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A SIGNIFICANT STEP TOWARD EUROPEAN UNION: STRENGTHENING MONTENEGRO'S COMMITMENT TO COMBATING MONEY LAUNDERING

Abstract:

Negotiations for Montenegro's accession to the European Union began in June 2012. As Montenegro strives to achieve full EU membership, it faces several challenges, particularly regarding the effectiveness of its regulatory framework for preventing money laundering and terrorist financing. The changes necessary for harmonization with the EU acquis are becoming apparent, and the results will primarily be reflected in statistics related to suspicious money laundering and terrorist financing transactions. The effectiveness of recent legislative changes will be evaluated by analyzing key provisions of current laws concerning national risk assessment, the scope of obligated entities, reporting of transactions to relevant authorities, as well as estimating their impact on the seizure and confiscation of illegally acquired assets.

In 2019, the Financial Intelligence Unit of Montenegro underwent a significant organizational restructuring. It transitioned from an administrative model established since its inception to a police model with all its specific characteristics. While every system has pros and cons, it is crucial to ensure that the intent to detect illegal activities does not compromise the system's effectiveness. Therefore, the adage "less is more" becomes relevant. Such an attitude should form the ground for understanding the concept, or rather the essential base of due diligence, highlighting the need to increase awareness about the importance of money laundering prevention and, consequently, the vital nature of risk assessment.

Keywords:

money laundering, due diligence, suspicious transactions, risk assessment, corruption, drug

1. Introduction

Montenegro declared its independence on June 3, 2006, following a referendum held in May of the same year. Shortly thereafter, the European Union (EU) established relations with Montenegro as a sovereign and independent state. In October 2007, Montenegro signed a Stabilization and Association Agreement with the European Communities and their Member States, along with an Interim Agreement covering trade and trade-related matters.

In 2008, the Government of Montenegro adopted its National Programme for Integration into the EU (European Commission 2010), outlining the short-term and medium-term priorities for adopting the EU acquis. The same year, Montenegro submitted its application for EU membership. In 2010, the European Commission issued a positive opinion on its application, and the European Council granted the country candidate status. The official negotiation process for EU membership commenced in 2012, involving a series of dialogues between Montenegro and individual EU member states.

On the path to EU accession, Montenegro has committed to meeting specific political and economic criteria. The political criteria are of the utmost importance, encompassing several key areas that pose significant challenges: corruption, public procurement, privatization, spatial planning and the construction sector, conflicts of interest, political party financing, the electoral process, judicial reforms, and media freedom. Corruption remains a major obstacle, consistently ranking high on Transparency International's corruption perception index (Transparency International 2025). Despite various efforts to address this issue, Montenegro had only temporarily closed three out of the 35 chapters related to EU accession as of 2021. However, Montenegro 2024 Progress Report (European Commission 2024) indicates positive developments toward adopting the EU acquis.

The prevention of money laundering and terrorist financing (AML/TF) is a fundamental area that requires necessary changes to align with the EU acquis. Montenegro is moderately prepared and has made good progress, particularly with the recent legislative amendments concerning money laundering and human trafficking. However, several measures and new legislative changes were necessary to combat organized crime and drug smuggling (European Commission 2010), which remain the most prominent high-risk predicate offenses. This conclusion is further supported by the National Risk Assessment (Government of Montenegro 2021), which identifies other significant threats, particularly the criminal activities that pose the greatest risk.

2. Vertical Cross-Section of the Risk Based Approach

Montenegro has significantly enhanced its legislation on AML/TF in response to identified weaknesses. In 2023, notable progress was made with the adoption of the new Law on the Prevention of Money Laundering and Terrorist Financing (AML/TF Law), aimed at ensuring compliance with Directive (EU) 2015/849 (2015) and Directive (EU) 2018/843 (2018). The amendments to this law entered into force in July 2024. In addition to the AML/TF Law, Montenegro has introduced other important legislation, including a new Criminal Procedure Code, amendments to the Criminal Code, the Law on the Prevention of Conflicts of Interest, the Law on the Financing of Political Parties, and the Law on Civil Servants and State Employees.

A Strategy for Fighting Corruption and Organized Crime was adopted in 2005, accompanied by two Action Plans. Furthermore, it is noteworthy that in 2019, the financial intelligence unit shifted from an administrative to a police model. This significant change is expected to reshape how suspicious transaction reports are perceived and influence attitudes toward predicate offenses, enhancing the unit's effectiveness in combating financial crime.

Montenegro has implemented several measures to improve its legal and regulatory framework. The most significant of these is the adoption of the new AML/TF Law, which includes substantial upgrades to the capabilities of the Financial Intelligence Unit (FIU). Additionally, the Central Bank of Montenegro has established a risk-based supervisory framework for banks and other financial institutions. Although two National Risk Assessments were conducted in 2015 and 2021, along with several specific risk assessments, further efforts are necessary to deepen the understanding of key threats and vulnerabilities.

Risk assessment is a crucial part of the AML/TF system, and it includes two main components: a thorough evaluation at the national level and a customized assessment for each obligated entity. This dual approach enables effective risk identification and mitigation, protecting systems from potential threats.

2.1. National-Level Risk Assessment: The Key Risk Factors

To fully grasp the fundamental assumptions of the national risk assessment, it is essential to take a preliminary step by examining the broader context of Montenegro. This involves analyzing predicate offenses and risk assessment process, as well as identifying the main threats and vulnerabilities the country faces.

The Fifth Round Mutual Evaluation Report (MONEYVAL 2023) highlights the significant impact of Montenegro's strategic geographical location on critical issues such as drug smuggling, migrant trafficking, tobacco smuggling, arms trafficking, and human trafficking. The Report identifies ten high-risk organized crime groups that operate internationally, exploiting the system to engage in criminal activities. These groups have infiltrated various sectors, including real estate market, the hospitality, service industries, and gaming sectors by manipulating ownership structures. Moreover, they are utilizing virtual assets and the dark web which completes the list of areas with high or medium risk for money laundering.

Montenegro serves as a significant waypoint along the renowned "Balkan route," an important passage for drug trafficking across Europe (MONEYVAL 2023). This strategic route is essential for the transport of opiates from Afghanistan to Western and Central Europe. Additionally, it plays a crucial role in the distribution of marijuana and cocaine to various European markets, highlighting Montenegro's key position in the intricate network of international drug trade.

The National Risk Assessment (2021) identified several threats, including international drug trafficking, loan sharking, and tax evasion. Notably, corruption, serious murders linked to organized crime, and national-level drug trafficking are classified as medium-risk areas, even though they are considered high-priority concerns from a political standpoint. In contrast, property crimes, illegal migration, and human smuggling are categorized as low-risk areas.

In addition to the significant role that predicate offenses, such as those committed by organized crime groups and drug trafficking, play in AML/TF enforcement measures, MONEYVAL special concerns are devoted to corruption. It considers corruption in two contexts: as a contextual factor that affects the effective functioning of the structural elements of the AML/TF regime, and as a general money laundering threat to the country. According to Transparency International's 2023 Corruption Perceptions Index, Montenegro is ranked 63 out of 180 countries, with a score of 46 out of 100. This low score can be attributed to the lack of improvements in institutional and legal frameworks aimed at combating corruption, the practice of withholding information from the public, and concerns about judicial independence. Furthermore, the Group of States Against Corruption (GRECO) highlights that despite several reforms intended to address corruption, it remains a serious issue across the public, private, and business sectors (GRECO 2022).

Montenegro has confiscated some proceeds from serious crimes, including organized crime, drug trafficking, and corruption. However, the total value of confiscated assets related to high-risk offenses, such as drug trafficking by Montenegrin organized crime groups and high-level corruption, remains relatively low (MONEYVAL 2023).

2.2. Risk Assessment at the Level of Obliged Entities

The National Risk Assessment serves as the foundation for developing risk assessments at the level of individual obliged entities, specifically regarding AML/TF methodology. This methodology is based on identified risks and aims to enhance the efficiency of resource allocation for the control, mitigation, and management of those risks. The 2021 National Risk Assessment evaluated the risks faced by both the financial and non-financial sectors. In the financial sector, no high risks were recorded; instead, the risks were classified as medium, which includes the banking sector, capital markets, and leasing activities.

In contrast, the non-financial sector presents a different scenario. It is characterized by a high-risk profile, particularly among professionals such as lawyers and those involved in real estate activities, including investment, trading, and brokerage. Individuals engaged in marketing and consulting related to business management, as well as organizers of games of chance, fall into the medium-high risk category. Other participants in the non-financial sector are considered medium risk. This classification emphasizes that the non-financial sector is particularly appealing to potential money launderers for various reasons and underscores the necessity for enhanced preventive measures.

3. Suspicious Transactions: Critical Risk Factors to Consider

Suspicious transactions are a fundamental aspect of AML/TF efforts. Due to their complex nature, defining these transactions can be challenging, and existing prevention systems often lack clear guidelines for such definitions. Obligated entities must pay particular attention to transactions that are complex, unusual, or large, as well as any transaction patterns that appear unusual and lack an evident economic or lawful purpose (FATF 2023). Ultimately, the AML/TF framework is based on transactions that the obligated entity has identified as suspicious through its due diligence processes.

In order to determine whether transactions or activities are unusual or suspicious, obligated entities are required to increase the degree and nature of monitoring of the business relationship. For higher-risk business relationships, they must apply indicators of suspicious transactions and implement enhanced customer due diligence measures (Official Gazette of Montenegro 2024).

The required suspicion attribute will not be treated uniformly in all cases. While the court seeks stronger foundations and expect the suspicion to extend beyond mere speculation, it should be grounded on some substantial evidence. The proactive measures taken by the obliged entities and the FIU result in the interpretation of suspicion being somewhat personal and subjective, which does not meet the standard of proof based on firm evidence (Bazley and Foster 2004). Consequently, it follows that a risk-based approach is the most effective method for determining the level of suspicion and justifying reports to the FIU, along with a thorough assessment of the timing for applying enhanced due diligence.

The primary goal of the risk-based approach methodology is to efficiently mitigate money laundering risks while maximizing the benefits of the efforts involved. Importantly, this approach recognizes that there can be multiple solutions to a problem and that any chosen solution must be commercially viable. Furthermore, various elements of a control system can enhance its effectiveness, and different combinations of due diligence procedures can each provide a reasonable level of protection (Gough 2005). Additionally, it's not only transactions that can raise suspicions (Hopton 2006); the context, actions, or circumstances surrounding these transactions can play a significant role as well. Consequently, it can be concluded that whenever an obliged entity knows, suspects, or has reason to suspect, it must be processed as a suspicious transaction (Richards 1999). Such transactions should be reported to the FIU for further analysis or forwarded to law enforcement agencies for subsequent procedures.

3.1. Suspicious transactions: Money Laundering Typology

The AML/TF Law of Montenegro establishes a vital framework for defining suspicious transactions, recognizing a variety of factors that can indicate when a transaction or individual may be deemed suspicious. While these transactions serve as a crucial basis for taking further action and identifying those involved in predicate offenses or ML/TF, the primary objective is for obligated entities to refrain from conducting such transactions while providing the financial intelligence unit with the most urgent information on the due diligence.

Regarding peculiarities of Montenegro's AML/TF Law, it's important to consider additional variables outlined in Article 66. Specifically, the law mandates the submission of due diligence measures for all non-cash transactions exceeding 100,000 euros, alongside cash and suspicious transactions. This requirement raises questions about the categorization and ultimate purpose of these transactions, which could lead to an increase in the number of open cases as well as improvements in their processing quality.

Given the crucial importance of suspicious transactions, Table 1 presents the total number of reports submitted by obliged entities. These reports form the basis for further actions by the FIU and facilitate the sharing of vital information with the relevant law enforcement authorities. In addition to cash transactions, the table includes data on the number of investigations, indictments, and convictions related to money laundering cases, as statistics on the financing of terrorism are negligible.

Table 1. The number of reported suspicious and cash transactions, along with the actions taken by the law enforcement authorities, during the period from 2017 to 2022.

YEAR	*Number of STRs* received by the FIU*	*The number of cases analyzed by the FIU*	*Number of STRs/SARs** triggering dissemination to the LEAs****	*Number of CTR**** received by the FIU*	*ML***** investigations*	*ML indictments*	*ML convictions*
2017	203	339	37	31.908	7	1	0
2018	217	332	48	32.845	3	1	0
2019	240	364	21	35.801	3	3	2
2020	241	463	58	26.107	5	5	0
2021	298	561	75	30.978	5	2	2
2022	321	443	38	45.193	2	3	0

Source: based on the MONEYVAL report as created by the authors

* STR - Suspicious Transaction Report; ** SAR - Suspicious Activity Report; *** LEA - Law Enforcement Authority; **** CTR - Cash Transaction Report; ***** ML - money laundering

The financial sector, particularly banks, is the main source of STRs, highlighting the importance of risk assessments based on established risk factors. In contrast, the level of reporting in non-financial sectors is low, especially among high-risk industries such as legal professionals, notaries, providers of company services, and casinos.

It is important to highlight that financial intelligence is primarily used to develop evidence and trace the proceeds of crime; however, it is not sufficiently utilized to identify and investigate money laundering or provide strategic analysis. An analysis of the usability of STRs submitted mainly by banks reveals that a significant portion of these reports are being disseminated. Specifically, 18% of all STRs submitted during the review period were shared with foreign FIUs, supervisory bodies, open-source platforms, police requests, and other entities. Additionally, STRs serve as the main catalyst for dissemination by the FIU to the relevant authorities in Montenegro (MONEYVAL 2023).

FIU has demonstrated a positive trend regarding predicate offenses by frequently not identifying a specific underlying crime. This indicates the FIU's readiness to submit reports based solely on suspicions of money laundering that arise from observed typologies or other concerning intelligence, even when the underlying crime is not determined. When the FIU did identify a suspected underlying crime, the most common categories were tax evasion (22%), drug trafficking (14%), fraud (13%), and abuse of office in business operations (13%). These findings are largely consistent with ML/TF risk profile of Montenegro (MONEYVAL 2023).

The initial reports of suspicious transactions reveal a concerning number of investigations, indictments, and judgments. However, these figures are relatively low compared to the volume of convictions for high-risk offenses. Prosecutors often prioritize the confiscation of crime proceeds over investigating and prosecuting related money laundering cases (MONEYVAL 2023). There appear to be significant gaps in coordination among law enforcement agencies, particularly during the initial phases of investigations, evidence collection, and even in the prosecution and trial stages. Additionally, the number of reported cash transactions during the observed period varies significantly, especially during the COVID-19 pandemic years. In 2019, Montenegro's FIU transformed from an administrative to a police model, clarifying some trends identified in the analysis.

Table 2. Numerical indicators of seized assets, confiscated money, and temporary suspension of transactions during the period from 2017 to 2022.

Year	*Number and type of assets seized in ML cases (in EUR)*			*Temporary suspension of transactions by FIU and Prosecutors*		*Confiscated money (in EUR) through Criminal Code*
	Money on bank accounts	Cash	Cash, based on FIU initiative	Number of Suspension of transactions by FIU	Value of assets involved (in EUR)	
2017		7,822,007	4,761,507	19	8,669,440	23,582,545.2
2018	63,825,888		11,167,463	22	8,299,078	6,097,351.93
2019	165,800	1,095,063	2,639,429	9	7,657,010	1,756,057.59
2020		2,685,530	664,724	40	3,166,019	483,654.52
2021	6,743,648	284,242	6,322,013	12	3,737,358	714,945
2022	173,153	746,756	4,777,264	16	9,174,249	358,302.38

Source: based on the MONEYVAL report as created by the authors

Table 2 illustrates the effectiveness of actions taken by the competent authorities, highlighting the significant amounts of assets seized between 2017 and 2022. However, when comparing the numerical indicators of asset seizures with cases of convictions for selected high-risk crimes (as presented in MONEYVAL, table 3.20, p. 96), it becomes evident that the relatively low ratio indicates that asset seizures are not being implemented consistently or effectively enough.

In relation to the confiscation of money through the Criminal Code's confiscation mechanism, several predicate offenses are involved, including fraud, tax evasion, creation of a criminal organization, and abuse of office in business operations. Other predicate acts include unauthorized production, possession, and distribution of narcotic drugs, unlawful possession of weapons and explosive substances, and human smuggling. Notably, there is only one case of money laundering, which involves the confiscation of USD 20,000 (Case No. 3.7: F.S. Case).

It is essential to emphasize that the current criminal penalties for AML/TF are alarmingly inadequate, both in terms of financial penalties and the overall number of prosecutions. The lack of effective, proportionate, and deterrent measures undermines the integrity of efforts to combat these serious crimes. To strengthen the fight against money laundering, it is essential to revise the sanctioning policy. Implementing these changes will not only enhance the enforcement of criminal sanctions but serve as a significant deterrent against future offenses as well, ultimately leading to a more robust and effective response to financial crime.

4. Conclusion

The EU acquis has posed significant challenges for Montenegro, requiring the country to meet various substantive and procedural demands. However, Montenegro has demonstrated commendable determination to meet these expectations, particularly in the critical area of AML/TF.

Montenegro's AML/TF framework stands out as robust and effective, demonstrating a clear understanding of the risks associated with ML/TF. The emphasis on international cooperation within this framework is commendable, as it promotes a unified approach to tackling financial crime. Identifying and analyzing key risk factors in suspicious transactions is imperative for effectively preventing money laundering. A thorough understanding of these factors enables timely and decisive action, ensuring robust protection for financial systems. Comprehensive analysis is not only beneficial; it is essential for maintaining the integrity of the financial environment and proactively combating financial crime.

Nonetheless, Montenegro urgently needs to strengthen its efforts in several critical areas. A stronger focus on investigations, prosecutions, and final convictions for money laundering is essential to align with the country's risk profile. By enhancing these efforts, Montenegro can significantly improve the effectiveness of its AML/TF system and elevate its reputation globally. Investing in these improvements is both a strategic necessity and a commitment to fostering a safer, more transparent financial environment, greatly impacting all of Europe.

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