



REPUBLIKA E SHQIPËRISË

**MINISTRY OF JUSTICE
MINISTER**

No.2526 prot

Tirane, on 04.05.2022

ORDER

No 182, dated 04.05. 2022

**ON
THE APPROVAL OF INSPECTION STANDARDS AND METHODOLOGY
OF REAL ESTATE INTERMEDIARIES ACTIVITY**

In reliance on Article 102, par 4, of the Constitution, Article 7, par 2, of Law no. 8678, dated 14.05.2001 "On the organization and functioning of the Ministry of Justice", as amended and Article 21, par 6, of Law no. 9/2022 "On the profession of real estates intermediaries", I

ORDER:

1. The approval of inspection standards and methodology of the inspection of the activity of the real estate intermediaries, referring to the text being attached to this order and being constituent part thereof.

2. The General Regulatory Directorate of Justice Issues and the real estates intermediaries are herewith charged to follow up the implementation of this order.

This order shall enter into effect immediately and shall be published in the Official Journal.

MINISTER OF JUSTICE

Ulsi Manja

INSPECTION METHODOLOGY AND STANDARDS OF REAL ESTATE INTERMEDIARIES ACTIVITY

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1. INTRODUCTION

1.1 Purpose of inspection

The mission of the Ministry of Justice is to “demand the observation of the Constitution, the laws, the realization and protection of dignity, human rights and fundamental freedoms, as well as to contribute to the prevention of violations of the law, in accordance with and in referring to the requirements of democratic development and European integration of the Republic of Albania”¹.

To the effect of meeting this mission, the Ministry of Justice is assigned by the legislation in force the supervision, control, inspection and conduct of disciplinary proceedings for the profession of real estate intermediaries and other free professions, related to the justice system, according to provisions of special legislation in the relevant field², namely, the provisions of the law on the profession of real estate intermediary³, which provide for the role of the Ministry of Justice to verify the compliance with legal requirements by intermediaries in the course of assuming their function.

The Ministry of Justice is the supervisory authority, in the sense of Law no. 9917, dated 19.5.2008, "On the prevention of money laundering and terrorist financing", as amended, charged with overseeing the implementation of this law by real estate intermediaries.

The Ministry applies the mechanisms of administrative punishment for violations in this field, informs and coordinates with the responsible authority in the field, while taking measures to reduce the risk of infiltration and misuse of real estate activity of intermediaries for money laundering and terrorist financing.

The essence of the institute of inspection and control mechanisms consists in:

- protection of public interest; and
- legitimate interests of natural and legal persons.

All monitoring and controlling powers of the Ministry of Justice, regarding the manner of exercising the profession of real estate intermediary, also aim at:

- contributing to the fight against corruption;
- contributing to the fight against fraud/abuse of office;
- contributing to the fight against money laundering and terrorist financing;
- avoiding lack of professionalism;
- enhancing guarantees in the course of carrying out the real estate intermediation activity.

1.2 Objectives of inspection

The realization of the mission and tasks of the Ministry of Justice in terms of inspection and control mechanisms of real estate intermediaries shall be achieved through:

- assessment of compliance with legal requirements by the inspection entity;

¹ Sanctioned in Article 5, par 2, of Law no 8678, dated 14.5.2001, “On the organisation and functioning of the Ministry of Justice; as amended, (hereunder LMJ).

² Article 6, par 18/1 of the LMJ.

³ Sanctioned in Article 21 of Law no 9/2022 ‘On the profession of real estates intermediaries’. (hereunder LPREI).

- documenting good practices in compliance with legal requirements and their spread;
- detecting and punishing bad practices and/or illegal actions within in the scope of the law on prevention of money laundering and terrorist financing;
- advising the inspected entity on the correct implementation of legal requirements;
- ordering the correction of violations of legal requirements and the elimination of the consequences arising from them;
- taking other administrative measures to avoid the risks that may be caused to the public interest and the legitimate interests of natural and legal persons, according to the conditions and procedures provided for by law.

1.3 Methodology of inspection

The Ministry of Justice supervises the overall activity of real estate intermediaries, in accordance with the rules contained in the law on the profession of real estate intermediaries and, for the purposes of inspection and control mechanisms of intermediaries, the Minister of Justice shall approve the standards and the methodology of inspecting the activity of real estate intermediaries.⁴

Using a standard form for inspecting real estate intermediaries poses several advantages:

- officers assuming control and inspection duties proceed with the conduct the administrative investigation in the same way, regardless of the intermediary or the intermediation office being inspected, thus providing guarantees for impartiality in the performance of the duty;
- facilitation of data collection;
- data comparison becomes easier from one place to another or from one year to another;
- facilitation of comparative studies and better basis of recommendations;
- facilitating the implementation of laws or bylaws.

This document is based on the European standards of inspection and on the provisions of the LPREI to the effect of developing a practical and useful methodology for conducting regular on-site inspections on the documentation of real estate intermediation activity, as well as any other documentation of intermediation activity, in order to monitor the activity of the mediator in relation to law enforcement and standards of professional conduct and, in particular, the implementation of legislation on the prevention of money laundering and terrorist financing (detailed treatment of which is done in the part of the methodology on “Inspection for the prevention of money laundering”).

2. INSPECTION

2.1 Rights and obligations of the inspected real estates intermediaries

The real estate intermediary and their staff should support and facilitate the inspection of inspectors⁵:

During the preliminary request (first phase of inspection, see point 3.3).

⁴ Article 21, par 6 of the LPREI.

⁵ Outlining general tasks, parts of which will be detailed below along the text of the methodology.

- sending the required documents within 24 hours.

During the site visit (second phase of inspection, see points 3.4 to 5).

- welcoming inspectors;
- offering a desktop, computer and printer;
- being at their disposal throughout the inspection;
- actively participating in the inspection, by providing appropriate and accurate information and documents;
- providing all necessary explanations and important documents;
- preparing in advance and in a systematic way all the required documents in accordance with the laws and bylaws.

The real estate intermediary and their staff shall, during the inspection procedure, have the right:

- to get acquainted with the reasons and topics of the inspection, especially for special inspections;
- be given the necessary and reasonable time for the preliminary preparation of the documents required during the preliminary inspection request;
- declare in relation to the allegations made by the inspector and his/her statements to be recorded in the inspection documentation;
- not to be subject to a negative impact regarding the performance of the activity for the public due to the conduct of inspection procedures in the real estate intermediation office.

It should be clear that the inspection takes into account the observations and opinions of both actors - the inspector and the real estate intermediary - they should systematically fill out in the comment columns, at least stating that "they have no specific comments".

2.2 Capacities and tasks of the specialists of the responsible structure at the Ministry of Justice

The inspection touches upon various aspects of the activities of real estate intermediaries, including the professional activities of intermediaries (intermediation operations, fees, etc.) and office management (employees, tax and professional liabilities, etc.).

Inspection in relation to the activity of real estate intermediaries is performed by the responsible structures of the Ministry of Justice⁶, namely by civil servants being vested with control and inspection duties, who act as part of the structure responsible for monitoring the free professions, under the Directorate of Deregulation, Permits, Licenses and Monitoring, of the General Regulatory Directorate of Justice Issues.

The specialists of the responsible structure of the Ministry of Justice have the power to conduct administrative investigations, in accordance with the provisions of the Code of Administrative Procedures, LPREI, the law on prevention of money laundering and terrorist financing, as well as the law on inspection.⁷ They should introduce themselves and express themselves politely, although their role is not simply to fill out the standard form, which is the minimum inspection

⁶ Article 21, par 2 of the LPREI.

⁷ The Law no. 10 433, dated 16.6.2011, 'On inspection in the Republic of Albania'.

framework, but also to take initiatives during the inspection and to guide the search onto specific and important issues.

Specialists and real estate intermediaries must sign all documents being inspected and real estate intermediary must be present during the inspection. Inspectors have the right to keep a copy of any document they deem useful for inspection: the copy should be quoted in their comments.

If irregularities or violations are noticed, the inspectors notify the Ministry of Justice and, where appropriate, the prosecution office, tax or social insurance authorities.

Specialists have the responsibility to organize special inspections, requesting from the real estate intermediary to make available in advance the required documents.

Their mission is not to judge or propose a punishment measure. They should follow up the inspection result after a discussion with the real estate intermediary; they should formulate recommendations, highlight repeated attempts and violations.

They are responsible for obtaining documents, completing the standard form, forwarding violations and irregularities being identified to the relevant authorities.

2.3 Selection of specialists to be assigned for inspection

Specialists should be selected referring to their theoretical and practical experience in civil law and, more specifically, in the free professions, real estate intermediation and the prevention of money laundering and terrorist financing. They must also have computer skills.

The selection of specialists should be done in accordance with the basic goals of the methodology:

- to reduce procrastination and lack of transparency;
- to fight money laundering, corruption, fraud and embezzlement.

Specialists must be effective "detectives" of violations or irregularities, which means that they must have the skills and personality to take initiatives in the course of the inspection and to direct their research onto specific and important issues.

To the effect of avoiding the risk of undesirable links between inspectors and real estate intermediaries, it would be preferable to send a different inspector to the same office each year (or at least alternate them as much as possible), given that a standardized inspection ensures homogeneity and that annual follow-up by the same inspector is not always necessary.

2.4 Identification of parties in inspection

This is the list of data that the inspector will have to record at the beginning of an inspection, based on the Order of the Minister of Justice for conducting the inspection.

2.4.1 Real estate intermediation office

Purpose	- to identify the inspected real estate intermediary
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Obligation of real estate intermediaries	- to provide complete and accurate information
Instructions for inspectors	- to fill out the following table

Name:	
Surname:	
Address:	
Phone:	
Fax:	
E-mail:	
Internet website:	
License number:	

2.4.2 Inspectors

Purpose	- to identify the inspectors inspecting the office
Instructions for inspectors	- if the office is being inspected by several inspectors, compiling a table for each inspector

Name:	
Surname:	
Position:	
Address:	
Phone:	
Fax:	
E-mail:	

3. CONDUCT OF INSPECTION

The Minister of Justice shall, in order to control and monitor the activity of the real estate intermediaries in relation to law enforcement, standards of professional conduct, in particular the implementation of legislation for preventing money laundering and terrorist financing,⁸ carry out:

- regular on-site inspections for all acts, as well as for any other documentation of the real estate intermediation activity;⁹
- special inspections, with general or specific topics, in the situations when he deems it necessary;¹⁰

The inspection shall be carried out in two phases:

⁸ Article 21, par 5 of the LPREI.

⁹ Article 21, par 3 of the LPREI.

¹⁰ Article 21, par 4 of the LPREI.

- preliminary request (see point 3.3), requesting the submission and preparation of acts, of the register and also other documents according to the requests of the responsible structure;
- on-site inspection on the scheduled day (on-site visit) (see points 3.4 through 5).

The inspection touches upon various aspects of the activity of real estate intermediaries, including the professional activities of intermediaries (intermediation actions, fees, etc.), office management (employees, tax and professional liabilities, etc., verification of the applicability of internal regulations for money laundering risk control for customers or transactions, as well as the systems for data collection and analysis.

3.1 Topics of general inspection of real estates intermediaries

The inspection topics of the general inspection are as follows:

- verification of the office premises in terms of the minimum criteria for the office environment of the real estate intermediary, if in their office they have written their name, office surface, the fact that they advertise services other than real estate intermediation, in accordance with the standards provided in the bylaws;
- verification of the presence of the real estate intermediaries;
- verification of declared tariffs;
- verification of contracts for the intermediation of legal transactions with real estate;
- verification of the fulfilment of the obligation for vigilance, information and reporting to the GDPI (responsible authority), in accordance with the legislation for prevention of money laundering and financing of terrorism.

To the effect of conducting the administrative investigation, there shall be taken into consideration the other obligations of the real estate intermediary, according to the LPREI, as follows:

- drafting the real estate intermediation agreements in a clear and clean manner, according to the rules provided in the LREI;
- compliance with the obligation related to ensuring that, before concluding the mediation contract, the party has the right to freely dispose of the property or other real rights over the immovable property subject to intermediation, according to the documentation submitted by the client;
- verification of data storage on the real estate for which they are carrying out intermediation;
- protection of professional secrecy and data obtained in the course of their professional activity or from the documents made available to them by the client, except when the declaration of this information is a legal obligation;
- the above paragraphs constitute a general presentation of the topics that will be covered by the inspector during the inspection, which will be detailed below along the text of the methodology.

3.2 Documentation being required prior to and during the inspection in the field

This is the list of documents that the real estate intermediary must submit to the inspectors during the inspection:

- some of them must be sent by the real estate intermediary to the inspectors during the first phase of the inspection within 24 hours of receiving the request;

- other documents must be shown during the second phase of the inspection, during the on-site visit.

The list must be sent by the inspectors to the real estate intermediary upon order of the Minister of Justice ordering the inspection.

The real estate intermediary must submit the required documents. If he/she does not undertake such an action, then the inspector should mention it (comments, end of document). It can be a professional mistake for the real estate intermediary.

REQUIRED DOCUMENTS	
First phase of inspection: preliminary request	
Second phase of inspection: on-site visits	
Controlling the professional activity	
1. Agreement with the client for the provision of real estate intermediation service	To be prepared for presentation to inspectors on the day of the on-site visit
2. ...	<i>Idem</i>
3...	<i>Idem</i>
4... etc.	<i>Idem</i>
Control of office management	
Lease contract or ownership title regarding the premises of the real estate intermediation office	To be prepared for presentation to inspectors on the day of the on-site visit
Employment contract for each employee	<i>Idem</i>
Declaration of income (year 2)	<i>Idem</i>
Income tax payment certificate (year 1)	<i>Idem</i>
VAT payment certificate (year 1)	<i>Idem</i>
Social insurance payment certificate (year 1)	<i>Idem</i>
Health insurance payment certificate (year 1)	<i>Idem</i>

3.3 First phase of inspection: preliminary request

Purpose	<ul style="list-style-type: none"> - The inspection first phase is the preliminary request for submission of the required documents. - The real estate intermediary receives at his official e-mail address a copy of the minister's order and a list of required documents. He must provide all the listed documents within 24 hours of receiving the email.
Obligation of real estate	<ul style="list-style-type: none"> - The real estate intermediary must provide all the required documents within 24 hours of receiving the email.

intermediaries	
Instructions for inspectors	<ul style="list-style-type: none"> - The list of required documents should be sent by e-mail to the official address of the real estate intermediary attached to a copy of the order of the Minister. - The IT expert of the Ministry should ensure that the inspectors be informed that the electronic addresses through which the documents have been requested have been opened. - Documents having been requested and obtained by the real estate intermediary should be inspected prior to the on-site visit. - The following table should be completed before the on-site visit.

PRELIMINARY REQUIRED DOCUMENTS	Date when the document is required by the inspection DD.MM.YYYY	Date notifying the real estate intermediary (if necessary) DD.MM.YYYY	Date of submission of the document by the real estate intermediary DD.MM.YYYY

In case the real estate intermediary did not send the documents within the same day, state the reasons how he justifies this delay	
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3.4 Second phase of inspection: visits in the field

3.4.1 Previous inspection in the field

Purpose	- The objective of point 3.4.1 is the summary of the history of previous inspections in the same table (performed in previous years or even the current year in case of the special inspection).
Instructions for inspectors	<ul style="list-style-type: none"> - Prior to the current year visit, inspectors must complete the table below (if the office has been operating for more than a year), indicating the date of previous inspections. A number of previous inspections can be important information. - When going out onto the field, inspectors should take and keep all the documents of previous inspections to see whether or not the previous recommendations have been properly implemented.

	Year 4 (date)	Year 3 (date)	Year 2 (date)	Year 1 (date)	Current year
Ordinary inspections					NOT VALID
Specific inspections					

3.4.2 Current inspection in the field

Purpose	- If the on-site inspection has been postponed, the reason must be indicated in the inspection report.
Obligation of real estate intermediaries	- The real estate intermediary has the duty to be present and available during the inspection.
Instructions for inspectors	<ul style="list-style-type: none"> - In case of postponement due to the real estate intermediary, there shall be inspected whether there have been similar cases in previous years. - The real estate intermediary can request an adjournment only for objective and proven reasons (e.g., the event of the disease is proven by a medical report). - In case of postponement due to the inspector, there shall be inspected whether there have been similar cases in previous years (the same real estate intermediary - the same inspector).

If the on-site visit has been postponed this year, please state the reason:	
Have there been similar cases in previous years?	

3.4.3 Activity of real estates intermediaries

Purpose	- Ensuring that the data, where all legal transactions having been intermediated regarding real estate are recorded and the documentation of the real estate intermediation activity are in accordance with the requirements of the PPERI law.
Obligation of real estate intermediaries	<ul style="list-style-type: none"> - Submitting the required documents immediately. - Immediately providing all necessary information to the inspectors.
Instructions for	- The inspector must carefully fill out in the table.

inspectors	<ul style="list-style-type: none"> - The inspector must ensure that the actions of the real estate intermediary are in accordance with the requirements provided for by law. - The inspector shall verify whether the obligations that the parties have towards different tax bodies/institutions are reflected in the relevant act.
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Legal transactions intermediated in connection with real estate	Meeting the formal and legal criteria Y/N	Comments on legal transactions intermediated by real estate

Comments of inspector:

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3.5 Office premises

Purpose	- Ensuring that the office is suitable and offers the right activity standards, as well as for the reception of clients/parties.
Obligation of real estate intermediaries	- The office of the real estate intermediary must be suitable.
Instructions for inspectors	<ul style="list-style-type: none"> - Inspecting whether the working conditions and reception of clients meet the relevant requirements of laws and bylaws. - In the first table, the inspector shows the location of the office. - In the second table, the inspector shows the destination of each workstation, area and a general comment on the size, infrastructure, etc.

Address:	
Floor:	
Details:	

Room	Destination (room used for ...)	Surface approx.	Comments on the size, lighting, equipment, etc.,
Reception room	Reception	m ²	
Room 1		m ²	
Room 2		m ²	
...		m ²	
Archive		m ²	
...		m ²	
Office overall	—	m ²	

Comments of inspector:

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3.6 Office staff

Purpose	<ul style="list-style-type: none"> - Identifying the staff - Checking the employment contracts - Checking whether the legislation on social services and salaries is implemented in accordance with the rules on social services and/or on a contractual basis.
Obligation of real estate intermediaries	<ul style="list-style-type: none"> - Submitting the required documents immediately. - Immediately providing all necessary information to the inspectors.
Instructions for inspectors	<ul style="list-style-type: none"> - The inspector must carefully fill out in the table. - Non-compliance with the legislation on social services and wages/salaries should be considered as a serious failure.

Name	Surname	ID	Position	Employment	Monthly	In
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		Number		contract date	(gross) salary	compliance with the legislation Y/N

Comments of inspectors:

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4. KEEPING OF ACCOUNTS AND FINANCIAL DATA

4.1 Financial documentation

Purpose	<ul style="list-style-type: none"> - Inspecting whether the real estate intermediary has declared the tax liabilities in time. - Delay or non-declaration of taxes should be considered a failure and should become a cause for disciplinary proceedings.
Obligation of real estate intermediaries	<ul style="list-style-type: none"> - Provide all required information on the day of inspection. - Providing any required explanation on the day of the inspection.
Instructions for inspectors	<ul style="list-style-type: none"> - Inspectors should go to the office with a list provided by the tax administration, which is related to the situation of real estate intermediaries. - Inspectors will require that the tax declaration be made on time. If not, they should contact the tax authorities and the Ministry of Justice. - If applicable, inspectors will indicate that there is a certificate of payment issued by the tax authorities (the date of certification to be indicated).

Documents and references	Declaration date	Certificate from tax authorities
Income tax declaration		
VAT		
etc.		

Comments of inspectors:

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4.2 Payment of taxes

Purpose	<ul style="list-style-type: none">- Checking whether the real estate intermediary has paid the tax in time.- Delay or non-payment of taxes should be considered a failure and should become a cause for disciplinary proceedings.
Obligation of real estate intermediaries	<ul style="list-style-type: none">- Provide all required information on the day of inspection.- Providing any required explanation on the day of the inspection.
Instructions for inspectors	<ul style="list-style-type: none">- Inspectors should go to the office with a list provided by the tax administration, which is related to the situation of real estate intermediaries.- Inspectors will inspect that the tax declaration be made on time. If not, they should forward this to the tax authorities and the Ministry of Justice.- ATTENTION: Inspectors have the responsibility to inspect that payment has been made (for example, with a payment receipt issued by the tax authorities).- If applicable, inspectors will indicate that there is a certificate of payment issued by the tax authorities (the date of certification to be indicated).

Documents and references	Payment date	Certificate from tax authorities
Income tax payment		
VAT		
etc.		

Comments of inspectors:

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4.3 Social insurance duties

Purpose	<ul style="list-style-type: none">- Checking whether the real estate intermediary has paid the tax liabilities in time.
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	- Delay or non-payment of taxes should be considered a failure and should become a cause for disciplinary proceedings.
Obligation of real estate intermediaries	<ul style="list-style-type: none"> - Provide all required information on the day of inspection. - Providing any required explanation on the day of the inspection.
Instructions for inspectors	<ul style="list-style-type: none"> - Inspectors should go to the office with a list provided by the social insurance administration, which is related to the situation of real estate intermediaries. - Inspectors will inspect that the social insurance duties have been paid in time. If not, they should forward this to the social insurance authorities and to the Ministry of Justice. <p>ATTENTION: Inspectors have the responsibility to inspect that payment has been made (for example, with a payment receipt issued by the social insurance authorities).</p> <ul style="list-style-type: none"> - If applicable, inspectors will indicate that there is a certificate of payment issued by the social insurance authorities (the date of certification to be indicated).

Nature of obligation	Last payment date	Certificate from social insurance authorities
Social insurance		
Health insurance		
etc.		

Comments of inspectors:

5. DATA ON REAL ESTATES WHEREON IS BEING INTERMEDIATED

Purpose	- Checking whether the real estate intermediary is in possession of all the documents required by the laws and bylaws.
Obligation of real estate intermediaries	<ul style="list-style-type: none"> - Submitting the documents required by the inspectors immediately. - Immediately providing all necessary information to the inspectors.
Instructions for inspectors	- If the documents are submitted by the real estate intermediary, then the inspector shall give approval for them.

- The inspector shall verify the data on real estates whereon it is being intermediated

Data on real estates whereon it is being intermediated	Comment on keeping the data and rectifications	Legitimated Y/N
Data on real estates whereon it is being intermediated		

Comments of inspector:

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6. INSPECTION FOR PREVENTING MONEY LAUNDERING

6.1 Scope of application of the law for preventing money-laundering and financing of terrorism in connection with the real estates intermediaries

The Law no. 9917, dated 19.05.2008, "On the prevention of money laundering and terrorist financing", as amended (hereinafter "PML") provides in letter "h" of Article 3, that real estate intermediaries shall, within the meaning of defined in the Albanian legislation for this category, be subject to the scope of this law, as long as they are involved in transactions for their clients, related to the purchase or sale of real estate.

6.2 Functions of the Ministry of Justice as a supervisory authority

The Ministry of Justice shall, in accordance with Article 24, point 1, letter "c" of the PML, function as the supervisory authority for the activity of real estate intermediaries in terms of preventing money laundering and terrorist financing.

The Ministry of Justice shall, through inspections, monitor the compliance of the activity of real estate intermediaries with the obligations set out in the PML and immediately report to the General Directorate of Prevention of Money Laundering about any suspicion, information or data related to money laundering or terrorist financing.

The Ministry of Justice shall also perform the following tasks in terms of preventing money laundering:

- monitoring the implementation of anti-money laundering and anti-terrorist financing programs by real estate intermediaries and ensuring that these programs are appropriate;

- informing in a timely manner and cooperating with the responsible authority on non-compliance issues, inspection results, remedial measures to be taken and administrative measures, if any;
- taking the necessary measures to prevent an unsuitable person from owning, controlling or participating, directly or indirectly, in the management, administration or intermediation activity in real estates;
- cooperating and providing specialized assistance, according to its activity, in the field of money laundering and terrorist financing, in accordance with the requirements of the responsible authority;
- cooperating in the preparation and distribution of training programs in the field of prevention of money laundering and terrorist financing;
- keeping statistics on the actions taken, as well as on the sanctions imposed in the field of prevention of money laundering and terrorist financing.

6.3 Office organisation - Risk management

6.3.1 Risk analysis

The real estate intermediaries shall carry out and record a risk analysis for legal transactions performed by them in general, verify it regularly and eventually update it, as well as make it available to the supervisory body upon request.

Other comments

The relevant legal framework shall provide for a regular inspection of the activity of the real estate intermediary. Inspection shall monitor the activity of the real estate intermediary in relation to law implementation, standards of professional conduct, in particular the implementation of legislation on the prevention of money laundering and terrorist financing.¹¹ Depending on the result of the inspection, the risk analysis shall be updated.

Other comments

The PML is structured under the impact of the concept of "Vigilance". In this way, the obligated persons shall, on the one hand, be granted given a wide scope of action, while on the other hand, this concept requires from the real estate intermediary to apply their judgement regarding the reasonableness of a measure in the concrete situation and circumstances.

Article 11, point 1 of the PML requires, among others, that the entity being subject to the obligation of vigilance must appoint a person responsible for the prevention of money laundering and terrorist financing at the levels of administration/management in the headquarters and in each representation office, branch, or agency, to which all employees shall report of any facts that may constitute suspicion of money laundering or terrorist financing. Since the real estate intermediation office usually has a small number of employees, there can

¹¹ Article 21, par 5 of the LPREI.

be applied the provision that in case the number of employees is less than 3 (three) persons, the above obligations are fulfilled by one of the real estate intermediaries or by an employee authorized by him.¹²

In addition, the principles, procedures and controls for internal organization and measures can be developed in accordance with the practice of fulfilling the obligations for vigilance, fulfilment of the obligation for reporting, registration of information and storage of data according to the PML.

6.3.2 Prevention of money-laundering and employees

Employees shall be selected based on their suitability to engage in real estate intermediation activities and they shall be familiar with general professional and specific money laundering requirements, and shall be subject to supervision regarding the compliance with these requirements. Regarding PML training, employees shall be required to be provided with application suggestions, especially money laundering typologies (see Article 11, point 1, letter "d" of the PML). In addition, the real estate intermediary can document in the context of conversations with employees that he has provided the information about the current developments and that the employee is trustworthy, i.e., he can carefully comply with the relevant money laundering obligations, thus informing the real estate intermediary about the respective fact and not getting involved in money laundering himself.

In addition, the employees shall be informed about a service office where they can provide anonymous information regarding internal violations in accordance with law no. 60/2016 "On whistle-blowing and Protection of whistle-blowers". This function shall be undertaken by the real estate intermediary and the employees shall be informed of an anonymous way of providing this information.

6.3.3 Obligation for registration and storing

There shall be recorded and stored:

- data and documentation for the identification and verification of the identity of the beneficiary client and owner;
- data and documentation of correspondence with the client;
- data, reports and documentation on financial, national and international transactions, regardless of whether the transaction was carried out on behalf of the client or on behalf of third parties;
- the risk analysis and the program combating money laundering and terrorist financing.

Other comments

The necessary documentation according to Articles 5, 11 and 16 of the PML and Article 3 of the Instruction no. 29, dated 31.12.2012, of the Minister of Finance, "On the ways and procedures of reporting free non-financial professions" shall be kept as part of the file for the

¹² Article 11, par 3, of the PML.

procedure in question. The same approach applies to internal security measures in order to validate their creation, supervision and eventual updating.

In the case of PML related procedures, it is recommended that the following documents be stored standardized in the secondary file:

- copy of ID card;¹³
- Certificates having been issued by the civil registry offices and entry or residence permits for foreigners (for natural persons);
- Incorporation act and extracts issued by the National Business Center (for legal entities);

Relationship monitoring and concrete risk assessment can be made¹⁴:

☐ Low risk ☐ Medium risk ☐ High risk

(Eventually document other remarks/measures)

If measures are taken based on the identified risk or, in case of doubt, the existence of a reporting obligation is verified, this should also be documented with the relevant results.

In the event of a person previously identified according to the requirements of the PML, the obligation to document shall be fulfilled through the information in the document that this person is known to the real estate intermediary, if a copy of the ID card is available.

6.4 Organisation in reliance on practices - Obligation for vigilance

6.4.1 Concrete risk evaluation

Any money laundering related practice should be verified in relation with the money laundering risk. On the basis of the findings of the general risk analysis, a specific risk assessment of the practice shall be performed based on the existing risk factors.

The performance and the outcome of the concrete risk assessment must be documented. The outcome of the concrete risk assessment can be ascertained through a three-level scale (low risk, medium risk, high risk) in the questionnaire or in a special document in the secondary file.

Out of the finding of a high risk, other obligations derive, especially the measures taken following this finding must be documented. In case of finding a low risk, the obligation for care can be reasonably reduced, especially the identification should not necessarily be done through a valid official ID provided with a photo, through which the obligation for passport and identity card can be fulfilled.

Other comments

The range of measures to be taken on the basis of general vigilance obligations under Articles 4–10 of the PML, given the identified risk in the current case, must be reasonable. Articles 4 and 5 of the PML contain provisions regarding the obligations of due vigilance, if in the current

¹³ In the event of ID cards based on Article 5 of the PML, according to which the issuing office must be registered, the front and back page must be photocopied or scanned.

¹⁴ See Article 6, par 1 of the LMP.

case a low risk of money laundering is found, as opposed to a high risk that carries the obligation for extended vigilance according to Articles 7-10 of the PML.

Due to the fact that the real estate intermediary must strictly respect the requirements of the LPREI, as well as the bylaws in force, the risk of money laundering in practice is greatly reduced.

The risk assessment should begin during the establishment of the business relationship, i.e., with the initiation of the advisory activity or the closer official activity. In the event of previous clients, a new risk assessment is not mandatory for any new intermediation transaction, but must it be undertaken "in a timely manner", especially where substantive circumstances become different. To the extent that the "renewed business relationship" is based on new facts, such as a different legal transaction or other persons involved, a new risk assessment is again necessary.

The risk assessment is performed in the context of an overview of all the circumstances of the concrete case, so that the existence of a following perspective or specific perspectives does not necessarily lead to the conclusion of a low or high risk.

A low risk is especially in the case of the following legal transactions within the scope of the PML:

- intermediation actions with real estates for own residential or business purposes, as well as in the event of second or holiday apartments, or for rental purposes;

A high risk in accordance with Article 8 of the PML exists especially in the following cases:

- the participation of a politically exposed person (PeP), their family members or a person known to be related to a PeP;
- the parties coming from unsafe third countries pursuant to Commission Delegation (EU) Regulation 2016/1675;
- Unusual customer requests, with high and unusual amounts, which have no obvious economic or legal interest.

Other indicators of a high risk may be:

- foreign non-resident buyers of real estate;
- the purchase price does not look representative, given the social status;
- the purchase or sale price outside the usual market range;
- apparent impatience of the party;
- the buyer seems to have no interest in the item being purchased;
- the value of the purchase or sale is significantly below or above the market value;
- restoration of old real estates.

In the event of the mentioned criteria, it is about those circumstances that constitute a higher risk, but they can also have a reasonable cause and consequently can reduce the high risk significantly. If there are no moments of doubt, the inspector may request further information from the real estate intermediary.

6.4.2 Identification of formal participants

Persons to be identified

The obligation to identify the client and the person who eventually appears in his place has to do with the formal parties, being the persons who appear.

Carrying out the identification

The identification of the formal parties shall be done no later than the meeting with the real estate intermediary and, as a rule, through the verification of the personal identity card or passport that is presented. The document submitted for identity verification must be included as a copy in the client file or stored electronically. In the event of ID cards the front and back page must be photocopied or scanned.

Other comments

The identification of formal parties according to the PML shall consist of the finding of identity and verification of identity.

is done by obtaining the data according to the provisions of Article 5, point 1, of the PML, as elaborated above. Finding of identity

As a rule, the **verification of identity** shall be performed in accordance with Article 5, points 2 and 3, of the PML through original documents or notarized photocopies.

Other comments

If the real estate intermediary has doubts about the accuracy of the client's data or if he finds a higher money laundering risk in the context of the concrete risk assessment, it may, in order to identify the person with property interests, be necessary to inspect the following documents and have them administered physically or electronically in the file:

- In the event of representation of companies registered in the commercial register: extracts from the commercial register (especially in the case of trade companies of persons) or lists of companies (ltd.) or comparable documents of the register;
- In the event of representation of companies registered in the commercial register: incorporation act/statutes or decisions of the partners;
- In the event of bail reports: bail contracts.

With regard to the material independence of the real estate intermediary, it is necessary, for the convenience of documenting his obligations, to administer in the file or electronically the extract from the commercial register.

6.4.4 Other general obligations for vigilance

In addition to the obligation of identification, the real estate intermediary must have fulfilled the general diligence obligations:

- If the real estate intermediary is aware that a formal party or person with property interests is a politically exposed person (PeP), a close relative or a person known to be close to him/her, he/she shall in principle take for granted a high risk of money laundering. If the real estate intermediary has a suspicion of this nature, such as internet search or

questioning about the profession and the origin of the funds, can be applied. If there is no such suspicion, the real estate intermediary is not obliged to make inquiries.

- The intermediation activity for a client should be supervised from the first contact until the moment of execution and in relation to new facts related to money laundering arising after the concrete risk assessment. The emergence of these facts must be documented and eventually this requires a new risk assessment and the implementation of other reasonable measures in relation to the newly identified risk.

Other comments

Other general due diligence obligations of the real estate intermediary, given their organizational structure, of lower relevance.

The information about the purpose of the transaction should be obtained in the context of a concrete risk assessment and these usually stem from the type of legal transaction for which mediation is sought. The nature of the transaction is also defined in the intermediation contract.

6.4.5 Expanded obligations in case of extended vigilance

In the context of "enhanced customer vigilance", a thorough investigation of the parties, persons with property rights and the purpose of the business, as well as a continuous and reinforced monitoring, shall be required.

Other comments

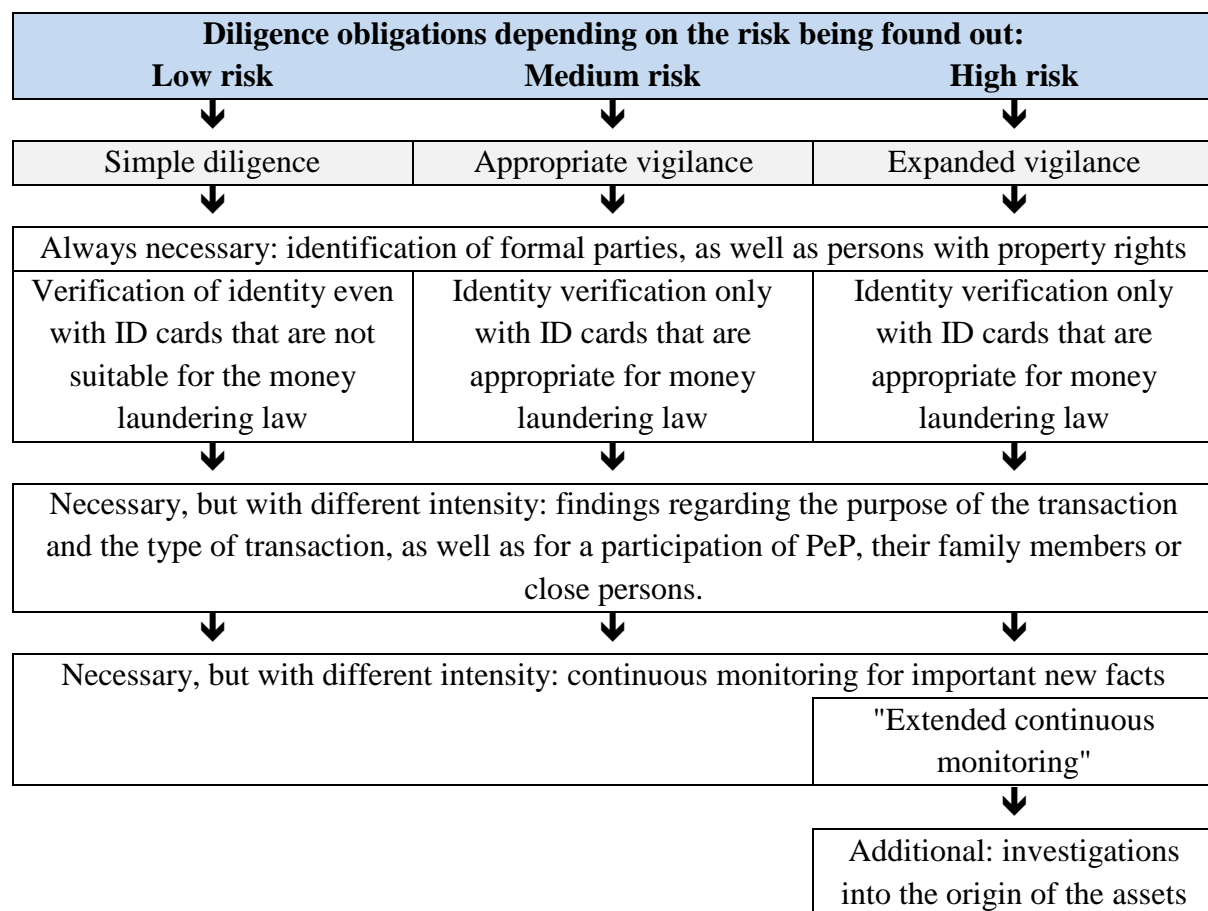
If the real estate intermediary, in the context of a general risk analysis or concrete risk assessment, finds out that there may be a high risk, in addition to general due diligence obligations, he shall should follow more thorough control process within the framework of "enhanced customer vigilance". The range of additional measures depends on the risk already being found out.

There shall anyway be met the following reinforced precautionary measures:

- Reasonable measures should be taken to determine **the origin of the assets used in the relevant practice** (e.g., funds for the payment of the purchase price, when this price does not match the social status of the client). For this, the real estate intermediary normally only has the opportunity to ask the party about the origin of the assets, to verify these in relation to the reasonableness and to enter the relevant documentation in the file. The opportunity to obtain information from (trusted) third parties does not exist for the real estate intermediary due to his obligation of confidentiality.
- The practice should be subject to **continuous monitoring and enhanced vigilance**.
- The procedures, which are very complex and extensive, are conducted in an unusual way, which do not show any economic or legal purpose, should be **investigated more closely**.

Other measures being taken on the basis of the identified risk, as well as their outcome should be recorded and stored.

6.4.6 Summary presentation of care obligations



6.5 Obligation to report to the responsible authority and tasks of the authority towards real estate intermediaries

In accordance with Article 12 of the PML, real estate intermediaries shall have the obligation to report to the responsible authority, through a report where they submit their doubts about the cases when they know or suspect that money laundering or terrorist financing is being done, has been done or is trying to be done. Reporting is done immediately and no later than the period determined in accordance with the provisions of the PML.

Where the real estate intermediary, who is asked by the client to intermediate a transaction, suspects that the transaction may involve money laundering or terrorist financing, he should immediately report to the responsible authority and seek instructions on whether to perform the transaction or not. Employees of the real estate intermediation office shall be prohibited from informing the client or any other person about the procedures for verifying suspicious cases, as well as about any reporting to the responsible authority (Article 15 of the PML).

The real estate intermediaries are required to report to the responsible authority, according to the deadline set in accordance with the PML, on: - all procedures related to transactions in cash,

in a value equal to or higher than 1 000 000 (one million) ALL or the equivalent in foreign currencies, performed as a single transaction or as transactions related to each other, within 24 hours.

7. COMMENTS AND SIGNATURES

Purpose	- Both the inspector and the real estate intermediary shall have the right to comment on the inspection (conditions, errors...).
Instructions for inspectors	<p>- This document must be completed electronically on the inspector's laptop or on a computer that the real estate intermediary will make available to the inspector during the inspection (if the second option is chosen, the inspectors will take with them an electronic version of this document in the USB).</p> <p>- At the end of the inspection, the document must be printed and signed by the real estate intermediary and the inspector. If the real estate intermediary refuses to sign, the inspector makes the relevant notes within the comments.</p>

Comments of the real estate intermediary	Comments of inspector
Dated: Comments:	Dated: Comments:

Signature of the real estate intermediary	Signature of inspector/s
Number of pages of the document Signature:	Number of pages of the document Signature: Statement of the inspector that there is no conflict of interest with the inspected entity

Note. A copy shall be given to the real estate intermediary and a copy is taken by the inspector.

ANNEX 1
CHECK LIST FOR INDICATORS OF THE LEVEL OF RISK OF REAL ESTATE
INTERMEDIARIES REGARDING MONEY LAUNDERING

Scope of application of PML to the real estate intermediaries

The real estate intermediaries are subject to the scope of application of the PML, as long as they are involved in transactions for their clients, related to the purchase or sale of real estate. (Article 3, letter h, of the LPREI)

Risk indicators

1. Suspicious features of the parties to the transaction:
 - the volume of transactions that do not match with the social status and specific knowledge of the parties;
 - lack of language knowledge and lack of interest on the part of the client;
 - persons who have the right of ownership or buyers who avoid personal contact with the real estate intermediary;
 - the representative by power of attorney for several times without having close ties with the represented person;
 - clients related to organized crime, drug trafficking and prostitution;
 - extremely high impatience to complete the transaction;
 - multiple transactions of the same parties within a short time;
 - the parties are politically exposed persons (PeP), members of their families or persons known to be close to PePs.
2. Suspicious features of the transaction:
 - unexpected desires for changes without explanation;
 - changes in requests within a short time, especially when there is a significant change in the amount;
 - offering for sale extremely below or above value;
 - lack of interest from the client on the assets presented by the intermediary;
 - lack of interest from the client on the documentation of the property proposed by the intermediary.
3. Suspicious features related to commercial companies:
 - obvious divergence between the official headquarters and the administrative headquarters (special care should be paid for companies that have mailboxes for their address);
 - investor in capital without having special material or language knowledge;
 - commercial company without actual commercial activity;
 - companies with liquidity problems.

Risk Evaluation

A low risk is especially in the case of the following legal transactions within the scope of the PML:

- intermediation actions with real estates for own residential or business purposes, as well as in the event of second or holiday apartments, or for rental purposes;

A high risk in accordance with Article 8 of the PML exists especially in the following cases:

- the participation of a politically exposed person (PeP), their family members or a person known to be related to a PeP;
- the parties coming from unsafe third countries pursuant to Commission Delegation (EU) Regulation 2016/1675;
- Unusual customer requests, with high and unusual amounts, which have no obvious economic or legal interest.

Other indicators of a high risk may be:

- foreign non-resident buyers of real estate;
- the purchase price does not look representative, given the social status;
- the purchase or sale price outside the usual market range;
- apparent impatience of the party;
- the buyer seems to have no interest in the item being purchased;
- the value of the purchase or sale is significantly below or above the market value;
- restoration of old real estates.

MONEY LAUNDERING TYPOLOGIES IN THE FIELD OF REAL ESTATE INTERMEDIATION

To the effect of providing the inspector and the intermediary of the inspected real estate with an instruction on which situations are specifically apt for the realization of the respective money laundering transactions, below you will find an illustrative example, as well as a list of typical indicators, which are not exhaustive, but dynamic.

Illustration examples

The following are examples in which a money laundering operation is evident, as actors regularly acknowledge economic disadvantages to the effect of anonymity and lack of transparency. This is an indication that the property under the relevant legal transaction is not emerging from lawful sources. The following principle applies to distinguishing suspicious cases of money laundering: The more unusual and meaningless a legal transaction seems, the higher the risk of money laundering.

Case 1 A gardener in his late twenties is seeking to buy some real estate. He stated that he would finance the purchases out of the sale of previous assets and also presented bank certificates. A little later, this person seeks to sell the real estate at a higher price. Actually, the financial means for the purchase of the real estate were obtained from the criminal offense of financial fraud having been committed by the party involved.

Clarification Legal transactions related to real estate serve to conceal the criminal origin of the assets being used for the purchase. The rapid buying and selling of real estates aims at complicating tracking through the number of transactions and lengthen the track in a process called Layering. Extending the trace of documents increases the risk that this trace will be lost by the prosecuting authorities during the investigation.

Red flag The profession does not match the legal transactions performed and the age of the client, the number and frequency of legal transactions in real estates are atypical for this legal transaction in real estates.

Risk indicators

The following summary of indicators is based on the experience of the bodies involved in the prosecution in the field of money laundering and terrorist financing and aims at bringing to the attention of the real estate intermediary as a list for triggering suspicion (Red Flags). The presence of one or more of the following data does not result in the real estate intermediary taking for granted a suspicion of money laundering or terrorist financing, but makes being vigilant mandatory, thus addressing the issue as a whole.

Specific features:

Specific features of parties to transaction encompass:

- the volume of transactions that do not match with the social status and specific knowledge of the parties;
- lack of language knowledge and lack of interest on the part of the client;

- persons who have the right of ownership or buyers who avoid personal contact with the real estate intermediary;
- the representative by power of attorney for several times without having close ties with the represented person;
- clients related to organized crime, drug trafficking and prostitution;
- extremely high impatience to complete the transaction;
- multiple transactions of the same parties within a short time;
- the parties are politically exposed persons (PeP), members of their families or persons known to be close to PePs.

Suspicious features of the transaction:

- unexpected desires for changes without explanation;
- changes in requests within a short time, especially when there is a significant change in the amount;
- offering for sale extremely below or above value;
- lack of interest from the client on the assets presented by the intermediary;
- lack of interest from the client on the documentation of the property proposed by the intermediary.

Specific suspicious features related to commercial companies:

- obvious divergence between the official headquarters and the administrative headquarters (special care should be paid for companies that have mailboxes for their address);
- investor in capital without having special material or language knowledge;
- commercial company without actual commercial activity;
- companies with liquidity problems.