits had been issued. When the owner agreed to selling his share, the OCG set up a new company X as a LLC by putting up a symbolic nominal capital. They

entered into a sales contract for the acquisition of a share in the company which had the building permit by the newly set up company. They then made a cash payment to their newly founded company as a loan from the founder, which they used to pay the contract price to the previous owner of the company with the building permit. Having acquired a share in that company, they signed loan agreements worth EUR 100.000 with a company K whose assets were legal; they used those assets to build the structure, while managing to secure the remaining,

substantially larger portion of the money needed for the construction works by paying their contractors and necessary construction material in cash. They also pumped a portion of the dirty money into their company as a loan made by the founder. In the above manner, at least EUR 500,000 of ready money had been invested into the construction works. The portion of the money pumped into the company as a loan from the founder was used to return the loans taken from the companies which had lent them legal money.



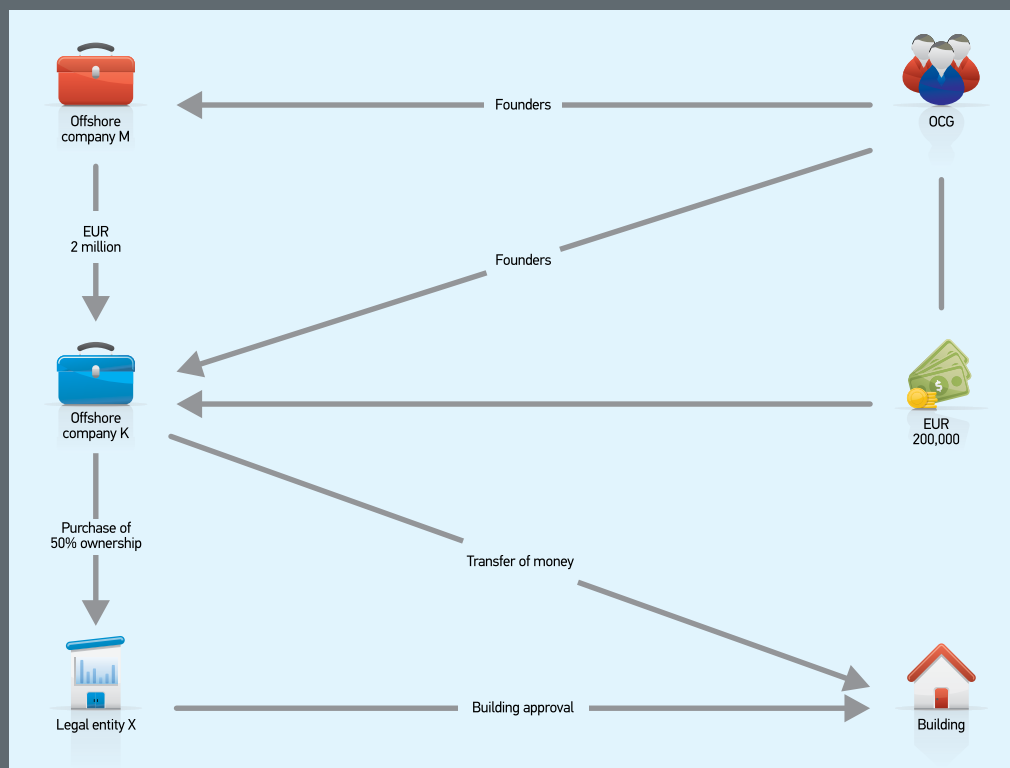
## CASE STUDY NO. 2

### Simulated legal transactions and money transfers to offshore jurisdictions

An OCG registered an offshore company X and opened a business bank account in a foreign country. An OCG member in whose name the offshore company had been registered deposited illegally obtained ready money into his non-resident bank account in Belgrade (which amounted to EUR 2.58 million) and transferred it to his company's bank account held abroad. He alleged a simulated legal transaction, namely the purchase of a boat, as the basis for the transfer. In the meantime, the OCG had agreed with a certain individual that he would, at a commission of one per cent, find for them company owners in Serbia who had money in the business accounts of their firms

held in banks abroad, but needed ready money in Serbia. Having found such company owners, they made a deal with them to use foreign remittances and transfer money from their companies' accounts held in banks in foreign countries to the bank account of the OCG's offshore company in a foreign country. The foreign banks were given false information about the basis for payments, namely they were presented with false contracts for allegedly rendered services or sale of goods. After the money had been paid into the account of the OCG's offshore company in a foreign bank, the OCG would turn over the dirty money to the companies' owners. When all the

money had thus been deposited into the account of the OCG's offshore company held in the foreign bank, it was transferred using one single foreign remittance totalling USD 3.17 million into a non-resident account held by the OCG in a bank in Serbia. Money from that bank account was freely used afterwards because it appeared to be a legal payment by foreign remittance from abroad. In the course of a financial investigation, a 390 square-meter flat and a share in the company registered in Serbia were seized from the OCG member in whose name the offshore company through which dirty money was transferred was registered.



### CASE STUDY NO. 3

#### Business transactions through offshore companies and investments into construction works

Proceedings are also underway against an individual who had carried out a conversion of property, to be specific around EUR 2.2 million of an OCG's dirty money acquired through the commission of the crime of unlawful production and circulation of narcotics in violation of Article 246 of the Serbian Criminal Code; he converted it into the title over shares in a company and used it to finance the construction of a building. The OCG learnt that a company X had obtained a building approval for a civil engineering structure to be erected in Belgrade, but that it was also experiencing financial problems while finishing the construction work. In order to conceal its illegal proceeds from the

sale of narcotics, the OCG founded an offshore company K in Delaware, US, by engaging an individual from Belgrade for the assignment. Having registered the offshore company, they opened a non-resident account in a foreign bank for that offshore company. Thereafter, they signed a fictitious contract for allegedly rendered consulting services between the newly founded offshore company and their previously founded offshore company M. The fictitious contract had served them as a legal basis for transferring EUR 2 million into the bank account of the newly founded company K in a foreign bank. The previously founded company M was not used for transferring money into

Serbia since it had already been present in the payment operations in Serbia. In addition to this payment made into the account of the newly founded company K in a foreign bank, a EUR 200,000 cash deposit was also made. Ready money was transferred from Serbia to a foreign country by being hidden in a vehicle that crossed the Serbian border and then declared to the foreign customs. Having declared the amount of cash they were taking into the foreign country, they received a certificate which was used for depositing the money into the account of the offshore company in the foreign bank. Then, the group contacted the owner of the Serbian company which was having problems with securing

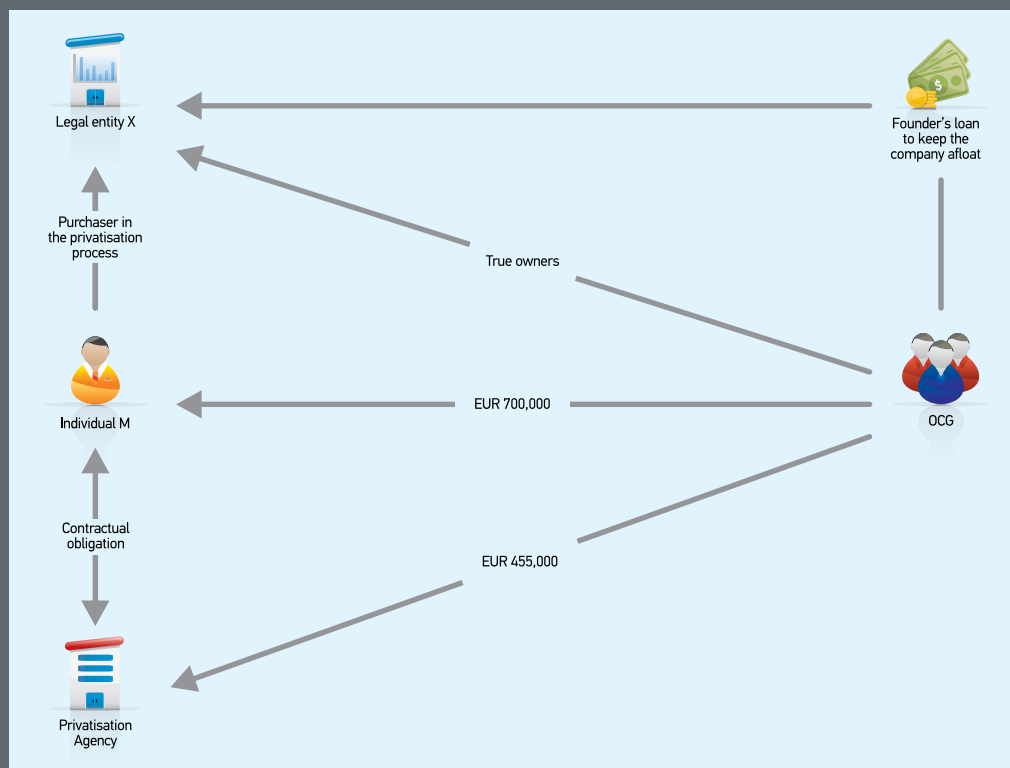
#### CASE STUDY NO. 4

##### Acquisition of a share in a legal entity and investments into catering establishments

finances for completing its building and made an agreement that the newly founded offshore company K in whose foreign bank account all the money had previously been deposited acquired a 50 per cent share in his company. When a sales contract was signed, the money was transferred from the foreign bank account of the offshore company to the bank account held in Serbia by the company which had sold them its shares. They used the contract for the sale of the share in the company as a legal basis for transferring the illegal proceeds. The building was completed and sold to a bona fide purchaser and the proceeds were divided. It was not possible to seize the building on account of the fact that it had been sold to the bona fide purchaser. Therefore, in the course of a financial investigation, two luxury flats, one 80 square-metre and another 140 square-metre, were seized from the OCG member in whose name was registered the offshore company through which the dirty money was transferred.

An OCG had already owned 69 per cent of shares of the company X in Serbia, which owned a number of hotels. This fact was seen as an opportunity to place their illegal proceeds into the Serbian payment operations system and legalise it. The OCG owned a company abroad, which carried on the same type of business, the hotel business. They came up with a plan to have their foreign company make an offer for the takeover of shares of their Serbian company, i.e. virtually sell themselves those shares and pay for them with dirty money. Those illegal proceeds were deposited into a foreign bank account on the pretext of the increase in nominal capital of their foreign company. Having registered the amendments to the corporate charter and the changes to the nominal capital of their foreign company, they made an offer through the foreign company for the takeover of shares in the Serbian company. The foreign company opened a specified purpose account with a bank in Serbia to use it for trading securities.

Then, they made a money transfer from the bank account of their own hotel business, which had been in the manner detailed above paid into the foreign bank account. They issued an order to their registered representative in Serbia to accept the offer and sell stocks of the Serbian company to the foreign company. Having paid the purchase price for the stocks, they were in a position to dispose freely of the money since it had been laundered. In the course of a financial investigation, all stocks of the Serbian company acquired in the above way have been temporarily seized and are currently being administered by the Directorate for the Administration of Seized Assets.



## CASE STUDY NO. 5

### Misfeasance in the privatisation process

An OCG learnt that certain individuals had taken part in the privatisation process and purchased from the state the stocks of certain companies going through the process. These individuals entered into contracts with the RS Privatisation Agency under which, in order to acquire the companies, they would immediately upon signing the sales contract pay to the state a certain portion of the purchase price, while undertaking to pay the remaining portion of the price by instalments. The OCG learnt through its members that some of these individuals lacked financial means to meet all the contractual obligations towards the Privatisation Agency and that they could not invest into the business operations of the companies they had acquired. They contacted the individuals with an

offer to pay them the amounts they had thus far invested and instead of them continue discharging contractual obligations towards the Agency. In return, each individual would cede to the OCG their respective contract for the purchase of stocks of the companies. Because of the position in which the individuals had found themselves, namely that if they failed to fulfil the contractual obligations, their contracts would be terminated and the money they had thus far invested would not be returned to them, they accepted the OCG's offer. They made an agreement that the OCG would pay them off in cash. They also agreed to be given dirty money and use it to meet their contractual obligations towards the Agency, specifically to pay off purchase price instalments that had become

due. In one instance, they had made a deal that the purchase price for one of the companies would be EUR 1.155 million and that it would be paid to the individual, the seller, who had a contract with the Agency, in such a way that the OCG would instead of the individual pay to the Agency the EUR 455,000 instalment that had become due for the purchase of the company, while the remaining EU 700,000 would be paid directly to the seller in cash. Having formally taken over the companies and placed them under their control, the OCG continued to pump money into the legal entity totalling approximately RSD 100 million and EUR 348,000 by making alleged founder's loans and loans from their foreign companies or the so-called subordinated loans. Dirty money was thus used to cover the companies'

liabilities towards the state, their suppliers and employees, etc. Therefore, by investing dirty money, the OCG would have managed to take over the control and ownership of the legal entity, while the proceeds of its subsequent sale or the entity's profits would have been appropriated as monetary assets of known origin. In the course of a financial investigation, thus acquired stocks of the company have been temporarily seized and are currently being administered by the Directorate for the Administration of Seized Assets.

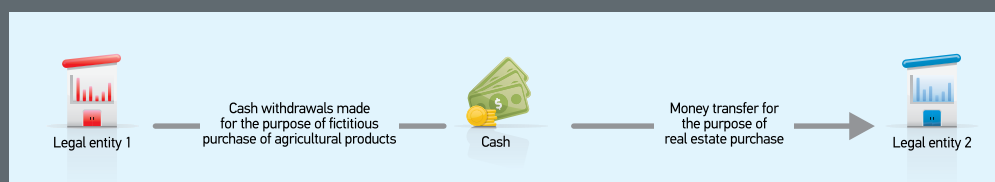
#### CASE STUDY NO. 6

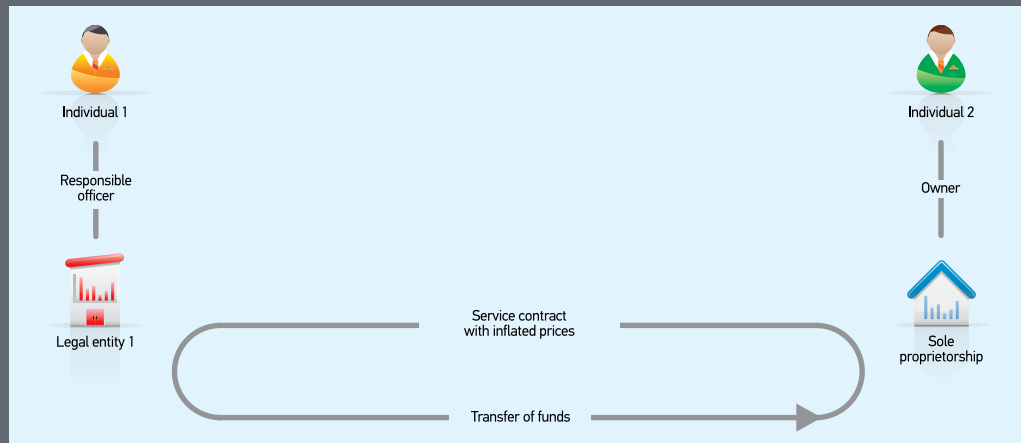
#### Simulated legal transactions and purchase of real estate

An OCG used a sum of RSD 5,757,950 which represented illegal proceeds derived from the commission of the crime of abuse of office by responsible officer to purchase a piece of real estate, namely a 46.88 square-meter flat. Amounts of said money, obtained through the commission of the crime and deposited into the account of a legal company controlled by the OCG,

were withdrawn for the purpose of purchasing agricultural products, which in actuality were simulated transactions; in addition, cash withdrawals were made just below the minimum for reporting cash transactions. A sum of money was withdrawn from the bank, after which the contract for a purchase of the flat was signed with the owner of said immovable property. On several

occasions during the construction of the flat, sums of cash were given to and sales contracts were signed with the person who sold the flat and who was also the owner of the legal entity which had built the flat. Pursuant to Article 231, para. 7 of the Criminal Code, the flat was seized from the OCG member in whose name it was registered after he had been convicted by the court.





## CASE STUDY NO. 7

### Misfeasance in public procurement

A responsible officer with a certain legal entity had signed a contract for performance of specific services for a price of RSD 8 million with the owner of a sole proprietorship, which was contrary to the provisions of the Law on Public Procurement. The contract price was several times higher than the actual value of the contracted work.

A money transfer was made from the bank account of the legal entity to the bank account of the sole proprietorship. After having received the money, the owner of the sole proprietorship used a simulated legal transaction, namely a loan, to transfer the money into the bank account of another sole proprietorship. Thereafter, the latter

deposited that amount of money without any statutory basis into the bank account of an individual and he continued to use it as he thought fit.



## CASE STUDY NO. 8

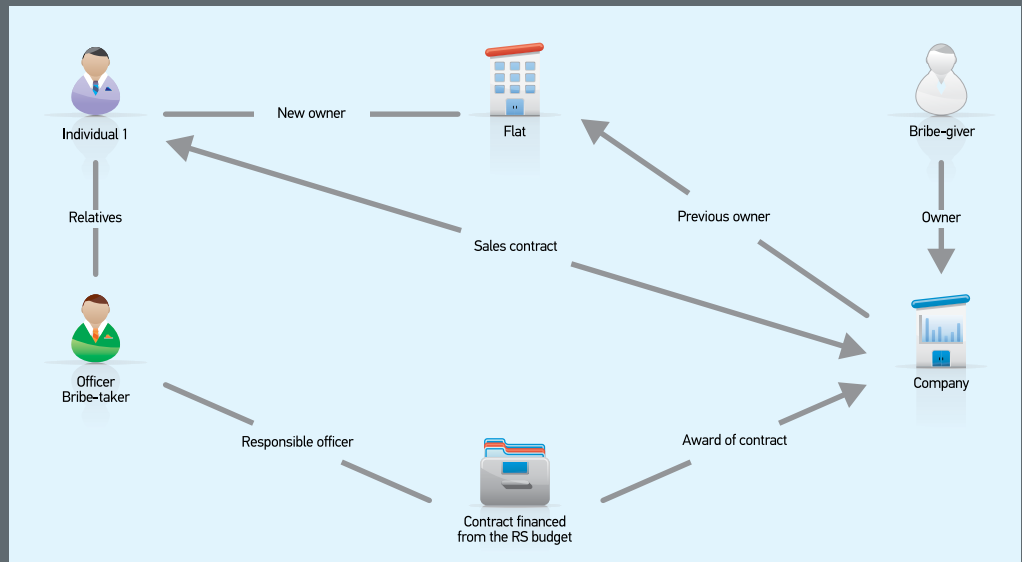
### Giving loans and purchase of real estate

The organiser of an OCG was both the owner and the managing director of a legal entity. He made a EUR 225,000 cash deposit of dirty money into the bank account of his legal entity; the money had been acquired through the commission of the crime of extortion. He stated that the statutory basis for the deposit was a decision to extend an interest-free loan in the capacity

as the entity's founder. The deposited sum of EUR 225,000 of dirty money was then used to buy a piece of real estate, specifically a 252.52 square-meter house with two garages, while the sales contract was made between the legal entity controlled by the OCG and the seller. In addition to the above-mentioned individuals, the company was, as a legal entity, also

charged with the offence of money laundering since the liability of legal entities is, pursuant to the Law on Liability of Legal Entities for Criminal Offences, based on the liability of the responsible officer, the owner and managing director of the company who had also been previously charged.





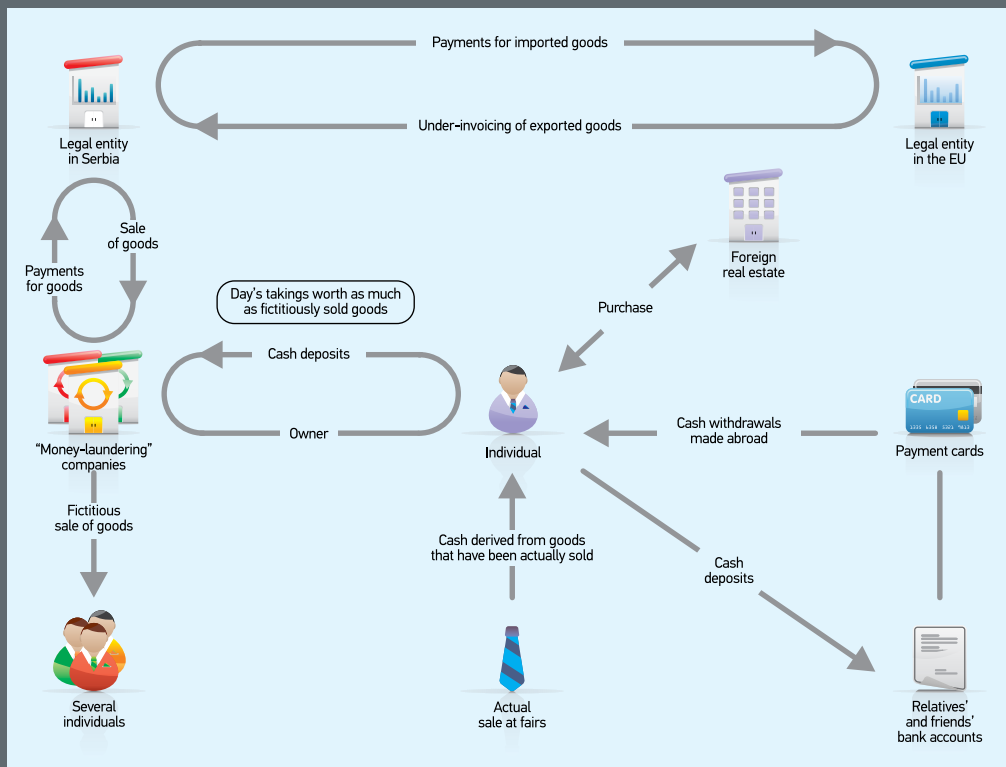
## CASE STUDY NO. 9

### Responsible officer accepts bribes – ownership of immovable property

An officer who took a bribe and the owner of a legal entity who gave him the bribe had agreed that the bribe-taker would be bought a 63 square-meter flat as bribes. In return, the bribe-taker would, within his official capacity, award to the company owned by the bribe-

giver a contract funded from the Serbian budget and with the credit of the Council of Europe Development Bank. The sales contract for the flat was concluded between the company belonging to the bribe-giver and an individual who is made to appear as if he were a

purchaser (when in actuality he was a close relative of the bribe-taker). The purchase price of the said flat was RSD 2,520 million and it was paid by another company through an intermediary that was also another legal entity.



## CASE STUDY NO. 10

### Tax evasion and investments made abroad

A legal entity from Serbia had imported used machinery from another legal entity from a EU member state. The used agricultural machinery had been imported by misrepresenting the value of the machines stated on the invoices. With help from customs officers, under-invoiced values of goods were accepted when collecting customs duty, i.e. the basis for calculating the customs duty was determined based on under-invoicing.

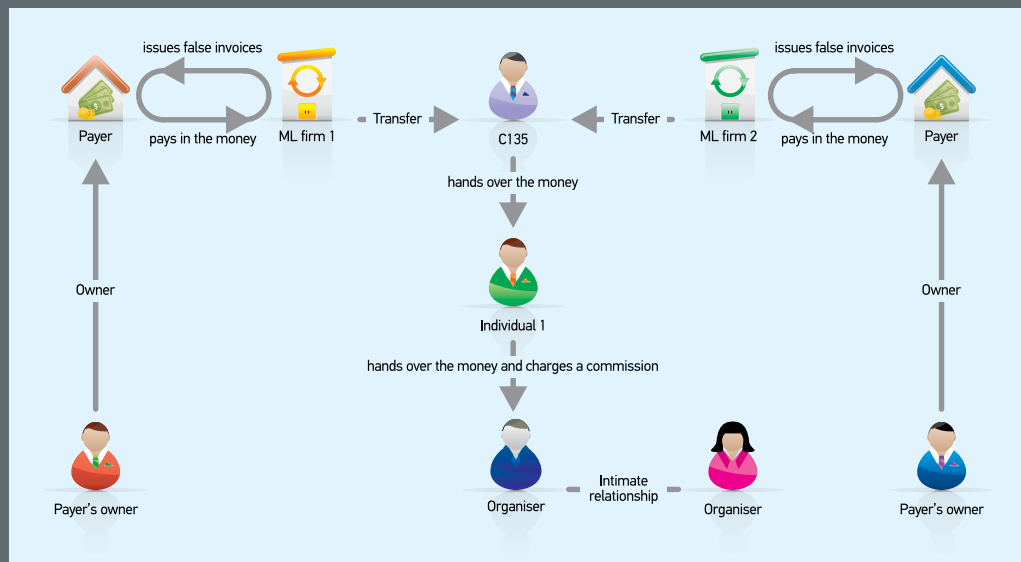
The imported goods were then sold in Serbia to the so-called money-laundering companies, which was accompanied by slight over-invoicing of goods in comparison with the commercial invoice. The money-laundering companies allegedly

sold the machines to individuals for cash; the money was deposited into a bank account as day's takings and then transferred to the legal entity which had imported the machines.

The machines were actually sold at fairs, at significantly higher prices and most often they were paid for in EUR. The sales proceeds poured into the hands of the owner, who produced forged dispatch notes and invoices (from the money-laundering company under his control), allegedly issuing them to individuals, fictitious buyers of the machines. Since he was left with a significant amount of ready money which represented a difference between the real sales price and the price stated on the invoices and

because he could not legally take the money out of Serbia, he made many EUR 2,000 deposits into checking accounts of his family members and friends held at a bank that also did business in the EU; at the same time, he kept their payment cards with him.

Next time two drivers went to the EU, they took the money necessary to purchase a new series of used machinery, while the person who had organised the scheme withdrew the profits deposited in a bank account on an ATM machine in the EU (approximately EUR 15,000); he used the money to purchase immovable property abroad (flats).



## CASE STUDY NO. 11

### Siphoning cash through shell companies

Members of an organised crime group had set up several companies in Serbia in their own names or in the names of third parties. Then, they contacted the owners of other legal entities or responsible officers therein who intended to siphon ready money off their companies. Money was transferred from the accounts of the legal entities who wanted to draw off cash from the bank accounts to the accounts of legal entities under the control of the OCG. The transfers were made based on forged documents (fictitious sale of goods and services).

In addition, the OCG members would establish companies abroad and open bank accounts for those companies in banks in the neighbouring countries.

A third party would make a cash withdrawal from the company's bank account and then turn over the money to the organisers, the OCG members, for which they charged a commission.

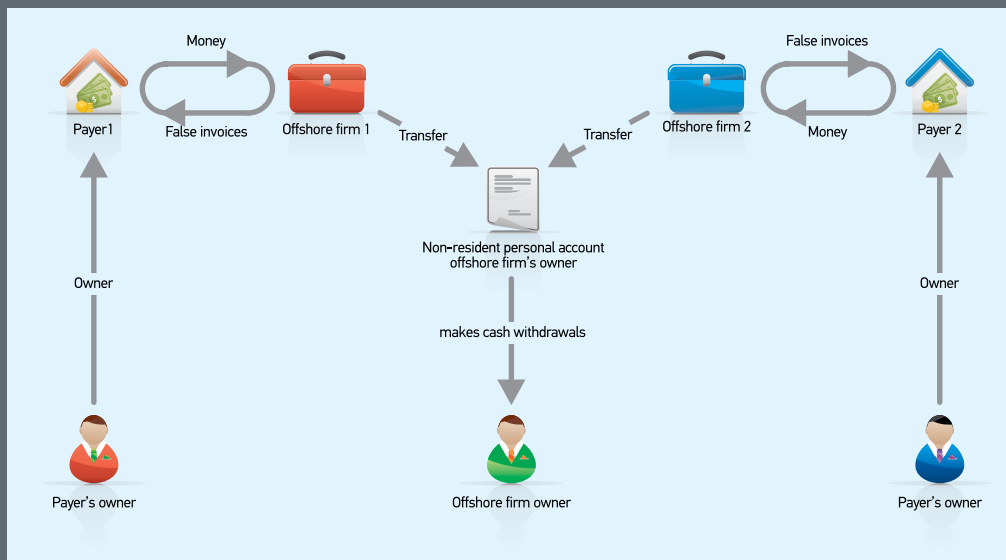
The organisers would then turn over the money they had received from such third parties to the responsible officers with the above-mentioned companies, while also charging their own commission (at around 10 per cent).

With a view to uncovering the roles played by the members of this OCG as well as its organisational structure, an undercover investigator was engaged and the measures provided for in the Criminal Procedure Code related to the provision of simulated

business services and entering into simulated legal transactions in the course of preliminary investigation had been taken for the first time.

The structure of this OCG was found out based on the work of the undercover investigator and his contacts with the OCG members:

- The OCG's business activities branched into two money-laundering companies in two Serbian towns;
- One person was the leader and both OCG branches were under his control;
- Sub-groups were organised within each branch through third parties; the manner in which



the network branched out was also discovered; the network was structured as a pyramid;

- A strict hierarchy had been established within each group and they were all based on trust; this is supported by the fact that ready money was never counted at the site of the handover.

The person supposed to „siphon“ money from the legal entity would contact the organiser of the OCG and he would direct him to the owner of the “money-laundering” company. The two of them would then agree on the amount of cash to be withdrawn as well as on the details concerning the basis for the money transfer (sale of goods or services, depending on the company’s line of business). The money-laundering company would issue an invoice that served as cover for transferring money into the account of the “money-laundering” firm.

Afterwards, cash withdrawals were made from the account of the “money-laundering” firm, most frequently by individuals based on contracts signed with the firm and payment orders related to allegedly performed services or other transactions (most

often involving the purchase of raw materials, agricultural products, maintenance services, etc.). Cash payments could be made to one person from the bank accounts of several “money-laundering” firms controlled by the OCG members. The undercover investigator had played a pivotal role in this particular case (C135).

In addition, one of the OCG branches used offshore firms for their money laundering activities. Specifically and similar to the previous case, the person who was supposed to “siphon” money from a legal entity contacted the OCG organiser, who referred him to the owners of “money-laundering” companies registered in offshore jurisdictions. They agreed on the amount of money to be withdrawn in cash as well as on the details of the basis for money transfers (sale of goods or services, depending on each company’s line of business). The money-laundering firm from the offshore jurisdiction would issue an invoice serving as cover for the transfer of money into their account. Funds were transferred from the bank accounts of those companies into non-resident accounts of their owners alleging various bases;

the owners would then hand the money over to the OCG organiser.

Red flags detected in the above case study:

- Large amounts of cash in circulation;
- A tendency towards transactions between many related natural persons and legal entities without any clear economic justification;
- Transactions that were related to companies with registered offices in offshore jurisdictions;
- Activities and bases for transfers that present a risk for money laundering (purchase of agricultural products or raw materials, various types of services, etc.).

Searches of several locations were conducted based on an order issued by the Prosecutor’s Office for Organised Crime in the course of which 13 individuals were arrested on suspicion of committing a number of criminal offences, specifically:

- Forming a Group for the Purpose of Committing Criminal Offences;
- Abuse of Office;
- Money Laundering.

The extent of the damage caused has been estimated at around RSD 450 million, while the acquired material gain amounted to approximately RSD 45 million.

In the course of preliminary investigation, seven luxury vehicles and monetary assets worth around RSD 3 million were temporarily seized, which directly resulted from the commission of predicate offences and money laundering.

# ADDITION



## STATISTICAL OVERVIEW

| YEAR  | Abuse of Position by Responsible Officer |                  | Abuse of Office |                  | Accepting Bribes |                  | Misfeasance in Public Procurement |                  |
|-------|--|------------------|-----------------|------------------|------------------|------------------|-----------------------------------|------------------|
|       | Offences                                 | Criminal Charges | Offences        | Criminal Charges | Offences         | Criminal Charges | Offences                          | Criminal Charges |
| 2013  | 834                                      | 445              | 1,259           | 718              | 142              | 58               | 60                                | 35               |
| 2014  | 801                                      | 361              | 493             | 262              | 56               | 22               | 80                                | 28               |
| TOTAL | 1,663                                    | 829              | 3,994           | 2,304            | 346              | 135              | 140                               | 63               |

| Tax Evasion |          |                  | Money Laundering |          |                  |
|-------------|----------|------------------|------------------|----------|------------------|
| YEAR        | Offences | Criminal Charges | YEAR             | Offences | Criminal Charges |
| 2012        | /        | /                | 2012             | 123      | 65               |
| 2013        | 220      | 127              | 2013             | 25       | 8                |
| 2014        | 110      | 65               | 2014             | 19       | 9                |
| TOTAL       | 330      | 192              | TOTAL            | 167      | 82               |

| Unlawful Production and Circulation of Narcotics |          |
|--|----------|
| YEAR   | Offences |
| 2012   | /        |
| 2013   | 4,564    |
| 2014   | 5,460    |
| TOTAL  | 10,024   |

| Tax Evasion and Money Laundering | Unlawful Production and Circulation of Narcotics and Money Laundering | Accepting and Giving Bribes, Abuse of Office, Abuse of Position by Responsible Officer, Abuse of Authority in Economy and Money Laundering |
|----------------------------------|---|--|
| EUR 33,500                       | /   | 25 houses  |
| RSD 300,000                      | /   | 400 ares of agricultural land  |
| 5 flats in Belgrade              | /   | 65 flats   |
| 3 parking spaces in Belgrade     | /   | 1 suite in Zlatibor  |
| 3 business premises in Belgrade  | /   | 15 establishments  |
| 1 establishment in Belgrade      | /   | EUR 580,000  |
|                                  | /   | 16 garages and parking spaces  |
|                                  | /   | 16 watches   |
|                                  | /   | 1 office building  |
|                                  | /   | 29 pieces of artwork, paintings  |
|                                  | /   | 3 commercial and residential buildings   |
|                                  | /   | 500 g of gold jewellery  |
|                                  | /   | Marilyn Monroe handbag   |
|                                  | /   | 26 cars  |
|                                  | /   | 1 tractor  |

## ABBREVIATIONS

**STR** – Suspicious transaction report

**CTR** – Currency transaction report

**GNP** – Gross national product

**USAID** – US Agency for International Development

**OSCE** – Organisation for Security and Cooperation in Europe

**CD** – Criminal offence

**UNODC** – United Nations Office on Drugs and Crime

**FATF** – Financial Action Task Force

**NRA** – Nacional Risk Assessment

**VAT** – Value-added tax

**Co** – Company

**FREN** – Foundation for Advancement of Economics

**SOCTA** – EU Serious and Organised Crime Threat

**OCG** – Organised crime group

**FIU** – Financial Intelligence Unit

**SECI** – Southeastern European Cooperative Initiative

**GDP** – Gross domestic product

**EU** – European Union

**BRA** – Business Registers Agency

**LPMLTF** – Law on Prevention of Money Laundering and Financing of Terrorism

**CPC** – Criminal Procedure Code

**CC** – Criminal Code

**FIU** – Financial Investigation Unit

**NBS** – National Bank of Serbia

**MI** – Ministry of the Interior

**ML** – Money Laundering

**TA** – Tax Administration

**RPPO** – Republic Public Prosecutor's Office

**POOG** – Prosecutor's Office for Organised Crime

**HPPO** – High Public Prosecutor's Office

**AML/CTF** – Anti-Money laundering/ Combating the Financing of Terrorism

**APML** – Administration for Prevention of Money Laundering

**SIA** – Security-Intelligence Agency

**EUR** – Euro

**RSD** – Serbian dinar

**USD** – US dollar

**IMF** – International Monetary Fund

**SWIFT** – Society for Worldwide Interbank Financial Telecommunication,

## GLOSSARY

**„All crimes“ approach** – This approach entails treating any criminal offence from which material gain is derived as a predicate offence for money laundering.

**Risk-based approach** – Every reporting entity has a duty to carry out an assessment of ML/TF risks, adhering to the guidelines laid down by the authority in charge of overseeing the implementation of the law. Based on the assessment, the reporting entity determines the level of attention to be directed and the extent of measures and actions to be taken complying with its statutory obligations.

**Carousel fraud** – This type of fraud is suitable for small-sized, yet expensive goods, which may circulate through many countries and only on paper end where they have started. The catch is that somewhere in the chain of sales, there is an interruption at a fictitious company that is supposed to pay VAT, but does not.

**Gross domestic product** – GDP represents an aggregate output of goods and services, produced in a national economy (domestically), regardless of who their owner is. This implies that GDP also includes the output of foreign entities and companies in the country, but does not encompass the activities of firms registered abroad even though they are owned by the citizens of that country.

**Cash-intensive economy** – The economy of a country in which cash payments for goods and services are the dominant form of payment.

**Tax havens (offshore financial centres)** – Jurisdictions that share the following common characteristics: a relatively large number of financial institutions primarily conducting business with non-residents; a financial system that involves foreign property and obligations, whose size is disproportionate to the needs of its national economy; reduced



or nil taxation levels; light and simple financial regulations, strict banking secrecy and anonymity.

**Offshore legal entity** – A foreign legal entity which does not or may not have any production or sales activities in the jurisdiction in which it is registered.

**Shell companies (also phantom firms)** – Firms that are established mostly for carrying out certain fictitious transaction, aimed at making material gain. Shell companies are mainly founded using forged identity cards so that the organisers of such schemes could not be detected.

**Value-added tax** – This is a general tax on consumption calculated and paid for each delivery of goods and rendering of services in all stages in the production and sale of goods and services, as well as on the import of goods.

**Organised crime group** – An organised group consisting of at least three persons, which exists for a certain period of time and has the common aim of committing one or more serious criminal offences, with the intention of directly or indirectly acquiring material gain.

**Simulated, fictitious legal transactions** – This denotes the act of entering into fictitious business relationships in such a way that fictitious documents are created about alleged deliveries and acceptance of goods and/or performed services.

**Hawala** – An Arabic word for transfer. A value transfer system that is based on an extensive network of money brokers operating for a symbolic fee; it is used predominantly in the Middle East, Africa and South America.

**INTERPOL** – An organisation of the EU which facilitates the exchange and analysis of crime-related information. Its primary role is to improve the performance of EU law

enforcement agencies and their cooperation in the prevention and suppression of serious forms of transnational crime and terrorism.

**EUROPOL** – An international police organisation that handles cooperation between police authorities at the international level.

**EGMONT group** – An international association of financial intelligence units that meets regularly and finds ways to promote cooperation, especially in the areas of information exchange, training and the sharing of knowledge and expertise.

**Undercover investigator** – A police officer who has been given a new identity over a certain period in time so that they could act covertly, contact certain criminal circles and thus collect information that can be used to detect, clear-up and prevent criminal offences, in particular those related to organised crime.

**Informant** – Information received from informants leads the police to the sources of physical evidence and information that can be used as evidence. Such information serves as an indication or a signpost leading to real evidence while in some cases, it may also serve as evidence.

**Consultant** – They are most commonly persons employed in certain institutions that can reveal the occurrence of criminal activities due to the specific knowledge they have. Consultants participate in the detection of criminal activity and continuously gather information.

**Front person** – A person without a criminal record who acts in the name of another person – a criminal.

**Grey economy** – This term denotes informal, unofficial economy; in the broadest sense, it stands for economic activities which cannot adequately

be monitored by the government, i.e. which are on the verge of legality. In the narrow sense of the word, the term implies regular economic activities related to the common sale of goods and services, which are not reported as prescribed under the law. Therefore, grey economy may somehow be legalised (e.g. by paying taxes).

**Underground economy or black market** – This term denotes economic activities, primarily the sale of goods and services, which are completely or partially criminalised (arms smuggling, sale of goods on the black market, human trafficking). This type of economy is characteristic of least-developed countries.

**Dirty money** – Money acquired through the commission of criminal offences.

**Payment card** – A non-cash means of payment which allows the cardholder to make payments for goods and services, as well as cash withdrawals without going to the bank.

**Cash transaction** – The act of taking ready money from a client personally or giving it to them personally.

**Suspicious transaction** – A transaction is suspicious when there are grounds for suspicion that a transaction or a client who effects the transaction is related to a ML or TF offence.

**Money laundering (ML)** – Conversion or transfer of property acquired from a criminal offence; concealment or misrepresentation of the true nature, origin, location, movement, disposition, ownership or title related to the property acquired from a criminal offence; obtaining, keeping or use of property acquired from a criminal offence.

**Financial intelligence unit** – It serves as a national centre for the receipt (or even request), analysis and dissemination to competent state authorities of reports and financial

transactions for which there is suspicion that they are related to the proceeds of crime or as provided for under the national legislation, the aim of which is to combat money laundering and the financing of terrorism.

**Financing of terrorism (FT)** – Securing or collecting of property, including as well the attempts to secure or collect it, with the intention to use it or knowing that it may be used fully or partially to commit an act of terrorism by terrorists or terrorist organisations; incitement to secure or collect property as well as aiding and abetting, irrespective of the fact whether or not the terrorist act has actually been committed or whether or not the property has been used in the commission.

**FATF (Financial Action Task Force)**

– An inter-governmental body whose objectives are to develop and promote measures and actions for combating money laundering and terrorist financing at both the national and international level; the FATF has also developed a series of Recommendations to be used by countries as guidelines for combating illegal activities.

**MONEYVAL** – A committee of experts of the Council of Europe entrusted with the task of assessing the compliance of member States with the relevant international standards to counter money laundering and the financing of terrorism in the legislation, financial regulatory, law enforcement sectors through a process of mutual evaluation of equal members.

**Tax evasion** – This offence entails the giving of false information on legal income, objects or other facts relevant to determination of tax obligations, or failing to report lawful income, objects and other facts in case of mandatory reporting (filing of returns) or otherwise concealing information relevant to determination of tax obligations, with the intent to fully or partially avoid the paying of taxes, contributions or other statutory dues exceeding RSD 150,000 (Article 229 of the RS Criminal Code).

**Abuse of position by responsible person (responsible officer)** – This offence is committed by a person who through the abuse of his position or powers, by exceeding his powers or failure to discharge his duty, obtains for himself or another natural person or legal entity unlawful material gain or causes material damage to another (Article 234 of the RS Criminal Code).

**Misfeasance in public procurement**

– The offence is committed by a responsible person in a company or other business entity with capacity of legal entity or a sole proprietor who in respect to public procurement submits an offer based on false information, or colludes with other bidders, or undertakes other unlawful actions with the aim to thus influence the decision of a contracting authority.

**Abuse of authority in economy**

– This offence is committed when a responsible officer of a company or other entity having the capacity of a legal person, or a sole proprietor who, with the intention to acquire unlawful material gain for the legal person in which he is employed, for another legal person or another economic entity having the capacity of a legal person or sole proprietor establishes or keeps illicit financial, commodity or other value funds at home or abroad, or unlawfully prevents exercising of ownership rights of shareholders; fabricates documents with false contents, false balance, estimates or through interventions or concealing of facts, falsely represents the status or movement of assets and business results, thereby misleading management authorities of the company or another legal person when taking decisions relative to management, or places the company or other legal person in a more favourable position when obtaining funds or other benefits that otherwise they would not be entitled pursuant to regulations in force; uses available assets contrary to their purpose; otherwise grossly violates authorisation in respect of management, disposal and use of assets; contrary to the will of

shareholders fails to sign the prospectus for trading in the stock exchange, and by giving false information misleads buyers of shares in respect of the capital of the legal entity (Article 238 of the RS Criminal Code).

**Embezzlement** – This offence requires that a person, acting with the intent to acquire for themselves or another unlawful material gain, appropriates money, securities or other movables entrusted to them by virtue of office or position in a government authority, enterprise, institution or other entity (Article 364 of the RS Criminal Code).

**Influence peddling** – Soliciting or accepting, either directly or through a third party, a reward or any other benefit for oneself or another in order to use one's official or social position or real or assumed influence to intercede for the performance or non-performance of an official act (Article 366 of the RS Criminal Code).

**Soliciting and accepting bribes** – The offence is committed by either direct or indirect solicitation or acceptance of a gift or another benefit, or by accepting a promise of a gift or another benefit for another, in return for performing an official act that should not be performed within one's official competence or in relation to their official power (Article 367 of the RS Criminal Code).

**Bribery** – The offence is committed by either directly or indirectly making an offer of or giving a gift or other benefit for another to perform, within their official competence or in relation to their official powers, an official act that should not be performed, or by anyone who acts as an intermediary in such bribing of an official (Article 368 of the RS Criminal Code)

