

## ASSESSMENT OF BUSINESS RISK IN ORDER TO PREVENT MONEY LAUNDERING

Lejla Skopljak, MA, e-mail: [lejla.skopljak@iu-tavnik.com](mailto:lejla.skopljak@iu-tavnik.com)  
Aida Vrbanjac, MA, email: [aida.vrbanjac@iu-travnik.com](mailto:aida.vrbanjac@iu-travnik.com)  
Adela Mujinović, email: [adela.mujinovic@gmail.com](mailto:adela.mujinovic@gmail.com)

*Abstract: Risk is main part of business, and if it is not timely detected and not taken appropriate control activities, risk with its damaging consequences could prevent a successful business. New trends in the exchange of goods, services, money and capital, and the movement of people, get new forms and lose numerous of the existing restrictions. New opportunities are created but also more unknown risks that can not be viewed to the end. More vulnerable national security requires new approaches and solutions of the state against money laundering and abuse of illegal actions. Bosnia and Herzegovina is recognized as a risky country for acquiring illegal assets or the money laundering. Innovation and imagination of people who are dealing with money laundering is unlimited. The variety of possible process of converting illegal money into apparently legitimate, points to the fact that money laundering has complex structure. Banks and other financial institutions occupy first place in the prevention of money laundering, they are also the most exposed to risks of money laundering activities. Prevention measures in this case include the identification of cash and suspicious transactions through risk assessment. The risk assessment approach should be used by all participants in the market trends in order to assess the risk of money laundering that accompanies clients, financial transactions, geographical area, looking for potentially suspicious activity.*

**Keywords:** Money laundering, business risk, financial transactions, suspicious activities

### INTRODUCTION

Bosnia and Herzegovina is recognized as a risky country for money laundering. The diversity of possible processes of converting illicit money into seemingly lawful points to the fact that money laundering is complex in its structure. In order to determine the risk exposure of a taxpayer and to effectively manage this risk, the taxpayer himself must identify each segment of his business in which the threat of money laundering can arise and he must assess his vulnerability in relation to that threat. Risk is continuously identified at all levels of government - from operational to strategic level - all the organizational units of taxpayers are included in this process.

The size and complexity of the obligor's business plays an important role in deciding how attractive or at risk of money laundering is, if the enterprise is large, it is less likely that it will personally know the client, and that client can be significantly more anonymous than if is a client of a small business.

### 1. MONEY LAUNDERING

According to Article 2 of the Law on the Prevention of Money Laundering and Financing of Terrorist Activities in BiH<sup>119</sup>, money laundering involves the replacement of property or the transfer of property if it is acquired through criminal activities, with the aim of concealing or covering up the illegal origin of property or providing

<sup>119</sup> "Official Gazette of BiH" No. 47/14

assistance to a third person involved in such activities in order to avoid legal the consequences of the acts committed. Money laundering allows criminals to use their illegally acquired money, without incurring any doubts. There is a wide range of activities that can be undertaken to conceal the origin of assets acquired through the commission of a criminal offense. Anyone providing services or delivering certain products that can be used for storage or transfer of value can be misused as an instrument in the money laundering process. Money can be tracked through business in the financial sector, as well as through operations outside the financial sector. The Law on Prevention of Money Laundering and Financing of Terrorist Activities of BiH (Article 4)<sup>120</sup> prescribes taxpayers for the implementation of measures for detecting and preventing money laundering, which are: banks, insurance companies, leasing companies, microcredit organizations, authorized intermediaries, companies dealing with electronic money changers, pawnshops, persons performing professional activities (notaries, lawyers, accountants, auditors, legal and physical entities performing accounting and services tax consulting), real estate agencies, legal and natural persons (dealing with the reception and distribution of money or property in humanitarian, charitable, religious, educational or social purposes, money transfer or value, factoring, forfeiting, keeping, investing, holding, managing or by giving advice on the management of third-party assets issuing, managing and

operating with payment and credit cards and other means of payment, issuing financial guarantees and other guarantees, commitments, lending, offering and mediation in loan negotiations, organization and management of bids, trading of precious metals and precious stones and their products, trade in art objects, vessels, vehicles and aircraft) and the privatization agency.

### 1.1. Phases of money laundering

Money laundering is usually described as a process that takes place in three phases:<sup>121</sup>

1. Investment;
2. layering (concealment);
3. Integration.

The basic components of money laundering are: moral, psychological, social, criminological, historical, legal, economic and political<sup>122</sup>

At the investment stage, assets acquired through the commission of a criminal offense are placed in the financial system. Large amounts of money are scattered into smaller parts to arouse less suspicion, and then deposited in accounts at various financial institutions for a certain period of time. In addition, unlawfully acquired funds can be invested in securities, insurance policies can then be mixed with revenues from legal business or can be shown as revenue from false or "phantom" companies that, in fact, do not do business but solely serve for the deposit cash on accounts. In the stratification phase, funds are transferred from the account where they

<sup>120</sup> "Official Gazette of BiH" No. 47/14

<sup>121</sup> Teofilovic N., and Jelacic M., (2006), Prevention, detection and proving of criminal acts of corruption and money laundering, Police Academy, Belgrade, p. 1

<sup>122</sup> Vesić D., (2008), Economic and political component of money laundering corruption, UDK: 343.352 Bibliid 00258555, 60 Vol. LX, no. 4, pp. 481-501, p.493

were deposited to other accounts in a whole series of transactions, and these other accounts are located in various institutions around the world. Many of these transactions have no economic logic and virtually remain unintended in business. The main goal of these transactions is to conceal the connection between monetary funds and the criminal activity by which these funds have been acquired. The purpose of the transactions in question is to hide the trace of money and to hinder all those who try to investigate the origin of these monies. In the third stage, the integration stage, the money is invested in legitimate business, works of art, stocks, real estate, luxury goods. It is very difficult at this stage to clearly distinguish between legal and illegal funds.

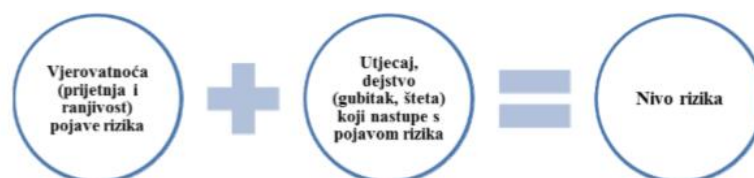
These three stages do not necessarily take place in that order because criminals sometimes choose to directly invest illegally acquired assets in luxury goods or real estate. Similarly, in the case of some criminal offenses, such as frauds and frauds in the field of investments, cash funds of criminals are already in the financial system, and then there is no need to be added to the system. Moreover, before the unlawfully acquired money is introduced into the financial system, that money is often only transferred from place to place.

## 1.2. Estimation of the risk of money laundering in business

Risk is a function of probability of risk events and the impact of risky events. The probability of events is a combination of threats and vulnerabilities, that is, in other

words, risky events occur when a threat takes advantage of vulnerability. The level of risk can be reduced by reducing the fluctuations, vulnerabilities or their influence.

Figure 1. Risk of money laundering

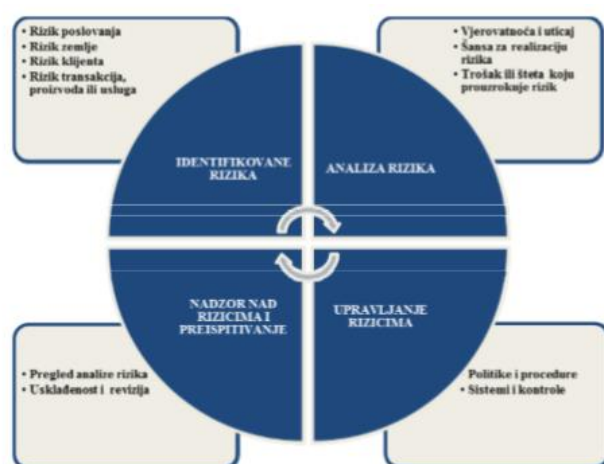


Source: Authors' creation

In order to determine the risk exposure of a taxpayer and to effectively manage this risk, the taxpayer himself must identify each segment of his business in which the threat of money laundering can arise and he must assess his vulnerability in relation to that threat. Risk is continuously identified at all levels of government - from operational to strategic level - all the organizational units of taxpayers are included in this process. The size and complexity of the obligor's business plays an important role in deciding how attractive or at risk of money laundering is, if the enterprise is large, it is less likely that it will personally know the client, and that client can be significantly more anonymous than if is a client of a small business. Once the risk of money laundering is identified, it is necessary to estimate the negative impact on the realization of the business objectives. Risk analysis and identification should be implemented on all existing and new products, activities and processes. It is necessary to focus on those clients, countries, products, services, transactions and delivery channels that represent the greatest potential risk.

The risk assessment process has four stages: 1) identifying areas of business that are susceptible to money laundering; 2) conducting an analysis to determine the likelihood of money laundering and, in that case, its impact; 3) risk management; 4) control of risks and their re-examination.

Figure 2. Money laundering risk assessment procedure



Source: Authors' creation

The first phase involves identifying clients, products, services, transactions and geographic locations that are specific to the taxpayer. Depending on the specific characteristics of certain clients, products, services and transactions, as well as the delivery channels, there is a danger of money laundering and susceptibility to these phenomena. In the second phase, analysis is carried out as a combination of the probability of the occurrence of this phenomenon and the impact of the costs or damage that could be caused in the given situation. This impact may consist of a financial loss for doing business due to the commission of a criminal offense or of fines imposed by the authorities in a given situation. It can also be done to damage our business reputation or the whole sector. The

analysis of certain risk categories and their combinations is specific for each entity of the taxpayers individually, so that the conclusion on the overall level of risk must be based on all relevant information. In the third phase, the taxpayer will apply risk management strategies based on the analysis and implement the appropriate sectoral policy and apply the appropriate procedures. In order to effectively mitigate and mitigate the risk, adequate systems and control mechanisms will be applied. In the end, in this process, the risks and risk management should be monitored and re-examined. The taxpayer can do this by developing a supervisory regime through compliance and auditing programs. The assessment of the risk of money laundering must be periodically revised based on the extent to which the extent of the risk has changed or the extent to which the business types or strategies of the taxpayers have changed. The risk assessment of money laundering is carried out at the company level, macro assessment and at the level of organizational units so called micro risk assessment. On the basis of the information generated by this assessment, the company decides on the scope and type of tests to assess the risk of money laundering. In the case of micro risk assessment, company management should take into account the following tipoverisics as well as their mutual relations (Pickett Spencer, 2006: 153): 1. Inherent risk - a risk that is part of self-activity, 2. Control risk - the risk of failure to function of controlled controls to be have the greatest importance for risk assessment planning 3. Residual risk - the risk that remains after posting takes all measures, including interim controls, to reduce the likelihood of occurrence of risks and its consequences, 4.

Audit risk - the risk arising from the non-professional performance of internal audit, the vulnerability of her objectivity and independence. An important prerequisite for a good risk assessment is a good understanding of the risk itself and well-developed procedures that will be applied by trained staff. Where a macro assessment of the risk of money laundering takes account of the country's risk or geographical risk, the client's risk and the risk of a transaction in a product, product or service.

There are four risk categories, a low, medium, high or unacceptable risk for doing business. When determining the risk category, institutions should take into account different types of risks such as country, client and transaction risks, products or services.

Figure 3. Risk of macro risk assessment of money laundering

Rizik zemlje ili geografski rizik	Rizik klijenta	Rizik transakcije proizvoda ili usluge
<ul style="list-style-type: none"> <li>• Rizik zemlje ili geografski rizik, u kombinaciji sa ostalim kategorijama rizika, daje korisne informacije o potencijalnoj izloženosti pranju novca i finansiranju terorizma.</li> <li>• Zemlje koje ne primjenjuju standarde borbe protiv pranja novca i finansiranja terorizma (crna lista).</li> </ul>	<ul style="list-style-type: none"> <li>• Stranke koje svoje poslovne odnose ili transakcije obavljaju (ili su ih obavljale) u neuobičajenim okolnostima.</li> <li>• Teško identifikovati pravog vlasnika ili onoga ko ima kontrolni interes.</li> <li>• Poslovanja u kojima se u velikoj mjeri koriste gotovinska sredstva, uključujući i (neformalne) agencije za prijenos novca, menjačnice, kockarnice, kladionice itd.</li> </ul>	<ul style="list-style-type: none"> <li>• Primjena novih tehnologija.</li> <li>• Transakcije ili usluge u kojima nema neposrednog kontakta između učesnika.</li> </ul>

Source: Authors' creation

Figure 4. Categories of money laundering risk



Source: Authors' creation

## 2. RISK MANAGEMENT OF MONEY LAUNDERING IN BUSINESS

The objectives and principles of risk management of money laundering should enable taxpayers to establish appropriate policies and procedures, including rules on measures and actions undertaken for the purpose of knowing and monitoring the party, promoting high ethical and professional standards and preventing the intentional or unintentional misuse of entities for criminal activities. It is desirable that managers who are responsible for risk management at the level of their organizational unit develop procedures for managing the risk of money laundering, so that these procedures are appropriate to the specific tasks of the organizational unit in question, all of which must be consistent with the objectives and principles of the assessment the risk of money laundering at the level of the institution as a whole. Management must encourage regulatory compliance and ensure that employees strictly respect internal procedures, sectoral policies,

practices and processes aimed at mitigating and controlling money laundering. Management should also encourage ethical business culture and ethical behavior. Ethical behavior is a professional, individual responsibility when individuals are aware of their rights, interests and desires

of other actors and consciously take them into account, open to new ideas and ready to solve tasks in a transparent way, and at the same time they are willing to assume responsibility and to be considered responsible for the decisions they make and the moves they take.

The bondholder must make sure that each employee understands his role in the risk management process of money laundering so that it is possible to ensure proper detection and proper risk control. Therefore, training for employees who are in direct contact with clients or who perform transactions are of crucial importance in the process of managing the risk of money laundering. A limiting factor in this process may be the lack of appropriate personnel or if appropriate training has not been carried out. All employees from the level of executives to the top management must be aware of the risk of money laundering. The best way to provide appropriate training is to create an annual program of vocational education, training and improvement of employees.

Measures for risk reduction are:<sup>123</sup>

- Increasing the level of awareness about the danger of high risk situations in business relations,
- Finding a license to establish a business relationship even when not mandatory,
- Increasing the level of business partner knowledge by implementing enhanced depth analysis measures,
- Implementing enhanced ongoing control and business relationship revisions .

### **2.1. Monitoring and reviewing risks**

The bondholder should establish an appropriate and lasting process of monitoring and reviewing the risk of money laundering. This process should be implemented as part of the business control function, to ensure that all envisaged procedures are applied on a regular basis, whether the established sectoral policies are respected and whether all systems are in function and within the framework of the audit, when determining whether sectoral policies and processes in accordance with the Law and are implemented in an adequate manner.

Regular reports submitted to the Anti-Money Laundering Administration should include data on the results of the monitoring process, the findings of internal controls, reports of organizational units in charge of supervision and risk management, internal audit reports, reports of persons authorized to detect, monitor and report all suspicious transactions, as well as the conclusions of the supervisory authorities set out in the reports on the field inspection of the

measures for the prevention of money laundering.

The institution may have a special organizational unit for managing the risk of money laundering, ie a licensed person. An authorized person is appointed at the level of administration. An Authorized Person has an important task in determining the risk assessment process and in the process of monitoring and reviewing the management of money laundering risk.

In addition to continuously monitoring and reviewing money laundering risks, the taxpayer should also have an internal audit in order to be able to independently assess the system for managing the risk of money laundering. Independent verification may be carried out by internal auditors, external auditors, expert consultants or other qualified persons who are not directly engaged in the operation or functioning of the risk management system of money laundering.

### **2.2. Effects of risk assessment of money laundering on business**

The effects of risk assessment of money laundering on business can be positive and negative. Positive effects include:

- Cost Efficiency - A good risk assessment leads to efficient spending of limited funds. What is important is the fact that it is not about cutting costs and other similar radical measures, but about a good allocation of funds without unnecessary losses.
- Flexibility - It is essential that taxpayers, as well as regulators and supervisors,

<sup>123</sup> Vinšalek Stipić, V., Blažević, L., Managing the Approach Based on Risk Assessment and Money

Laundering Risk, Practical Management, Vol. II, no. 3, p. 73-79

constantly adapt to the reality surrounding them, since criminal milieus constantly adjusts its "business" and strategy depending on the risk that it surrounds. - Proportionality - means that steps need to be taken to identify and strengthen weak points and shortcomings, while concentrating on really weak points in order to make criminals more difficult to deal with money laundering.

The negative effect of business risk assessment is precisely the risk of judging the degree of risk associated with business partners, products or services, transactions and the geographical area. The careful caution, or the classification of business partners who are not at high risk, entails an increase in costs and the wrong allocation of resources. On the other hand, the light evaluation of business partners or organizations leads to a negative effect on the state and the society as a whole.

### **2.3. Threats to new technologies that enable anonymity**

In establishing policies and procedures to reduce the exposure to money laundering and criminal acts arising from new technologies that enable anonymity (Internet banking, electronic money), financial institutions including other companies that perform certain payment or money transfer services should ensure the application of technological solutions that provide:<sup>124</sup>

- undoubted identification of the customer who is the user of electronic banking,
- the authenticity of the signed electronic document,
- Reliability of measures against counterfeiting of documents and signatures of documents,
- systems that are protected against modifications and provide technical and cryptographic security, the processes of using electronic banking,
- other requirements in accordance with the positive regulations governing this business area.

All participants in payment or money transfer are required to collect accurate and complete information about the payer and include them in a form or message accompanying the electronic transfer of monetary assets sent or received in any currency. In doing so, these data must accompany the transmission all the time during the passage through the payment chain.

## **3. MONEY LAUNDERING IN INTERNATIONAL FRAMEWORKS**

International bodies that regulate the introduction and implementation of a risk-based approach are:

FATF<sup>125</sup> is a body that develops and improves policy at the national and international level to combat money laundering and terrorist financing. FATF monitors the progress of its member states in implementing the necessary measures, carries out a reviewer to combat criminal

<sup>124</sup> Vinšalek Stipić, V., Blažević, L., Managing the Approach Based on Risk Assessment and Money Laundering Risk, Practical Management, Vol. II, no. 3, p. 73-79

<sup>125</sup> The FATF (Financial Action Task Force) is an intergovernmental body established in 1989 at the G7 Forum in Paris. In this membership there are 31 states and two international regional organizations and the European Commission.



activities and promotes the implementation of measures on a global level.

MONEYVAL<sup>126</sup> is a committee for the evaluation and implementation of measures to prevent pranayos in the Council of Europe. The goal of MONEYVAL is to ensure that Member States have an effective system for combating financial crime. The bureaucrats are harmonized with international standards such as, for example, recommendations of the FATF, the UN Convention, and the Directive of the European Parliament of the Council.

The Wolfsberg<sup>127</sup> Group aims to develop standards applicable to the financial industry and timely-based approaches to preventing money laundering and criminal activities.

European Union directives on preventing the use of the financial system for the purpose of money laundering clearly show the development path of the definition of the concept of suspicious transactions. The first attempts to set up a preventive action framework in the field of laundry prevention are outlined in Directive 91/308 / EEC. With the definition of credit and financial institutions, the obligation to verify, with particular attention, of any transactions deemed to be associated with money laundering, it is clear that its content is uncertain and the necessity of legislative reform at the national level. The second directive - Directive 2001/97 / EC did not go much further on the elaboration of the definition of suspicious transactions, although it recognizes independent professions and professions that, in certain

cases, exclude commitments from suspicious transactions. Unlike the first two directives, Directive 2005/60 / EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing is based on estimating the language, and hence the issue of recognizing suspicious transactions is accessed in a completely different way. The Third Directive gives suspicious transactions a completely new role by setting them as the backbone of money laundering through a risk assessment system, although not directly.

#### **4. MONEY LAUNDERING IN THE FRAMEWORKS OF BOSNIA AND HERZEGOVINA**

By adopting the Law on the Prevention of Money Laundering and Financing of Terrorist Activities, Bosnia and Herzegovina became one of the countries that, according to internationally recognized standards, undertakes measures and responsibilities for detection, prevention of money laundering and financing of terrorist activities, which was also one of the conditions set by international community, and therefore should not be placed on the gray list. "Gray Money" Moneyval is very problematic for every country in the world, because it destroys a country's credit rating, ie it raises all financial transactions that one country implements in international financial relations.

Within the State Investigation and Protection Agency - SIPA, the Financial

<sup>126</sup> MONEYVAL is a special committee of the Council of Europe founded in 1997. years. The members of this committee are all member states of the Council of Europe, as well as candidate countries, which are not members of the FATF.

<sup>127</sup> The Wolfsberg Group is an association of 11 global banks founded in 2000 with Transparency International with the aim of working on anti-money laundering prevention guidelines for the private banking sector.

Intelligence Unit has been established. The parties must ensure that their financial institutions have established appropriate procedures for identifying clients in accordance with the international standards established by the Basel Commission for Supervision of Banks and the Financial Action Task Force money laundering (FATF). Financial institutions in accordance with Article 13 of this Law<sup>128</sup> are obliged to report to the Financial Intelligence Unit on suspicious transactions, ie to parties whose transactions have or exceed the value of KM 30,000.

The MONEYVAL statements for BiH are the following: that BiH is a suitable ground for money laundering and financing of terrorism, the BiH investment sector is not completely safe from the abuse, BH authorities have not assessed the risk of financing terrorism, the establishment of material evidence in the criminal offense of money laundering in all four CCs in line with the Vienna and Palermo, a framework has been set up to allow the freezing of funds of persons and bodies established under UN Security Council Resolution 1267, but it is still not applied in practice, the effectiveness of the system for controlling physical cross-border currency transport is a cause of concern, the authorities are not clear their powers, the adoption of the law on the prevention of money laundering and the fight against terrorism financing, the level of compliance of the anti-money laundering framework and the fight against terrorism financing improved, to improve the system of

coordination of money laundering prevention and the fight against terrorism financing at the policy level.

## CONCLUSION

According to the findings of MONEYVAL BiH, the ground is suitable for money laundering and terrorist financing, and the investment sector in BiH is not completely safe from the abuse. It is therefore necessary for each company to establish a system for managing the risk of money laundering, to establish appropriate policies and procedures, including rules on measures and actions undertaken for the purpose of knowing and monitoring the party, promoting high ethical and professional standards and preventing the intentional or unintentional misuse of entities for criminal activities. Taking into account all efforts to define an effective money laundering based on risk assessment, comprehensive statistics that primarily mirror practices suggest several conclusions: - An effective risk assessment system requires an appropriate legislative basis with a defined definition of suspicious transactions, effective supervision and appropriate sanctions in the event of non-compliance with legal provisions; - The risk assessment system requires an increasing share of suspicious transactions reported by non-financial institutions as a confirmation of raising awareness in that sector, - Permanent education of all institutions involved in the implementation of anti-money laundering measures at the national level.<sup>129</sup>

<sup>128</sup> Law on Prevention of Money Laundering and Financing of Terrorist Activities of BiH "Official Gazette of BiH" No. 47/14

<sup>129</sup> Cindori, S., (2013), Money laundering: correlation of risk assessment and suspicious transactions, selected translations no. 16/13, Institute of Public Finance, p.19

## LITERATURE

- [1] Cindori, S., (2013), Money laundering: correlation of risk assessment and suspicious transactions, selected translations no. 16/13, Institute of Public Finance,
- [2] Teofilovic N., and Jelacic M., (2006), Prevention, detection and proving of criminal acts of corruption and money laundering, Police Academy, Belgrade
- [3] Vesić D., (2008), Economic and political component of money laundering corruption, UDK: 343.352 Biblid 0025-8555, 60 Vol. LX, no. 4, pp. 481-501,
- [4] Vinšalek Stipić, V., Blažević, L., Managing Using Access Based on Risk Assessment and Money Laundering Risk, Practical Management, Vol. II, no. 3, p. 73-79
- [5] Law on the Prevention of Money Laundering and Financing of Terrorist Activities of BiH "Official Gazette of BiH" No. 47/14

## HOMELAND SECURITY IN THE CONTEXT OF STATE LIABILITY FOR THE DAMAGE CAUSED BY TERRORIST ACTS

Siniša Bilić, email: [sbilic.mostar@gmail.com](mailto:sbilic.mostar@gmail.com)

Safet Subašić, email: [safetsubasic58@hotmail.com](mailto:safetsubasic58@hotmail.com)

Vedrana Macanović, email: [vedranamacanovic@gmail.com](mailto:vedranamacanovic@gmail.com)

*Abstract: In this paper the authors discuss the essential aspects of establishing material responsibility and conducting the pecuniary damage caused by terrorist acts. This paper is trying to clarify the specific point of view of its international legal peculiarities by taking into account that this matter is not deepened in the scientific and professional literature. After years of vacuum, and frequent acts of terrorism, many countries are beginning to normatively edit these relations. There is a need for international legal codification of legal standards that would regulate the mentioned area and the need for unification of procedural, legal actions and proceedings damages. The authors elaborate the general principles and requirements of damages, putting them in the context of the specifics of terrorist activities damages and making a distinction between the principle of compensation for material damage in ordinary civil proceedings and the application of those principles in proceedings of terrorist act damages. This is necessary due to the nature of terrorist acts and the problem of determining the offender, and determining the holder of the reparation obligation for the damages. In addition, how will a person who commits a terrorist act, and has no property, compensate the damage, and to whom to alienate its obligation to make damages reparation. The paper accepts two options, one of which involves the state reparation and the other involves responsibility to repair the damage by other legal and natural persons. To illustrate these concerns and alternatives authors give clear examples for adverse events of a terrorist character without coverage.*

**Keywords:** Terrorist act, accountability, compensation