

MONEYVAL: Fifth Round Evaluation Report on Ukraine



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News

On 30 January 2018, Moneyval published its [fifth round evaluation report on Ukraine](#) (for the accompanying press release, see [here](#)). Moneyval calls for more dissuasive sentences for the relevant crimes, more resources, and the need to investigate and prosecute high-level cases more actively.

The executive [summary of the report](#) states that the country faces significant ML risks, with corruption and illegal economic activities (including fictitious entrepreneurship, tax evasion, and fraud) being the major ML threats. One of the prevalent mechanisms is the so-called conversion center through which funds are siphoned from the real into the shadow economy. Corruption generates substantial amounts of criminal proceeds and seriously undermines the effective functioning of certain state institutions and the criminal justice system. Among the positive initiatives since the last evaluation, MONEYVAL mentions the adoption of a dedicated law in 2014 to strengthen the procedure of financial monitoring and enhance efforts to fight corruption through the establishment of the National Anti-Corruption Bureau of Ukraine and the National Corruption Prosecutors Office. Further significant statewide measures to mitigate the risks are currently being implemented, but law enforcement focuses more on the inception phase. The authorities have a reasonably good understanding of ML and FT risks, but there is room for improvement in areas such as cross-border risks, risks posed by the non-profit sector, and legal persons. The country should address the risks posed by fictitious entrepreneurship, the shadow economy, and the use of cash, all of which are considered to pose a major ML risk.

The Ukrainian FIU generates financial intelligence of a high order and produces good-quality operative analysis. Additionally, spontaneous case referrals regularly trigger investigations into ML, associated predicate offences, or FT. Law enforcement agencies also seek intelligence from the FIU on a regular basis. The report states, however, that the FIU's IT system is out-dated, and staffing levels are no longer adequate to deal with the workload. Reporting appears to be in line with the country's risk profile and has resulted in a significant number of case referrals to law enforcement agencies.

ML is considered an adjunct to a predicate offence, which requires a conviction for the predicate offence and almost always results in more lenient sentences. Therefore, MONEYVAL experts recommend introducing a provision into the Criminal Code, which would clearly state that a person might be convicted of ML, even in the absence of conviction for predicate offence.

The National Bank of Ukraine (NBU) has a good understanding of risk and applies an adequate risk-based approach to the supervision of banks. The application of preventive measures by the banking sector is seen as broadly effective. Steps have been taken to achieve more transparency regarding the beneficial ownership of banks and towards removing criminals from the control of banks. In addition, the NBU has applied a range of sanctions to banks. Nevertheless, significant improvements are necessary on the part of most other

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supervisory authorities in performing their functions and by non-bank institutions and designated non-financial businesses and professions in applying preventive measures.

Since 2014, active steps are being taken against persons with connections to the former Communist regime; resulting in two court convictions so far, one of which was for ML with a significant volume. The report calls for more prosecutions and convictions in cases involving high-level corruption, theft and embezzlement of state assets, not only by persons connected with the former regime, but also by current state officials and their associates.

As far as FT is concerned, since 2014, the Security Services have concentrated on the consequences of international terrorism, which resulted in indictments, but not in convictions. Financial investigations are being undertaken in parallel with all terrorism-related investigations. MONEYVAL stressed that the legal framework is still not entirely in line with international standards, and no FT funds or other assets have been frozen in Ukraine.

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