

# THE ROLE OF THE FINANCIAL INTELLIGENCE OFFICE OF THE REPUBLIC OF NORTH MACEDONIA IN THE FIGHT AGAINST ECONOMIC CRIME

**Muazam HALILI<sup>1</sup>, Naser ETEMI<sup>1</sup>, Blerta AHMEDI<sup>2</sup>**

<sup>1</sup> PhD University of Tetova, Faculty of Law, Criminalistics program, the Republic of North Macedonia

<sup>2</sup> PhD South East European University, Faculty of Law, the Republic of North Macedonia

\*Corresponding Author e-mail: muzam.halili@unite.edu.mk, naser.etemi@unite.edu.mk, blerta.arifi@seeu.edu.mk

---

## Abstract

The subject of study in this paper is the Financial Intelligence Office of the Republic of North Macedonia, and its role in fighting against economic crime. In fact, the paper will analyze the methodology of the acting of this institution and inter-institutional cooperation in the fight against economic-financial crime. In this context, the legislation that foresees the way of acting of this institution is going to be analyzed, emphasizing also concrete observations that the authors of this paper have in terms of fulfilling some competencies that this institution should have.

The paper will also present some practical examples, from which in a more concrete way the content or compilation of a report prepared by the Intelligent Financial Office can be seen, its processing in the relevant units of the Ministry of Internal Affairs, where should be taken measures for resolving the criminal act.

From the academic and practical point of view, this paper is relevant because it deals with a topic, which we rarely encounter in the literature with a security character, and even less about the role and responsibilities that this institution has in the fight against economic crime. Based on this point of view, this paper will serve all officials who deal with the problems of economic and financial crimes, where they will enrich their knowledge on this very deep-rooted institution, considering its acting and role in the war against economic-financial crime. This knowledge will help them in the future to cooperate and consult on various issues, with the aim of coordination and cooperation between them, in the fight against economic-financial crime.

Based on what was emphasized above, as well as the insufficient treatment of this problem, we are of the opinion that through this paper we will achieve a modest contribution in the scientific and practical level.

*Keywords:* Financial Intelligence Office, money laundering, inter-institutional cooperation, financial report.

---

## 1. The notion and understanding of the intelligence service

The intelligent service is a special body of the state administration whose role is the collection of information of a different nature, their analysis, processing, and classification, in creating the intelligent product which they deliver to the state representatives who are competent for it.

As general characteristics of the intelligent service, we can single out:

- Acts in the direction of realizing the vital interests of the state;
- During its activity, it applies secret methods;
- Apply methods that differ from the methods of other security bodies;
- It is worth prioritizing professionalization and specialization;
- Their purpose above all is preventive influence;
- Apply sophisticated technology in their scope;

In addition to the routine work that this Institution has in accordance with the Constitution and other legal and by-laws; in certain situations, from competent bodies (president of the state, head of government, or other bodies depending on the legal regulations of the specific country) they receive certain tasks, which they carry out in accordance, and address the achieved results in the direction of the bodies from where they received the tasks. Not infrequently, for the realization of certain tasks, the Intelligent Service cooperates with other bodies that are mostly of a security nature, but also with other bodies such as the Minister of Justice, Foreign Affairs, etc.

In principle, Intelligent services are divided into National and supranational intelligent Services. National Intelligence Services are those services that operate in the guise of a state, while supranational intelligence services are those services that function in the guise of any supra-governmental or supranational organization such as the European Union or NATO.

The main difference between them is that:

- The supranational intelligence service does not operate under the direction of individual states, but under the direction of joint bodies that function in the concrete international organization;
- The final or intelligent product is handed over to common bodies that operate in common ways, not to individual states;
- The intelligent product has a universal character, first of all in the interest of maintaining peace in the world, the stability of the states that make up the organization, as well as other characteristics, but always and mainly in the broader perspective.

In addition to this division in the literature, we also encounter other divisions depending on the perspective of the analysis. If the analysis is done from the organizational point of view, we distinguish between independent (autonomous) intelligent services and intelligent services that operate under the guise of a specific institution, such as the respective ministries.

In the context of the intelligent services that operate in the particular ministries, in the Ministry of Finance of the Republic of North Macedonia, we have the Financial Intelligence Service that is the subject of elaboration in this paper, the characteristics of which will be expanded on below.

## **2. The Financial Intelligence Service in the Republic of North Macedonia in the perspective of inter-institutional cooperation in the fight against economic-financial crime**

The Financial Intelligence Service is a very important institution within the Ministry of Finance, perhaps it is responsible for researching, collecting, analyzing and distributing to the competent institutions (the Minister of Internal Affairs, the Financial Police, the Director of Customs) the information it possesses in relation to criminal offenses related to money laundering, financing of terrorism as well as fiscal evasion.

The purpose of its establishment is to collect and analyze reports of suspicious transactions and other important information for the prevention and detection of money laundering and financing of terrorism, fiscal evasion and submission of the results of the analysis, and other relevant results to authorized bodies when it comes to suspicions based on money laundering and financing of terrorism.<sup>1</sup>

In more detail, the powers of the Financial Intelligence Service are provided in Article 75 paragraph 3 of the Law on the Prevention of Money Laundering and Terrorist Financing<sup>2</sup> which are:

- collects (provides), processes, analyzes, stores and presents data received on the basis of this

<sup>1</sup> Article 75 paragraph 1 of the Law on Prevention of Money Laundering and Financing of Terrorism, Official Gazette of the RNM, nr. 151 from 4.7.2022

<sup>2</sup> *ibid.*

law;

- provides data, information and documents, necessary for the performance of its activity;
- Prepares and submits reports to the authorized state bodies, whenever there are suspicions based on the commission of the criminal offense of money laundering and terrorist financing;
- Prepares and submits reports to the authorized state bodies when there are reasonable suspicions about the commission of other criminal offenses;
- issues a written order to the economic entity with which it temporarily suspends the transaction;
- Submits a request to the relevant Prosecutor, with a proposal to define temporary measures;
- submits a request for the submission of a proposal for determining temporary measures to the competent public prosecutor,
- submits an order to the economic entity for monitoring (tracking) the business relationship;
- Issue payment orders for misdemeanors;
- Submits a request to the competent court for initiation of criminal proceedings;
- prepares strategic analyzes to determine the trends and typologies of money laundering and terrorist financing;
- cooperates with the subjects from Article 5 of this law, with the Ministry of the Interior, the Ministry of Defense, the Ministry of Justice, the Minister of Foreign Affairs, the Public Prosecutor of the Republic of North Macedonia, the Intelligence Agency, the National Security Agency, the Director of the Financial Police, the Director of Customs, the Director of Public Revenues, the State Fiscal Inspectorate, the Securities Commission, the People's Bank of RMV, the Agency for the Supervision of Pension Insurance with Capital Financing, the Agency for the Supervision of Insurance, the State Commission for the Prevention of Corruption, the State Auditing Body, the Central Registry of the Republic of North Macedonia and other state authorities and institutions, as well as with organizations, institutions and other international bodies for the fight against money laundering and terrorist financing;
- concludes cooperation agreements and exchanges data and information with the financial intelligence units of other states and international organizations involved in the fight against money laundering and terrorist financing;
- carries out independently or in cooperation with the supervisory authorities from Article 151 of this law the supervision of the subjects for the implementation of the measures and actions defined by this law;
- participates in the national risk assessment approach of money laundering and terrorist financing and performs a risk assessment on several categories of subjects;
- initiates initiatives or gives opinions on laws and by-laws related to the prevention of money laundering and terrorist financing;
- can help in the professional development of authorized persons and employees in the department of prevention of money laundering and financing of terrorism in the subjects of Article 5 of this law;
- determines the lists of indicators for the recognition of suspicious transactions in cooperation with the subjects and bodies that supervise their activity and regularly updates them;
- plans and implements trainings for the improvement and perfection of Financial Intelligence Service employees;
- implements activities aimed at raising the awareness of the non-governmental sector about the risks of their possible abuse for the purposes of financing terrorism;
- provides clarifications in the implementation of regulations for the prevention of money laundering and financing of terrorism;

- keeps records, as well as comprehensive statistics for the purposes of evaluating the efficiency of the system to combat money laundering and terrorist financing;
- acts in accordance with the provisions of the Law on restrictive measures and by-laws, the acts approved on its basis and
- performs other work defined by law

The law that regulates the scope of the Financial Intelligence Service also foresees other subjects that must give their contribution in this direction. It divides such subjects into two categories and that:

- Financial institutions and subsidiaries, branches and business units of foreign financial institutions which, in accordance with the law, operate in the Republic of North Macedonia.
- Legal and natural persons who engage in some service professional activities, such as Law offices, notaries, auditing and accounting services; giving advice in the field of taxes, etc.<sup>3</sup>

These entities are given instructions by the Financial Intelligence Service on how to act during their work, especially in suspicious cases of money laundering. At the same time, it compiles such lists, where some indicators are provided, which give clues to suspicious transactions. These entities are obliged to analyze the customer, in some specific cases, such as if we have a transaction of 15,000 euros or more, against the denar according to the average exchange rate of the People's Bank of the Republic of North Macedonia, regardless if the transaction is carried out as one operation or several operations that are clearly interconnected, etc.<sup>4</sup> Also, these subjects in certain situations if they suspect that the transactions involved money laundering or financing of terrorism, or there were attempts for something like that, regardless of the amount of the transaction, they are obliged to provide the data they possess along with

your documentation deliver the Financial Intelligence Service.<sup>5</sup> They have such an obligation even in cases where they suspect that the property possessed by a specific person has its source from illegal actions.<sup>6</sup>

If the subject has become aware of the reasons for the suspicion before the transaction, he is obliged to immediately notify the Director of the Intelligent Financial Service and to hold the transaction for a maximum of two hours from the notification to the Director of the Intelligent Financial Service.<sup>7</sup>

If the subject has become aware of the reasons for suspicion during the transaction, he is obliged to immediately notify the Director of the Intelligent Financial Service and keep the transaction for a maximum of four hours from the latter's notification.<sup>8</sup>

If the administration does not notify the subject of further activities within the specified time limits, the subject may perform or reject the transaction.<sup>9</sup>

For the realization of its powers, the employees of the Financial Intelligence Service have, at the appropriate time, direct or indirect electronic access to the data, information and documentation available to subjects, state bodies and institutions, as well as other Legal Entities and physical

<sup>3</sup> For more on this, see Article 5 of the Law on Prevention of Money Laundering and Financing of Terrorism, Official Gazette of the RNM nr 151, from 4.7.2022.

<sup>4</sup> For more on this, see Article 13 of the Law on Prevention of Money Laundering and Financing of Terrorism, Official Gazette of the RNM nr 151, from 4.7.2022.

<sup>5</sup> Article 65, paragraph 1 of the Law on Prevention of Money Laundering and Financing of Terrorism, Official Gazette of the RNM nr 151, from 4.7.2022

<sup>6</sup> *ibid*, point 2

<sup>7</sup> *ibid*, paragraph 2

<sup>8</sup> *ibid*, paragraph 3

<sup>9</sup> *ibid*, paragraph 6

persons, in accordance with the provisions of this law.<sup>10</sup>

The Financial Intelligence Service performs the tasks of its competence in accordance with the law and ratified international agreements that regulate the prevention of money laundering and terrorist financing.<sup>11</sup>

Once a year, the Financial Intelligence Service prepares a report on the issues within its competence and the work program for the following year and presents it to the Minister of Finance and the Government of the Republic of North Macedonia. He can present another report if requested by the Minister of Finance or the Government of the Republic of North Macedonia.<sup>12</sup>

Practice has shown that the greatest success in the fight against economic and financial crime is achieved when we have genuine inter-institutional cooperation between the bodies that directly fight crime, as well as other bodies, whether they are inspectorates or other bodies of a state and private nature.

A special cooperation that should be emphasized and that has recently been given a lot of importance is the cooperation of the Financial Intelligence Service with the bodies that directly fight crime. In fact, as we emphasized above, this institution, which functions under the guise of the Ministry of Finance, has legal authorizations based on the law on money laundering and terrorist financing, to follow all suspicious transactions, making other verifications such as the work relationship of the suspect, his wealth recorded in the competent bodies, etc., and finally, for known cases, I compile a concrete report, which he submits to the bodies that directly fight crime. On the contrary, the bodies that directly fight crime cooperate with the Director of Financial Intelligence, in such situations where it is necessary to obtain certain information related to the criminal offense of money laundering.

In the following, we will highlight a concrete example, where the Financial Intelligence Service is the representative of the case known to the police bodies.

### **Practical examples:**

#### **Example**

*Whistleblower, Financial Intelligence Agency,*

*The Financial Intelligence Agency, during the verifications made, has come to some conclusions related to the suspicion of the EE person, for the criminal offense of money laundering or tax evasion. According to the report compiled by the Financial Intelligence Agency, the person EE, through the fast money transfer agency, has received several times sums of money from different people with a total value of 31,000.00 euros for the year 2022, without showing the true reason for the acceptance of this money. During the verifications made by the Department for Economic Crimes of SPB-Tetovo, it was proven that the person in question had offered some services to the people in question through the Internet, for which he was paid with different amounts starting from 50 to 300 euros depending on the specific service. For the same person, it was verified in*

<sup>10</sup> Article 75, paragraph 4 of the Law on Prevention of Money Laundering and Financing of Terrorism, Official Gazette of the RNM nr 151, from 4.7.2022

<sup>11</sup> *ibid*, paragraph 5

<sup>12</sup> *ibid*, paragraph 7

*the Director of Public Revenue, how much money he submitted to this institution and whether he paid personal income tax in accordance with the Law on personal tax.<sup>13</sup>*

*From the verifications made, it appears that the person in question had not presented the income of 31,000.00 euros for the year 2022, ignoring and disregarding the obligation to pay personal income tax in the amount of 10% of the total annual amount of personal income. Based on this, a criminal charge was filed against him for the criminal offense of Fiscal Evasion in accordance with Article 279 paragraph 1 of the Criminal Procedure Code, in relation to Article 2, 3, 9 and 12 and 94-d of the Law on Income Tax personal.<sup>14</sup> With this incriminating action, the suspect has damaged the state budget in the amount of 3,100.0 euros, which in fact, according to the legal provisions of the RMV, is considered a large amount, which provides for criminal sanctions. (clarification, a large amount according to article 122 paragraph 34 is considered the amount corresponding to the average income tax in the RMV at the time when the offense occurred. If the tax liability is below this amount, the person in question is exempt from this criminal sanction.*

*What conclusions can we draw from this case:*

- a) First in the applicant's cell, we have the Financial Intelligence Agency;*
- b) Second, the report of the Financial Intelligence Agency must be analyzed and verified to see the fulfillment of the elements for specific criminal offenses such as Money Laundering or Fiscal Evasion;*
- c) Third, not every tax evasion implies criminal sanctions according to Article 279 of the KP of the RMV. In fact, some conditions must be met, among which is the amount of the minimum tax obligation to be of a large value, which according to the legal provisions of the RMV, means 5 average wages in the RMV, at the time of committing the criminal offense;*
- d) Fourth, for verification of payment of the relevant tax, information is sent to the Public Revenue Directorate.*
- e) Fifth, the criminal sanction for fiscal evasion provided for under article 279 of the KP of the RMV, is related to disregarding the relevant articles of the Tax Law, which in this case is the Personal Income Tax Law.*

## **Conclusions and recommendations**

- The financial intelligence service plays an extremely important role above all in the detection of criminal situations related to money laundering and tax evasion.
- The bodies that fight this type of crime, such as the Police, the Prosecutor's Office, etc., during the analysis of the report compiled by this institution, may also discover other crimes, such as Violation of copyright, perhaps in recent times, many natural and legal persons, without the relevant permission, distribute television shows in an unauthorized manner to various citizens, for certain sums of money. So even though this institution has no business dealing with this criminal offense, the same exact verifications made in terms of financial transactions highlighting the names of the persons who issued the money as well as the places from where the money was issued, give an indication of another criminal offense. that in most cases, after the police take criminalistic measures, (raids, checks, operational information) they come to the

<sup>13</sup> Law on Personal income tax, Official Gazette nr.80/93, 71/96, 28/97, 8/01, 50/01, 52/01, 2/02, 44/02, 96/04, 120/05, 52/06, 139/06, 6/07,160/07, 159/08, 20/09, 139/09, 171/2010, 135/2011, 166/2012, 187/2013, 13/2014, 116/2015, 129/2015, 199/2015, 23/16 and 190 of 25.12.2017

<sup>14</sup> ibid

conclusion that it is a criminal offense Violation of copyright and related rights provided for in Article 157 of the Criminal Code of the RMV , a in relation to article 56 and 57 of the Law on audio and audiovisual media services.

- Taken in general, the legislation that regulates its scope is voluminous and in some cases not very clear, therefore, thanks to this, it would be recommended that the same be more precise and concise with the aim of not causing confusion to the implementers of this law.

- As another recommendation that I would say is of special importance, it is the increase of the powers of this institution that currently possess the bodies that directly fight crime. This is perhaps, at the moment the Financial Intelligence Service, in addition to collecting information aimed at suspected cases of money laundering, compiling a relevant report on the basis of which it submits to the competent bodies that should further clarify and document the case in question, the interference there are no others. So it would be much more efficient if this institution that has discovered the case or has certain doubts about the specific case, with which it is in progress, continues with other criminal activities to clarify and document the case, and that at the moment it is not possible, perhaps not there are legal authorizations for such a thing.

## References

- [1]. Clifford, Ralph D.(2006) Cybercrime: The Investigation, Prosecution and Defense of a Computer-Related Crime Second Edition. Durham, North Carolina Academic Press.
- [2]. Cope, N. (2004), Intelligence led policing or policing led intelligence?, British Journal of Criminology
- [3]. Svetlana Nikolovska, Методика на истражување на економско финансискиот криминалитет, Скопје, 2013
- [4]. Dylan ,H&Goodman,M.(2014)Guide to Study Intelligence: British Intelligence.AFIO's Intelligencer Journal
- [5]. Fisnik Sadiku, Të kuptuarit e sistemeve të inteligjencës, Mitrovica, 2015
- [6]. Michael Herman, Моќта на разузнавањето во мир и војна, Akademski pecat, Skopje, 2009
- [7]. Metodija Dojcenovski, Разузнавачки операции,Solaris Print, Ferdinand Ocakov, Skopje ,2010
- [8]. Quarmby.N (2004) Future Work in strategic criminal intelligence v: Strateging Thinking in Criminal Intelligence Sydney. The Federation Press
- [9]. Tome Batkovski, Разузнавачка безбедносна контраразузнавачка тактика, Skopje, 2008
- [10]. Tomas Kviggin, Да се види невидливото, Разузнавањето за националната безбедност во несигурно време Магор, Skopje, 2009
- [11]. Zlate Dimovski, Криминалистичко Разузнавање, Faculty of Safety, Skopje, 2016
- [12]. Law on Personal income tax, Official Gazette nr.80/93, 71/96, 28/97, 8/01, 50/01, 52/01 , 2/02, 44/02, 96/04, 120/05, 52/06, 139/06, 6/07,160/07, 159/08, 20/09, 139/09, 171/2010, 135/2011, 166/2012, 187/2013, 13/2014, 116/2015, 129/2015, 199/2015, 23/16 and 190 of 25.12.2017
- [13]. Law on Prevention of Money Laundering and Financing of Terrorism, Official Gazette of the RNM nr 151 from 4.7.2022