

DECISION
No. 13, dated 11.1.2024

**ON DEFINING THE PROCEDURES FOR ASCERTAINING, REVIEWING,
PROPOSING, AND IMPOSING ADMINISTRATIVE MEASURES BY THE
FINANCIAL INTELLIGENCE AGENCY**

Pursuant to Article 100 of the Constitution and point 10, of Article 27, of Law No. 9917, dated 19.5.2008, “For the prevention of money laundering and the financing of terrorism”, as amended, upon the proposal of the Minister of Finance and Economy, the Council of Ministers

DECIDED:

Article 1
Subject matter

This decision has as its subject matter the definition of procedures for establishing, reviewing, proposing, and imposing administrative measures by the Financial Intelligence Agency (hereinafter FIA) against the subjects of Law No. 9917, dated 19.5.2008, “For the prevention of money laundering and the financing of terrorism”, as amended.

CHAPTER I
TYPES OF INSPECTION AND ANNUAL PLAN

Article 2
Types of inspections

The identification of violations committed by the subjects of Law No. 9917, dated 19.5.2008, as amended, is carried out by the FIA through:

- a) on-site inspection;
- b) off-site inspection.

Article 3
Annual inspection plan

1. On-site and off-site inspection are carried out on the basis of the annual inspection plan, which is approved by the Director General of the FIA.
2. The drafting of the annual inspection plan is based on the following criteria:
 - a) the national risk assessment;
 - b) sectoral assessments and strategic analyses;
 - c) individual risk assessments of money laundering and terrorist financing for the subjects of the law;
 - ç) other data available to the FIA.

Article 4
Inspections outside the annual inspection plan

- The FIA may carry out inspections outside the annual inspection plan if:
- a) from the monitoring and supervision carried out, a reasonable suspicion arises regarding the violation of legal requirements, and it is concluded that the initiation of an inspection is necessary;
 - b) based on data made available by third parties, a reasonable suspicion arises regarding the violation of legal requirements.

CHAPTER II ADMINISTRATIVE PROCEDURE OF INSPECTION

Article 5

Notification of the inspection program

1. The administrative procedure of inspection usually begins with the notification of the inspection program.
2. In cases of inspection at the place where the subject carries out its activity, the inspection program shall be notified to the subject under inspection at least 10 (ten) days before the commencement of the inspection.
3. Upon a reasoned written request of the subject under inspection, the General Director of the FIA may extend the deadline for the commencement of the inspection.
4. For inspections outside the annual inspection plan, the inspection program may not be notified in advance when it is deemed and assessed that notification may hinder the effective conduct of the inspection.
5. Regardless of prior notification, in any case, the inspection group, before commencing inspection actions, verbally informs the subject under inspection or its authorized representative of the subject matter of the inspection, the obligations of the subject under inspection according to this decision, and the legal consequences of non-compliance with these obligations.

Article 6

Contents of the inspection program

1. The inspection program contains:
 - a) the name or designation and the address of the subject under inspection;
 - b) the subject matter of the inspection with data for the most accurate determination of the specific activity subject to inspection;
 - c) the legal basis;
 - ç) the composition of the inspection group;
 - d) the duration in days of the conduct of the inspection;
 - dh) the place or places where the inspection will be carried out;
 - e) the information, data, and additional documents that must be prepared by the subject for the purposes of the inspection.
2. During the conduct of the inspection, the inspection group may request additional information, data, and documents beyond those described in the inspection program, but in all cases, respecting the procedure provided for the administration of documentation, in accordance with the provisions of Article 10 of this decision.
3. The content of the inspection program and cooperation with the supervisory authorities are approved by the Director General of the FIA.

Article 7

Place of inspection

1. On-site inspection is carried out:
 - a) wherever the subject of inspection carries out its activity and where the facts that are the subject of the inspection are located;
 - b) at the offices of the FIA, if by the nature of the inspection it is possible to conduct the inspection there. In this case, the subject of the inspection is invited, through prior notification, to appear at the offices of the FIA. If necessary, the submission of documents or other data required for conducting the inspection at the offices of the FIA may be requested.
2. Off-site inspection is carried out at the offices of the FIA through:
 - a) the review of reports from the subjects of Law No. 9917, dated 19.5.2008, as amended, of data, documents or remote control reports;

- b) the review of reports from supervisory authorities, submitted in accordance with point 3, of Article 24, of Law No. 9917, dated 19.5.2008, as amended;
- c) the review of other information obtained from various institutions, third parties, or held by the FIA itself.

Article 8

Rights of the subject under inspection

1. The subject under inspection has the following rights during the inspection:
 - a) To request to be acquainted with the inspection program prior to the commencement of the inspection;
 - b) To request the identification of the inspection team;
 - c) To be present and to follow all inspection actions either personally or through his/her authorized representative;
 - ç) To request and obtain information from the inspection team regarding the inspection procedure and any action or decision taken during it;
 - d) To present, in writing or verbally, opinions, explanations regarding the facts, circumstances or even legal issues, documents or any evidence related to the inspection, or to present his/her proposals for the resolution of the issue and the relevant documents on which these are based;
 - dh) To request to be informed of and to be notified of the draft report and the final inspection report;
 - e) To present explanations or objections regarding the draft inspection report within the deadlines specified in this decision.
2. When participation during the conduct of the inspection, pursuant to letter “c”, point 1, of this article, impedes the performance of inspection actions, the inspection team may decide to exclude the participant, after obtaining confirmation from the head of the relevant directorate. This procedural action is reflected in the inspection minutes.

Article 9

Obligations of the inspected entity

The entity being inspected on-site or off- site must:

- a) to be available or to authorize one or more representatives to communicate throughout the entire duration of the administrative inspection procedure;
- b) to present and make available any information, document, data, register, material, to provide any explanation regarding the facts and circumstances ascertained, within the deadlines set by the inspection team;
- c) to cooperate and not to obstruct the conduct of inspection actions. Lack of cooperation is assessed together with other evidence;
- ç) in the case of an on-site inspection at the place where the entity conducts its activity, to provide a suitable place for the work of the inspection team;
- d) in the case of off-site inspection, to send the requested information and documentation within the legal deadlines and in the form required according to this decision.

Article 10

Administration of documentation

1. During the on-site inspection, the inspection team has the right to request and obtain copies of documents in accordance with the inspection program. The request is made in writing and the administration of the documentation is reflected in the inspection minutes.
2. Every copy of a document taken during the on-site inspection is signed by the inspected entity and the inspection team, and is stamped on each page with the entity's seal.

3. In the inspection minutes, which shall be signed by the parties, the title of the administered documentation together with the number of pages shall be recorded. The inspection minutes shall also record the documents or data that are administered in electronic format.

4. In cases of off-site inspection, the entity under inspection sends the documents requested by the inspection team, numbering each page, signed by the entity or a person authorized by it, and stamped with the entity's seal.

Article 11

Inspection draft report

1. At the conclusion of the on-site or off-site inspection, the inspection team prepares the inspection draft report within 5 (five) days from the completion of the inspection.

2. The inspection draft report is notified to the inspected entity in order to submit the relevant explanations or objections, if any.

3. The deadline for submitting explanations or objections is specified in the covering letter of the inspection draft report, depending on the type and subject matter of the inspection, but not more than 7 (seven) days from the date of notification of the inspection draft report.

4. If the inspected entity does not submit explanations or objections to FIA within the specified deadline, the inspection draft report shall be deemed accepted without objections.

Article 12

Final inspection report

1. The inspection team, after reviewing the explanations or objections to the inspection draft report notified by the inspected entity, prepares the final inspection report. The deadline for preparing this report is up to 7 (seven) days, depending on the type and subject matter of the inspection.

2. The final inspection report contains:

- a) data on the inspected entity;
- b) the inspection actions and its findings;
- c) the procedural decisions taken during the inspection;
- ç) the summarized explanations of the facts and evidence, their assessment, and the results of the administrative investigation on which the conclusions are based;
- d) the explanations or objections of the inspection entity regarding the inspection draft report, as well as the arguments of the inspection team concerning them;
- dh) the violation or violations identified;
- e) the proposed administrative measure, in the determination of which the criteria established in the law on the prevention of money laundering and terrorist financing and in the law on administrative offences are taken into account;
- ë) the recommendations left to the inspected entity and the deadlines for their fulfillment;
- f) the composition of the inspection team.

3. FIA officially notifies the inspected entity of the final inspection report.

Article 13

Duration of the inspection procedure

1. The duration of the inspection procedure on-site or off-site may not exceed 60 (sixty) days, starting from the date of notification of the inspection program until the drafting of the final inspection report.

2. The Director General of FIA may approve the extension of the aforementioned deadline in proportion to the complexity and volume of the inspection procedure, but not exceeding the duration of the initial deadline.

CHAPTER III

REVIEW OF ADMINISTRATIVE OFFENCES

Article 14

Deadlines for review

1. The review of administrative offences by FIA is carried out within 30 (thirty) days from the date the entity is notified with the final inspection report and the established administrative offences.
2. In any case, the review of administrative offences cannot be exercised when 5 (five) years have passed since the moment of commission.
3. Referring to the complexity of the case, identified during the in-depth administrative review, the deadline for the review of administrative offences may be extended up to 30 (thirty) days. The extension of the deadline and the date of conclusion of the extended deadline are communicated to the entity within the initial deadline. The notification must also include the reasoning for the extension of the deadline.

Article 15

Review session

1. The review of the final inspection report, where the administrative offences have been identified, is conducted in the presence of the entity under inspection, which is notified by FIA of the date and time of the review of the administrative offence.
2. The entity, in the review session of administrative offences, has the right to present any claim and additional documentation, apart from those submitted during the inspection procedure, in relation to the identified violations.
3. The review may also be conducted in absentia, when it is verified that the offender has been informed and has no reasonable grounds for non-appearance.

Article 16

The commission's proposal

1. The final inspection report, where administrative offences have been identified, is reviewed by the administrative offences review commission, established by order of the General Director of the FIA.
2. The commission, after reviewing the violations identified in the final inspection report, hears the arguments and handles the documentation submitted by the entity, and proposes to the General Director:
 - a) the imposition of one or more administrative measures provided in the law;
 - b) the termination of the administrative offence procedure, when, from the analysis and review of the facts, the commission of the administrative offence is not established.

Article 17

Decision on the administrative offence

1. The General Director, within 5 (five) days from the submission of the proposal of the administrative offences review commission, after assessing the inspection file and the proposal of the administrative offences review commission, makes a decision on the imposition of the administrative measure against the entity or the termination of the administrative offence procedure and officially notifies the entity.
2. The decision on the administrative offence, in addition to the data of the institution that issued the act, must include the data of the offender, a summary explanation of the facts and evidence on which the decision is based, their violation, by referring to the legal provision on which the decision is based, the administrative measures of penalty by fine, the qualification as an executive title for the fine, as well as the rights to appeal and the procedural deadlines.

3. For determining the type and amount of the administrative measure, the criteria established in the law on the prevention of money laundering and terrorist financing and in the law on administrative offences are taken into account.

4. The decision on the administrative offence, taken by the FIA, constitutes an executive title and the execution of this decision is carried out in accordance with the legislation in force for administrative offences.

5. For the notification and notification deadlines of decisions on administrative offences issued by the FIA, the provisions set out in the Code of Administrative Procedures shall apply.

6. An appeal against the decision on the administrative offence taken by the FIA may be filed with the administrative court within 45 (forty-five) days from the date of notification of the decision.

CHAPTER IV OTHER PROVISIONS

Article 18 **Repeals**

Decision no. 871, dated 14.12.2011, of the Council of Ministers, “On the determination of procedures for finding, reviewing, proposing, and imposing administrative measures by the General Directorate for the Prevention of Money Laundering”, is repealed.

Article 19 **Implementing bodies**

The Financial Intelligence Agency (FIA), as the responsible authority, is responsible for implementing this decision.

Article 20 **Entry into force**

This decision enters into force after its publication in the Official Gazette.

PRIME MINISTER
Edi Rama