

JOINT PUBLIC HEARING

“THE USE OF TAX FRAUDS –INCLUDING VAT OR CAROUSEL FRAUD- TO FINANCE TERRORISM”

REPLIES TO QUESTIONS BY ELENA HACH

Ms Elena Hach, representative of the Romanian General Attorney Office in the Board of the FIAU (the National Office for Prevention and Control of Money Laundering)

- 1. There is evidence that terrorist organisations finance their activities with the proceeds of tax (in particular VAT carousel) fraud. Do you have figures to estimate this phenomenon? If no exact figures, can you confirm that it is a common phenomenon?**

In 2013 the Office disseminated 746 intelligence documents towards law enforcement agencies, as follows: 443 documents sent to the Prosecutor`s Office attached to the High Court of Cassation and Justice; 6 documents to the Romanian Intelligence Service; 297 documents to other competent bodies.

In 2014 the Office disseminated 716 intelligence documents towards law enforcement agencies, as follows: 334 documents sent to the Prosecutor`s Office attached to the High Court of Cassation and Justice ; 5 documents sent to the Romanian Intelligence Service; 377 documents to other competent bodies.

In 2015 the Office disseminated 851 intelligence documents towards law enforcement agencies, as follows: 499 documents sent to the Prosecutor`s Office attached to the High Court of Cassation and Justice; 6 documents sent to the Romanian Intelligence Service; 369 documents to other competent bodies.

In 2017 the Office disseminated 1002 intelligence documents towards law enforcement agencies out of which 535 documents sent to the Prosecutor`s Office attached to the High Court of Cassation and Justice, 7 documents sent to the Romanian Intelligence Service, 460 documents sent to other competent bodies.

According to the specific jurisdiction, the investigation of cases pertaining to financing of terrorism is carried out by DIICOT, a specialized directorate within Prosecutor`s Office attached to the High Court of Cassation and Justice. Out of the total workload of this directorate in 2017, the cases pertaining to the financing of terrorism represented a figure of 1%.

Pursuant to the special law on the matter, Law no.656/2002, if there are grounds for suspecting the financing of terrorism a notification shall be sent to the Romanian Intelligence Service.

From the mentioned data it could be noticed that the number of disseminations for financing of terrorism is low, and out of this number the data on financing the terrorism through tax fraud, including VAT, are insignificant.

2. Could you explain as a magistrate how judicial authorities are involved in the fight against tax fraud serving to finance terrorism?

Within DIICOT (Directorate for Investigating Organized Crime and Terrorism) the cooperation on this domain is continuous.

The Section for fighting terrorism and IT crime is specialized on terrorism and has a permanent cooperation with the Service for fighting financial and economic crime within the Section of fighting organized crime.

All the elements arising from the financial and economic crime are monitored as regards the active subjects and possible relations with the terrorist entities or with the countries with a high risk of terrorism.

An important role on this matter is played by the National Office for Prevention and Control of Money Laundering that carefully monitors all the alerts on financing terrorism, by integrating all data generated through overt and covert sources.

3. Could you explain how law enforcement authorities are working together in this field, within Romania and with other EU Member States?

Law enforcement agencies have well defined jurisdictions, and the special jurisdiction on this matters belongs to DIICOT, a body that has the necessary experience for investigating such files. The prosecutor's offices permanently cooperate, without any shortcomings in communication, and each time clues on financing of terrorism are noticed the dialogue is alert and it is materialized by sending the file for investigation to the specialized directorate.

On the same line is the cooperation and collaboration with the financial information unit of Romania, that is compelled to swiftly disseminate the cases when financing of terrorism is suspected.

Exchange of information is frequent at the level of financial unit, for instance, in 2016 the Financial Information Unit of Romania sent information on 416 ISIL cases.

4. From your practical experience in this area, can you explain how cooperation with other Member States' authorities is? Do you consider there are legal or practical obstacles for an efficient cooperation?

It is obvious the heightened global interest on this matter, each state making efforts to improve the cooperation in this domain, for the swift circulation of the related information.

As a matter of principle we must consider the necessity that legal cooperation to be carried out as legal coordination and to cope with the challenges in the field: different procedural systems, ne bis

in idem principle, the length of procedures, geopolitical problems and those issues related to human rights, endemic corruption

5. Can you provide elements relating to cooperation with neighbouring countries in this area?

See the answer for question no. 4

6. Have you seen an evolution in dealing with carousel fraud, based on your magistrate experience?

7. You are kindly invited to share with the committees any additional information or suggestion for new EU rules or practices you might consider relevant and that has not been raised in the questions above.

The access of the law enforcement agencies to the data bases of the financial information unit.
