Pursuant to Article 38 paragraph 1 of the Law on the Planning System of the Republic of Serbia (Official Gazette of the Republic of Serbia, 30/18),

the Government hereby passes the

**STRATEGY**

**AGAINST MONEY LAUNDERING AND THE FINANCING OF TERRORISM**

**2020-2024**

# Introduction

Money laundering is the process of disguising the proceeds of criminal acts to allow criminals to use them in the legitimate economy. Corruption and organised crime, such as drugs trafficking, arms sales and human trafficking, produce huge amounts of such proceeds and laundering them can distort the economy and threaten the integrity of the financial system. Terrorist finance, the use of funds to support acts of terrorism and terrorist groups, underpins terrorist activity globally, which threatens peace and prosperity. Therefore, the Republic of Serbia is committed to implementing an effective anti-money laundering and counter-financing of terrorism (AML/CFT) system, through implementation of the measures laid down by the Financial Action Task Force (FATF)[[1]](#footnote-1), the inter-governmental standard-setting body.

The intention of the first national AML/CFT strategy (2008-2013) was to establish a complex and comprehensive AML/CFT system in Serbia in an efficient manner, and the second National AML/CFT Strategy was a logical follow-up, aiming at improving the system’s effectiveness. The second in line National Strategy Against Money Laundering and Terrorism Financing (National AML/CFT Strategy) and the related Action Plan were passed by the Government of the Republic of Serbia on 31 December 2014, both to expire in 2019.

The third National Strategy Against Money Laundering and Terrorism Financing (AML/CFT Strategy) which is passed for the period 2020-2024, is also national in terms of territorial coverage, in line with the Law on the Planning System of the Republic of Serbia. The third AML/CFT Strategy builds on the previous two strategies and aims to further develop the AML/CFT system in Serbia in order to face the risks found by the 2018 National ML/TF Risk Assessment exercise in an effective manner, and in order to adopt measures in line with international standards set by the Financial Action Task Force (FATF), which will effectively achieve the set AML/CFT objectives.

# Planning documents and legal framework relevant for the strategy

There are many laws, other regulations, general and individual acts and other public policy documents having a direct impact on the fight against money laundering, terrorist financing and financing of proliferation of weapons of mass destruction (WMD), the key legislation being as follows:

1. **Criminal Code** (Official Gazette of RS, No 85/05, 88/05, 107/05, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 and 35/19);
2. **Criminal Procedure Code** (Official Gazette of RS, No 72/11, 101/11, 121/12, 32/13, 45/13, 55/14 and 35/19);
3. **Law on Organisation and Competences of State Authorities in Suppressing Organised Crime, Terrorism and Corruption** (Official Gazette, No 94/16 and 87/18 - different law);
4. **Law on Seizure and Confiscation of Proceeds from Crime** (Official Gazette of RS, No 32/13, 94/16 and 35/19);

**The Criminal Code criminalises money laundering and the financing of terrorism** (Article 245 - money laundering and Article 393 - financing of terrorism) in line with international standards.

The higher level of effectiveness of the system in terms of ML prosecutions and convictions over the last two years have to a certain extent been a result of the effects of the amended Criminal Code (Official Gazette of the Republic of Serbia, 94/16) which became effective on 1 March 2018.

The amended Criminal Code introduces a modified Article 231 (now Article 245) which criminalises the ML offence. Specifically, the amendments to the Criminal Code provide that the property which is the subject-matter of money laundering need not originate from a predicate *criminal offence*. Rather, the Criminal Code introduces the relevant provisions of international conventions signed and ratified by the Republic of Serbia, so therefore it now stipulates that it suffices that the property which is the subject-matter of money laundering originates from *criminal activity*. This criminalisation of the money laundering crime extends the scope of application of this article and creates room for criminal prosecution without a prior conviction for the underlying criminal offence. Moreover, the use of the criminal activity concept in the CC’s definition of the ML crime does not require the predicate crime to be specifically established; it is even less necessary to have a prior final conviction for that predicate offence. It will suffice, for the purpose of a specific case, to establish that money or property have been obtained through such activity, whose commission constitutes the substance of an illicit act. This fact, as well as any other, will be established in the course of the proceedings, simultaneously with adjudication on the presence of other essential elements of the ML criminal offence. Therefore, that the proceeds originate from a criminal activity can be established for the purpose of the specific ML case only. It is irrelevant, for that purpose, whether that criminal activity is a criminal offence or some other form of illicit activity.

Serbia has a new **Law on Organisation and Competences of State Authorities in Suppressing Organised Crime, Terrorism and Corruption**, in effect as of 1 March 2018. This law regulates the establishment, organisation, competences and powers of state bodies and special organisational units of state bodies for the purpose of detecting, criminal prosecution and trying specific criminal offences, including money laundering. In this manner, specialisation was completed, including concentration of jurisdiction *ratione materiae*, i.e. for detecting and prosecuting money laundering, of state bodies responsible for handling organised crime cases and state authorities responsible to handle the cases of corruption.

In line with the provisions of this law, prosecution of perpetrators of the ML offence is under the jurisdiction of the Prosecutor’s Office for Organised Crime, Ministry of the Interior - specialised organisational police unit responsible for suppression of organised crime, Belgrade Higher Court Special Department for Organised Crime, Belgrade Appellate Court Special Department for Organised Crime, in the following cases: where the assets that is the subject-matter of money laundering originate from the organised crime criminal offences, criminal offences against official duty (Articles 359, 366, 367 and 368 of the CC); where the accused, i.e. the person receiving bribes, is an officer or responsible person carrying out a public function based on election, nomination or appointment by the National Assembly, President of the Republic, Government, general session of the Supreme Court of Cassation, High Judicial Council or State Prosecutorial Council; in case of criminal offences against economy (Articles 223, 223а, 224, 224а, 227, 228, 228а, 229, 230, 231, 232, 232а, 233, Article 235 paragraph 4, Articles 236 and 245 of the Criminal Code), if the value of of proceeds exceeds RSD 200.000.000, or if the value of a public procurement exceeds RSD 800.000.000;

All other money laundering criminal offences are under the jurisdiction *ratione materiae* of another group of specialised state bodies and organisational units of state bodies, comprising the following: 4 special anti-corruption departments at higher prosecutor’s offices of Belgrade, Novi Sad, Niš, and Kraljevo, organisational unit of the police responsible for the suppression of corruption and 4 special anti-corruption departments at the higher courts of Belgrade, Novi Sad, Niš and Kraljevo, that became operational on 1 March 2018.

Such organisation of state bodies, if we focus on the public prosecutor’s office, concentrates prosecutions of ML in the Prosecutor’s Office for Organised Crime and 4 special anti-corruption departments covering the entire territory of the Republic of Serbia. The work of the special anti-corruption departments at higher public prosecutor’s offices is coordinated by the Prosecutor for Organised Crime.

In addition to the Prosecutor, there are 20 deputy prosecutors (prosecutorial office holders) who are assisted by 20 prosecutorial assistants. At special anti-corruption departments, there are 46 deputy public prosecutors (prosecutorial office holders) and 20 prosecutorial assistants. The prosecutors prosecuting money laundering also work with 3 financial forensic experts, who are permanently employed at the Prosecutor’s Office for Organised Crime and at Special Anti-Corruption Departments of the Belgrade and Novi Sad Higher Public Prosecutor’s Offices.

The situation is similar also with respect to the organisation of courts: money laundering cases are handled by the Special Department for Organised Crime of the Belgrade Higher Court and Special Anti-Corruption Departments established in 4 Higher Courts in the Republic of Serbia.

In addition to the money laundering criminal offence, the special anti-corruption departments are also in charge of other criminal offences against economy and official duty. In effect, the above-mentioned criminal offences are identified in this law as criminal offences of financial crime and corruption. The adoption of this Law constitutes the achievement of the objectives set out in the Financial Investigations Strategy of the Republic of Serbia. That strategy is posited on four pillars first of which ensures effectiveness of repressive authorities; the second focuses on improved inter-agency cooperation; the third addresses introduction of financial forensics in prosecutor’s offices and the fourth provides for ongoing education and training of police, public prosecutors and judges to prosecute the crimes of corruption and financial crimes.

The Republic of Serbia passed its first **Law on Seizure and Confiscation of Proceeds from Crime** in 2008. This law introduced into the Serbian legal system for the first time the institute of the so-called extended confiscation. Specifically, the law provides for the possibility of confiscating proceeds from perpetrators of organised crime offences and perpetrators of the most severe criminal offences enumerated in Article 2 of the Law, that exceed their legitimate income and the legitimacy of whose origin they cannot prove. This law was last amended in May 2019. The reason for amending the Law on Seizure and Confiscation of Proceeds from Crime was the need to make it consistent with the 2016 amendments to the Criminal Code which have modified the systematics of Chapter XXII of the Criminal Code, i.e. the chapter on Criminal Offences Against Economy. These amendments extend application of the Law on Seizure and Confiscation of Proceeds from Crime to most of the criminal offences against economy. Among these offences are also the criminal offences of abuse of office of the responsible person and tax evasion, which were identified in the 2018 ML NRA as high-threat offence. This amendment extends the application of the Law on Seizure/Confiscation of Proceeds from Crime to most of the criminal offences under the remit of the Special Anti-Corruption Departments, which were established by the Law on Organisation and Competences of State Authorities in Suppressing Organised Crime, Terrorism and Corruption. The 2016 Law Amending the Law on Seizure and Confiscation of Proceeds from Crime also establishes an Asset Recovery Office.

The main preventive law in the AML/CFT area is the **Law on the Prevention of Money Laundering and the Financing of Terrorism** (AML/CFT Law). The AML/CFT Law lays down customer due diligence (CDD) obligations that the obliged entities listed in the AML/CFT Law are required to apply when establishing and during the course of a business relationship. The AML/CFT Law also lays down the responsibilities and powers of the Administration for the Prevention of Money Laundering as the financial intelligence unit of the Republic of Serbia, and those of other authorities when implementing this law. The AML/CFT Law also identifies the supervisory authorities which are examining compliance with this law by obliged entities, and stipulates sanctions for failure to comply.

1. **Law on the Prevention of Money Laundering and the Financing of Terrorism** (Official Gazette of RS, Nos. 113/17 and 91/19);

**The Law on International Restrictive Measures** regulates the procedure of implementation of international restrictive measures that the Republic of Serbia introduces, applies or revokes on the basis of legal acts issued by the United Nations Security Council, the Organisation for Security and Co-operation in Europe, other international organisations where the Republic of Serbia is the member, as well as legal acts of other international organisations, when this is in the foreign policy interest of the Republic of Serbia. Article 2 of this Law provides that international restrictive measures are measures that are applied with a view to establishing and maintaining international peace and security, respecting international humanitarian law, human rights and fundamental freedoms and compliance with other international obligations.

1. **Law on International Restrictive Measures** (Official Gazette of RS, 10/16);
2. **Law on Freezing of Assets with the Aim of Preventing Terrorism and Proliferation of Weapons of Mass Destruction** (Official Gazette of RS, 29/15, 113/17 and 41/18);

The **Law on Freezing of Assets with the Aim of Preventing Terrorism and Proliferation of Weapons of Mass Destruction** lays down, for the purpose of preventing terrorism and proliferation of WMD, actions and measures for freezing of assets of designated persons; the competences of state authorities concerning the application of these measures; and rights and obligations of natural and legal persons in the application of this Law. ‘Freezing of assets’ means temporary prohibition of transfer, conversion, disposal and movement of assets, or temporary management of such assets based on a decision of the competent state authority.

A large number of other laws, listed below, govern the operation of AML/CFT obliged entities, in the financial and non-financial sectors, as well as other entities. In particular, when it comes to establishment of such entities for instance these laws and related regulations contain provisions concerning the fit and proper standards.

1. **Law on Banks** (Official Gazette of RS, Nos 107/05, 91/10 and 14/15);
2. **Law on Insurance** (Official Gazette of RS, No. 139/14);
3. **Law on Voluntary Pension Funds and Pension Schemes** (Official Gazette of RS, Nos 85/05, 31/11);
4. **Law on Financial Leasing** (Official Gazette of RS, Nos 55/03, 61/05, 31/11, 99/2011 – different law and 99/2011 – different law);
5. **Law on Payment Services** (Official Gazette of RS, Nos 139/14 and 44/18);
6. **Law on Payment Operations** (Official Journal of the FRY, 3/02, Official Gazette of RS, 5/03, 43/04, 62/06, 111/09 – different law, 31/11 and 139/14 – different law);
7. **Law on Foreign Exchange Operations** (Official Gazette of RS, 62/06, 31/11, 119/12, 139/14 and 30/18);
8. **Law on Accounting** (Official Gazette of RS, No. 73/19)
9. **Law on Auditing** (Official Gazette of RS, No. 73/19)
10. **Law on Games of Chance** (Official Gazette of RS, Nos. 88/11, 93/12 - different law, 30/18, 95/18 and 91/19);
11. **Law on Capital Market** (Official Gazette of RS, No 31/11, 112/15 and 9/20)
12. **Law on Payments by Legal Entities, Entrepreneurs, and Natural Persons Not-Performing a Business Activity** (Official Gazette of RS, No 68/15);
13. **Law on Takeover of JS Companies** (Official Gazette of RS, Nos 46/06, 107/09, 99/11 and 108/16);
14. **Law on Investment Funds** (Official Gazette of RS, Nos 46/06, 51/09, 31/11 and 115/14);
15. **Law on Alternative Investment Funds** (Official Gazette of RS, 73/19), in effect as of 1 April 2020;
16. **Law on Open-Ended Investment Funds with a Public Offering** (Official Gazette of RS, 73/19), in effect as of 1 April 2020;
17. **Law on Tax Procedure and Tax Administration** (Official Gazette of RS, 80/02, 84/02 - corr., 23/03 - corr., 70/03, 55/04, 61/05, 85/05 - different law, 62/06 - different law, 63/06 - corr. of different law, 61/07, 20/09, 72/09 – different law, 53/10, 101/11, 2/12 - corr., 93/12, 47/13, 108/13, 68/14, 105/14, 91/15 – authentic interpretation, 15/16, 108/16, 30/18, 95/18 and 86/19);
18. **Law on Postal Services** (Official Gazette of RS, No. 77/19);
19. **Law on Intermediation in Real Estate Lease and Trade** (Official Gazette of RS, Nos 95/13, 41/18 and 91/19);

In addition, legislation relevant for the operation of competent institutions and other AML/CFT stakeholders also includes the following:

1. **Law on Inspection Oversight** (Official Gazette of RS, Nos 36/15, 44/18 - different law and 95/18);
2. **Law on the National Bank of Serbia** (Official Gazette of RS, Nos 72/03, 55/04, 85/05 - different law, 44/10, 76/12, 106/12, 14/15, 40/15 - Const. Court decision and 44/18);
3. **Law on Anti-Corruption Agency** (Official Gazette of RS, Nos 97/08, 53/10, 66/11 – Const. Court decision, 67/13 – Const. Court decision, 112/13 – authentic interpretation and 8/15 – Const. Court decision);
4. **Law on Prevention of Corruption** (Official Gazette of RS, 35/19)
5. **Law on Associations** (Official Gazette of RS, 51/09, 99/11 - different laws and 44/18 - different law);
6. **Law on Endowments and Foundations** (Official Gazette of RS, 88/10, 99/11 - different law and 44/18 - different law)
7. **Law on Centralised Records of Beneficial Owners** (Official Gazette of RS, 41/18 and 91/19).

The above open list of laws is further specified through numerous regulations, instructions, guidelines, guides and other documents operationalising the measures and activities against money laundering, terrorist financing and proliferation of WMD on the one hand, and demonstrating effectiveness of the system.

**National strategies, action plans.** There are several public policy documents in place in this area, most important of which being the following:

1. National Security Strategy of the Republic of Serbia (Official Gazette of RS, No. 94/19),
2. Strategy for the Prevention and Fight Against Terrorism for 2017–2021 (Official Gazette, 94/2017),
3. 2009 National Strategy Against Organised Crime,
4. Action Plan for EU-Serbia Negotiation Chapter 24,[[2]](#footnote-2)
5. Action Plan for EU-Serbia Negotiation Chapter 23,[[3]](#footnote-3)
6. Outcomes of activities under Negotiation Chapter 4 to date.

# Description of current situation

**Analysis of current situation.** The main indicators of situation in the AML/CFT and counter-proliferation financing areas have been identified in mutual evaluation methodologies[[4]](#footnote-4), NRA methodology[[5]](#footnote-5), and some other sources.[[6]](#footnote-6) These indicators have been chosen also for the purpose of this analysis as they are the most valid for the assessment of situation in this area.

The most relevant *sources* of indicators and information about the Serbian AML/CFT system can be found in the following international and domestic sources:

**International sources:**

**Council of Europe Committee – Moneyval**[[7]](#footnote-7)

1. Mutual Evaluation Report for Serbia of 13 April 2016,[[8]](#footnote-8)
2. First enhanced follow-up report for Serbia, 2017 ,[[9]](#footnote-9)
3. Second enhanced follow-up report for Serbia, 2018 ,[[10]](#footnote-10)
4. Third enhanced follow-up report for Serbia, 2019.[[11]](#footnote-11)

**European Union**

1. Annual Report for 2018[[12]](#footnote-12) and other relevant reports and information within the context of Serbia’s EU accession.

Relevant sources also include reports within the context of the Conference of the Parties on 2005 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198)[[13]](#footnote-13), Financial Action Task Force and United Nations (e.g. UN Counter-terrorism Committee Executive Directorate – CTED).

**Domestic Sources:**

1. 2018 Money Laundering Risk Assessment and 2018 Terrorism Financing Risk Assessment (ML/TF NRA);[[14]](#footnote-14)
2. Report on the implementation of the ML/TF NRA Action Plan;
3. Findings of experts engaged to look at specific issues under the AML/CFT Project in Serbia (IPA 2015) and Anti-Corruption Project in Serbia (IPA 2013);
4. Discussions and minutes of the National AML/CFT Coordination Body;
5. Discussions and minutes of the National Coordination Body for the Prevention and Fight against Terrorism;
6. Annual reports of AML/CFT authorities;
7. Discussions and minutes of various expert teams and working groups established by the chair of the National AML/CFT Coordination Body and as part of international cooperation (e.g. OSCE, OPDAT)

**Key source 1:** The most comprehensive analysis of situation of the system against ML/TF and proliferation financing in Serbia is given in the **mutual evaluation process** carried out **by Moneyval**, i.e. in the MER and subsequent follow-up reports (FURs). Moneyval analyses the situation and makes recommendations to improve the system at the level of technical compliance (40 FATF Recommendations) and effectiveness, in line with the FATF Methodology.[[15]](#footnote-15)

**Key source 2:** The second most relevant document providing direction for the system is the **national risk assessment report.** A national risk assessment exercise identifies threats for the system and its vulnerabilities based on which conclusions are drawn with respect to the risks facing the various segments of the system.[[16]](#footnote-16)

**Moneyval Evaluation and National Risk Assessment.** Moneyval recommendations are important for the country because of its international obligations under various international conventions and treaties or membership in the Council of Europe or the United Nation, the aim of which is to help it comply with international standards in the area. The recommendations made under the NRA process are, strictly speaking, particularly relevant for the country’s national context, so that the country can provide an effective response to specific threats and vulnerabilities found in the country, through mitigating measures. Conducting a national risk assessment is also an international standard.

**Technical compliance situation** In its Mutual Evaluation Report (MER) for Serbia, Moneyval made recommendations to improve the situation at the technical level and at the level of effectiveness. Concerning technical compliance, the rules mandate that a country, upon expiry of the 3rd year of adoption of the MER, should have achieved at least a largely compliant rating with *most if not with all* FATF recommendations. The Second Enhanced Follow-Up Report for Serbia of December 2018 found that Serbia made progress on technical compliance and upgraded 10 out of 17 FATF recommendations originally rated as non-compliant or partially compliant. In December 2019, Moneyval based on the update received from Serbia, upgraded three more ratings originally found to be PC. Of all technical compliance issues found in the 2016 MER, as at December 2019, Moneyval is still to verify Serbia’s progress at the technical level with respect to outstanding four FATF recommendations. These four recommendations are related to the provisions of the AML/CFT Law laying down AML/CFT requirements for lawyers and public notaries (FATF Recommendations 22 and 23), *fit and proper* provisions for some non-financial sectors in a number of sectoral laws (games of chance, real estate trade and lease agency, accounting and auditing, etc.), as well as the provisions o powers of AML/CFT supervisors to cooperate and exchange information internationally.

|  |  |  |
| --- | --- | --- |
| **FATF Recommendation** |  | **Concerns** |
| **Recommendation 22:** Designated Non-Financial Businesses and Professions (DNFBPs): Customer Due Diligence |  | Deficiencies found under Recommendations 10, 11, 12, 15 and 17 are also relevant for compliance with Recommendation 22. |
| **Recommendation 23:** Designated Non-Financial Businesses and Professions (DNFBPs): Other measures |  | Deficiencies found under Recommendations 18 and 19 are also relevant for compliance with Recommendation 23. |
| **Recommendation 28:** Regulation and supervision of DNFBPs |  | Accountants are not subject to licensing;  Lack of clarity whether the Serbian Bar Association is empowered to supervise AML/CFT compliance of lawyers in practice;  No measures are in place preventing criminals from controlling real estate agents and accountants;  Measures preventing criminals from controlling casinos, auditors and lawyers are more restrictive than the FATF requirements. |
| **Recommendation 40:** Other forms of international cooperation |  | Lack of clarity on the empowerment of other supervisors (apart from the NBS and the Securities Commission) to cooperate with foreign counterparts;  Lack of clarity with regard to safeguards and confidentiality requirements applicable to the information exchanged with regard to the authorities other than the APML, Police, Securities Commission and NBS (only with regard to supervision of banks). |

All the above concerns had been addressed by December 2019, by the adoption of amendments to the relevant laws were adopted, including the Law on the Prevention of Money Laundering and the Financing of Terrorism (AML/CFT Law).[[17]](#footnote-17) It is expected that Moneyval will formally verify this progress at its first plenary in 2021, as was decided by Moneyval in December 2019.

It is necessary to actively monitor the work on the implementation of international standards given that the progress reporting to Moneyval concerning the compliance with specific FATF recommendations also includes checks of whether and how the country complies with any other FATF recommendations amended in the meantime.

**Situation concerning effectiveness.** The Republic of Serbia has made positive and tangible progress in several areas identified in the MER, especially those found by the FATF as strategic, and which were part of the FATF Action Plan for Serbia (February 2018 - June 2019). These areas are as follows: national risk assessment (IO 1), supervision (IO 3), CDD (IO 4), transparency of legal persons (IO 5), investigations, prosecutions for ML (IO 7), as well as targeted financial sanctions for terrorism and proliferation of WMD and monitoring of the NPO sector for potential abuse for TF (IO 10 and IO 11). More specifically, the Republic of Serbia conducted the national risk assessment (IO1), strengthened supervision of lawyers, casinos and public notaries and capacities of supervisors (IO3), introduced Centralised Records of Beneficial Owners (IO5), increased the number of investigations, prosecutions and convictions for third party and stand-alone money laundering (IO7), extended the application of targeted financial sanctions (TFS) to proliferation of WMD, and introduced supervision of the NPO sector to protect it from being abused for terrorist financing purposes (IOs 10 and 11).

For the purpose of its Third Enhanced FUR, the Republic of Serbia provided updates for effectiveness on 56 Moneyval recommendations, which can be broken down by immediate outcomes as follows:

|  |  |  |
| --- | --- | --- |
| **Immediate outcome** |  | **Number of recommendations** |
| IO 1 – Risk, policy, coordination |  | 6 |
| IO 2 - International cooperation |  | 5 |
| IO 3 - Supervision |  | 7 |
| IO 4 - Preventive measures |  | 4 |
| IO 5 - Legal persons and arrangements |  | 4 |
| IO 6 - Financial intelligence |  | 6 |
| IO 7 - ML investigations and prosecutions |  | 4 |
| IO 8 - Confiscation |  | 7 |
| IO 9 - TF investigations and prosecutions |  | 4 |
| IO 10 - Preventive measures and financial sanctions for terrorist financing |  | 8 |
| IO 11 - Financing sanctions for proliferation of WMD |  | 1 |

For more of the above recommended measures, Serbia has provided update to Moneyval demonstrating effective implementation of the recommended measures. Until 2021 Moneyval will under the enhanced (or potentially regular) follow up process monitor Serbia’s progress in implementing these recommendation which will be followed by an onsite assessment mission which will verify the situation in terms of implementation of the recommended measures. The report of that expert mission will be the source of verification for the purpose of implementation of the Moneyval recommendations at the level of system effectiveness.

Concerning the **measures and activities set out in the 2018 ML/TF NRA Action Plan**,[[18]](#footnote-18) it can be said that around 90% of all measures envisaged has been implemented. As mentioned earlier, the purpose of interventions envisaged in this Action Plan is to mitigate risks by eliminating and reducing vulnerabilities or threats.

An analysis of the level of implementation of the NRA measures, certain sources of threat or vulnerabilities have been identified as still valid for the forthcoming period[[19]](#footnote-19), and certain activities that need to be continuously implemented[[20]](#footnote-20).

**Results of implementation of the 2014-2019 National AML/CFT Strategy**. In assessing the level of implementation of the National Strategy, we should have in mind the activities done under other initiatives, processes and plans of authorities, and objective circumstances, such as the accelerated implementation of the FATF and 2018 ML/TF NRA Action Plans.

In most of the cases, therefore, lead agencies were members of the former Standing Coordination Group, i.e. the current National AML/CFT Coordination Body (AML/CFT Coordination Body). In some activities, however, the lead agencies were authorities or entities that are not represented on the coordination body, which may present challenges when it comes to coordination and reporting.[[21]](#footnote-21) These challenges have been taken into account in the development of the new Strategy, and the AML/CFT Coordination Body will continue monitoring them. Additionally, it is necessary to idemtify the most appropriate manner to initiate and implement the activities, where the Government of the Republic of Serbia was identified as the lead agency (e.g. in the issues of expansion of institutional capacities, additional recruitment or budget). These issues have been addressed through an enhanced and better organised national coordination mechanism (i.e. AML/CFT Coordination Body).

Based on the information[[22]](#footnote-22) obtained concerning the level of implementation of the 2014-2019 National Strategy, out of a total of 109 activities, which are at various levels of generality - starting from legislative activity to collection of training text - 87 (80%) activities are continuously implemented, partially implemented 12 (11%) and 10 (9%) not implemented.

The development of the AML/CFT system, especially since early 2018 (start of the fourth year of implementation of the National Strategy 2014-2019), went at a fast pace and in many areas achieved more than envisaged by the measures of the 2014-2019 National Strategy and had the function of contributing to the overall objective and specific themes of that strategy (e.g. through adoption of the new AML/CFT Law, start of implementation of the Law on Organisation and Competences of State Authorities; implementation of 2018 NRA Action Plan items, such as the adoption of guidelines for statistical reporting and tracking of ML/TF cases, etc.).

Additionally, the National Strategy had provided no activities with respect to certain areas, such as targeted financial sanctions or NPO supervision - and it was at those issues that the entire AML/CFT system has focused recently, especially with the aim of complying with international standards. And, importantly, these areas (FATF Methodology, IO 10 and IO 11)[[23]](#footnote-23) - were assessed to have been appropriately addressed from the point of view of compliance with relevant international standards and, which most importantly, they were assessed to be effective.

Therefore the above statistical overview of implemented, partially implemented or not implemented activities, should be considered in the context of overall reforms and measures taken in the system[[24]](#footnote-24) both in terms of technical compliance and effectiveness (e.g. effects of the AML/CFT Law supervision, prosecution of ML and TF, or implementation of TFS).

Some unimplemented activities, however, may also be relevant for the present moment, especially those involving staff recruitment in some authorities and training and capacity building.

**Comparative international practice.**[[25]](#footnote-25) The FATF maintains a comparative overview of the level of compliance by the members of the global AML/CFT system with the technical and effectiveness standards. There is no such a thing as a ranking list of countries in this area, given that the specific situation of each country frequently changes, among other things because international standards to be complied with also change. Measures from this public policy document will, strictly speaking, also contribute to the *ranking* of Serbia in this area and also keep it clear of being subject to enhanced monitoring by international organisations again (e.g. ICRG process), which will have a positive effect on other processes too (e.g. in relation to relevant arrangements Serbia has with international financial institutions such as IMF).

**Problem Analysis.** Based on all the above mentioned analyses, first of all the Moneyval evaluation and the one done in the course of the NRA exercise and ongoing monitoring of effectiveness of the AML/CFT system as laid down in the AML/CFT Law, the following key issues have been identified (in terms of volume, nature, causes, consequences):

**Problem 1 - Risk, coordination, interagency and international cooperation.** In terms of risk mitigation, coordination, interagency and international cooperation, there are no pressing issues given that the country conducted the national risk assessment in 2018 and established a new national Coordination Body that meets regularly, and is powerful enough to effect changes in the system. In addition, there are gateways for interagency cooperation, based on various laws, such as the Law on Organisation and Competences of State Authorities in Suppressing Organised Crime, Terrorism and Corruption, AML/CFT Law, Criminal Procedure Code, Law on Freezing of Assets with the Aim of Preventing Terrorism and Proliferation of WMD, Law on Supervisory Inspection, etc. The understanding of risk mainly rests on good planning and commitment of authorities and existence of appropriate qualitative and quantitative information sources, so as to identify threats, vulnerabilities and risks adequately. In this context, the selection of the NRA methodology is an important issue. Therefore, the authorities will have the task of selecting the adequate methodology that will help them to look at the risks in a consistent and efficient manner. On both occasions (2013 and 2018), Serbia used the World Bank Methodology, and it will be up to the authorities to decide if this methodology should also be used in future iterations or should there be a different methodology. It is a general assessment that the ML/TF risk assessment methodology is comprehensive and of good quality, and the action plan derived based on the recognised vulnerabilities, threats and risks, has been implemented to a high degree of success (over 90% within the timeframes set).

With respect to coordination, the most important elements are permanence, regular meetings, stability of members, and a strong technical secretariat of the AML/CFT Coordination Body which will help the Coordination Body make informed decisions in practice, e.g. initiate change of legislation, introduction of new domestic and international cooperation mechanisms etc. Support by all Government ministries and services is essential in this respect. The issues of risk understanding and mitigation and system coordination in the earlier period were more prominent, and it is now important to maintain the achieved level of commitment and seriousness of state authorities’ approach to this issue so as to avoid potential deterioration and to improve effectiveness.

As for international cooperation, it is necessary to further specify the powers of AML/CFT supervisors in international cooperation (legal grounds are provided in the most recent amendments to the AML/CFT Law), improve the use of international cooperation mechanisms to exchange information concerning confiscation of assets, sharing information in relation to terrorist financing. Also, with respect to mutual legal assistance, the remaining Moneyval concerns should be addressed.

In fulfilling its main competences, there is a risk that relevant authorities, due to limited resources, might neglect the importance of the above listed issues and allocate their resources mostly toward fulfillment of their main competences, not acknowledging the fact that organisation of operation in line with risks found is more effective and efficient. Therefore, reaching out to all authorities and raising of their awareness on the requirement to apply risk based approach is of crucial importance.

Taking insufficient account of ML and TF **risks** makes the country’s response to **threats** and **vulnerabilities** more difficult. If the resources and activities of competent authorities and other stakeholders are not allocated in line with the risks found, the effects of such different segments of the system will be much less significant at the same cost, with the cost potentially increasing. If vulnerabilities are not identified and remedied on time, the danger that a threat will exploit a vulnerability becomes higher, so the country and individual sectors will be exposed to higher risk of being misused for ML or TF. This also jeopardises the country’s status in international organisations evaluating the AML/CFT measures the country takes.

In this regard, international cooperation is a prerequisite, i.e. **internal coordination** and **interagency cooperation**. If coordination and cooperation are not done appropriately at the national level, the country faces the risk of providing a partial response to risks and threats, and an inconsistent one, and eventually with negligent effects. **International cooperation** is equally important as it allows for collection of appropriate information, financial intelligence and evidence, which enables authorities to prosecute criminals and go for their assets; also, Serbian authorities in that way play the role of reliable partners in international cooperation and information sharing.

**Problem 2 – Preventive measures, supervision.** Massive and liberalised capital flows offer possibilities for various forms of international fraud and money laundering. It is therefore necessary to have a system of control, including the preventive system that will enable for these activities to be identified and prevented from materialising, which is one of the key policy objectives in this area.[[26]](#footnote-26) According to the National Risk Assessment carried out in 2018, the overall risk of money laundering in the Republic of Serbia was found to be ‘Medium’. Certain sectors and economic activity were found to be more vulnerable or exposed to higher risk, such as the real estate sector, games of chance providers and the banking sector, followed by the currency exchange offices, casinos and accountants. Following from the NRA Action Plan, this strategy will continue to address these vulnerabilities by ensuring that these sectors are fully covered by the AML/CFT preventative measures and that there are appropriate levels of supervision.

The preventive system in Serbia was created as far back as in 2002 with the adoption of the Law on the Prevention of Money Laundering and subsequently further developed so as to follow the development of international standards and the situation in the country. The system is established in the Law on the Prevention of Money Laundering and Terrorism Financing (AML/CFT Law) and in a number of sectoral laws. They identify the obliged entities, requirements, fit and proper standards, they govern transparency of legal entities, identify supervisors and establish a system of sanctioning for failure to comply with the requirements in line with international standards.

Given the above, it is necessary to monitor the situation in terms of vulnerabilities of the AML/CFT system and fulfillment of international standards, harmonise regulations in line with the emerging changes and conduct appropriate supervision. Also, supervisors should further improve their efforts to supervise, monitor and regulate financial institutions and DNFBPs for compliance with AML/CFT requirements commensurate with their risks, in line with the risks facing these sectors. Financial institutions and DNFBPs should apply AML/CFT preventive measures adequately, commensurate with their risks. Also, they should report suspicious activities to the APML, which is crucial for the effectiveness of the APML, given that the aim of good quality suspicious activity reports is to use financial intelligence and all other relevant information appropriately by competent authorities for money laundering and terrorist financing investigations. A good preventive system also prevents legal persons and arrangements (e.g. trusts) from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments.

The environment in which the private capital moves quickly offers possibilities for fraudulent or money laundering transactions to happen. This is further complicated by ever more sophisticated financial products, frequent use of offshore centres, and new technologies. Lack of adequate preventive systems enables criminals to prosper and cause additional damage, which is most obvious in terrorist financing cases. Inadequate prevention of money laundering and terrorism financing can potentially incur high moral and reputational damage to the financial system and society as a whole. Also, inefficiencies are caused and volatility of international capital flows given that money launderers move funds based on economic rationale, but aiming to disguise the origin of their funds. This is exactly the opposite from the desired effects and benefits of financial liberalisation, and the system is made vulnerable to money laundering and terrorist financing.

With respect to compliance with international standards and relevant evaluations, if the preventive system does not work well, the country can be exposed to the risk of being rated negatively by international evaluation bodies (e.g. MoneyVal) and in extreme cases it can be subject to special monitoring by MoneyVal or FATF.

**Problem 3 - Money laundering investigations and prosecutions, and seizure/confiscation of assets.** The main aim of an ML/TF system in this area is to ensure efficiency of financial investigations and investigations and prosecutions of the money laundering criminal offences and activities, as well as imposition of effective, proportionate and deterring sanctions against the perpetrators, and confiscation of assets.

In the context of the Republic of Serbia, Moneyval highlighted in 2016 the issues related to third-party and stand-alone money laundering.

Since that time, the Republic Public Prosecutor’s Office issued a number of mandatory instructions enhancing the policy in this area. More specifically, on 20 September 2017, the RPPO issued a *General Mandatory Instruction А No 688/17 concerning the use of financial intelligence for initiating ML and TF procedures* requiring all competent prosecutors’ offices to act proactively with respect to APML information about transactions or persons which are suspected to be linked to ML or TF or where they otherwise obtain information raising suspicion that an ML or TF offence is being prepared or was committed, and requiring them to start pre-investigative proceedings for ML regardless of whether they have any information about the underlying predicate crime. In 2018 and 2019, public prosecutors, judges, police officers, the staff of the APML, Tax Police, Public Procurement Administration and 10 more state institutions which must appoint their liaison officers according to the law, attended numerous training events on proactive financial investigations, misuses of the public procurement procedures and money laundering.

With the aim of improving the *sanctioning policy* concerning the criminal offence of money laundering, the Republic Public Prosecutor issued a supplement to the *General Mandatory Instruction А No 688/17 concerning the use of financial intelligence for initiating ML and TF procedures* on 18 April 2018. The instruction is related to how public prosecutors should proceed when requesting sanctions in their closing statements, when negotiating and concluding a guilty plea agreement and when appealing in criminal proceedings for this criminal offence. The purpose of the mandatory instruction is to make the money laundering sanctions more efficient, effective and deterring with respect to potential perpetrators of this crime.

The APML and RPPO cooperate within their remits of competence as provided for in the law, and with a mutual respect of independence of these institutions. The grounds for their cooperation are the AML/CFT Law, Criminal Procedure Law, and related regulations. An important document in the context of APML cooperation with public prosecutors’ offices is the RPPO General Mandatory Instruction А 668/17 of 20.09.2017.

The Republic Public Prosecutor and APML director signed on 26 April 2017 an Agreement on cooperation in the area of preventing and detecting ML and TF, specifying in more detail the RPPO and APML activities in the area of prevention of ML and TF. In order to monitor implementation of the Agreement a Permanent Working Group was established comprising representatives of the RPPO and APML.

In response to the findings of the 2018 ML and TF NRA, the Republic Public Prosecutor passed on 4 March 2019 a Mandatory Instruction for handling ML cases where a legal entity’s responsible person is the perpetrator of an ML crime. The Mandatory Instruction was passed in order to implement the related 2018 NRA Action Plan item (Official Gazette of the Republic of Serbia, 55/18). This act was passed for the purpose of a more consistent conduct of criminal prosecution against legal entities involved in ML and TF crimes and for the purpose of respecting the principle of legality in criminal prosecution. This Mandatory Instruction highlights that the competent public prosecutors' offices should each time when they act in relation with ML or TF crimes consider whether there is ground for launching criminal proceedings also against the legal entity and launch such proceedings in all situations where the conditions specified in the Law on Liability of Legal Entities for Criminal Offence have been met.

Forfeiture of proceeds related to criminal offences is governed by the Criminal Code and *Law on Seizure/Confiscation of Proceeds from Crime*, and forfeiture procedure is governed by the Criminal Procedure Code. Traditional institutes of forfeiture of criminal proceeds and assets include security measures of forfeiture of items and forfeiture of property gain, whereas the relatively new institute of so-called extended confiscation allows for seizure/confiscation of proceeds originating from criminal offence.

When we talk about seizure of assets acquired from a specific criminal offence, such proceeds will be secured in the course of criminal proceedings by using Provisional Security Measures. These measures are ordered ex officio by the court pursuant to the law governing the enforcement and security procedure.

The Republic of Serbia passed its first Law on Seizure and Confiscation of Proceeds from Crime in 2008. This law introduced into the Serbian legal system for the first time the institute of the so-called extended confiscation. Specifically, the law provides for the possibility of confiscating proceeds from perpetrators of organised crime offences and perpetrators of the most severe criminal offences enumerated in Article 2 of the Law, that exceed their legitimate income and the legitimacy of whose origin they cannot prove. This law was last amended in May 2019. The reason for amending the Law on Seizure and Confiscation of Proceeds from Crime was the need to make it consistent with the 2016 amendments to the Criminal Code which have modified the systematics of Chapter XXII of the Criminal Code, i.e. the chapter on Criminal Offences Against Economy. These amendments extend application of the Law on Seizure and Confiscation of Proceeds from Crime to most of the criminal offences against economy. Among these offences are also the criminal offences of abuse of office of the responsible person and tax evasion, which were identified in the 2018 ML NRA as high-threat offence. This amendment extends the application of the Law on Seizure/Confiscation of Proceeds from Crime to most of the criminal offences under the remit of the Special Anti-Corruption Departments, which were established by the Law on Organisation and Competences of State Authorities in Suppressing Organised Crime, Terrorism and Corruption.

With respect to financial investigations run by public prosecutors pursuant to the Law on Seizure/Confiscation of Proceeds from Crime, the Republic Public Prosecutor’s Mandatory Instruction А No 668/17 оf 20 September 2017 requires that so-called parallel financial and criminal investigations are conducted for the criminal offences covered by the above law. This means that public prosecutors, when instituting pre-investigative proceedings for money laundering, are required to pass an order to start a financial investigation and to request from the Financial investigations Unit to gather evidence about the property owned or held by individuals or legal entities involved in transactions suspected to be money laundering as well as by persons associated to them.

The above activities have already produced effects, which was acknowledged by the FATF in its report of June 2019, noting that Serbian authorities in the observed period had taken a more proactive approach to investigations of ML and related predicate crimes. In a large number of cases, prosecutors have instituted parallel financial investigations which were run by specialised law enforcement units, while the courts have passed a number of convictions for stand-alone and third-party (professional) money laundering.

These issues will remain the focus of the authorities and the entire AML/CFT system, and the FATF has encouraged the authorities to continue with the efforts taken in the observed period.

**Problem 4 - Investigations and prosecutions for terrorist financing, preventive measures and financial sanctions for terrorist financing and proliferation of weapons of mass destruction.**

The Republic of Serbia has a developed system, legislative and institutional mechanisms for successful investigations of criminal offences and activities of terrorist financing, and it has demonstrated that it can conduct successful prosecutions of persons financing terrorism and that it imposes effective, proportionate and deterring sanctions. Up to 2016, the Republic of Serbia did not have an effective system for targeted financial sanctions or monitoring of the NPO sector from the point of view of its potential abuse for terrorist financing.

The aim of these systems and mechanisms is to prevent terrorists, terrorist organisations and persons financing terrorism from raising, moving and using funds, and abusing the NPO sector, and to prevent persons and entities involved in the proliferation of weapons of mass destruction from raising, moving and using funds, consistent with the relevant UNSCRs.

The 2017–2019 reforms put those systems and mechanisms in place, and it is necessary to keep on monitoring the situation in the area and conduct review from time to time in order to align with new international standards, as well as new and emerging risks.

# Change to be achieved by implementing the Strategy

**Vision of the desired change.** The *high-level objective* set out in the FATF Methodology, together with *intermediate objectives* and *immediate outcomes* of an effective AML/CFT system remains the vision of the desired change which should be the result of the below strategic objectives and measures.

**Extract from the FATF Methodology:**

|  |  |  |
| --- | --- | --- |
| High-Level Objective  Financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security | | |
| Intermediate Objectives |  | **Immediate Outcome - IO** |
| Policy, coordination and cooperation mitigate the money laundering and financing of terrorism risks. | IO1 | **Risk, policy, coordination.** Money laundering and terrorist financing risks are understood and, where appropriate, actions coordinated domestically to combat money laundering and the financing of terrorism and proliferation. |
| IO2 | **International cooperation.** International cooperation delivers appropriate information, financial intelligence, and evidence, and facilitates action against criminals and their assets. |
| Proceeds of crime and funds in support of terrorism are prevented from entering the financial and other sectors or are detected and reported by these sectors. | IO3 | **Supervision.** Supervisors appropriately supervise, monitor and regulate financial institutions and DNFBPs for compliance with AML/CFT requirements commensurate with their risks. |
| IO4 | **Preventive measures.** Financial institutions and DNFBPs adequately apply AML/CFT preventive measures commensurate with their risks, and report suspicious transactions. |
| IO5 | **Legal persons and arrangements.** Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments. |
| Money laundering threats are detected and disrupted, and criminals are sanctioned and deprived of illicit proceeds. Terrorist financing threats are detected and disrupted, terrorists are deprived of resources, and those who finance terrorism are sanctioned, thereby contributing to the prevention of terrorist acts. | IO6 | **Financial Intelligence.** Financial intelligence and all other relevant information are appropriately used by competent authorities for money laundering and terrorist financing investigations. |
| IO7 | **ML investigations and prosecutions.** Money laundering offences and activities are investigated and offenders are prosecuted and subject to effective, proportionate and dissuasive sanctions. |
| IO8 | **Confiscation.** Proceeds and instrumentalities of crime are confiscated. |
| IO9 | **TF investigations and prosecutions.** Terrorist financing offences and activities are investigated and persons who finance terrorism are prosecuted and subject to effective, proportionate and dissuasive sanctions. |
| IO10 | **Preventive measures and financial sanctions for terrorist financing.** Terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector. |
| IO11 | **Financing sanctions for proliferation of WMD.** Persons and entities involved in the proliferation of weapons of mass destruction are prevented from raising, moving and using funds, consistent with the relevant UNSCRs. |

In line with the above, the vision of the Republic of Srebia in this area is to protect its financial system and economy from the threats of money laundering and the financing of terrorism and proliferation of WMD, thereby strengthening financial sector integrity and contributing to safety and security. By improving policy in this area, through coordination and cooperation in the AML/CFT area, ML and TF risks will be mitigated. In this way criminal proceeds and funds intended for terrorist financing will be prevented from entering the financial and other sectors in the Republic of Serbia, and if such assets or funds are placed in the system, all relevant sectors will be able to detect them on time and report to the APML, and successful ML prosecutions will be possible as well as confiscation of illicit proceeds. The relevant measures of this public policy document will contribute to detecting and disrupting terrorist financing threats, allow for depriving of terrorists of resources and their sanctioning, thereby contributing to the prevention of terrorist acts.

# Strategic objectives

**Overall objective.** Departing from the high level and intermediate objectives and immediate outcomes of the global system the following overall objective has been formulated for the new Strategy (2020-2024):

Fully protect the economy and financial system of the Republic of Serbia from the threat caused by money laundering and terrorism financing and proliferation of weapons of mass destruction, whereby the integrity of the financial and non-financial sector institutions is strengthened through public-private partnerships and risk based approach, and safety, security and rule of law are contributed to.

**Overall objective of the Strategy (2020-2024)**

The formulation of the overall objective in this strategic cycle highlights the importance of active cooperation between public and private sector and the principle of protection of rule of law in the achievement of strategic objectives.

**Specific objectives.** The following four specific objectives have been set out to further specify the above overall objective:

1. Mitigate money laundering, terrorism financing and proliferation of WMD risk through continuous improvement of the strategic, legislative and institutional framework, coordination and cooperation of all AML/CFT stakeholders and international cooperation;
2. Prevent suspected proceeds from crime or funds intended for terrorism or proliferation of weapons of mass destruction, from entering the financial and non-financial sectors or improve their detection if already in the system;
3. Sanction money launderers in an efficient and effective manner and confiscate proceeds from crime;
4. Detect and eliminate terrorism financing threats and sanction terrorist financiers.

**Four specific objectives of the Strategy (2020-2024)**

As opposed to the previous strategy, which was divided in strategic themes, objectives, measures and activities, this Strategy has four specific objectives (which match the former strategic themes to a certain extent). The below performance indicators are linked to the above specific objectives.

# Analysis of options for achieving the objectives

**Option 1 – *Status quo***: New Strategy is not adopted, the ML/TF NRA Action Plan continues with implementation. Authorities continue implementing outstanding Moneyval recommendations, and monitor international and EU standards in line with their remits of responsibility. The Coordination Body for the Prevention of Money Laundering and the Financing of Terrorism holds meetings and coordinates the system.

This option would primarily be reactive to the threat and vulnerabilities as currently identified, for example through the National Risk Assessment. Money Laundering and Terrorist Financing are dynamic threats that can change rapidly and need a strategic response, including engagement at the political level. Adopting Option 1 would risk failing to engage the public and private sectors effectively in an agile fashion to fight such threats. This would not be welcomed by international organisations, primarily MONEYVAL, who expect to see countries adopt AML/CFT measures appropriate to the threat they face in a coordinated and strategic fashion, risking further action (such as public listing) against Serbia.

Such measures would impact the economy of the Republic of Serbia, potentially leading to loss of direct foreign investment and increased transaction cost, through greater scrutiny of correspondent banking relationships and international financial transfers. Although these impacts are unquantifiable, their effect on countries can be severe. In the most severe case, quasi-economic sanctions could be imposed.

Failure to ensure effective AML/CFT measures also has societal effects, particularly on vulnerable and poor citizens, who would suffer from the market distortions of criminal proceeds and corruption. Money laundering facilitates criminal activity, such as drugs trafficking, which corrodes societal norms and prosperity. Even more damaging, terrorist finance could leave the Republic of Serbia vulnerable to terrorist activity, with all the associated harm, or international countermeasures if it facilitated terrorist activity abroad.

**Option 2:** One possible option is for each relevant institution individually to develop public policy documents within their own remits of responsibility. This would improve the situation to a certain extent, but this approach would lack coordination, so the full effects of such measures could be missing.

Option 2 addresses some of the weaknesses identified in Option 1, by ensuring that Serbia’s AML/CFT regime is established in a public policy document, with hindered coordination and insufficiently agile response to threats and vulnerabilities. It would more effectively address the financial, economic and societal harms identified above. Absent a coordinated approach, it may entail more costs on public and private sector.

It would place AML/CFT firmly as a relevant public policy issue which would in the context of the planning system in the Republic of Serbia would be addressed through public policy documents of individual authorities. However, increasingly AML/CFT is seen as a public AND private sector partnership approach, with civil society organisations also playing their role. The risks identified earlier in this strategy and the impacts they have are severe, affect vulnerable sections of society disproportionately and give rise to significant costs in public and private sectors. It is therefore not right to address them without a clear strategic vision for the Republic of Serbia in this field.

**Option 3:** Adopt a single intersectoral public policy document. Such a document would require longer adoption time, but full effects of its measures would be ensured.

A single intersectoral public policy document is adopted setting out more proactive measures targeting the ML/TF risks found in the Republic of Serbia with the aim of mitigating them. The implementation of these measures will strengthen the effectiveness of the AML/CFT system in Serbia and ensure public and private sector resources are more effectively used. The benefit for the society will be visible, and it would outweigh the potential costs of measures that are mainly related to improvement of effectiveness.

Option 3 does not impose additional significant costs over Option 2, in that the measures introduced are likely to be similar. However, by ensuring that all AML/CFT activity in the Republic of Serbia is carried out in accordance with the overall and specific objectives of the strategy, any costs incurred will be directly measured against the same goals. As well as public policy documents under Option 2, all actors in the AML/CFT system, including private sector institutions and civil society, can measure their activity against a single intersectoral document.

Adopting a single intersectoral document also has benefits for the international reputation of the Republic of Serbia. Although this is largely an intangible benefit, it sends a clear message to the international community that Serbia has a national approach to money laundering and terrorist financing and that the problem is being addressed at the highest level.

A single intersectoral document is an expression of the risk-based approach and coordination, as well as the important high-level commitment, that is expected of countries who are committed to the global fight against money laundering.

# Selection of the best option

As a result of the consultative process and expert assessment, Option 3 is found to be the best option: adopt a single intersectoral public policy document, i.e. an intersectoral strategy.

# Measures for achieving the objective and analyses of their impact

Below are the measures designed to achieve the specific objectives of this Strategy.

**Measure 1.1:** Maintaining and improvement of comprehensive understanding of money laundering and terrorism financing risks in the Republic of Serbia;

**Specific objective 1:** Mitigate money laundering, terrorism financing and proliferation of WMD risk through continuous improvement of the strategic, legislative and institutional framework, coordination and cooperation of all AML/CFT stakeholders and international cooperation

**Measure 1.2:** Mitigation of the risks found and continuous identification of new threats and vulnerabilities

**Measure 1.3:** Further development of coordination and cooperation mechanisms between the competent authorities for supervision, financial intelligence, ML/ TF investigation and prosecution, and asset recovery, and improvement of international cooperation;

**Measure 1.4:** Ensure compliance of the AML/CFT legislative and institutional mechanisms in practice with international standards.

**Measure 2.1:** Improvement of efficiency of monitoring and quality of suspicious activity reports submitted by the obliged entities to the APML;

**Specific objective 2:** Prevent suspected proceeds from crime or funds intended for terrorism or proliferation of weapons of mass destruction, from entering the financial and non-financial sectors or improve their detection if already in the system

**Measure 2.2:** Prevention of abuse of the financial and non-financial sectors for money laundering, terrorist financing and proliferation of WMD through application of CDD by obliged entities;

**Measure 2.3:** Improve the operation of AML/CFT supervisors in line with the risks found in the NRA

**Measure 3.1:** Improvement of effectiveness of state authorities competent for detecting, prosecuting and trying money laundering offences in line with the results of the NRA and recommendations by Moneyval in course of the evaluation process of the Republic of Serbia;

**Specific objective 3:** Sanction money launderers in an efficient and effective manner and confiscate proceeds from crime.

**Measure 3.2:** Imposing effective and deterring criminal sanctions;

**Measure 3.3:** Effective seizure/confiscation of proceeds from crime.

**Measure 4.1:** Ensure sustainability of the system of research and criminal prosecution in terrorism financing cases;

**Specific objective 4:** Detect and eliminate terrorism financing threats and sanction terrorist financiers

**Measure 4.2:** Ensure efficiency of activities to monitor cross-border terrorist financing risks;

**Measure 4.3:** Improvement of the framework for preventing the abuse of the NPO sector for terrorist financing, through active cooperation between the public and NPO sectors;

**Measure 4.4:** Improvement and efficient implementation of the legislative framework governing the prevention of terrorism financing.

**Effects of the measures.** By achieving the above objectives, the following desired situations are contributed to:

1. Good understanding of risks allows the competent government authorities and other AML/CFT stakeholders to prioritise their efforts, including investigations and enforcement, against the most important threats and vulnerabilities. Good quality risk analyses are used by the private sector and supervisors to inform their own risk assessments and prioritise their activity and examinations. The risks are understood by all stakeholders, including the wider public;
2. More effective efforts lead to increased numbers of successful multi-agency cases and contribute to better understanding of risks;
3. Better quality of suspicious activity reports received by the APML from the private sector leads to better quality reports developed by the APML and other competent authorities, particularly in the high-risk areas;
4. Criminals are efficiently deterred and prevented from abusing the financial and other sectors in such a way that this affects as little as possible the business operations and accessibility of the financial and other sectors; CDD information is readily available to investigating agencies. Competent authorities only permit acquisition of ownership in line with the fit and proper standard;
5. Supervisors carry out supervision, monitoring, and regulation of financial institutions and DNFBPs, proportionate to the risks identified for each industry;
6. Quality of information and frequency of its exchange will be improved. ML and TF cases will be identified more effectively and efficiently. This will assist the Prosecutors in identifying criminal cases and provide evidence for successful criminal prosecutions.
7. More ML and TF cases will come to a successful conclusion and proceeds from crime or funds intended for terrorism will be confiscated;
8. Exchange of information will be more efficient and frequent, the quality of APML’s analyses will be improved and other competent authorities and foreign counterparts will be able to derive useful intelligence for their own cases;
9. Better statistical monitoring and measuring of certain elements in cooperation and information exchange will allow for better understanding of the quality and trends in cooperation, and permit adjustments to the cooperation mechanisms, as appropriate;
10. AML/CFT stakeholders will use the acquired knowledge and skills for effective and efficient involvement in the preventive and repressive segments of the AML/CFT system;
11. Active cooperation between the public and private sectors (public-private partnerships) in the achievement of strategic objectives and protection of the financial and other sectors from ML/TF threats will be further developed and improved;
12. Cooperation with the NPO sector will be improved with the aim of protecting the sector from potential abuse for terrorist financing purposes.

# Mechanism for implementing the Strategy and reporting on the results of implementation

**Action Plan (2020-2022) for implementing the AML/CFT Strategy 2020-2024**. The aims of the AML/CFT Strategy have been further specified through measures and activities contained in a three-year Action Plan (2020-2022) which is an integral part of the Strategy.

There are two reasons for adopting an Action Plan to a three-year period, rather than for the whole duration of the AML/CFT Strategy (i.e. five years).

First, as a general rule, the findings of a national risk assessment should be introduced in an appropriate form to the AML/CFT Strategy and Action Plan. Given that the AML/CFT Law provides that the national risk assessment exercise should be performed once in three years and that the current ML Risk Assessment and TF Risk Assessment were developed in 2018, the new NRA report should be adopted around mid-2021. Such updated understanding of the risk should thereafter be introduced in the Strategy and Action Plan.

Secondly, the Moneyval recommendation implementation cycle will end, according to the rule, upon expiry of the fifth year following the adoption of the mutual evaluation report by the Moneyval plenary. In case of Serbia, Moneyval adopted its MER for the Republic of Serbia in 2016, which means that one could expect that Moneyval will, depending on its internal capabilities and plans, send an onsite assessment mission to Serbia in 2021 or 2022 in order to verify to what extent Moneyval recommendations are implemented on the ground, especially with respect to effectiveness issues. The findings of this mission should be taken into account when updating the AML/CFT Strategy or Action Plan.

**Monitoring of implementation of the AML/CFT Strategy and Action Plan.**  On 12 July 2018, The Government of the Republic of Serbia adopted a Decision Establishing the **Coordination Body for the Prevention of Money Laundering and Terrorism Financing** („Official Gazette of RS, Nos 54/2018 and 84/2019, hereinafter: AML/CFT Coordination Body)[[27]](#footnote-27).

The AML/CFT Coordination Body shall have the following terms of reference:

1. to analyse the most significant issues for the functioning of the system for the prevention of money laundering, terrorist financing and proliferation of weapons of mass destruction, coordinate and provide recommendations to the competent authorities for improving the system;
2. to establish methodology and conduct national money laundering and terrorism financing risk assessment, and disseminate segments of the national risk assessment to all AML/CFT stakeholders in an appropriate form;
3. to ensure that the national risk assessment findings be taken into account when developing or updating the National Strategy Against Money Laundering and the Financing of Terrorism and its Action Plan (hereinafter referred to as: National AML/CFT Strategy) and that the aims and policies of individual authorities be in line with the national policies and risks;
4. **to monitor the implementation of the National AML/CFT Strategy and coordinate the implementation of measures provided in the National AML/CFT Strategy;**
5. to regularly review the effectiveness of interagency and international cooperation and information exchange and provide recommendations to improve the situation in the area;
6. to monitor and coordinate the use of technical assistance programmes and training related to the fight against money laundering terrorist financing, financing of proliferation of weapons of mass destruction and other relevant areas, and ensure that such programmes are actively, effectively and efficiently used;
7. to perform other tasks of relevance for the prevention of money laundering and terrorism financing.

For the purpose of fulfill its terms of reference, the AML/CFT Coordination Body may establish expert teams and engage representatives of other state authorities and experts in certain areas. The AML/CFT Coordination Body shall submit the following reports to the Government:

1. work report;
2. **report on the implementation of activities provided in the Action Plan for implementing the National AML/CFT Strategy;**
3. report on national money laundering and terrorism financing risk assessments;
4. other reports related to the terms of reference of the AML/CFT Coordination Body.

The AML/CFT Coordination Body will regularly review the level of achievement of the Action Plan, consider potential bottlenecks and issues, and make initiatives to address them in an appropriate manner.

For an efficient reporting to the AML/CFT Coordination Body on the level of implementation of the Action Plan, the Government of the Republic of Serbia will appoint a coordinator and deputy coordinator for each of the following areas:

1. Risk assessment, coordination, interagency and international cooperation;
2. Preventive measures and supervision;
3. Money laundering investigations, prosecutions and convictions;
4. Financing of terrorism and targeted financial sanctions.

For the purpose of implementing the Action Plan, the coordinators will make initiatives for establishing AML/CFT Coordination Body expert teams, as required, and in line with the AML/CFT Coordination Body Rules of Procedure. Individual members of the AML/CFT Coordination Body can also present information concerning the implementation of specific activities.

It should be mentioned that based on the suggestion of the Republic Secretariat for Public Policies, the timeframe for certain Action Plan activities that are ongoing in nature is set at ‘IV Quarter of 2020’ as the last year of the Action Plan validity. Such cases might lead to confusion between such *ongoing* activities and those that should be actually be completed in that specific quarter of 2020, and this should be taken into account when reporting about the level of implementation of the AML/CFT Strategy. The ongoing nature of some activities is highlighted by the use of that particular word or similar words, e.g. continuous (training, etc.), periodic, quarterly, regular.

In addition, when it comes to ‘Authority implementing the activity’ column in the Action Plan, in many instances it was more appropriate to insert several institutions (e.g. ‘all AML/CFT supervisors’). However, at the suggestion of the Republic Secretariat for Public Policy, in such cases only one of such authorities has been identified, which does not mean that this authority only is responsible for that activity but is regarded more as coordinator for its implementation and in a large number of similar cases larger coordinating bodies have been designated as lead agencies, such as the AML/CFT Coordination Body, National Coordination Body for Prevention and Fight Against Terrorism or Coordination Commission for Inspection Oversight.

# Consultations held with stakeholders

**Target groups and other stakeholders.** Target groups and other stakeholders impacted the most by the change introduced in this Strategy and its elements are identified below.

These target groups and other stakeholders can be classified as follows:

1. **Obliged entities under Article 4 of the AML/CFT Law (private sector partners):**
2. banks;
3. authorised currency exchange operators, business entities performing money exchange operations based on a special law governing their business activity;
4. Investment fund management companies;
5. voluntary pension fund management companies;
6. financial leasing providers;
7. insurance companies licenced to perform life-insurance business and insurance brokerage companies when they perform life-insurance brokering; insurance agency companies and insurance agents with a licence to perform life-insurance business, except for insurance agency companies and insurance agents for whose work the insurance company is responsible according to the law;
8. broker-dealer companies;
9. organisers of special games of chance in casinos and organisers of special games of chance through electronic communication means;
10. auditing companies and independent auditors;
11. e-money institutions;
12. payment institutions;
13. intermediaries in trade and lease of real estate;
14. factoring companies;
15. entrepreneurs and legal persons which provide accounting services;
16. tax advisors;
17. public postal operator headquartered in the Republic of Serbia, established according to the law governing postal services, offering payment services under the law governing the provision of payment services;
18. persons engaging in the postal communications business;
19. persons providing the services of purchasing, selling or transferring virtual currencies or exchanging of such currencies for money or other property through internet platform, devices in physical form or otherwise, or which intermediate in the provision of these services, and custody wallet service providers;
20. lawyers;
21. public notaries.
22. **Supervisory authorities under Article 104 of the AML/CFT Law:**
23. Administration for the Prevention of Money Laundering,
24. National Bank of Serbia,
25. Securities Commission,
26. authority competent for supervision in the area of tax advisory services,
27. authority competent for supervision in the games of chance area,
28. Ministry competent for inspection oversight in the area of trade,
29. Bar Association of Serbia,
30. Ministry competent for postal communication,
31. Chamber of Public Notaries of Serbia.
32. **Judicial, police and other relevant authorities:**
33. courts,
34. Republic Public Prosecutor’s Office,
35. Ministry of Interior,
36. Security Information Agency
37. Ministry of Foreign Affairs,
38. Customs Administration
39. Tax Administration,
40. Anti-Corruption Agency,
41. Military Intelligence Agency,
42. Military Security Agency,
43. Ministry of Justice,
44. Ministry of Economy,
45. Business Registers Agency,
46. Government Office for Cooperation with Civil Society,
47. Ministry of Public Administration and Local Self-Government,
48. Ministry of Culture and Information.
49. **Professional associations** (e.g. Association of Serbian Banks);
50. **Self-Regulatory Bodies** (e.g. chambers);
51. **Non-Profit Sector** (e.g. associations, funds, foundations and endowments, donor organisations);
52. **Scientific and educational institutions** (e.g. Police Academy);
53. **Media, wider public.**

The key above listed stakeholders have been consulted as part of frequent meetings, seminars, workshops and other events both with respect to the implementation of the Moneyval recommendations and FATF Action Plan, and as part of the NRA process. Both private and NPO sectors were consulted.

Consultations have also been held with international experts who have been engaged under the EU IPA 2016 AML/CFT Project in Serbia, from early 2018 until late 2019.

# Assessment of financial resources required to implement the Strategy and financial impact analysis

In most of the cases, the envisaged measures will not require additional funds, while the benefit from their implementation will by all means exceed any potential additional expenses.

Where additional resources are required, potential foreign donor assistance will be used, such as that offered by the European Union, OSCE, relevant authorities of the United States of America and other partners.

# Risk analysis

The Expert Team has identified certain **conditions for achieving the desired change**. For the objectives to be achieved, the following is required:

1. **existence of political stability and ongoing commitment and dedication** at the high political level and at the level of individual state authorities and institutions. Reforms that followed Serbia’s greylisting by the FATF, i.e. an extremely high degree of commitment to these issues, resulted in an efficient and effective compliance with international standards and ongoing focus given to this matter. Loss in intensity of reforms or focus and commitment in this area pose a risk that the country will again be subject to additional monitoring by international organisations, which may affect business operations of entities associated with Serbia, and Serbia’s international reputation;
2. **further development of coordination and interagency cooperation mechanisms**. The AML/CFT Coordination Body, should actively monitor the situation in the system and propose measures for its improvement, in line with FATF Recommendations, Moneyval recommendations and national risk assessment findings. The leaders of the AML/CFT Coordination Body and its members should be capable of causing the body’s decisions and reforms to be implemented in practice in the system. In addition, any changes or work on changes in standards should be proactively monitored, with timely response by the authorities for the purpose of implementing any new or revised standards in the system. Lack of regular meetings and neglecting of the importance of coordination and interagency cooperation leads to inefficient coordination and the AML/CFT Coordination Body will not be capable to coordinate effectively and produce effect in the system, which is a risk by itself;
3. **retention and further improvement of human, financial and technical resources** in line with risk analysis and assessment. In the light of constant staff turnover and outdating of ICT, it is necessary to find ways to retain and attract competent staff. Effects can also be achieved by internal re-allocation of resources, not only through new recruitments. Some breakthroughs have been made, especially with respect to the status of inspectors under the Law on Supervisory Inspection. In this regard, the need to strengthen the training and capacity building functions in authorities is essential, as well as seeking ways to benefit from funding, technical expertise and assistance of foreign partners. Staff outflow, lack of ability to recruit adequate staff and insufficient level of training constitute risk.

**Closing section**

This AML/CFT Strategy shall be published on the website of the Government of the Republic of Serbia, e-Uprava portal and the website of the Ministry of Finance.

This AML/CFT Strategy shall be published in the Official Gazette of the Republic of Serbia.

05 Number: 011-1265/2020-1

In Belgrade, on 13 February 2020.

GOVERNMENT

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| --- | --- |
|  | PRIME MINISTER  Ana Brnabić, m.p. |

1. Financial Action Task Force – FATF, https://www.fatf-gafi.org/ [↑](#footnote-ref-1)
2. http://www.mei.gov.rs/src/vesti/893/189/335/detaljnije/na-trecoj-medjuvladinoj-konferenciji-u-briselu-otvorena-poglavlja-23-i-24 [↑](#footnote-ref-2)
3. https://www.mpravde.gov.rs/tekst/13933/izvestaj-br-32016-o-sprovodjenju-akcionog-plana-za-poglavlje-23.php [↑](#footnote-ref-3)
4. https://www.fatf-gafi.org/publications/mutualevaluations/documents/fatf-methodology.html [↑](#footnote-ref-4)
5. For instance, World Bank Methodology used by Serbia to develop the 2012 and 2018 NRAs [↑](#footnote-ref-5)
6. For instance, (interim) benchmarks in the context of the EU-Serbia accession negotiations [↑](#footnote-ref-6)
7. https://www.coe.int/en/web/moneyval/moneyval-brief [↑](#footnote-ref-7)
8. https://www.coe.int/en/web/moneyval/jurisdictions/-serbia [↑](#footnote-ref-8)
9. The First EFUR is noted by Moneyval Plenary for information purposes and is not published [↑](#footnote-ref-9)
10. https://www.coe.int/en/web/moneyval/-/moneyval-publishes-follow-up-report-on-serbia [↑](#footnote-ref-10)
11. https://www.coe.int/en/web/moneyval/jurisdictions/-serbia [↑](#footnote-ref-11)
12. https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-serbia-report.pdf [↑](#footnote-ref-12)
13. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/198 [↑](#footnote-ref-13)
14. http://www.apml.gov.rs/cyr/file/?conid=2254 [↑](#footnote-ref-14)
15. For more on the evaluation process and documents within the Fifth Round Evaluation process and evaluation methodology please see: [↑](#footnote-ref-15)
16. For more on the national risk assessment and the methodology used, please see: [↑](#footnote-ref-16)
17. Most of them are covered by the amendments to the AML/CFT Law. [↑](#footnote-ref-17)
18. http://www.apml.gov.rs/cyr/file/?conid=2255 [↑](#footnote-ref-18)
19. The need to review the effectiveness of the AML/CFT system effectiveness; Lack of awareness of AML/CFT authorities of cross-border threats in accordance with NRA; Lack of feedback from judicial authorities concerning the economic offence reports; Sanctioning policy; Lack of capacities for assessment of value of seized/confiscated assets; Insufficient number of onsite inspections of accountants; Inconsistency between the number of SARs and their quality in obliged entities; Lack of case studies for ML through construction of real estate by individual investors; Inconsistency of certain acts passed by supervisors with the new NRA; Follow the introduction of new products in the financial system; Insufficient level of AML/CFT training; Insufficient awareness of misuse of products in the financial market (capital market, market for negotiable instruments, foreign currency operations, etc.)Regular updates to the ML/TF NRA in line with Article 70 of the AML/CFT Law; [↑](#footnote-ref-19)
20. Regular updates to the ML/TF NRA in line with Article 70 of the AML/CFT Law; Improve the keeping of records and development of statistical reports; Conduct proactive financial investigations; Improve operational cooperation; Improve coordination between the APML, supervisors and judicial authorities; Ensure consistency of case law (court practice; Strengthen the administrative capacities for sustainable onsite/offsite inspections over the obliged entities operating games of chance; Strengthen the administrative capacities of the expert and supervisory inspection in the area of precious metal trade; Strengthen administrative capacities in the area of supervisory inspection over trade in cars; Conduct intensive inspection of real estate agents; Carry out intensive professional supervision and supervisory inspections of business entities trading in precious metal items and cars; Delivery of training for customs officers [↑](#footnote-ref-20)
21. These are one activity for each the Judicial Academy, Statistical Office, public enterprises, etc. [↑](#footnote-ref-21)
22. Based on information received from the National Bank of Serbia, Ministry of the Interior, General Public Prosecutor’s Office, MTTT-Market Inspectorate, Judicial Academy, APML, Business Registers Agency, and Ministry of Justice, but also based on the information collected under various processes (e.g. ICRG process, reporting to Moneyval, European Commission, etc.). [↑](#footnote-ref-22)
23. These areas are related to implementation of targeted financial sanctions for terrorism and proliferation of WMD (which is governed by the Law on the Freezing of Assets with the Aim of Preventing Terrorism and Proliferation of WMD) and monitoring of NPOs for their potential abuse for TF purposes. [↑](#footnote-ref-23)
24. Detailed information on Serbia’s progress can be found in authorities’ reports made in the context of the Moneyval reports, FATF Action Plan, FATF Recommendations, and European Union *acquis communautaire*. [↑](#footnote-ref-24)
25. https://www.fatf-gafi.org/publications/mutualevaluations/documents/assessment-ratings.html [↑](#footnote-ref-25)
26. Free movement of capital is one of the four freedoms on which the functioning of the EU internal market is based, and this is also the subject-matter of EU-Serbia negotiations under Negotiation Chapter 4. In this context, member states are required, with certain exceptions, to remove all restrictions to capital movements both within the EU and between member states and other countries. The aim is for the member state to have simple, efficient and safe cross-border payments, as the ‘national’, while improving the beneficiaries’ rights to use of payment services. Also, the intent is to improve competition by opening the payment services market to new participants, thus fostering increased efficiency and reduction of costs and establishing the necessary platform for a single area for payment in Euros. [↑](#footnote-ref-26)
27. The AML/CFT Coordination Body is chaired by the minister of finance, and its members (32) include the staff representing the following 27 government bodies and institutions: Ministry of Finance; Ministry of Justice; Ministry of Justice-Seized/Confiscated Assets Management Directorate; MF-Administration for the Prevention of Money Laundering; Ministry of the Interior-Service for Combating Organised Crime; Ministry of the Interior-Service for Combating Terrorism; Supreme Court of Cassation; Prosecutor’s Office for Organized Crime; Republic Public Prosecutor’s Office; Security Information Agency; Securities Commission; Office of the National Security Council and Classified Information Protection; National Bank of Serbia; MF-Customs Administration; MF-Tax Administration, Tax Police; Serbian Chamber of Public Notaries; Serbian Bar Association; Ministry of Trade, Tourism and Telecommunications – Market Inspection Sector; Ministry of Trade, Tourism and Telecommunications – Electronic and Postal Communications Sector; Ministry of Foreign Affairs; Government Office for Cooperation with Civil Society; Ministry of Economy; Serbian Business Registers Agency; Ministry of Public Administration and Local Self-Government; MF-Games of Chance Administration. [↑](#footnote-ref-27)