

Activities Report

Financial Intelligence Unit

2013



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1. INTRODUCTION

Once again this year, the Financial Intelligence Unit has the honour of publicly presenting its Activities Report. This edition covers the period comprising the calendar year 2013.

It has clearly been a year of intense activity for the Unit as well as for the Standing Committee on the Prevention of Money Laundering in connection with the obligations derived from the signing of the Monetary Agreement.

On reviewing last year's Report, I find that it already made a general mention of this fact, which is of the greatest importance for us and for our country at large, in relation to the obligations undertaken with respect to the regulations which had to be transposed to our national legislation.

At the present time, the whole set of directives, regulations and framework decisions, which we spoke of in detail in the previous report and which were specified in the annex of the Monetary Agreement as legal acts which had to be applied, has been taken on and incorporated into the various national legal texts, especially with respect to the Law on International Penal Cooperation against Money Laundering and the Proceeds of International Crime and against Terrorism Financing, dated 29 December 2000 (hereafter called the LCPI), with the amendment made by Law 20/2013, dated 10 October, approved by the Andorran Parliament.

Said amendment necessarily entailed the amendment of the Regulations of the LCPI, with the Andorran Government's approval of the Decree on Amendment of the Regulations, dated 20 November 2013.

Moreover, along the same lines, efforts have been made to transpose the action measures proposed and suggested by Moneyval in the assessment report of March 2012. In this respect, in connection with terrorism financing and specifically in relation to Special Recommendation III, the implementation of this measure was approved by the Andorran Parliament by means of Law 4/2014 dated 27 March.

These new texts will form part of the set of changes that will be included in the first Follow-up Report that we are obliged to submit to the Plenary Meeting of Moneyval in the coming month of March 2014.

Lastly, mention should be made of the impact of two other legislative approvals, with the amendment, on the one hand, of Article 409 of the Andorran Penal Code, which includes the new figure of self-laundering and increases the possible underlying crimes by means of Law 18/2013 dated 10 October; and on the other hand, with the amendment of Article 116 of the Code of Criminal Procedure, with respect to seizure, the creation of the Police Office for the Recovery of Assets (ORA) and the Judicial Office for the Management of Assets (OGA), according to Law 19/2013, dated 10 October.

This long list of legislative amendments to which I make reference year after year in each of the descriptive reports on the activities carried out clearly shows once again the firm commitment of the Andorran Government and of the rest of the authorities of the Principality of Andorra to make the necessary adaptations of our legal system in matters involving the prevention of and fight against money laundering and terrorist financing in order to adapt this system to the international regulations in force.

In this same spirit we continue to deal with determination with the new commitments, either because the commitments to Moneyval must of course be honoured without fail and this organization gives us constant attention in this respect; because another legislation –although on a lesser scale– as a result of the Monetary Agreement, and in this way we will come to comply fully with the requirements set in the Mixed Committee with respect to the prevention of and fight against money laundering; or, above all, because the growing concern of FATF and of the countries which form this organization is increasingly expressed in the need to incorporate new rules that will regulate, even more and better, the identification, verification and control of the true beneficiary, and that will establish, as underlying crimes, smuggling or tax crime, heretofore inexistent as sources originating the main crime of money laundering.

Consequently, the Financial Intelligence Unit must be doubly attentive to these developments and carry out the necessary follow-up in order to assure that our system for the prevention of and fight against money laundering will concur with the required principles and advance towards internationally recognized standards.

In this respect, the Financial Intelligence Unit of the Principality of Andorra has shown its effectiveness and flexibility from its beginnings, since it has been progressively extending its competences to fight organized crime and all forms of illegal financial flows. The economic and financial crisis that has reached such serious proportions and that has been drawing out over the course of recent years, has called for a deep reflection on the need to strengthen the mechanisms and instruments for the regulation of the financial domain, and this has led to the improvement of the Unit's original structures.

In making these far-reaching changes in recent years, I can unhesitatingly state and highlight the fact that the Unit has constantly benefited from the support of the our government authorities who, despite the strong measures taken to contain the public finances and budgetary measures, have given at all times their approval for the ongoing growth of the Unit's human and material means.

The Financial Intelligence Unit has always shown its capacity of adaptation, so I have no doubts that this body and its members will continue to make great efforts within the new context and will carry out with great efficiency the missions that are entrusted to them, successfully meeting the challenges that all this entails.

Carles Fiñana Pifarré

Head of the Financial Intelligence Unit

2. BALANCE

Aside from the usual tasks of the Unit, which will be mentioned further on and which are listed in the “Statistics” section of this Report, a large part of the work carried out, especially in the legal area and in conjunction with the other departments of the Public Administration– has involved the analysis and study of the rules contained in the annex of the Monetary Agreement and the rules which are derived from the FATF Recommendations and which should be transposed into our national law.

With respect to the rules of the Monetary Agreement, in consonance with the preliminary meetings of the constituted Mixed Committee, with the participation of Andorra and of representatives of the European Union, contacts continued to be regularly maintained, leading to a second meeting held between the interested parties in the Principality of Andorra on 10 and 11 June 2013.

With respect to the work that was being carried out internally on Block 1, relating to money laundering and terrorism financing, the proposals made on internal modification in connection with the adaptation of our rules were submitted to the EU authorities who belong to the Mixed Committee, and who accepted and approved them.

Once such approval had been obtained, the Andorran Parliament approved Law 18/2013, on amendment of the Penal Code; Law 19/2013, on amendment of the Code of Criminal Procedure, and especially Law 20/2013, on amendment of the LCPI, all on 10 October.

The last-mentioned amendment, to which I have referred with the word “especially” because the first two amendments also contain references to Moneyval, entails the complete implementation of (i) Directive 2005/60/EC of the European Parliament and of the Council, dated 26 October 2005, on the prevention of the use of the financial system for money laundering and terrorism financing, also known as the Third Directive; (ii) Directive 2006/70/EC of the Commission, dated 1 August 2006, establishing the measures for application of Directive 2005/60/EC of the Parliament and of the Council, on the definition of politically exposed persons and the technical conditions for the application of simplified client control obligations and the exemption by reason of a financial activity exercised occasionally or on a very limited scale; (iii) Regulation 2006/1781/EC of the European Parliament and of the Council, dated 15 November 2006, on information on the respective originators which accompanies the transfers of funds; (iv) Regulation 2005/1889/EC of the European Parliament and of the Council, dated 26 October 2005, on the controls of cash entering or leaving the Community; and lastly (v) the Decision of the Council, dated 17 October 2000, on the modes of cooperation between the financial intelligence units of the Member States in connection with the exchange of information.

Subsequently, the Government of Andorra approved the Decree on amendment of the Regulations of the LCPI on 20 November 2013.

This Decree amends the Regulations approved by the Decree of 13 May 2009 and amended by the Decree of 19 May 2011 for the purpose of developing Law 20/2013, dated 10 October, which implements the rules of the European Union in matters of prevention of money laundering and terrorism financing in the terms required by the Monetary Agreement between the Principality of Andorra and the European Union.

The approval of these Regulations almost culminates the mission of completely implementing the rules of the European Union in matters of prevention of money laundering and terrorism financing, as was required by the aforementioned Monetary Agreement. With respect to the FATF Recommendations and the improvements suggested by

Moneyval in connection with the last and herein often mentioned 4th assessment of March 2012, the LCPI has been amended by means of Law 4/2014, dated 27 March, approved by the Andorran Parliament, which specifically harmonizes our laws with Special Recommendation III, which establishes in turn the measures for the prevention of, fight against and elimination of terrorism and its financing, and measures for the prevention and disruption of the proliferation of weapons of mass destruction and its financing (restrictive measures and freeze of terrorist assets), and specific technical adjustments are made of the system of penalties as well.

As I mentioned in the Introduction, another novelty that was necessary as a result of the preceding ones was the amendment of the Penal Code by Law 18/2013, dated 10 October, which incorporates into Article 409 the figure of self-laundering and various new types of underlying crimes. This Article has now been worded as follows:

“1. Anyone who converts or transmits money, property or securities proceeding from any criminal activity to which is assigned a prison penalty whose minimum limit is over six months, or any crime relating to prostitution, to intellectual and industrial property, to the use of privileged information, to the manipulation of the market, to the trafficking of persons for their labour exploitation, to the illegal trafficking of toxic drugs, to the environment and natural resources, to illegal associations, to concussion and to illegal exactions, to corruption and to influence-peddling, or to documentary falsehood knowing the provenance of same, with the intention of concealing or disguising the illegal origin of same or of helping any person who has participated in the commission of the crime to evade the legal consequences of his acts, shall be punished with a prison sentence of one to five years and a fine of up to three times the value of same.

2. Anyone who, due to serious negligence, carries out the acts described in the preceding point, shall be punished with a sentence of up to one year of imprisonment.

3. The same sentences provided in Point 1 above shall apply to anyone who intentionally:

- a) acquires, possesses or uses money, property or securities knowing, at the time of receiving them, that they are the proceeds of any one of the crimes stated in the preceding point, without having participated in the commission of such prior crime;
- b) conceals or covers up the true nature, origin, location, movement or ownership of money, property or securities, or of the legitimate rights to same, knowing that same are the proceeds of any one of the crimes stated in the preceding point, without having participated in the commission of such prior crime.

4. Attempt, conspiracy and provocation are punishable”, and also the amendment of the Code of Criminal Procedure by Law 19/2013, dated 10 October, with respect to Article 116, which regulates better the figure of seizure, and the creation and start-up of the offices for the recovery and management of assets.

All this new legislation will form part of the Follow-up Report that will be submitted to the Plenary Meeting of Moneyval to be held in March 2014.

We not only hope that this new legislation will be well received but we moreover hope that we will pass once again the examination to which we will be subjected, demonstrating in this way to the international community the aforementioned spirit of adaptation of our system for the prevention and repression of money laundering to the international standards, and our spirit of cooperation in the necessary ways.

The work of integrating and transposing the international rules does not end here, however, since for the coming year 2014 the Standing Committee on Prevention of Money Laundering already has plans to deal with other matters such as, for example, the regulation of a new legal statute of the FIU and the improvement of the rules on the penalization procedure.

Likewise, another highly significant point to be mentioned is that we are beginning a new national risk assessment in relation to money laundering.

In this respect, according to the new recommendations of the Financial Action Task Force (FATF) approved in February 2012 and the subsequent approval of the new applicable methodology in February 2013, the States shall identify, assess and understand the risk of money laundering and terrorism financing which they face in their territory.

The primary tool for carrying out this task is the performance of a national risk assessment allowing identification of the threats to and vulnerabilities of the prevention and repression systems of the various countries, and the consequences which they entail. The purpose of all this is to develop an action plan to mitigate and respond to the possible risks detected or to evident insufficiencies.

In connection with this, the new FATF Recommendation 1 (the requirement to carry out the national risk assessment) forms the backbone of the next round of assessments, which will form the basis for the analysis and adaptation of the rest of the Recommendations, in our case, the 5th Moneyval assessment.

There are two methodologies for carrying out this assessment, basically involving that of the International Monetary Fund and that of the World Bank, the latter being possibly more closely adapted to financial centres.

For this reason, members of the FIU have participated in various meetings with the World Bank and other jurisdictions with the aim to adjust its tool for the performance of the NRA. The first meeting held with the World Bank and various international financial centres took place in Liechtenstein on 1 and 2 October 2013, and the second meeting in 2013 was held within the framework of the 43rd Plenary Meeting of Moneyval, on 13 December.

Subsequently to the foregoing meetings, considering that the implementation of Recommendation 1 will form a fundamental part of Andorra's next assessment by Moneyval, in the course of 2013 the FIU began contacts with the respective international bodies in order to develop and configure the NRA as soon as possible, especially since it is estimated that the average length of the process involved in carrying out the risk assessment is about 12 to 18 months.

Finally, it should be pointed out that the completion and drafting of the NRA do not suffice to comply with FATF Recommendation 1 since its effectiveness is also necessary. This translates into the implementation of an action plan designed on the basis of the NRA's conclusions. The design and performance of this action plan will also require a period of time which cannot be determined until the NRA is completed.

Likewise, it should be recalled that the cooperation of specific spheres and bodies of national scope will be indispensable to the performance of an objective and realistic national risk assessment, which should not by any means be a propaganda tool or the mere fulfilment of a formality, but rather it should be a useful instrument allowing the State's action to be guided in AML/CFT matters.

In the Operational Area, with the constant concern for endowing the Financial Intelligence Unit with the necessary human means, which also translates into a technical improvement of the work carried out, mention should be made of the incorporation, effective as from 4 June 2013, of the Chief Commissioner of Police, Mr. Jordi Lluís Francès, who has been put in charge of the Police Service in this Area.

With this latter-mentioned change, the organizational chart of the necessary personnel who are to form the staff of the Unit, as envisaged since 2012, has been completed.

The work carried out in the course of 2013 is outlined in the statistics that will be presented later on, but I may already point out the constant increase in the figures for all items, with especially significant rises in the number of dossiers handled for foreign investment, the number of files opened for suspicious transaction reports, the number of matters handled with other bodies of the general Public Administration within the framework of national cooperation and, lastly, the number of requests for international cooperation received from our foreign counterparts.

In the Supervision and Control Area, in continuation of the actions undertaken and since we now possess the necessary knowledge of all the financial reporting entities and non-financial reporting entities –all those forming the non-financial companies and professionals designated by Law– which operate in the Principality of Andorra, at the end of the year a programme was made ready to carry out quarterly on-site inspections of all the reporting entities, with the aim to verify how they apply the pertinent rules in their financial activity.

These inspections will be carried out intensively in the course of 2014. Likewise, as a result of a file under investigation, a financial entity has been inspected.

Along the same line, in conjunction with the Legal Area, a training programme has been envisaged that will be carried out on a quarterly basis, addressed to all the reporting entities. The programme will cover the applicable rules and the new legislative aspects that arise, and any other topics of interest.

The first training session within the framework of this programme was held in the week of 2-6 December 2013. It was addressed to both financial reporting entities (insurance companies operating in the life insurance field) and non-financial reporting entities (real estate agents, jewellers and gambling establishments).

Another equally important task carried out in this area was in the field of control and analysis of the audits submitted by the financial reporting entities. It should be pointed out that these entities, in accordance with the provisions of Article 52.1.a of the LCPI, are obliged “to contract yearly an independent external audit in order to verify compliance with the provisions of this Law and a copy of the report issued to this effect shall be submitted to the FIU”.

Consequently, after the FIU has requested, by means of a technical communiqué addressed to the various financial reporting entities, the necessary content of the various aspects or particularities to be taken into consideration, and once the respective audits have received, the audits are analysed.

In this respect, in 2013, the audit reports of the 5 bank groups, of 6 non-banking financial entities, of 2 money order institutions, and of 11 insurance companies operating in the life insurance field were analysed.

Once this filter has been passed, a study is made of the possible need to issue informative notes and/or to request audit supplements in order to demand improvements or additional information, as often happens.

Likewise, three new penalizing administrative proceedings were initiated and are currently under investigation on financial system entities and, having completed the examination of the respective files, two proposals for penalties derived from two other proceedings initiated in 2012 on financial system entities have been submitted to the Government of Andorra.

Aside from this, with respect to other activities carried out by the Unit in the period under study, meetings have been held as usual at the national level with representatives of various public and private spheres and with the persons in charge of various bodies of the Public Administration, according to the following list:

- Police Service and/or Ministry of Justice and Interior, on 23 April, 25 May, 10 September, 10 October and 29 November.
- Andorran Customs Service, on 25 September and 28 November.
- Andorran National Institute of Finances, on 7 February, 3 May, 5 June and 29 November.
- High Council of Justice, on 17 October.
- Criminal Law Court, on 19 March.
- Lawyers Association, on 18 March.
- Association of Andorran Banks, on 19 February.
- Lastly, the Standing Committee on Prevention of Money Laundering assembled on 15 January, 7 and 27 March, 2 May, 16 July, and 4 and 29 October.

At international level, we have attended all the Plenary Meetings of Moneyval, which are held at the headquarters of the Council of Europe in Strasbourg, and specifically Plenary Meeting number 41 on 9-13 April, Plenary Meeting number 42 on 16-20 September, and Plenary Meeting number 43 on 9-13 December.

In continuation of the comment we made in our Report of last year with respect to the appointment of the member of our Unit Ms. Tanjit Sandhu as assessment expert on financial matters and especially in relation to the Recommendations on preventive measures, in connection with the 4th mutual assessment that was made of Bulgaria, after the on-site visit made to that country between 30 September and 6 October 2012, and after the preparatory meeting held in Strasbourg between 22 and 25 April 2013, the report on the Plenary Meeting number 42 of Moneyval was adopted on 19 September 2013, with which her task was completed.

We also attended the Plenary Meeting of the 24th assembly of FATF which took place in Oslo (Norway) on 16-21 June.

The main considerations which we may draw from our participation in the working groups and in the sessions of the Plenary Meeting which lasted three days are set out below.

By way of introduction, it should be said that the Principality of Andorra attended this meeting of FATF in the capacity of member of Moneyval, in both the working groups and the Plenary Meeting itself. In this respect, Mr. Carles Fiñana, head of the FIU, attended the various sessions of the Plenary Meeting accompanied by Mr. Borja Aguado, jurist of the FIU, who also attended the working group on typologies, and by Mr. Lluís Viñuales, as legal advisor.



To specify more closely the work effectively carried out within the frame of this working group, special emphasis was placed on the need to suitably identify the effective beneficiary of the reporting entities' clients in order to determine the effective beneficiary in the event of complex corporate networks, which make it enormously difficult to determine the client's business structure, and this is a key factor for the correct application of the obligations relating to the verification and checking of the identity of the client and of the effective beneficiary (KYC).

Additionally, the matter of tax crime as an underlying crime of the crime of money laundering was repeatedly considered. With respect to the Principality of Andorra, our current laws do not qualify tax crime as an underlying crime at present.

The plenary sessions were held for three days, from 19 to 21 June 2013:

a) First day

The first day of the Plenary Meeting was devoted to a study of the follow-up of these countries:

Korea, Finland, India, Ireland, Argentina, Australia, Japan, Mexico and Turkey. Various considerations may be made in this respect:

- By applying these premises to the case of Andorra, the implementation of the old S.R. IX will require an awareness of the importance of this matter and of the fact that this recommendation will be assessed by the members of Moneyval on the basis of the aforementioned analysed aspects.

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- Moreover, with respect to R.17 (penalization system), the importance of implementing, among others, penalties consisting of public warnings should be underscored.

Likewise, the main considerations with respect to money laundering and terrorism financing at the last meeting of G8 were emphasized. In this respect, importance was placed on possessing clear and effective rules on identification and verification of the identity of clients and of their true or effective assignees or beneficiaries. Consequently, this would be the key factor in following the track of possibly laundered money.

b) Second day

The second day's session was opened by Mr. Sigbjørn Johnsen, Minister of Finance of Norway, and by H.M. the Queen Máxima of the Netherlands, who placed special emphasis on the importance of financial inclusion to strengthen the developing countries' financial integration and growth.

The importance of appropriate national cooperation between the FIUs, the bank regulators and the other public bodies was also stressed.

Likewise, a discussion was held on the possible enlargement of the membership of FATF, which would be limited to a maximum of between 4 and 6 countries that would

have to comply with a series of requirements (international significance, belonging to an under-represented region, etc.).

Lastly, considering that the 4th round of assessments will begin soon with the assessment of the Kingdom of Spain, the model and the main parameters on which the upcoming assessments will be based were presented. In this respect, special emphasis was placed on appraisal of the effectiveness in assessing the level of compliance with the FATF Recommendations by the various countries.

c) Third day

The main topics that were considered in the third session of the FATF Plenary Meeting were as follows:

- *Firstly, it was emphasized that tax crime should be considered an underlying crime in the crime of money laundering. Despite this, a discussion was held on the concept of tax crime and of serious tax crime.*

In this respect, some countries considered that it would be appropriate to carry out a comparative study on the matter of tax crime as an underlying crime of the crime of money laundering.

Moreover, the determination of this concept is a subject on which the Risk, Trends and Methods working group will continue to work.

- *Likewise, in relation to politically exposed persons (PEP), emphasis was placed on the importance of appropriately defining the scope of the concept and the measure to which it affects the nationals of the countries concerned.*

- *In view of the considerations made by H.M. Máxima of the Netherlands, financial inclusion was a recurrent topic at the Plenary Meeting, so it was decided that this would be a priority working topic in the various FATF working groups.*

- *The following documents were approved at this session:*

- *ML/TF related to counterfeiting of currency.*
- *TF in West Africa.*
- *ML/TF vulnerabilities of legal professionals.*
- *Guidance for a risk-based approach to prepaid cards, mobile payments and internet-based payment services.*
- *Guidance on the implementation of financial provisions of UNSCRs to counter the proliferation of weapons of mass destruction.*
- *Best practices paper on targeted financial sanctions related to terrorism and terrorism financing (Recommendation 6).*
- *Draft international best practices: combating the abuse of Non-Profit Organisations.*





Lastly, we took part in the 21st annual congress of the Egmont Group, held in Sun City (South Africa) on 1-5 July.

The Principality of Andorra was present at this plenary meeting in the capacity of member of the Egmont Group, in both the working groups and in the Plenary Meeting itself. In this respect, Mr. Carles Fiñana, head of the FIU and of the delegation, attended the various sessions of the Plenary Meeting, the sessions of heads of the various FIUs, and the meeting of heads of the Europe Group. The members of the Unit, Ms. Tanjit Sandhu and Mr. Borja Aguado, attended various sessions of the Plenary Meeting and the Legal Working Group.

In this respect, in connection with the participation of the members of the FIU, various aspects may be mentioned in relation to (i) the participation in the Legal Working Group, (ii) the participation in the session on International Cooperation, (iii) the participation in the session on the National Risk Assessment (NRA), and (iv) the participation in the session on Serious Tax Crime as Underlying Crime.

With respect to the Legal Working Group, the following points should be noted:

- Membership candidatures: a study was made of the laws on prevention of money laundering and terrorism financing in various countries in order to assess the membership candidatures submitted this year by various countries including the following: Zanzibar, Pakistan, Ghana, Jamaica and Bolivia.
- Information exchange: a discussion was held on the information that one FIU should send to another in the event of demands or requests for information. In this respect, despite the fact that the dissemination of the information should be avoided, it was recommended that as much information as possible should be sent to the requested FIU and it should be stated whether or not it is permissible to obtain the requested information by means of third persons. Lastly, it was concluded that, in requests for information, it would be appropriate to ask the requested FIU about the method by which it intends to obtain the requested information in order to authorize or not to authorize such method.

With respect to international cooperation, this session emphasized the importance of fluid communication between the world's various FIUs in order to achieve a quicker and more effective international cooperation.

Likewise, insistence was once again placed on the idea that effective cooperation is only possible if the requested FIU is given all the pertinent data on the investigation since this facilitates its search for information.

In this respect, by way of example, it was recommended that requests for information should have the following minimum content:

- Identification of the respective natural persons or legal persons.
- Statement of whether or not any suspicious transaction reports exist.
- Modus operandi or circumstances in which the suspicious transactions or activities took place.
- Statement of whether the respective request for information is based on an injunction, a police request or any other formal demand.
- Express statement about the possibility or not of disseminating the information provided or of requesting it from third persons.

Additionally, it was recommended that the FIUs should always reply to the requests for information which they receive, either to state that the requested information has been obtained or that work is under way to obtain it, or else to give a negative reply to the request.

In some cases it may even be appropriate to give provisional replies to the various requests for information in order to prevent delays in investigations.

Lastly, it was sought to increase the awareness of the FIUs with respect to the importance of spontaneous cooperation between FIUs.

With respect to the national risk assessment, the importance was stressed of carrying out a suitable analysis of risk at national level for each country, emphasizing the fact that no one questions any longer a study of this type and it would give countries an efficient and effective view of their policies for the prevention of money laundering and terrorism financing.

In the session held by the World Bank and the International Monetary Fund, a presentation was made of the main lines of their methodologies addressed to the NRA, which require in all cases the involvement of all the relevant public bodies of the various countries.

Despite this, even though all the bodies possibly affected by money laundering or terrorism financing should be involved, it was stated that it is necessary and important to form a commission in charge of coordinating and directing the NRA and that such a commission should usually be supervised by the FIU.

Likewise, with respect to serious tax crime, the mainstream in recent years in the international sphere has been favourable to including tax crime as an underlying crime of the main crime of money laundering, as is reflected in the draft of the 4th European Directive and in the new FATF recommendations.

In this respect, some members of the Egmont Group stated that, although this should be the trend, not even the definition of serious tax crime is clear yet. For this reason, it is up to each State to define the concepts of tax crime and serious tax crime and consequently the defining elements of these concepts vary between jurisdictions.





The main conclusions of this session were as follows:

1. There is a clear trend towards considering tax crime to be an underlying crime.
2. There is no definition of either tax crime or serious tax crime and for this reason the application of the general trend is being implemented unevenly and in diverse ways in the various jurisdictions.
3. The exchange of information between countries in matters of financial intelligence should be favoured in the cases in which the existing underlying crime is tax crime.

Aside from that, on this occasion two cooperation agreements –memorandums of understanding–were signed between the Principality and Moldova and Serbia, respectively.

These agreements, which follow a pre-established pattern in the Egmont Group, help to strengthen the will for international cooperation between the States and to assure that the available information, the use of which is governed by basic rules of confidentiality and dissemination, will be more effective and useful.

With respect to [training](#), from the internal standpoint and specifically relating to the training provided by members of the FIU in this period, I refer to what has been previously stated.

Bearing in mind that this is an essential aspect of our work because it is necessary not only to increase awareness but also to make known to the whole collective of reporting entities the advances achieved in our field and the international trends that are becoming prevalent, next year we will continue to strive to increase everyone’s awareness of these matters.





Likewise, we have participated in various events to which we were invited and in particular we have cooperated with the University of Andorra on the postgraduate seminar on Andorran Law held on 31 January, at which we gave the conference entitled “Money Laundering and the Relevant International Bodies”.

Lastly, the member of the Unit Mr. Borja Aguado took part in the course for the qualification of evaluators held by Moneyval in Strasbourg in November 2013 called *the Moneyval Evaluators Training Seminar*.

3. STATISTICS OF THE YEAR 2013 and COMPARISON WITH 2012

The data relating to 2013 are given below together with the respective graphs. These data reflect the work performed by the Unit in the various areas and once again they have reached significant figures, especially with respect to the volume of work generated and the volume of work carried out.

By simply observing these two parameters, one sees the degree of commitment of the collective forming the Unit. The figure relating to the work generated shows an increase of nearly 133% versus the previous year, and the figure relating to the work carried out or resolved shows a similar increase, in this case of a little over 141%.

This means, generally speaking, that not only are we capable of taking on a spectacular increase in dossiers and files, but also and more importantly, that we are diligent enough to deal with them in the same period of time.

In particular, however, it should be specified that the most significant number of dossiers in this respect involves the foreign investments analysed by the Unit, which rose from 305 requests in 2012 to 802 in 2013.

Another figure that is worthy of note relates to the files under investigation, which decreased by 28.57%. This means that a steadily increasing number of files are being concluded, either by their dismissal or by forwarding them to the judicial authorities. The number of files sent to the judicial authorities grew by 14.29%.

On the other hand, there has been a substantial decrease of 66,67% in the number of files handled at the FIU's initiative and consequently initiated ex officio. This figure, however, is of a quite random nature since, without overlooking the fact that, when necessary, the Unit should act immediately without waiting to be requested to do so, in the period under study there were fewer cases or hypotheses that called for our intervention than in the previous year.

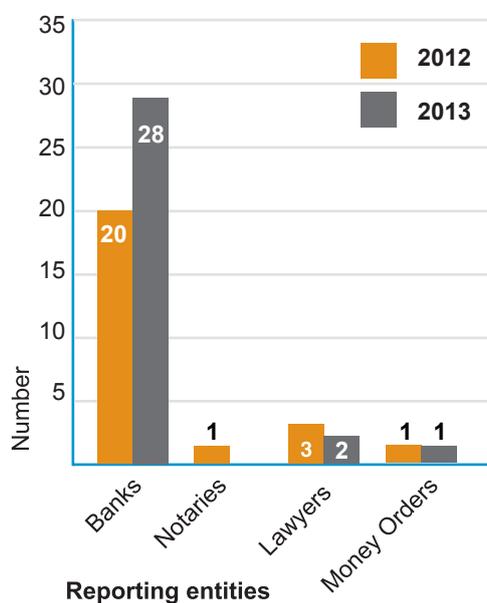
BALANCE OF THE WORK GENERATED AND CARRIED OUT AT THE FIU - YEAR 2012 -			WORK GENERATED AND CARRIED OUT AT THE FIU - YEAR 2013 -		Evolution %
Item	Number	Remarks	Number	Remarks	
STRs received	25	-	31	-	24,00%
Files at FIU initiative	24	-	8	-	-66,67%
Register of Companies	305	9 unfavourable	802	20 unfavourable 532 Direct investment - Companies 270 Real estate investment	162,95%
National cooperation	2	1 Government 1 Police	9	4 Government 3 INAF 1 Justice 1 Police	350,00%
International cooperation (FIUs)	20	Received and answered	26	Received and answered	30,00%
Volume of work generated:	376	-	876	-	132,98%
Files forwarded to the Attorney General's Office	14	3 from 2010 2 from 2011 9 from 2012	16	1 from 2011 3 from 2012 12 from 2013	14,29%
Shelved files dismissed	352	-	868	-	146,59%
Volume of work carried out	366	-	884	-	141,53%
Files under investigation	28	1 from 2007 2 from 2008 2 from 2009 5 from 2011 18 from 2012	20	1 from 2008 2 from 2011 8 from 2012 9 from 2013	
Investigated persons (natural and legal)	2342	-	3478	-	48,51%
Freeze of transactions from the FIU	0	-	3	497.673,58 €	
Value of files forwarded to the Attorney General's Office with possibility of judicial seizure	6	-	8	17.524.726,46 €	
TOTAL VALUE	-	-	-	17.524.726,46 €	-

a. Suspicious Transaction Reports

The banking financial entities continue to be those which submit the largest number of reports, which rose from 20 to 28, remaining stable with respect to the rest of the reporting entities.

Next year, among other reasons due to the intensive training carried out, there may quite possibly be an increase in the sector of non-financial reporting entities.

Suspicious Transaction Reports

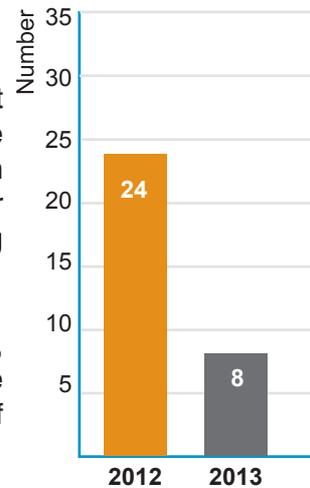


FIU initiative

b. Initiative of the Intelligence Unit

What I have just said applies here as well but I would add that we continue to apply all diligence in our surveillance so that the financial system, which is the most vulnerable since it is through this system that the criminal organizations try to channel their proceeds of illegal origin, will not be involved in affairs relating to money laundering or terrorism financing.

Not only do we insist on this forthright message but moreover, and we are pleased in this respect, the people in charge of the various financial groups forming the main economic structure of Andorra must achieve a notable degree of commitment



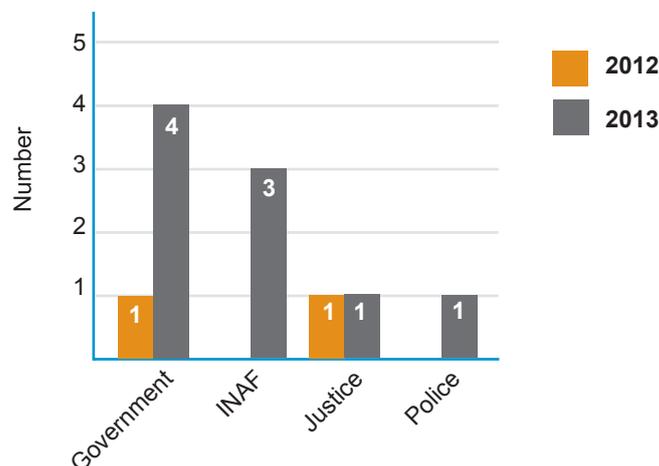
c. National cooperation

The need is becoming increasingly evident to cooperate with the national bodies linked to our field in order to optimize the work that we carry out.

Likewise, not just by definition or by our own will but rather to apply the legislative amendments that have been proposed and those which are envisaged for the immediate future, other bodies and departments, like the Andorran Customs, for example, will become involved in the prevention system.

As may be seen, cooperation increased by 350% in 2013 and in this respect, by way of example, I wish to point out that with the Andorran National Institute of Finances (INAF), this figure rose from zero to three cases of collaboration. This no doubt has to do with the agreement signed between the two entities on 30 November 2012 and its consequent development.

Suspicious Transaction Reports

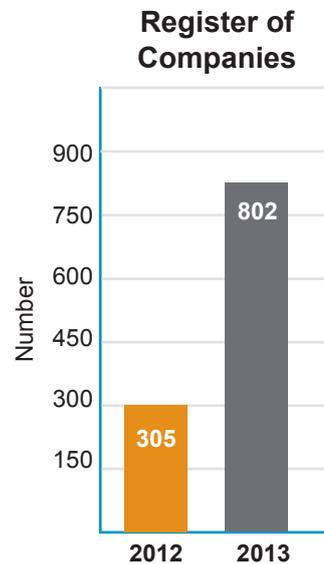


d. Register of Companies

As was said in the beginning, the volume of requests from the Spanish Ministry of Economy and specifically from the Department of the Register of Companies, “skyrocketed” in 2013.

This is a good finding inasmuch as it means that, since the approval of Law 10/2012, dated 21 June, on foreign investment in Andorra, and the subsequent Regulations for application of the Law, approved on 1 August 2012 and amended on 28 August 2012, foreign investors are showing a steadily increasing interest in our country.

We would consequently agree that the work that is being carried out in the sphere of the Public Administration and, in parallel to it, the work carried out in the private sector most closely linked to our field, creates trust and this is very good.

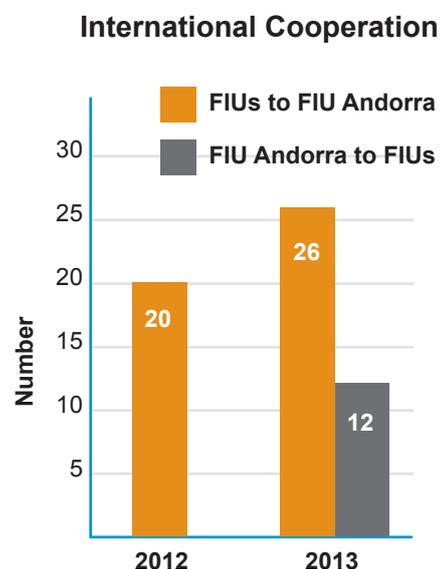


e. International cooperation

Year after year, measures are implemented with the aim to harmonize the system of international cooperation in order to allow quicker and more effective collaboration.

In this respect, I refer to what has been said earlier in relation to one of the aspects dealt with in depth on the occasion of the FATF Plenary Meeting.

Andorra is no stranger to these transformations and has laws that safeguard the commitment of collaboration with foreign authorities. Indeed, this is all the more true since our internal system was improved through

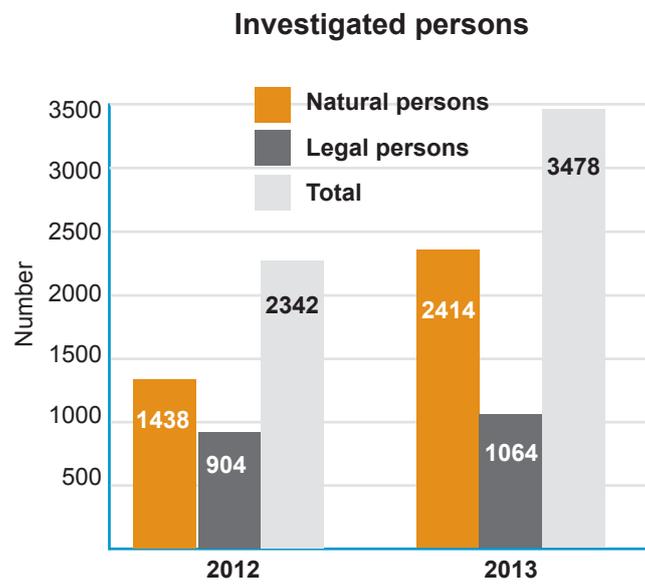


International cooperation by countries – Year 2013													
Requesting countries (FIUs to FIU Andorra)	Number of requests	Response time (days)											
Spain	13	32	177	17	35	19	47	2	23	30	30	22	29
Belgium	2	27	14										
Argentina	1	29											
Slovakia	1	15											
U.S.A	1	30											
France	1	34											
Honduras	1	31											
Latvia	1	63											
Lebanon	1	38											
Moldova	1	26											
St. Vincent and the Grenadines	1	20											
Ukraine	1	20											
Total	26	Average: 33.75 day											

International cooperation by countries –Year 2013	
Requesting countries (FIUs to FIU Andorra)	Number of requests
Spain	2
Mexico	2
Germany	1
France	1
Italy	1
Kazakhstan	1
Luxembourg	1
Monaco	1
Saint Kitts and Nevis	1
Switzerland	1
Total	12

f. Investigated persons

Invariably, as the number of handled files increases, so does the number of natural or legal persons investigated, the latter figures showing an increase of 48.51% this year.



4.- JUDICIAL DATA

The data set out below, which are submitted to us each year by the Court of the First Instance of Andorra, are of capital importance because they represent, in terms of the efficiency of the system for the prevention and repression of money laundering and terrorism financing, the last stage of an initial task carried out by the competent bodies in this field.

As mentioned in previous Reports and especially since 2012, these figures have increased considerably due to the more intense judicial activity and also, why not say so, as a result of a greater concern in all spheres for the cases under investigation and initiated cases.

By way of example, on analysing the attached graph, it may be seen that with respect to the Court of the First Instance, in comparison to the previous year, there has been a far greater number of new cases, which have risen from 9 to 18 (16 of which are for files examined at the FIU while 2 were forwarded by the Police Service).

Likewise, a larger number of decisions have been made, especially including Writs, for a total of 15, of which 11 involved provisional dismissals, 2 were shelvings and another 2 were decrees of precautionary measures.

With respect to the Criminal Law Court of Andorra, 5 cases were resolved, their resolution having involved, by sentence or writ, the forfeiture of the money under restraint and the disposal of about 3,600,000 euros.

The same reasoning is applicable to the figures of the High Court of Justice, Criminal Division, which has issued decisions in appeals on another 5 cases, in most of which the appeal that was lodged was dismissed, confirming in all particulars the sentence of the first instance.

The conclusion of the cases handled as mentioned has involved the restraint of about 6,500,000 euros.

Nevertheless, there is one reflection that should be made that has a great influence on this set of more than reasonable data: an extremely high percentage of the ongoing judicial cases –I would say about 90%– involve matters in which the underlying crime has been committed abroad, outside Andorra.

This fact means that Andorran Justice is, in the same proportion, dependent on instances abroad, in the sense that it has a need for the respective instances in each country, according to the place of origin of the case, in order to be able to appropriately proceed. Consequently, depending on third persons, sometimes the handling and examination of a case do not only become more complicated but also significantly slower.

To bring this section to a close, I would only add that we hope that, as a minimum, the level of alertness and activity will be maintained for the resolution of cases (which is not necessarily the same as giving satisfaction to the parties resorting to the Courts).

	COURT OF THE FIRST INSTANCE			CRIMINAL LAW COURT				HIGH COURT OF JUSTICE	
Anys	WRITS			Writs and sentences (1st instance)				Writs and sentences	
				Firm		Under appeal		Firmes	
	Initial cases	Writs of shelving, dismissal or precautionary measures	Indictments	Cases	Persons	Cases	Persons	Cases	Persons
2012	9	12	9	11	16	2	8	2	2
2013	20	15	2	1	3	2	9	5	12

YEAR 2013

WRITS OF THE COURT OF THE FIRST INSTANCE

1. DP-4256-4/11. Writ dated 7 January 2013 ordering provisional dismissal.
2. DP-2518-2/11. Writ dated 18 January 2013 ordering the shelving of proceedings.
3. DP-2285-3/10. Writ dated 20 February 2013 ordering provisional dismissal.
4. DP-986-2/08. Writ dated 11 April 2013 ordering provisional dismissal.
5. DP-2496-3/10. Writ dated 28 May 2013 ordering partial provisional dismissal.
6. DP-1891-2/08. Writ dated 28 June 2013 ordering the lifting of the seizure and provisional freeze, and the provisional dismissal.
7. DP-3044-2/12. Writ dated 5 September 2013 ordering the shelving of proceedings.
8. DP-2178-4/09. Writ dated 20 September 2013 ordering provisional dismissal.
9. DP-1783-4/10. Writ dated 23 September 2013 ordering partial provisional dismissal and the lifting and annulment of the precautionary measures imposed.
10. TC-030-2/97. Writ dated 2 October 2013 declaring two persons to be indicted and granting their release.
11. DP-846-4/10. Writ dated 7 October 2013 ordering provisional dismissal and the lifting of precautionary measures.
12. DP-3473-4/12. Writ dated 9 October 2013 ordering provisional dismissal.
13. DP-591-4/12. Writ dated 4 November 2013 ordering provisional dismissal.

14. DP-1074-2/04. Writ dated 22 November 2013 ordering provisional dismissal.
15. TC-011-1/13. Writ dated 9 November 2013 ordering the lifting of preventive seizure.

WRITS AND SENTENCES OF THE CRIMINAL LAW COURT

1. TC-060-5/10. Sentence dated 12 February 2013 decreeing the sentencing of three persons, in contumacy of the court, to prison terms of 5 years each (2 years firm and the rest conditional), a fine of 300,000 euros and expulsion from Andorra for 10 years. It also orders the forfeiture of the assets and money under restraint, for a total of 2,385,800.91 euros.
2. TC-106-3/04. Writ dated 26 February 2013 ordering the forfeiture in favour of the Andorran State of the amounts seized and existing in the accounts, in the amount of 1,017,014.08 euros.
3. DP-292-5/99. Writ dated 28 May 2013 ordering the preventive seizure of the money of the interested party, in the amount of 194,216.98 euros, and order the transfer of the money to the account of INAF.
4. Extradition proceeding 03/13. Writ dated 6 December 2013 ordering the extradition of a Dutch citizen.
5. DP-292-5/99. Writ dated 18 December 2013 ordering the forfeiture in favour of the Andorran State of the money under restraint.

WRITS AND SENTENCES OF THE HIGH COURT OF JUSTICE – CRIMINAL DIVISION –

1. Writ 03-2013 dated 18 January 2013 issued in the case TC-108-2/11, dismissing the lodged appeal and thus confirming the decision of the Criminal Law Court of 24 May 2012, and consequently the confiscation of money in the amount of 2,942,498.67 euros.
2. Writ 20-2013 dated 24 May 2013 issued in the case TC-060-5/10, dismissing the lodged appeal and confirming the sentence of 12 February 2013.
3. Writ 22-2013 dated 27 May 2013 issued in the case DP-292-5/99, admitting the appeal lodged against 26 November 2012.
4. Writ 26-2013 dated 21 June 2012 issued in the case TC-106-3/04, dismissing the lodged appeal and confirming the Writ issued on 26 February 2013.
5. Writ 49-2013 dated 18 October 2013 issued in the case DP-292-5/99, dismissing the appeal lodged against the Writ dated 27 May and confirming the preventing seizure.

DECISIONS OF THE ATTORNEY GENERAL'S OFFICE

1. DIMF-29/12. Decision dated 2 May 2013 ordering the provisional shelving of proceedings until the appearance of further evidence.
2. DIMF-28/12. Decision dated 4 October 2013 ordering the provisional shelving of proceedings until the interested party is located in Andorra or until further evidence appears.

5. TYPOLOGIES

Case no. 1: A bank reporting entity submits a suspicious transaction report to the Unit because foreign news reports link some of its customers (A and B) to some foreign companies involved in a judicial process in their country of origin for the million-euro diversion of trade union funds from the public sector. The person who holds the position of president of the trade union collective has been prosecuted in the aforementioned process as the person with maximum responsibility for the presumed crime.

Customer (A) has a 1% holding in the respective companies and the title to the rest of the shares is held by a member of the immediate family of the prosecuted person.

In order to operate illegally, the persons involved created a network of shell companies and opened bank accounts in the name of these companies in various jurisdictions; the banking attorneys in fact of the companies, with respect to Andorra, have been the customers (A and B). The diverted funds have been mainly applied to the acquisition of real estate property in a country (Z).

The study of the banking movements shows that the money reached Andorra through transfers from both said customers' country of origin and from other jurisdictions and that they were always ordered by shell companies linked to said customers.

Subsequently, in Andorra a transfer of money was detected which was addressed to the customers' country of origin for the acquisition of a real estate property, as a result of a mortgage loan granted by the banking entity.

In the course of the Unit's investigation, the news having reached the foreign communication media, customer (B) wished to transfer abroad practically the whole balance of one of the accounts (320,000 USD), alleging the payment of an invoice for tax consultancy. By virtue of the provisions of the Law on international penal cooperation and on the fight against the laundering of money or proceeds from international crime and against terrorism financing, the Unit proceeded to freeze that specific transaction. The assets deposited in the various bank accounts total about 606,000 USD.

The file was submitted to the Attorney-General's Office of Andorra.

Indications of risk:

- Shell companies, linked to the customers, with accounts in various jurisdictions.
- Triangulation of transfers between the aforementioned companies.
- Acquisition of real estate properties in the country of origin by means of mortgage loan despite having the financial capacity to make the purchase.
- Unusual transaction of the customer with the intention of emptying the account.

Case no. 2: A banking entity submits a suspicious transaction report to the Unit because a customer requests to make an international transfer in the amount of about 240,000 euros, justifying it as the payment of a legal assistance to her husband, who is also a holder of the account.

It happens that the country of origin of the interested parties (Z) is distinct from the country where the legal person and the beneficiary bank account of the transfer are domiciled (Y).

The verifications carried out by the banking entity in open sources of information show that in her country of origin (Z) the customer has been indicted, prosecuted and sentenced with a prison term, among other penalties, for misappropriation of public funds and administrative malfeasance while exercising a public office.

The respective study allows the Unit to verify that the funding of the account was carried out exclusively through cash deposits in the amount of about 550,000 euros.

The overall assets deposited in the bank total about 559,000 euros.

The file is submitted to the Attorney General's Office of Andorra.

Indications of risk:

- Handing of substantial amounts in cash.
- Holding of a public office linked to the territorial sector.
- Holding of an elected office in a regional Parliament.
- Million-euro fees for legal assistance (possible criminal process).
- The money is addressed to a different jurisdiction than the country where the judicial process is held.

Case no. 3: A reporting entity of the law office sector submits a Suspicious Transaction Report to the Unit because it detects a series of incongruences in the professional consultancy which it provides to a customer (A) for the handling of formalities in relation to and the incorporation of an Andorran company, and to obtain a residence permit, all in favour of a third person (B). Consequently, the customer (A) –who presents himself as a lawyer exercising in a European country (Z)– acts as an intermediary between the reporting entity and (B).

In the customer verification process addressed to obtaining knowledge (KYC) which allows the professional to corroborate that the statements and the documents provided by his customer are consistent and can be verified to determine their veracity, the lawyer found that some of the data provided by the customer were different from those appearing in the website of the businesses of which the customer said he formed part in his country of residence (Z).

The study carried out by the FIU on the various bank accounts shows that the general transactions of the customer (A) consist of the payment into a bank account of a multitude of foreign cheques drawn by third persons in his country of residence (Z) for amounts that were not high, in round figures and totalling about 246,000 euros.

The justification given by the customer to his banking entity is that said cheques are the payment for the legal consultancy that he provides in his European country of residence (Z).

The Unit concludes, as a hypothesis, that the activity stated by the customer is not consistent with the facts according to the information obtained from open sources by the reporting lawyer, since the multitude of cheques come indistinctly from diverse regions of the European country (Z) –regions which are far from the city where the customer states that he exercises (A)–, and since all the drawers of the cheques are from the same continental area (distinct from the European) the same as the customer (A), despite the fact that the drawers and the beneficiary reside in the European country (Z).

Likewise, the endorsements of the cheques were not documentarily justified to the banking entity and neither did the customer (A) formally justify the professional activity that he stated that he exercised.

The sum total of the assets deposited in the bank is about 10,900 euros, since, among other factors, the customer (A) disposed of substantial amounts of money in cash and made a significant international transfer to a natural person.

The file is submitted to the Attorney General's Office of Andorra.

Indications of risk:

- Lack of proof of professional activity.
- Lack of documentary support to justify income.
- Cheques drawn for amounts that are not large and in round numbers.
- The areas where the cheques were drawn were far from the customer's professional area.
- Concurrence of the geographical origin of the drawers of the cheques and the beneficiary, which was distinct from the country of residence.

Case no. 4: Through international cooperation, a request for information is received from a country (Z) with respect to a transfer in the amount of about 90,000 euros made by a customer (A) from a banking entity of the country.

According to our counterpart, the customer (A) is a member of the immediate family of a person prosecuted in said country for bribery and use of privileged information in the award of public contracts.

The requests made from our Unit to the banking system of Andorra allow it to be verified that, despite not having bank accounts at present, the prosecuted member of the immediate family (B) had opened various accounts in the past in two different financial entities.

Our Unit detects, in the study of the financial movements of the customer (B), million-euro transactions consisting mainly of deposits in cash, internal transfers to other accounts of the same banking entity – by means of the use of shell companies of other jurisdictions of his country of origin (Z) or of Andorra. Also detected are cash withdrawals and international transfers to other jurisdictions, the beneficiaries of which are shell companies.

Likewise, the aforementioned study makes it possible to relate internal transactions in the same banking entity between the accounts represented by the prosecuted person (B) with third persons who have also been prosecuted in two (2) different affairs from those of the investigation which is being carried out and which is the reason for our counterpart's request. The aforementioned affairs are also of a type that involves the corruption of public offices, among other crimes.

Lastly, it is found that, at the time of cancelling his accounts, the customer (B) transferred his assets to the accounts of the member of his immediate family (A), disposing of an overall position of about 30,000 euros on having carried out other transactions involving transfers abroad.

The file is submitted to the Attorney General's Office of Andorra.

Indications of risk:

- Abusive use of shell companies by the same customer.
- Internal transfers between the shell companies of the same customer.
- Handling of substantial amounts in cash (deposits and withdrawals).
- International transfers to shell companies in other jurisdictions.
- Lack of documentary support for proof of transactions.
- Cancellation of accounts and transfer of assets to the account of a family member.
- Links in internal transfers to third persons without justification of business relations.
- Journalistic and public data that criminally involve third persons linked in internal transfers.

Case no. 5: A bank reporting entity submits a Suspicious Transaction Report to this Unit relating to the fact that a customer (A) natural of a country (Z) is the subject of a written accusation from a mercantile company (B) of the same country.

Customer (A) had carried out his professional activity in the past as the person in charge of the finances of (B); a series of accounting irregularities arose and it was determined subsequently that he had diverted to his own benefit about 3,785,000 USD.

The bank study carried out by our Unit found that the customer (A) opened a bank account in the name of a shell company of the country (Y), receiving a transfer made by the interested party himself from the country (X).

Two (2) days later, the customer (A) ordered a transfer in the amount of about 2,700,000 USD to a bank account of the same country (X) –from where his assets already came– to the name of a third person (C), justifying it with a contract of purchase and sale of a real estate unit in a country (W).

A few days later, he ordered another transfer to the same account (C), alleging the payment of taxes outstanding for the purchase of the real estate property.

Our Unit verified in open sources of digital information that an identity identical to that of the customer (A) is linked to an arrest for reasons similar to those set out above.

By means of international cooperation, our Unit requested the collaboration of our counterpart in the country of origin of the customer (A) and of the company (B), and it confirmed for us that this customer had indeed been arrested, accused and sentenced for the aforementioned reasons.

The account has a balance of about 9,400 USD.

The file is submitted to the Attorney General's Office of Andorra.

Indications of risk:

- Use of a shell company.
- "Bridge" account (used only to receive and transfer money in a brief period of time).
- Contract between private parties which is jurisdictionally unconnected with the country and consequently difficult to verify.
- Lack of follow-up of the transactions with notarial documents on the purchase and sale.
- Lack of follow-up of the transactions with tax documents relating to the payment of taxes on the purchase and sale.
- Incongruence in the financial transactions, since they could have been performed in the jurisdiction where both persons had bank accounts open.

Operational Area



UIF

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FINANCERA



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