

Background information for national risk assessment of money laundering and terrorism financing provided on behalf of the Public Prosecutor's Office

I. Public Prosecutor's Office:

Public Prosecutor's Office is a system of state offices designated to represent the state in matters of protecting public interest in cases entrusted to its competence by the law. According to **Article 80** (1) of the **Constitution of the Czech Republic** the Public Prosecutor's Office represents public action in criminal proceedings and also performs additional tasks stipulated by the law, whereas according to sub-section (2) of this Article the position and competence of the Public Prosecutor's Office is provided for by the law.

This law is the **Act no. 283/1993 Coll., on Public Prosecutor's Office, as amended** (hereinafter referred to as "APPO"). The Ministry of Justice has issued Regulation no. 23/1994 Coll., on Rules of Procedure of Public Prosecutor's Office, establishing branch offices of certain Public Prosecutor's Offices and details on actions performed by legal trainees, as amended (hereinafter referred to as "RPPPO"). During the time the Act on Public Prosecutor's Office was being drafted, various models of position and functioning of the Prosecution, or more precisely the Public Prosecutor's Office, within the system of state authorities were being considered. It was proposed that the Public Prosecutor's Office should form a separate system of state authorities designated for the representation of state in matters specified by the law. However, the result was the current model of Public Prosecutor's Office as a part of the Ministry of Justice resort.

The Constitution of the Czech Republic lists the Public Prosecutor's Office in the third chapter dealing with executive power. Despite this fact the position of the Public Prosecutor's Office as a special authority (**authority "sui generis"**), lying on the verge of executive and judicial power, is accepted by the majority of expert public, including the top judicial authorities (see e.g. decision of the Constitutional Court of 28. 6. 2012 no. Pl. ÚS 17/10 or judgment of the Supreme Court of 12. 6. 2012 no. 1 As 51/2012). Public Prosecutor's Office is neither a Ministry, nor an "administrative office", which is deduced by expert literature, or the judgment of the Supreme Court of 27. 10. 2005 no. 6 As 58/2004, which says: "This act does not presume that the Public Prosecutor's Office should in any way decide according to any legal enactment in administrative proceedings, and as such it has no competence to decide in administrative proceedings on rights and obligation of the parties. Neither the Constitution of the Czech Republic does allow any deliberation on the nature of the Public Prosecutor's Office as an administrative authority, since Article 79 expressly regulates legal relations of the Ministry and other administrative authorities, in contrast to Article 80, which deals with an entirely different authority, being the Public Prosecutor's Office."

Public Prosecutor's Office is composed of a **system** of individual authorities, namely:

Supreme Public Prosecutor's Office

2 High Public Prosecutor's Offices in

- Prague
- Olomouc – including branch offices in Brno and Ostrava

8 Regional Public Prosecutor's Offices in

- Brno, including branch offices in Jihlava and Zlín
- České Budějovice, including a branch office in Tábor
- Hradec Králové
- Ostrava, including a branch office in Olomouc
- Pilsen
- Prague
- Ústí nad Labem, including a branch office in Liberec
- Municipal Public Prosecutor's Office in Prague

86 District Public Prosecutor's Offices (including District Public Prosecutor's Office in district of the Capital city of Prague and the Municipal Public Prosecutor's Office in Brno) and

- District Public Prosecutor's Office in Karviná, including a branch office in Havířov

The Czech Republic has approximately 10.500.000 inhabitants and an area of nearly 79.000 sq. km. This number of inhabitants and land area corresponds to a maximum systemized number of 1272 public prosecutors (the actual number of public prosecutors oscillates around 1250) and a maximum systemized number of 1498 other employees of Public Prosecutor's Offices (the actual number of other employees oscillates around 1400 to 1430).

The basic **determination of competence of Public Prosecutor's Office** is stipulated in Section 4 of APPO in the way that Public Prosecutor's Office, in the extent, manner and under the conditions provided for by the law:

- a) is the body of public prosecution in criminal proceedings and performs other duties arising from the Criminal Procedure Code;
- b) exercises supervision over the compliance with legal regulations in places where custody, imprisonment, protective treatment, security detention, or protective or institutional care is being executed, and in other places, where personal freedom is being restricted according to a statutory authorization;
- c) acts in other than criminal proceedings,
- d) performs other tasks, if a special Act so provides.

In compliance with its statutory competence the Public Prosecutor's Office also participates on the prevention of crime and provision of assistance to the victims of crime.

Findings made by the system of Public Prosecutor's Office on its competence in general and some statistic data on its competence, including those related to criminal activity associated with money laundering and terrorism financing (if any) are listed in regularly **elaborated reports on the activity of Public Prosecutor's Office** for the respective calendar year. These reports are freely available on the website of the Supreme Public Prosecutor's Office at: <http://www.nsz.cz/index.php/cs/udaje-o-cinnosti-a-statisticke-udaje/zprava-o-innosti>.

The Public Prosecutor's Office is aware of the need to **specialize** on individual types of criminal activity in order to secure sufficient expert knowledge and experience of the

individual public prosecutors on the area of crime in question. There are specialized public prosecutors within the system of Public Prosecutor's Office both on the area of money laundering and terrorism financing. The issue of specialization of public prosecutors is governed by the Instruction of General Nature no. 4/2009, the Sample Rules of Organization, as amended. The Instruction of General Nature is an internal regulatory act of the Public Prosecutor's Office system and it is binding to all public prosecutors, and also for other employees of the Public Prosecutor's Office, if the Supreme Public Prosecutor so stipulates (see Section 12 (1) of APPO). For the area of money laundering the said Instruction of General Nature in Annex 1 and 2 stipulates under item I. Economic and property crime, paragraph D) money laundering and draining of proceeds from crime. The area of terrorism financing falls under the specialization stipulated in Annex 1 and 2 under item V. Crimes not subject to the statute of limitations, crimes against humanity, war crimes and terrorism. These specializations are mandatory at Regional and High Public Prosecutor's Offices and at the Supreme Public Prosecutor's Office; at District Public Prosecutor's Offices these specializations are optional (however, with regard to the nature of criminal activity and competence of Public Prosecutor's Offices the area of terrorism financing is de facto out of question in terms of jurisdiction of District Public Prosecutor's Offices, and as far as money laundering is concerned, at District Public Prosecutor's Office it falls under the specialization referred to in Annex 1 and 2 under item I. Economic and property crime, unless a separate specialization is established). The allocation of individual public prosecutors to each specialization is decided by the chief public prosecutor of the respective Public Prosecutor's Office. In general each public prosecutor handles cases according to his specialization. The list of occupation of specializations and changes thereof are notified to the Supreme Public Prosecutor's Office, which keeps a list of specializations and allocation of public prosecutors; this list is updated quarterly and published on the Extranet website of Public Prosecutor's Office, and as such it is accessible to all public prosecutors and other expert employees of the Public Prosecutor's Office.

In order to strengthen the specialization of public prosecutors on criminal activity associated with terrorism related the Supreme Public Prosecutor's Office has proposed to the Ministry of Justice an amendment of the RPPPO in January 2016, purpose of which is to include this type of criminal activity under Section 15 of RPPPO, whereas this change would make these crimes fall directly within the competence of High Public Prosecutor's Offices. Currently this proposal is being reviewed within an interdepartmental amendment procedure.

Since 2011 the Public Prosecutor's Office system includes a position of National Correspondent for fight against corruption and search and draining of proceeds from crime and also National Correspondent for terrorism, extremism, extraordinary events, protection of cultural assets and crimes against the environment. This was put to practice on the basis of a Provision of the Supreme Public Prosecutor no. 25/2011, which established the position of National Correspondents for various areas of criminal activity. Currently this issue is regulated by Provision of the Supreme Public Prosecutor no. 2/2013, on National Correspondents and their expert teams, as amended; this Provision also follows up on Section 25 of the Act no. 104/2013 Coll., on International Judicial Cooperation in Criminal Matters, as amended. With effect as of 1. 5. 2016, this Provision was amended (amendment effected by Provision no. 8/2016), whereas the amendment consisted in certain redistribution of agenda among National Correspondents, specifically among other things by establishing a position of **National Correspondent for combating terrorism, extremism and hate crimes** and a position of **National Correspondent for combating financial crime and money laundering, search and draining of proceeds from crime and for protection of financial**

interests of the EU. National Correspondent, or his expert team, not only form a point of cooperation for the National Member in Eurojust in the given area, but also serve as a guarantor of interdepartmental cooperation and cooperation with foreign countries; they also analyze case law and specialized publications, participate on execution of questionnaires, educational activities secured in particular by the Judicial Academy, on interdepartmental cooperation and meetings, they attend or propose attendance on domestic and foreign conferences. Currently there are a total of ten National Correspondents, appointed also for other areas.

The area of money laundering and terrorism financing is inseparably associated with the issue of draining of proceeds from crime. As soon as in 2011, a **network of public prosecutors specialized on seizure of proceeds from crime** has been established. Members of this network, who are specialists from individual Regional and High Public Prosecutor's Offices under the leadership of the Department of Serious Economic and Financial Crime of the Supreme Public Prosecutor's Office, operate also as methodology specialists in the given field for the internal needs of the Public Prosecutor's Office system.

The area of terrorism financing is given special attention in the Public Prosecutor's Office system, which is documented also by introducing the so called **information obligation** towards the Supreme Public Prosecutor's Office. This obligation is stipulated in art. 1 (1) item 6 of the Instruction of General Nature of the Supreme Public Prosecutor no. 10/2011, on Information, as amended. All public prosecutors are thereby obliged to notify the Supreme Public Prosecutor's Office of any new case related to terrorism or aimed against the foundations or security of the Czech Republic, foreign state or international organization. There is no such information obligation set in relation to money laundering, but the information obligation may still be fulfilled in case other criteria of information obligations stipulated in this Provision are met. As such there is a permanently established and exercised information obligation of lower-level Public Prosecutor's Offices towards the Supreme Public Prosecutor's Office as a form of control and following methodical guidance in relation to such criminal offences. This secures control of procedure of public prosecutors of lower-level Public Prosecutor's Offices, or more precisely a possibility to acquire information for the purpose of harmonization of decision-making practice in the given area of activity within the whole Public Prosecutor's Office system.

From the methodology point of view on the area of criminal prosecution of money laundering and terrorism financing, the **existence of Extranet of the Public Prosecutor's Office** is also worth mentioning. Extranet of the Public Prosecutor's Office is not accessible to the general public, it is an internal source of information within the Public Prosecutor's Office system. It is available to all public prosecutors and all expert employees of the Public Prosecutor's Office. Extranet of the Public Prosecutor's Office is used for publishing and permanent availability of various materials, mostly of methodological nature (methodology, opinions, case law, news, minutes from meetings etc.), also for the area of money laundering and terrorism financing.

Furthermore it is worth mentioning that especially the area of money laundering is regularly the subject of **educational events organized by the Judicial Academy**, which are attended by public prosecutors, as well as judges.

II. Statistical data and their evaluation in the area of criminal activity associated with money laundering:

The Ministry of Justice is the authority responsible for department statistics in the judiciary area. Statistical data from the Public Prosecutor's Office system is generally acquired from the information system of the Public Prosecutor's Office called ISYZ. The reported data provided by Public Prosecutor's Office is designated in particular for complying with the binding statistical indicators for the judiciary resort, for information for managerial decisions of chief public prosecutors in the course of exercising their control and directive competences in the Public Prosecutor's Office system, for information to the public (both expert and general public) on exercising the competences of the Public Prosecutor's Office and in particular on the crime rates in the individual areas etc.

The available statistics did not allow for acquiring all the necessary information for the purpose of elaboration of national risk assessment in the area of money laundering, or more precisely the part related to criminal proceedings in this area. This is why in order to acquire up to date, relevant and detailed information on this area, the Supreme Public Prosecutor exercised his authority under Section 12g (1) of APPO, according to which he requested from all District, Regional and High Public Prosecutor's Offices (a total of 96 Public Prosecutor's Offices) provision of certain information, especially of statistical nature, related to the issue of criminal activity associated with money laundering. For the purpose of collection of statistical data, electronic forms were created and designed for filling in structured data into simple, mostly numerical fields, and for selection from previously prepared code lists. This form was elected for the reason of maximum user-friendliness of collection of the statistical data in question. These forms were placed on Extranet of the Public Prosecutor's Office, which was also used for their completion by the individual Public Prosecutor's Offices.

As a frame of reference for collection of data from criminal proceedings, proceedings on the following criminal offenses were selected:

- **legalization of proceeds from crime according to Section 216 of the Criminal Code,**
- **negligent legalization of proceeds from crime according to Section 217 of the Criminal Code and**
- **legalization of proceeds from crime according to Section 252a of the Criminal Code effective until 31. 12. 2009** (hereinafter also referred to as "legalization criminal activity" or "legalization crimes"),

in the following cases (time frame of the collected data):

- **cases prosecuted in years 2013, 2014 and 2015 and**
- **older cases finally and effectively concluded in years 2013, 2014 and 2015.**

Such arrangement of the reference frame was elected so as to reflect the current time period, to represent a certain longer time-frame eliminating any eventual isolated annual divergences, while on the contrary the limited 3-year period (2013 to 2015) represented an acceptable workload of individual Public Prosecutor's Office in the course of analyzing cases and filling

out the appropriate electronic forms. The Supreme Public Prosecutor's Office has provided the necessary methodical and technical support to the individual Public Prosecutor's Offices in the course of filling out the forms (completion of forms, including the following correction of errors – overall time approximately 1 month).

Identification of vulnerability – insufficient statistics of the judiciary resort on criminal offences related to money laundering

Following the above referred we must state that even though the regularly kept statistics did not allow for ascertaining all the necessary data on criminal sanctioning of money laundering, or more precisely legalization of proceeds from crime (this is of course a more general issue with broader scope than just this type of criminal activity), the Supreme Public Prosecutor's Office was able to relatively quickly acquire this data via direct collection from the individual Public Prosecutor's Offices, whereas it had sufficient statutory authorization to do so under Section 12g (1) of APPO.

However, it is worth noting that the Ministry of Justice has drafted a document “Resort strategy for development of eJustice for years 2016-2020”, where under art. 4.2.6. it assumes significant strengthening of the possibilities of statistical collection of data and advanced methods of processing statistical data, which in the future would allow statistical inquiries and monitoring in previously unmonitored areas. This document is currently to be submitted for approval procedure to the Government of the Czech Republic; after the approval it would provide a solid foundation for its implementation. In compliance with this document, or more precisely even before it was drafted, a workgroup for the new information system of the Public Prosecutor's Office called ELVIZ was established in June of 2015, which would provide incomparably better foundation for work with statistical data. Implementation of the above referred would completely eliminate this risk.

Note on statistical data from the Public Prosecutor's Office system:

Even though emphasis was given to completeness of completion of the forms as referred to above, in some instances the individual Public Prosecutor's Offices failed to provide correct or complete data. With regard to the time limit set for processing this material it was not possible to completely and thoroughly correct all errors in the provided data (even though we were partially successful in this respect). However, at the same time we must state that this problem was identified in only a very small number of cases and such it was inconsequential to the conclusions made. Nevertheless, the below stated conclusions must be considered in view of a certain statistical error, which is estimated at approximately 2 % (which of course is mitigated with higher absolute evaluated numbers).

II.A. Summary data on legalization criminal activity:

Chart no. 1:

<u>Period</u>	2013	2014	2015	Overall
Cases				
Newly prosecuted	363	555	561	1479
Older cases - concluded	231	193	170	594
Total	594	748	731	2073

The above stated data clearly implies that there is no significant fluctuation of legalization criminal activity. For comparison the chart no. 2 below shows basic summary data on criminal proceedings in the Czech Republic (the data only applies to natural persons). The comparison shows that **legalization criminal activity represents an annual portion on the overall crime of approximately 0.2 %.**

Chart no. 2:

Year	Criminal proceedings (cases)	Prosecution or Summary pre-trial proceedings (natural persons)	Indictment or motion for punishment (natural persons)	Motion for approving agreement on guilt and punishment ("AGP") (natural persons)
2010	315 802	101326	92807	---
2011	316 452	102955	94619	---
2012	305 700	103416	95189	29
2013	327 706	105858	98034	118
2014	288 660	103591	96227	86
2015	255 572	91582	84327	113

Furthermore we must state that only two Public Prosecutor's Offices did not record any case related to legalization criminal activity in the monitored time period. On the other hand the **highest count** of cases, specifically ca 14 %, was recorded by the **District Public Prosecutor's Office for Prague 1**, followed by ca 8 % at the Municipal Public Prosecutor's Office in Brno.

II.B. Criminal complaints related to legalization crime listed according to the filing party:

Diagram no. 1: Criminal complaints according to the filing party: case count in years 2013 to 2015

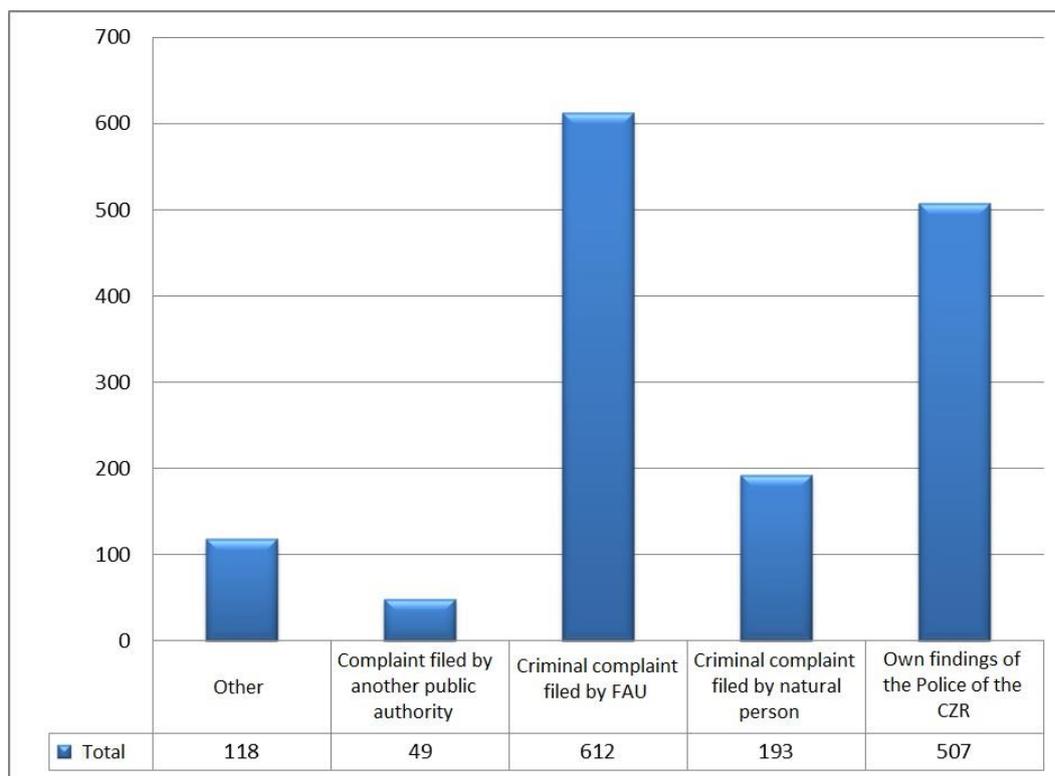


Diagram no. 2: Criminal complaints according to the filing party – case count in year 2015

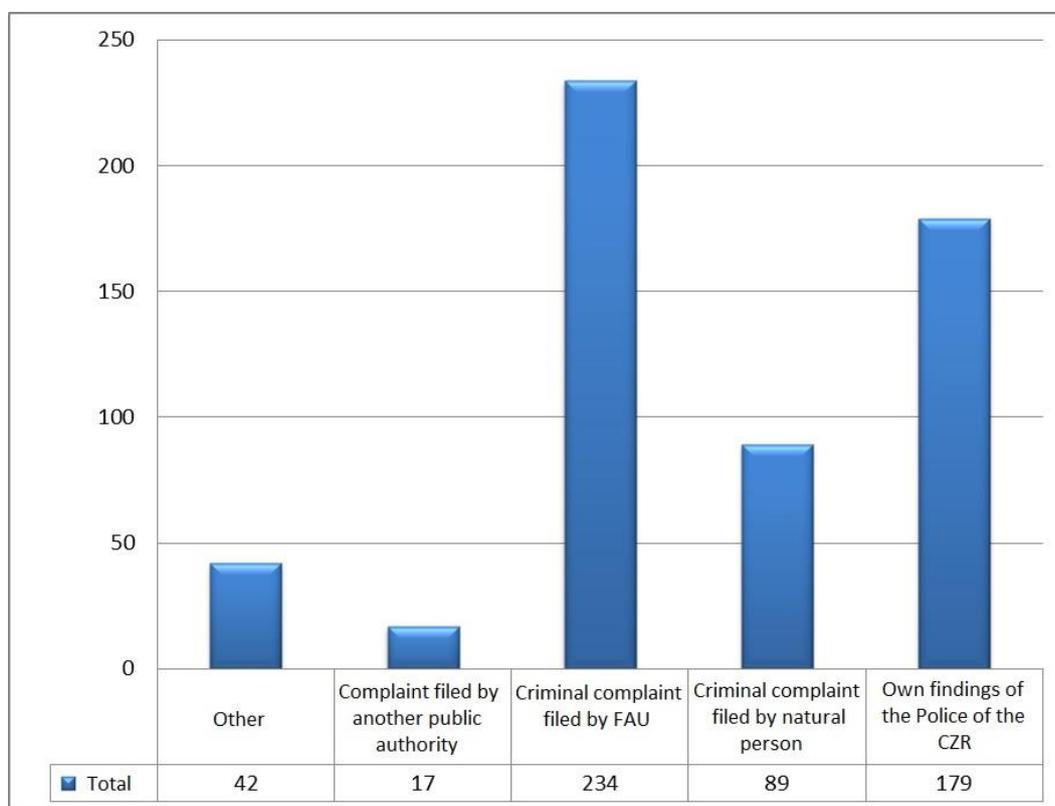


Diagram no. 3: Criminal complaints according to the filing party – case count in year 2014

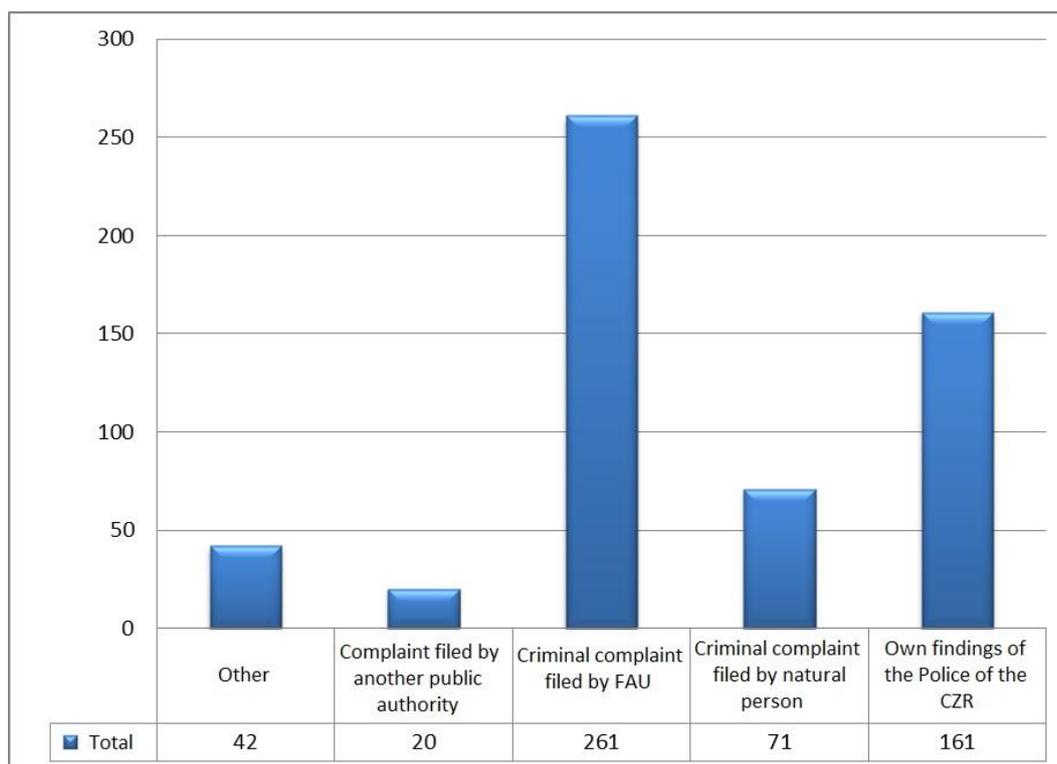
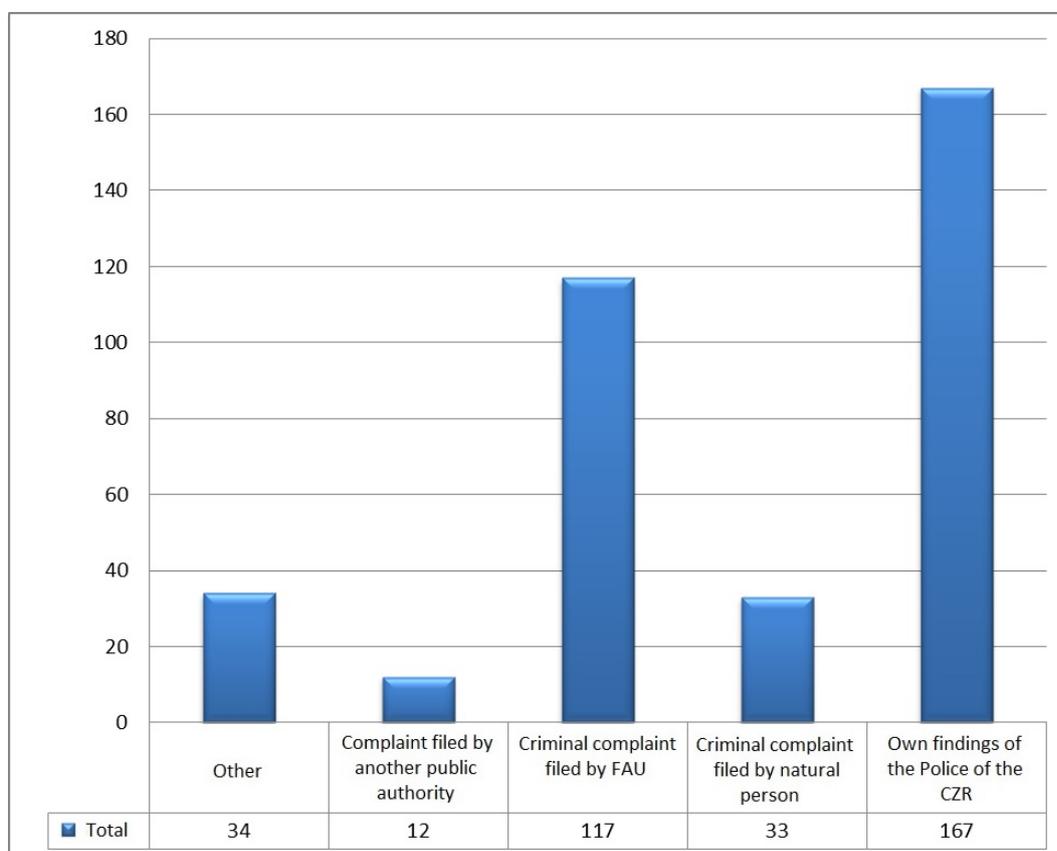


Diagram no. 4: Criminal complaints according to the filing party – case count in year 2013



The above stated data indicate a significant portion of own findings of the Police of the Czech Republic and also notification activity of the FAU. It is thus apparent that FAU plays an indispensable and irreplaceable role.

II.C. Criminal complaints filed by the Financial Analytical Unit of the Ministry of Finance:

Chart no. 3:

Period	2013	2014	2015	Overall
Cases				
Criminal proceedings involving legalization crimes initiated by criminal complaint of FAU	117	261	234	612
Criminal complaint of FAU qualified as different crime than legalization	29	35	49	113
Total criminal complaints of FAU	146	296	283	725
Criminal complaints of FAU delivered for information to Public Prosecutor's Office (i.e. a selection of criminal complaints made on the basis of seriousness, which FAU sends to the Police)	107	178	135	425

Criminal complaints filed by FAU according to the annual report for year 2015¹	547	680	514	1741
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The above referred data indicates a clear disparity between criminal complaints filed by FAU that are shown by this Unit in its annual reports (see the last line of the chart) and data from criminal proceedings collected from Public Prosecutor's Office system, as is referred to above. This data cannot be interpreted in a way that criminal complaints filed by FAU are "lost" somewhere (investigation in the matter indicated no such conclusion), but rather that the records on initiating actions in criminal proceedings that served as the basis for completion of questionnaires by Public Prosecutor's Offices show a different source of findings for initiation of criminal proceedings even in cases, where the original complaint was filed by FAU, but e.g. was followed by a procedure according to Section 158 (1) of the Code of Criminal Procedure.

Identification of vulnerability – failure to send criminal complaints of FAU for information to the competent Public Prosecutor's Office

Even though Section 158 (2) of the Code of Criminal Procedure stipulates that any report on matters indicating that a crime was committed must be accepted by public prosecutor and Police authority, and as such it is not an error if a criminal complaint is sent solely to the Police authority, but given the importance of criminal complaints filed by FAU it appears pertinent to establish a practice to send criminal complaints filed by FAU not only to Police authorities, but also for information to the competent Public Prosecutor's Office. This will ensure that public prosecutors are aware of the criminal complaints filed by FAU from the very beginning of initiation of criminal proceedings and as such the competent public prosecutor will be able to fully secure realization of the principle of legality stipulated in Section 2 (3) of the Code of Criminal Procedure (of course provided that there are statutory grounds for doing so).

The possibility of re-establishment of such procedure will be subject to further discussion between the FAU and the Supreme Public Prosecutor's Office. The objective of these discussions will be to clarify the specific modalities of such procedure, in particular with regard to their practicability.

¹ Available at <http://www.mfcr.cz/cs/zahranicni-sektor/ochrana-financnich-zajmu/boj-proti-prani-penez-a-financovani-tero/vysledky-cinnosti-financniho-analytickeh/2015/zprava-o-cinnosti-financniho-analytickeh-24287>

Diagram no. 5: Criminal complaints filed by FAU and qualified as another crime than legalization – 2013 to 2015

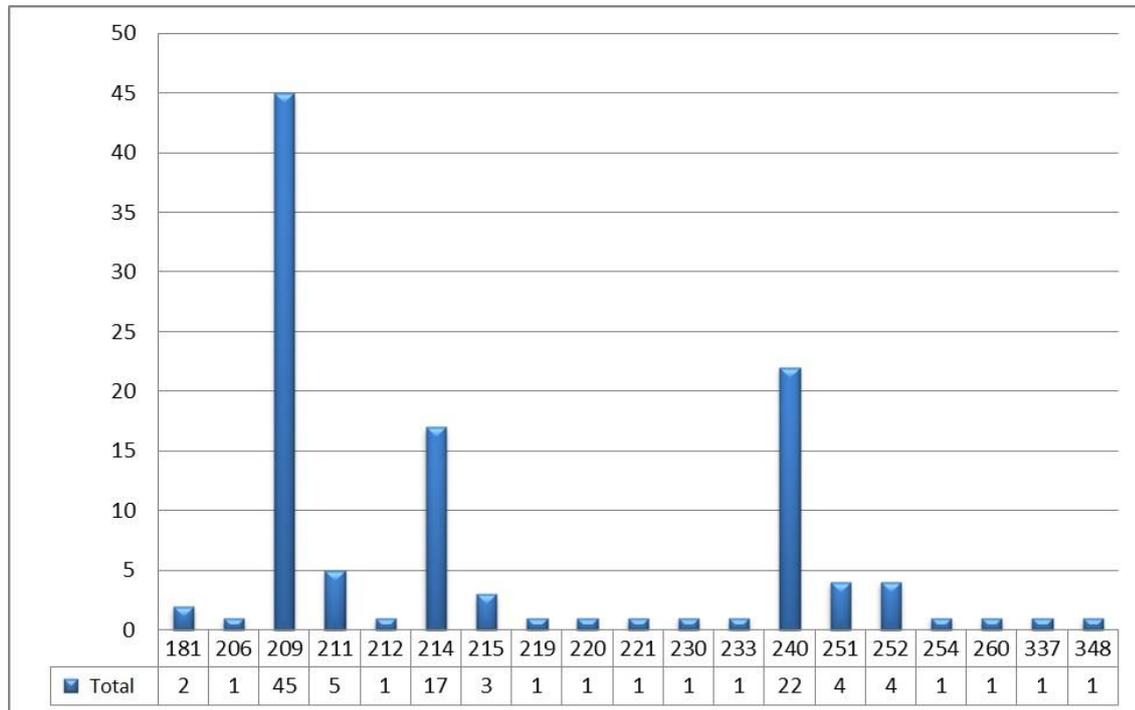


Diagram no. 6: Criminal complaints filed by FAU and qualified as another crime than legalization – 2015

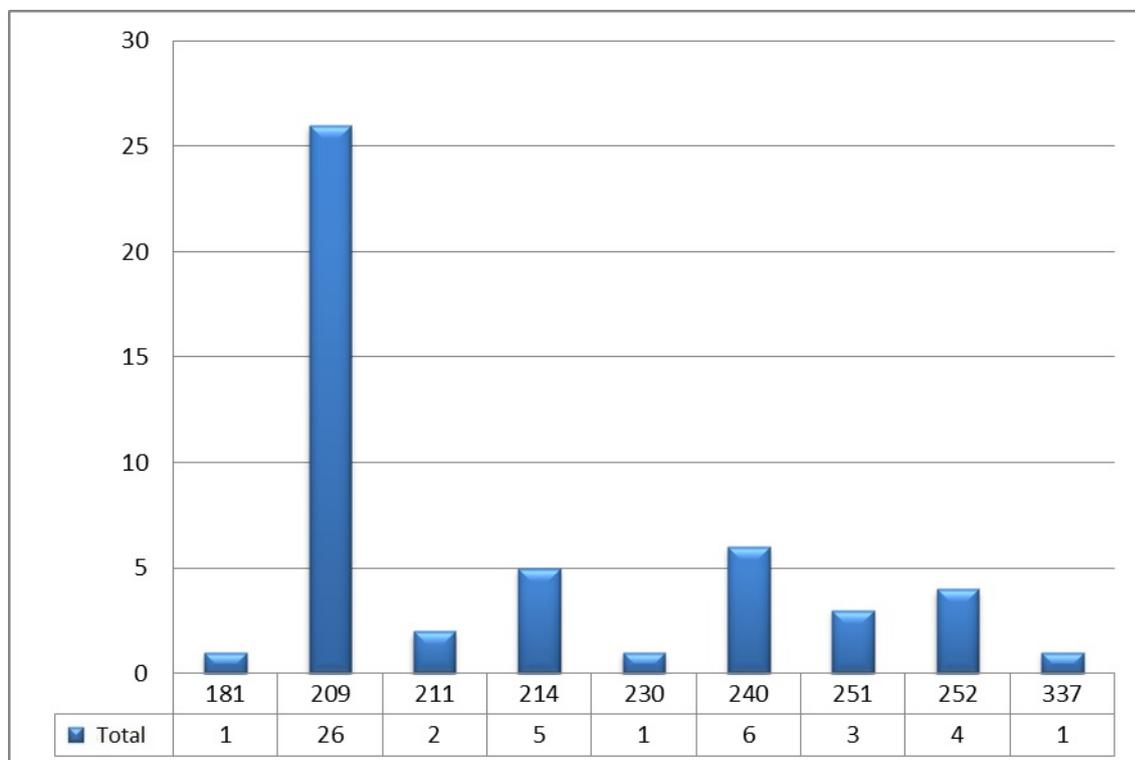


Diagram no. 7: Criminal complaints filed by FAU and qualified as another crime than legalization – 2014

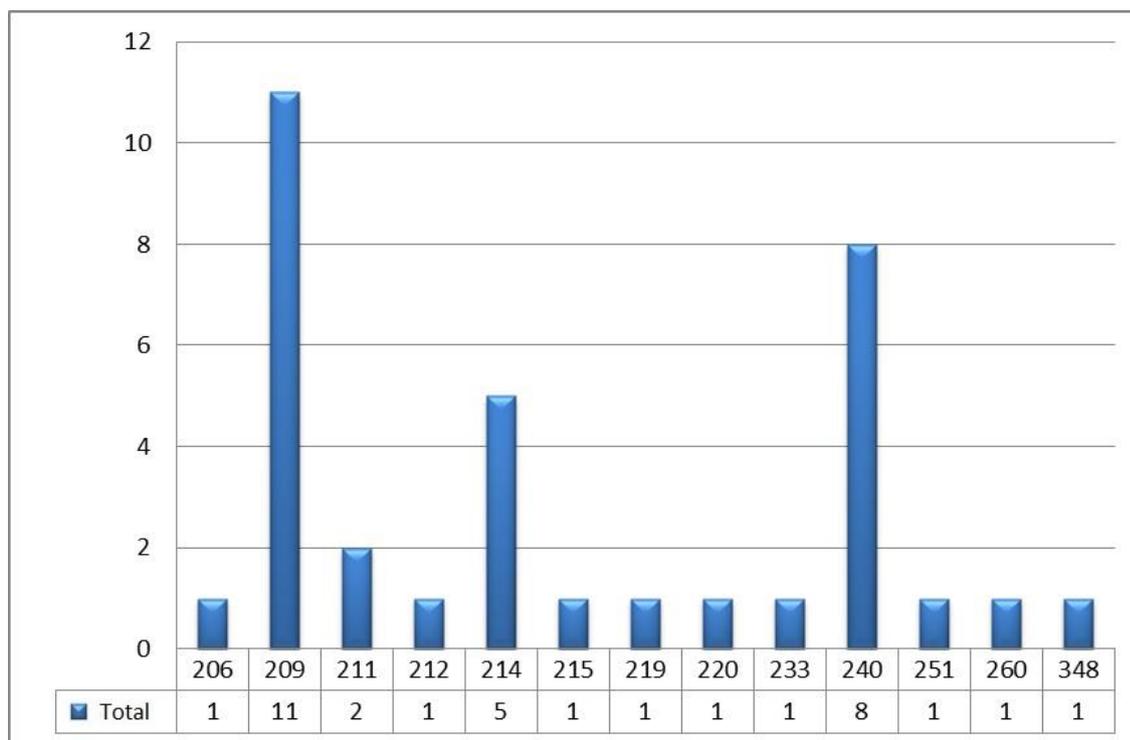
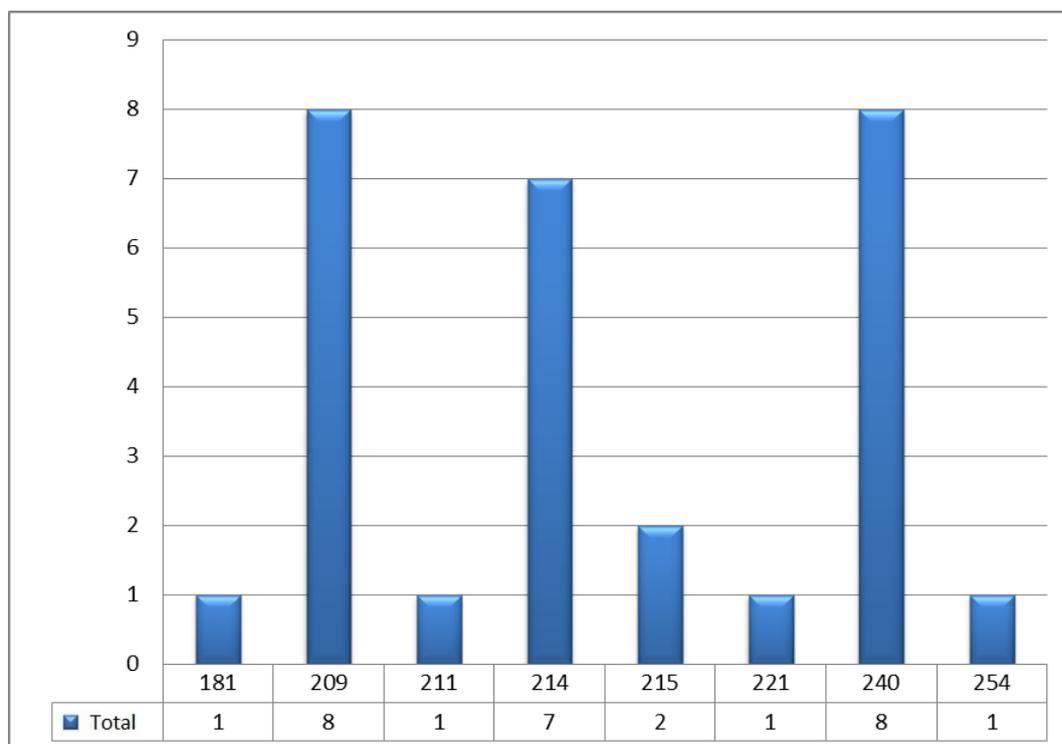


Diagram no. 7: Criminal complaints filed by FAU and qualified as another crime than legalization – 2013



The above referred diagrams indicate that in cases where criminal complaints of FAU are not qualified as legalization criminal activity, the most frequent qualification is:

- fraud according to Section 209 of the Criminal Code
- evasion of tax, fees and similar compulsory payment according to Section 240 of the Criminal Code
- participation according to Section 214 of the Criminal Code

The number of qualifications of other individual criminal offenses is shown in the diagrams above, where under the respective column is a numerical designation of the respective Sections of Criminal Code, and under it there is the count of such criminal offenses (it is necessary to distinguish criminal offences according to the old Criminal Code and the new Criminal Code).

II.D. Older cases finally and effectively concluded in years 2013, 2014 and 2015:

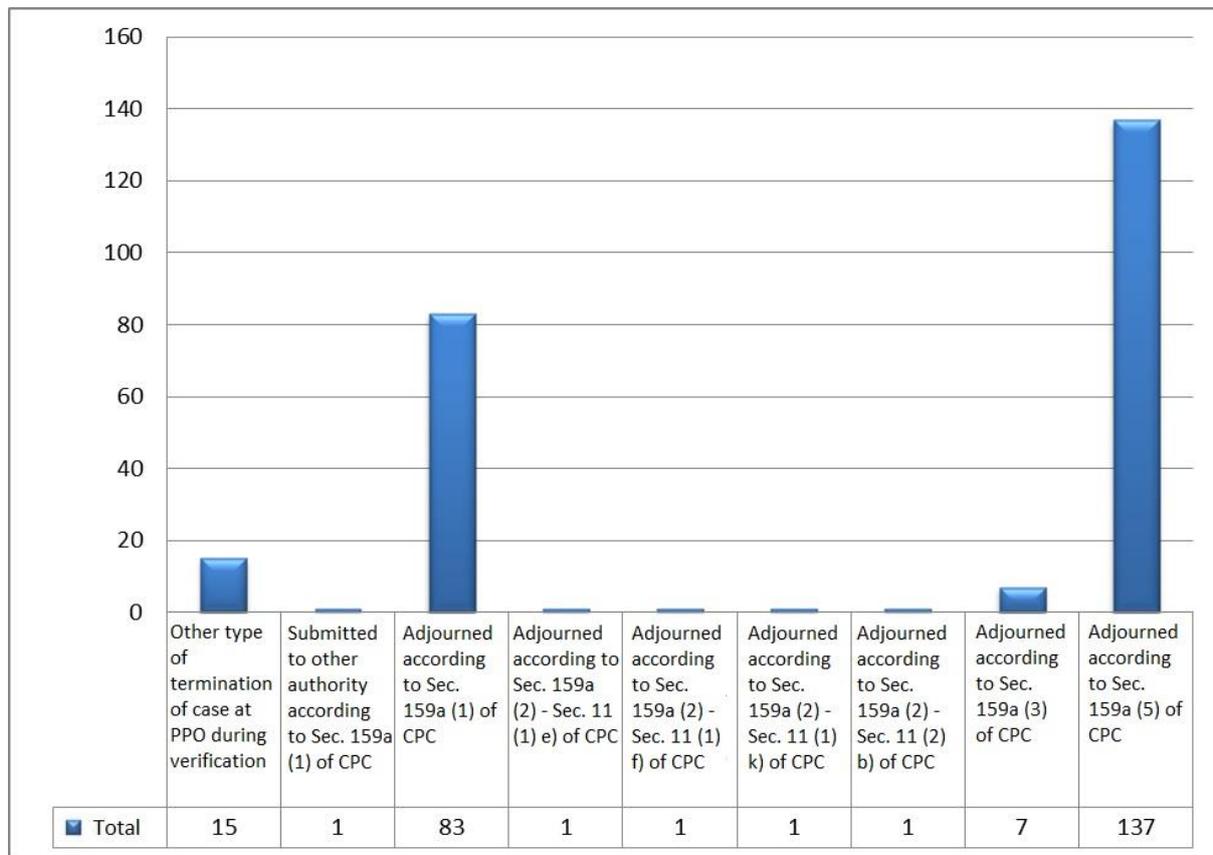
II.D.1. Cases terminated prior to initiation of criminal proceedings:

In the monitored period there were a total of 4 cases terminated prior to initiation of criminal proceedings, 3 of which in were filed in year 2013 (one complaint filed by a natural person, one initiated by own findings of the Police of the Czech Republic and one filed by FAU) and one in year 2014 (one complaint filed by a natural person). With regard to the reference period of 2013 to 2015 for older cases this is merely a residual category of the transition period at the beginning of the reference period; this category has no significant information value.

II.D.2. Cases terminated during verification:

In the period between year 2013 and 2015 there were a total of 270 criminal cases terminated during verification. In 23 cases the manner of termination of verification was not indicated. The diagram below thus shows a total of 247 cases according to the legal grounds for termination of verification and this value is taken into account as the final number for further considerations.

Diagram no. 9: Older cases finally and effectively concluded in years 2013, 2014 and 2015 – terminated during verification



The diagram above indicates legal grounds for terminating criminal cases during verification with reference to the applicable provision of the Code of Criminal Procedure.

The column “Other type of termination of case at PPO during verification” includes joining of cases (in 2 instances) and transferring the case to another Public Prosecutor’s Office (a total of 13 cases), which means these cases were not completely terminated, but the proceedings in the given case (on the criminal offense) continued, but within another file of the same Public Prosecutor’s Office or at a different Public Prosecutor’s Office.

All decisions referred to in diagram no. 9 were made by a Police authority, with the exception of 10 cases, where the decision was made by public prosecutor – 8 of these cases are listed under “Other type of termination of case at PPO during verification” and 2 cases, where public prosecutor decided to adjourn the case according to Section 159a (1) of the Code of Criminal Procedure.

The following chart no. 4 shows cases terminated during verification according to legal qualification and categorization of criminal offenses. At this point it is pertinent to note that the Criminal Code effective until 31. 12. 2009 was based on mono-partition of criminal offenses – there was but one category of criminal offense – this applies to the criminal offense of legalization of proceeds from crime according to Section 252a of the Criminal Code effective until 31. 12. 2009. On the other hand, current Criminal Code is based on bi-partition of criminal offenses to misdemeanors and felonies (see Section 14 of the Criminal Code). As such, criminal offense of negligent legalization of proceeds from crime according to Section

217 of the Criminal Code will always be a misdemeanor under Section 14 (2) of the Criminal Code, since it is a negligent criminal offense. By contrast, the criminal offense of legalization of proceeds from crime may, according to the specific circumstances of fulfilment of either the basic elements of crime, or circumstances substantiating the application of higher term of imprisonment, fall either into the category of misdemeanors (under sub-section 1 and 2) or felonies (sub-section 3 and 4).

Solely for the purposes of statistical reporting, we may base our considerations as regards the criminal offense of legalization of proceeds from crime according to Section 252a of the Criminal Code effective until 31. 12. 2009 on the assumption that sub-sections (1) to (3) correspond to the category of misdemeanor and sub-sections (4) to (5) to the category of felony.

This approach will be applied in the following text.

Chart no. 4:

Qualification	Misdemeanor	Felony
Section 216 (1)	45	---
Section 216 (2)	122	---
Section 216 (3)	---	45
Section 216 (4)	---	8
Section 217 (1)	18	---
Section 217 (2)	4	---
Section 217 (3)	0	---
Section 252a (1)	2	---
Section 252a (2)	0	---
Section 252a (3)	2	---
Section 252a (4)	---	1
Section 252a (5)	---	0
Total	193	54

The above referred chart clearly shows that there is approximately a 4:1 ratio of misdemeanors (78 %) to felonies (22 %) in legalization crimes as far as cases terminated during verification are concerned. As such we cannot claim that these proceedings were conducted only in petty cases of legalization crimes (it is worth noting the value indicated next to Section 216 (2) of the Criminal Code, which does not constitute basic elements of this criminal offense.

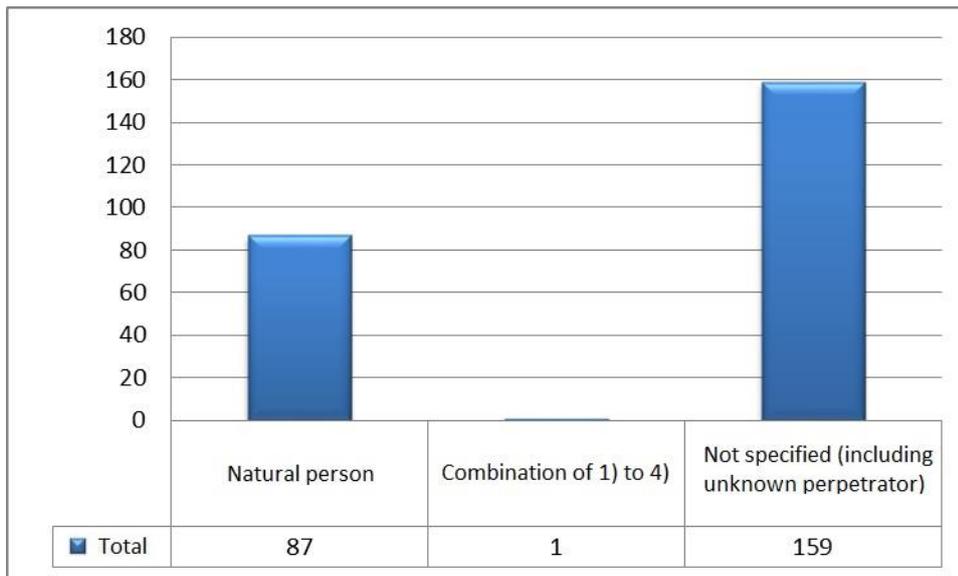
Lower counts next to Section 252a of the Criminal Code effective until 31. 12. 2009 are logical since this is an “expiring” criminal activity under the previous legal regulation (the new Criminal Code is effective from 1. 1. 2010 and the monitored period is 2013 to 2015).

Type of person, against whom criminal proceeding was conducted:

Here the following options were made available in the code lists:

- 1) Natural person
- 2) Legal entity
- 3) Natural person – juvenile
- 4) Natural person under age of 15
- 5) Combination of 1) through 4)
- 6) Not specified (including unknown perpetrator)

Diagram no. 10:



From the comparison of diagrams no. 9 and 10 it is apparent why the “Not specified” value (including unknown perpetrator) is dominant in diagram no. 10, when in diagram no. 9 the majority grounds for termination of verification is adjourning the case according to Section 159a (5) of the Code of Criminal Procedure (matters substantiating the initiation of criminal prosecution were not found).

Diagram no. 10a – number of suspects:

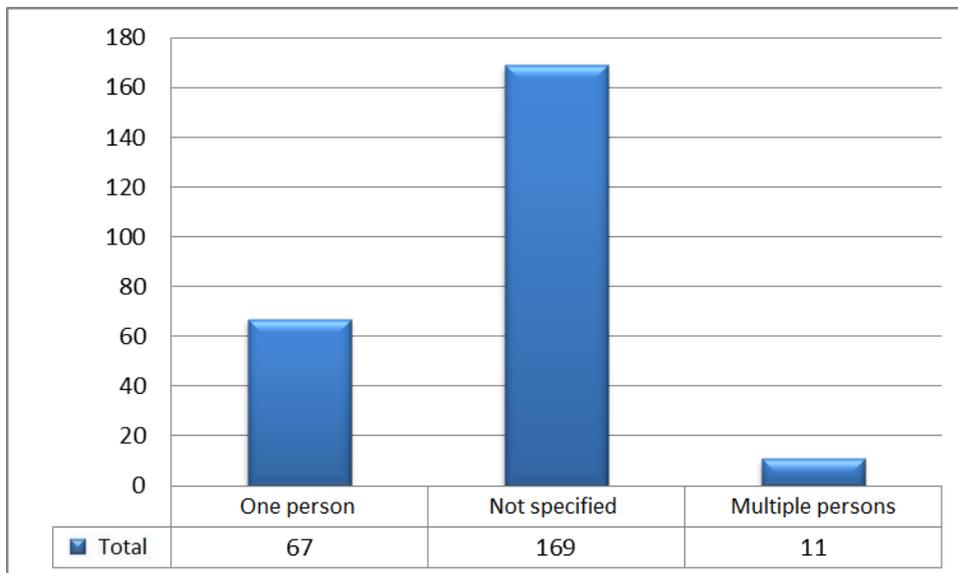
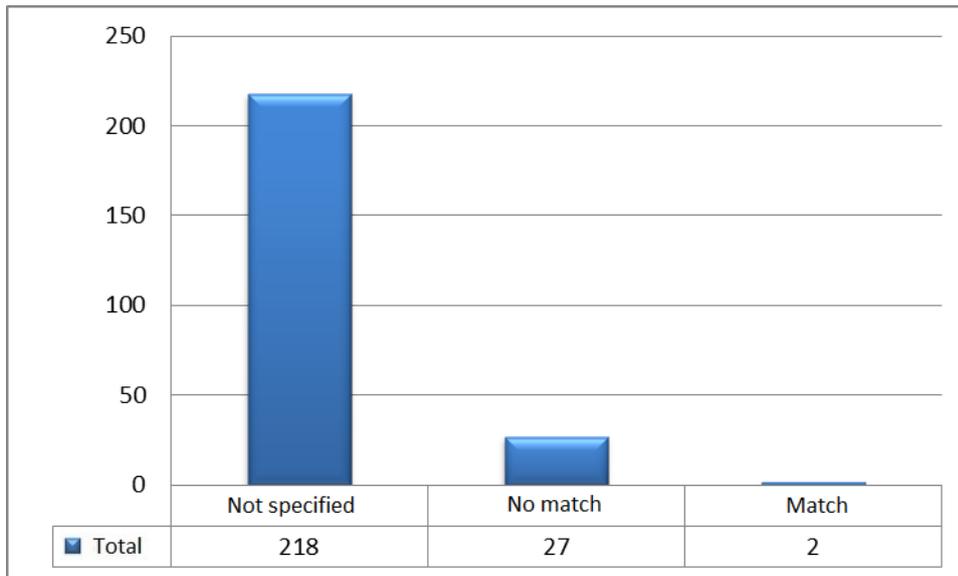


Diagram no. 11 – relationship of the person suspected of legalization crime and the person suspected of the source crime:

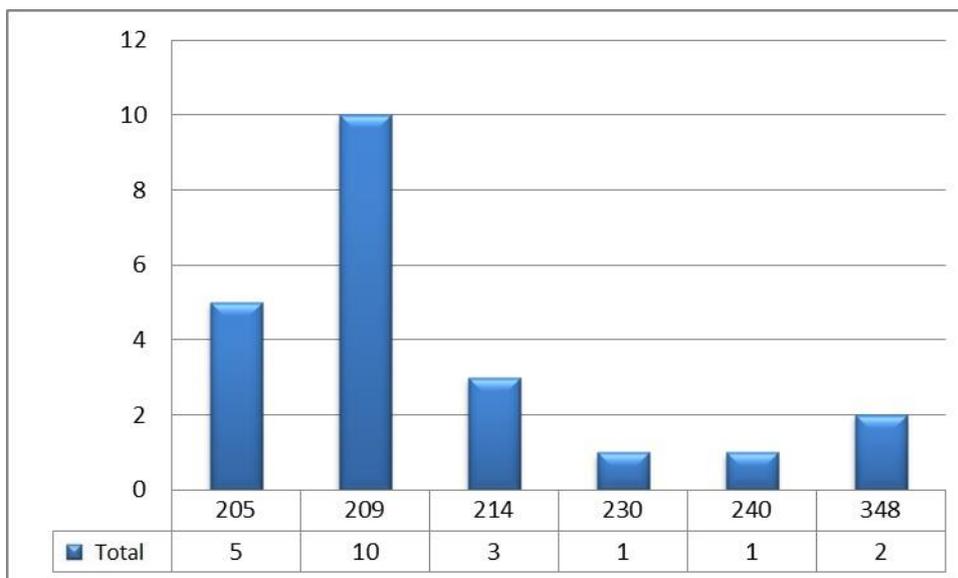


This diagram is important in view of so called self-money laundering. The above referred indicates occurrence of this phenomenon in only an inconsiderable number of cases (this must of course be viewed in relation to the recorded rate of unclarity of this criminal activity in this category of legalization crimes).

Independence or concurrence of criminal activity:

Out of the total number of 247 criminal cases, 225 cases (91 %) were conducted only for one of the legalization crimes. In 22 criminal cases (9 %) the proceedings were conducted in concurrence with another criminal offense – for more detail see the following diagram no. 12 implying that the most frequent criminal offense in concurrence with the legalization crimes is fraud according to Section 209 of the Criminal Code.

Diagram no. 12:



Source criminal activity:

Diagram no. 13 below shows whether source criminal activity was known or unknown with a distinction, whether it was allegedly committed inland or abroad.

Diagram no. 13:

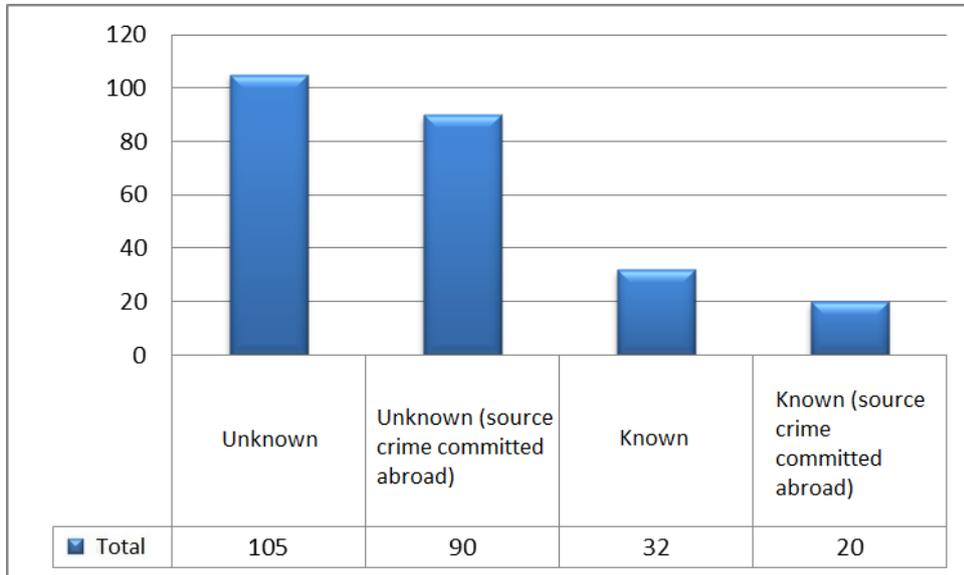


Diagram no. 14 – qualification of known source criminal activity (source crime committed inland):

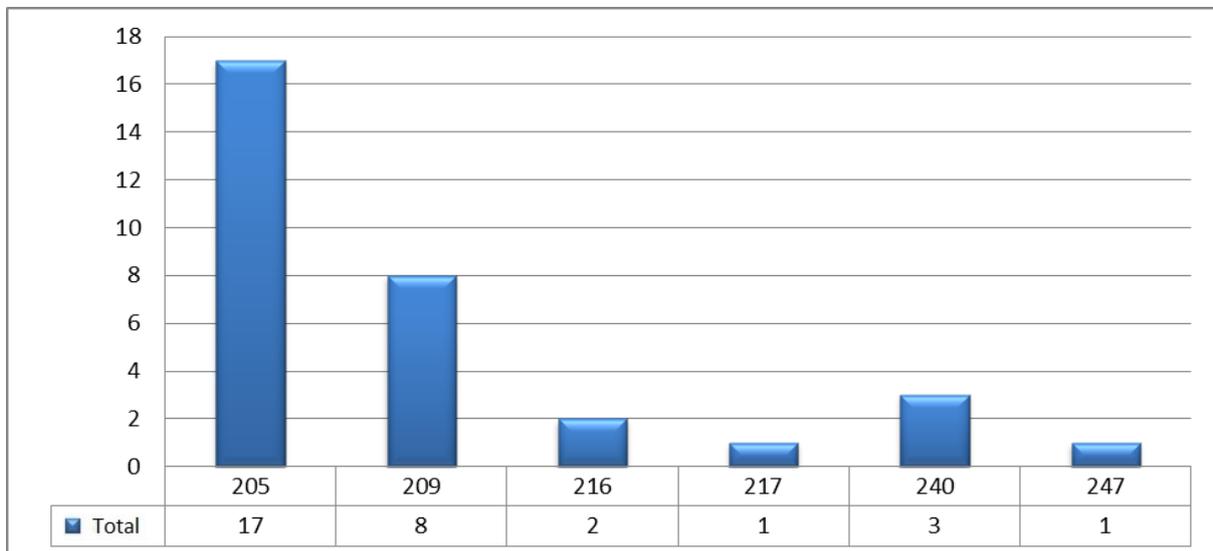


Diagram no. 14 above shows that the most frequent types of domestic source criminal activity in these cases were the following crimes (the diagram considers legal qualification according to both the old Criminal Code and the new Criminal Code):

- theft according to Section 205 of the Criminal Code
- fraud according to Section 209 of the Criminal Code
- evasion of tax, fees and similar compulsory payment according to Section 240 of the Criminal Code

Diagram no. 15 – qualification of known source criminal activity (source crime committed abroad):

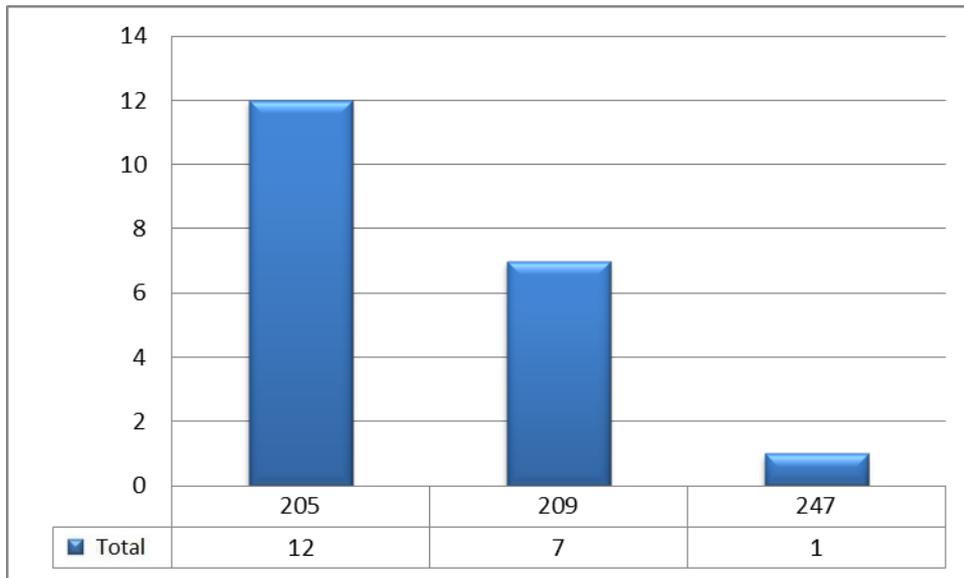


Diagram no. 15 above shows that the most frequent types of source criminal activity committed abroad in these cases were the following crimes (the diagram considers legal qualification according to both the old Criminal Code and the new Criminal Code):

- theft according to Section 205 of the Criminal Code
- fraud according to Section 209 of the Criminal Code
- theft according to Section 247 of the old Criminal Code

Categories of source criminal offences (there was a selection of up to 3 items made available for one criminal case):

Phishing, pharming	33
Fraud	27
Credit fraud	0
Subvention fraud	0
Embezzlement	0
Breach of obligation in administration of property of another	0
Tax crime	3
Damnification of creditors	0
Crimes associated with public tenders	0
Crimes associated with insolvency proceedings	0
Corruption	0
Conducting business without license	0
Other economic crime	0
Theft, robbery	51
Extortion	0
Offenses against morality	0
Drug crime	1
Terrorism, distribution of weapons of mass destruction, violation of international sanctions	0
Other known criminal activity	1

Source crime is so far unknown, it was committed abroad	70
Source crime is so far unknown, it was committed in the Czech Republic	79

Manner of legalization of proceeds from crime (there was a selection of up to 3 items, whereas it was necessary to select one that best corresponds to the technique used in the given case)

1. Use of bank accounts by the perpetrator – transactions

- possible involvement of the obliged person as such (infiltrated, controlled or established by illegal structures)	3
- bank account opened by natural person (e.g. so called temporary worker), who makes his account available to the perpetrator, withdraws and transfers money according to instructions (especially in case of phishing)	38
- multiple electronic transfers between bank accounts in the Czech Republic and abroad	0
- withdrawing and depositing cash to and from accounts	13
- siphoning off proceeds to foreign country	4
- other banking transactions	14

2. Use of transport of cash

- couriers, money mules	0
- companies officially dealing with sending cash money	9
- unofficial services for sending money – hawala etc.	0
- other cash transactions	10

3. New payment methods and their abuse

- pre-paid cards	0
- mobile payment services	0
- e-money	0
- abuse of virtual currencies	0
- other abuse of payment methods	10

4. Use of companies for concealing criminal activity and the real owner of the company:

- so called shell corporations, straw persons	4
- mixing illegal proceeds with legal business – use of standard companies engage in criminal activity in parallel to their own legal activity (TBML)	2
- trust funds, trusts	0
- other abuse of companies	9

5. Placement of companies

- office houses	11
- offshore companies	0

6. Business activities that are most frequently used for concealing criminal activity

- companies providing legal services (attorneys, notaries, distrainers)	1
- companies providing consultation services (tax advisors, accountants, auditors)	0
- marketing services	0

- outsourcing of any services (legal , cleaning, laundry)	0
- suspicious links between trade parties, chain of companies interlinked by assets or personal occupancy or unfounded transactions between private and corporate accounts	1
- abuse of gambling	0
- other entrepreneurship activities	19
7. Use of financial market products for legalization of proceeds from crime	
- loans (payment of installments to a financial institution)	0
- loans, future loans between interconnected companies (which are not financial institutions)	0
- master loan agreements	0
- mortgages	0
- securities	1
- debt collecting companies	0
- trade with receivables	0
- investments into the environment	0
- payment of dividends	0
- other abuse of financial system	16
8. Use of high-value commodities for investing proceeds from crime	
- gold, diamonds, high-value jewelry	0
- art (paintings, sculptures)	0
- real estate	1
- luxury goods (luxury vehicles, electronic devices, watches, luxurious accessories)	3
- other high-value commodities	11
9. Use of illegal activities	
- forgery of identity and other documents	114
- fictional identity – completely fictional identity	8
- stolen identity	1
- abuse of variant identification	7
- other illegal activities	12
10. Terrorism financing	
- from legal proceeds	0
- from illegal proceeds	1
11. Other	62

Type of asset that forms proceeds from the source crime (there was a selection of up to 3 items at the same time, whereas it was necessary to select the type of asset that best corresponds to the given case – in case of multiple types of assets, 3 most frequently used were selected):

Chart no. 5:

Type of asset	Number of criminal cases
Cash money	14
Money deposited on an account	60
Securities and other financial means, such as electronic or virtual currencies	1
Ownership interest	1
Automobiles, automobile parts	169
Other movable assets	8
Other immovable assets (real estate)	1
Other	3

The chart above shows that the most frequently used type of property, which constitutes proceeds from crime and which is subsequently used for legalization, is cars and car parts.

Type of asset that is the result of (existing) legalization (there was a selection of up to 3 items, whereas it was necessary to select the type of asset that best corresponds to the given case:
 – in case of multiple types of assets, 3 most frequently used were selected
 – the resulting asset of legalization as was ascertained in the specific case was to be selected – this did not include assets that were mere transition links in the legalization chain):

Chart no. 6:

Type of asset	Number of criminal cases
Real estate	2
Automobile	171
Securities	1
Ownership interest	1
Cash money CZK	28
Cash money other currency	7
Money on an account	35
Securities and other financial means, such as electronic currencies or virtual currencies	0
Other movable assets	7
Other	4

The chart above identifies automobiles as the most frequent type of asset used as final product of legalization of proceeds from crime.

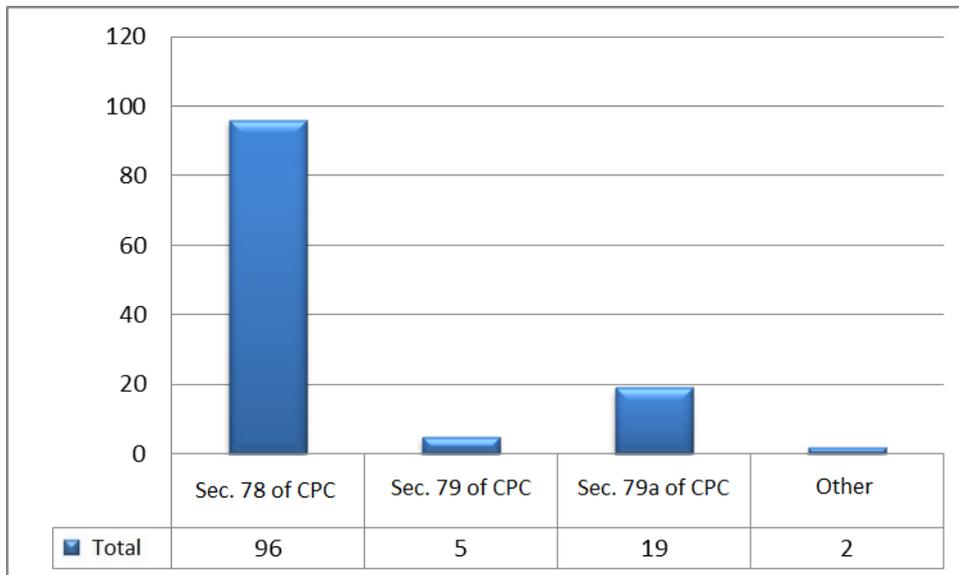
Out of the total number of 247 criminal cases the value of the legalized property was not determined in 163 cases, in 84 cases the value was determined at least approximately and its sum amounts to ca 139.000.000 CZK, whereas the average value of the legalized property per one criminal case was 1.700.000 CZK (however, this value cannot be taken as absolute, since it was influenced by several cases with higher value of legalized assets).

Seizure of property:

Statistical data implies that out of the above referred 247 criminal cases, property was seized in 32 cases in directly assessed value of ca 12.000.000 CZK and in additional 90 cases

property was seized as well, but in undetermined value (these were e.g. automobiles, value of which was not determined for the purpose of criminal proceedings). Seizure of property occurred in a total of 122 criminal cases, i.e. in approximately 50 % of cases, which may be perceived as a very positive result.

Diagram no.16 – legal grounds for seizure of property:



In cases where property was seized, procedure according to Section 78 of the Code of Criminal Procedure clearly prevails.

Chart no. 7 – type of seized asset:

Type of asset	Number of criminal cases
Real estate	0
Automobile	94
Securities	0
Ownership interest	0
Cash money CZK	17
Cash money other currency	15
Other movable asset	4
Other	4

Out of the 122 criminal cases, in which seizure of property occurred, in 90 cases the value of the seized property was not determined and in 32 cases the value was determined, whereas the total value of the seized property amounted to ca. 15.000.000 CZK, whereas the average value per one criminal case was ca. 490.000 CZK.

Out of the 122 criminal cases in which seizure of property occurred, in 90 cases the seized property was returned and in 32 cases it was disposed of otherwise. This conclusion is only logical with regard to the stage of criminal proceedings, in which it was terminated, and also to the prevailing legal grounds for the seizure, as is referred to above.

International judicial cooperation:

Out of the total number of 247 cases, international cooperation of some kind was requested in 38 cases (15 %).

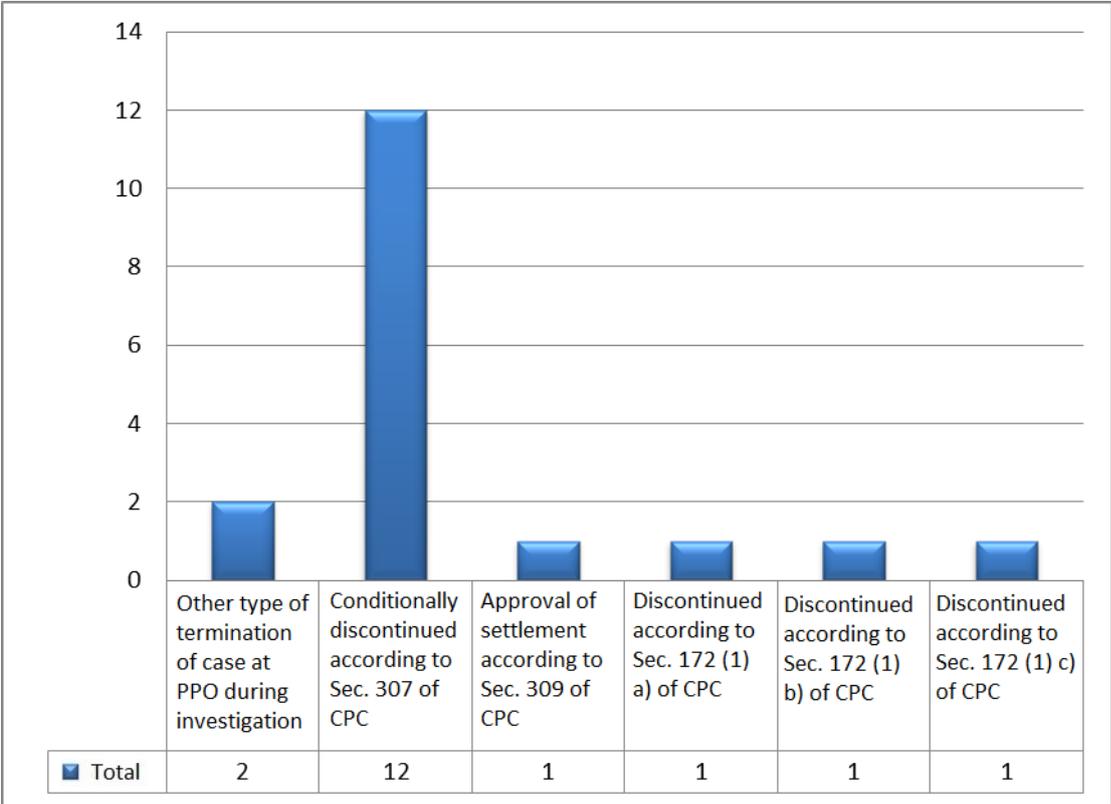
II.D.3. Cases concluded in summary pre-trial proceedings:

In the period between 2013 and 2015 a total of 1 criminal case was concluded in summary pre-trial proceedings; this case concerned negligent legalization of proceeds from crime according to Section 217 of the Criminal Code, whereas it was concluded by conditional suspension of submission of a motion for punishment according to Section 179c (2) h) and Section 179g of the Code of Criminal Procedure. This outcome was expected, because with regard to the reference period of 2013 to 2015 this was only a residual category of the transition period at the beginning of the reference period; this category has no statistically significant information value.

II.D.4. Cases concluded during investigation:

In the period of 2013 to 2015 there were a total of 19 criminal cases concluded during investigation. One criminal case the manner of termination of investigation was not indicated. Thus the diagram below shows 18 cases according to the legal grounds for termination of investigation and this value is taken into account as the final number for further considerations.

Diagram no. 17: Older cases finally and effectively concluded in years 2013, 2014 and 2015 – concluded during investigation



The diagram above shows legal grounds for conclusion of criminal cases in the stage of investigation with reference to the relevant statutory provision.

If we compare the results of the type of conclusion during investigation according to diagram no. 17 above (majority of cases – conditional discontinuation of criminal prosecution according to Section 307 of the Code of Criminal Procedure) and at the same time according to chart no. 8 below the majority of cases dealt with the criminal offense of negligent legalization of proceeds from crime according to Section 217 (1) of the Criminal Code, then termination of investigation by an alternative decision in ca 67 % of cases is completely correspondent to the general preference of using alternative decisions in criminal proceedings.

Chart no. 8:

Legal qualification	Misdemeanor	Felony
Section 216 (1)	0	---
Section 216 (2)	0	---
Section 216 (3)	---	3
Section 216 (4)	---	1
Section 217 (1)	13	---
Section 217 (2)	0	---
Section 217 (3)	0	---
Section 252a (1)	0	---
Section 252a (2)	0	---
Section 252a (3)	1	---
Section 252a (4)	---	0
Section 252a (5)	---	0
Total	14	4

The chart above indicates approximately a 4:1 ratio of misdemeanors (78 %) to felonies (22 %) in relation to legalization crimes as concerns cases concluded during investigation (but we must take into account the overall low values in this category of legalization criminal activity).

The generally lower values of legalization crimes are completely logical, since this is an “expiring” criminal activity for the reference period of concluded cases between years 2013 and 2015, which were initiated in a previous period.

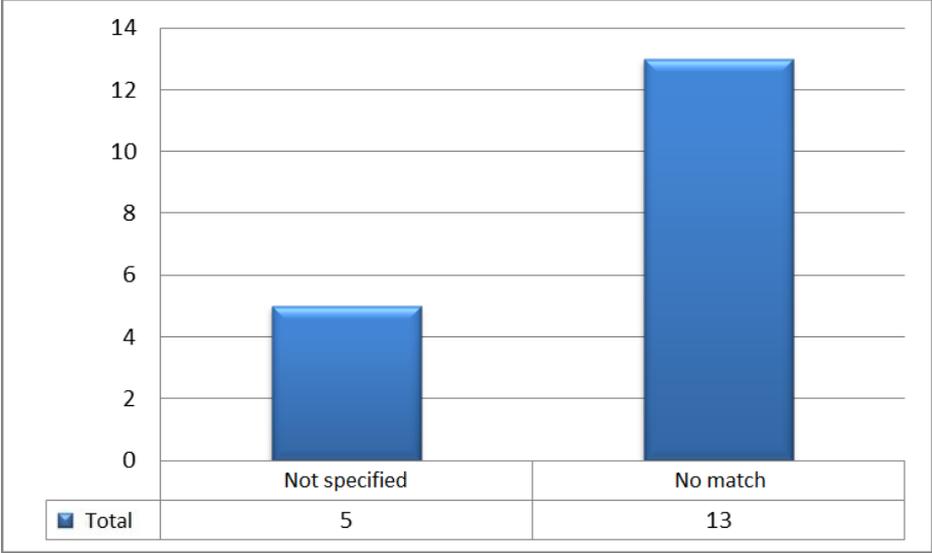
Type of person, against whom the proceedings were conducted:

Our considerations are based on a selection from the following code list:

- 1) Natural person
- 2) Legal entity
- 3) Natural person – juvenile
- 4) Natural person under age of 15
- 5) Combination of 1) through 4)
- 6) Not specified (including unknown perpetrator)

All of the 18 above referred criminal cases were conducted against a natural person, only in one case there were multiple accused persons involved.

Diagram no. 18 – relationship of the person suspected of legalization crime and person suspected from source crime:



This diagram is important in view of so called self-money laundering. The above referred data does not show any such case.

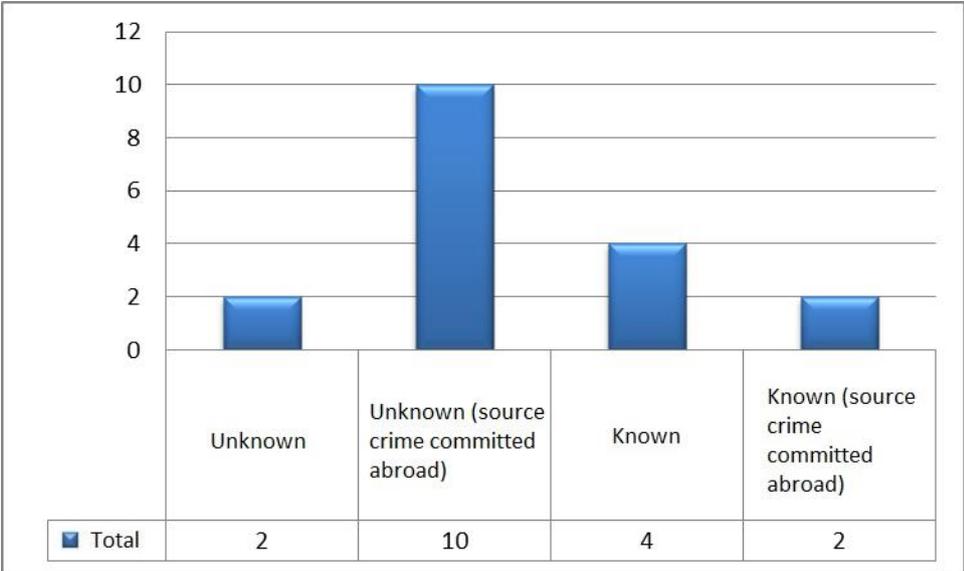
Independence or concurrence of criminal activity:

Out of the total of 18 criminal cases there were 16 cases (91 %) conducted only for one of the legalization crimes. In 2 criminal cases (9 %) the criminal proceedings were conducted in concurrence with another criminal offense (these were criminal offenses according to Section 214 and Section 240 of the Criminal Code).

Source criminal activity:

Diagram 19 below shows whether the source criminal activity was known or unknown with a distinction, whether it was committed inland or abroad.

Diagram no. 19:



Qualification of known domestic source criminal activity (3 criminal cases) were following:

- theft according to Section 205 of the Criminal Code
- fraud according to Section 209 of the Criminal Code
- evasion of tax, fees and similar compulsory payment according to Section 240 of the Criminal Code

Qualification of known source criminal activity [source crime was committed abroad] (2 criminal cases):

- fraud according to Section 209 of the Criminal Code

Categories of source criminal offences (there was a selection of up to 3 items made available for one criminal case):

Phishing, pharming	8
Fraud	9
Credit fraud	0
Subvention fraud	0
Embezzlement	0
Breach of obligation in administration of property of another	0
Tax crime	1
Damnification of creditors	0
Crimes associated with public tenders	0
Crimes associated with insolvency proceedings	0
Corruption	0
Conducting business without license	0
Other economic crime	0
Theft, robbery	4
Extortion	0
Offenses against morality	0
Drug crime	0
Terrorism, distribution of weapons of mass destruction, violation of international sanctions	0
Other known criminal activity	0
Source crime is so far unknown, it was committed abroad	0
Source crime is so far unknown, it was committed in the Czech Republic	0

Manner of legalization of proceeds from crime (there was a selection of up to 3 items, whereas it was necessary to select one that best corresponds to the technique used in the given case):

1. Use of bank accounts by the perpetrator – transactions

- possible involvement of the obliged person as such (infiltrated, controlled or established by illegal structures)	0
- bank account opened by natural person (e.g. so called temporary worker), who makes his account available to the perpetrator, withdraws and transfers money according to instructions (especially in case of phishing)	10
- multiple electronic transfers between bank accounts in the Czech Republic and abroad	3

- withdrawing and depositing cash to and from accounts	1
- siphoning off proceeds to foreign country	2
- other banking transactions	0
2. Use of transport of cash	
- couriers, money mules	0
- companies officially dealing with sending cash money	8
- unofficial services for sending money – hawala etc.	0
- other cash transactions	0
3. New payment methods and their abuse	
- pre-paid cards	0
- mobile payment services	0
- e-money	0
- abuse of virtual currencies	0
- other abuse of payment methods	1
4. Use of companies for concealing criminal activity and the real owner of the company:	
- so called shell corporations, straw persons	0
- mixing illegal proceeds with legal business – use of standard companies engage in criminal activity in parallel to their own legal activity (TBML)	0
- trust funds, trusts	0
- other abuse of companies	0
5. Placement of companies	
- office houses	0
- offshore companies	0
6. Business activities that are most frequently used for concealing criminal activity	
- companies providing legal services (attorneys, notaries, distrainers)	0
- companies providing consultation services (tax advisors, accountants, auditors)	0
- marketing services	1
- outsourcing of any services (legal , cleaning, laundry)	0
- suspicious links between trade parties, chain of companies interlinked by assets or personal occupancy or unfounded transactions between private and corporate accounts	0
- abuse of gambling	0
- other entrepreneurship activities	0
7. Use of financial market products for legalization of proceeds from crime	
- loans (payment of installments to a financial institution)	0
- loans, future loans between interconnected companies (which are not financial institutions)	0
- master loan agreements	0
- mortgages	0
- securities	0
- debt collecting companies	0

- trade with receivables 0
- investments into the environment 0
- payment of dividends 0
- other abuse of financial system 1

8. Use of high-value commodities for investing proceeds from crime

- gold, diamonds, high-value jewelry 0
- art (paintings, sculptures) 0
- real estate 0
- luxury goods (luxury vehicles, electronic devices, watches, luxurious accessories) 0
- other high-value commodities 0

9. Use of illegal activities

- forgery of identity and other documents 1
- fictional identity – completely fictional identity 2
- stolen identity 0
- abuse of variant identification 0
- other illegal activities 1

10. Terrorism financing

- from legal proceeds 0
- from illegal proceeds 0

11. Other 3

Type of asset that forms proceeds from the source crime (there was a selection of up to 3 items at the same time, whereas it was necessary to select the type of asset that best corresponds to the given case – in case of multiple types of assets, 3 most frequently used were selected):

Chart no. 9:

Type of asset	Number of criminal cases
Cash money	0
Money deposited on an account	15
Securities and other financial means, such as electronic or virtual currencies	0
Ownership interest	0
Automobiles, automobile parts	3
Other movable assets	0
Other immovable assets (real estate)	0
Other	0

The chart above shows that the most frequently used type of property, which constitutes proceeds from crime and which is subsequently used for legalization, is money deposited on an account.

Type of asset that is the result of (existing) legalization (there was a selection of up to 3 items, whereas it was necessary to select the type of asset that best corresponds to the given case:
 – in case of multiple types of assets, 3 most frequently used were selected
 – the resulting asset of legalization as was ascertained in the specific case was to be selected – this did not include assets that were mere transition links in the legalization chain):

Chart no. 10:

Type of asset	Number of criminal cases
Real estate	0
Automobile	3
Securities	0
Ownership interest	0
Cash money CZK	7
Cash money other currency	5
Money on an account	4
Securities and other financial means, such as electronic currencies or virtual currencies	0
Other movable assets	0
Other	0

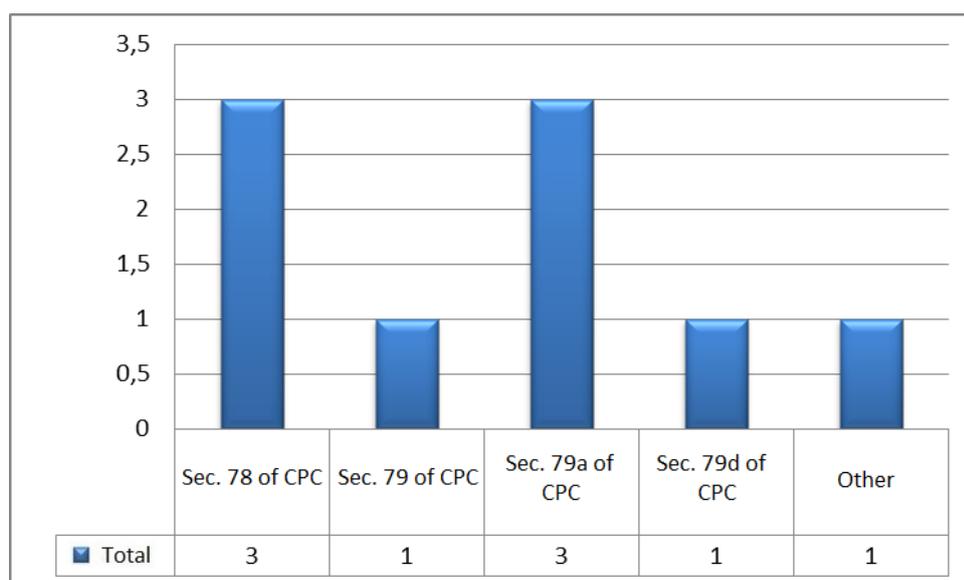
The chart above identifies cash money in CZK as the most frequent type of asset used as final product of legalization of proceeds from crime.

Out of the total of 18 criminal cases in this category the value of the legalized property was not determined in 3 cases, in 15 cases the value was determined at least approximately, whereas the sum amounts to 8.500.000 CZK, whereas the average amount of legalized property per one criminal case amounted to ca 550.000 CZK; however, we must take into account the overall small number of criminal cases concerned.

Seizure of property:

Statistical data implies that out of the above referred 18 criminal cases, property was seized in 6 cases in directly assessed value of ca 5.200.000 CZK and in additional 1 case property was seized as well, but in undetermined value. Seizure of property occurred in a total of 7 criminal cases, i.e. in approximately 33 % of cases, which may be perceived as a positive result (even though it concerns overall a smaller number of cases).

Diagram no. 20 – legal grounds for seizure of property:



In cases where property was seized, procedure according to Section 78 and 79a of the Code of Criminal Procedure prevails.

Chart no. 11 – type of seized asset:

Type of asset	Number of criminal cases
Real estate	1
Automobile	2
Securities	0
Ownership interest	0
Cash money CZK	4
Cash money other currency	2
Other movable assets	0
Other	0

Out of the 9 criminal cases, in which seizure of property occurred, in 1 case the value of the seized property was not determined and in 8 cases the value was determined, whereas the total value of the seized property amounted to ca. 5.400.000 CZK, whereas the average value per one criminal case was ca. 670.000 CZK.

Out of the 9 criminal cases in which seizure of property occurred, in 7 cases the seized property was returned and in 2 cases it was disposed of otherwise.

International judicial cooperation:

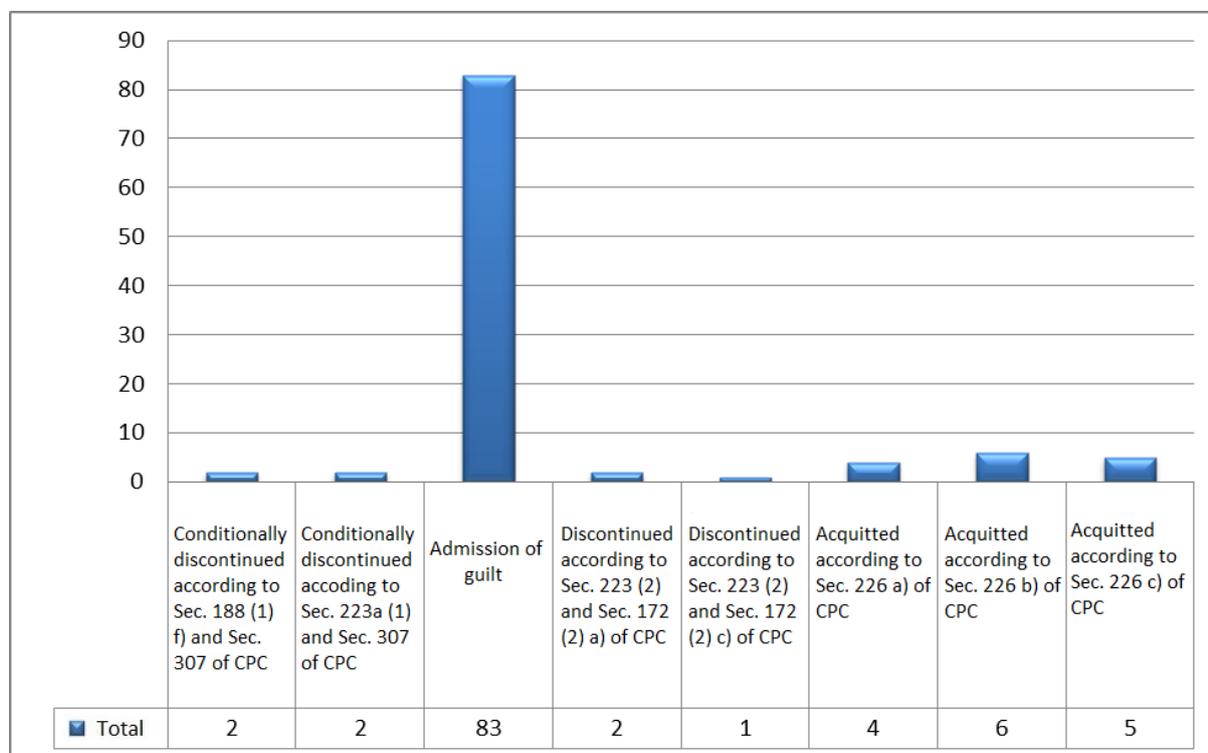
Out of the total number of 18 cases, international cooperation of some kind was requested in 3 cases (17 %).

II.D.5. Cases concluded in trial proceedings:

In the period between years 2013 and 2015 there were 121 criminal cases concluded in trial proceedings. In 16 cases the manner of termination of investigation was not indicated – these

were in principle cases of re-qualification to another criminal offense. The diagram below shows a total of 105 cases according to the legal grounds for termination of investigation and this value is taken into account as the final number for further considerations.

Diagram no. 21 – older cases finally and effectively concluded in years 2013, 2014 and 2015 – concluded in trial proceedings:



The diagram shows grounds for conclusion of criminal case in trial proceedings, in particular by reference to the relevant statutory provision.

The values indicated in diagram no. 21 show a relatively high success rate of the conducted criminal proceedings – out of the total number of 105 criminal cases, conviction (admission of guilt) was achieved in 83 cases (79 %). Acquittal is indicated in a total of 15 cases (14 %).

For a comparison we may quote the report on the operation of the Public Prosecutor’s Office in year 2014², which says: „Out of the persons put on trial at the District Public Prosecutor’s Office level, 6.16 % were acquitted of the charges (no ground for acquittal stipulated in Section 226 paragraph e) of the Code of Criminal Procedure was present), at the Regional Public Prosecutor’s Office level it was 11.42 % and at the High Public Prosecutor’s Office level 6.59 % of persons.”.

Even though the rate of acquittal is higher in case of legalization criminal activity than in case of the entirety of crime, the number also means an overall indictment success rate of 86 %, which may be perceived as a very positive result. **As such we cannot by any means say that the authorities involved in criminal proceedings are unable to lead these criminal cases to a convicting judgment.**

² http://www.nsz.cz/images/stories/PDF/Zpravy_o_cinnosti/2014/Zoc-2014-textova.pdf - str. 5

Chart no.12:

Legal qualification	Misdemeanor	Felony
Section 216 (1)	11	---
Section 216 (2)	36	---
Section 216 (3)	---	24
Section 216 (4)	---	3
Section 217 (1)	25	---
Section 217 (2)	0	---
Section 217 (3)	0	---
Section 252a (1)	1	---
Section 252a (2)	1	---
Section 252a (3)	4	---
Section 252a (4)	---	0
Section 252a (5)	---	0
Total	78	27

The chart above indicates approximately a 4:1 ratio of misdemeanors (74 %) to felonies (26 %) in relation to legalization crimes as concerns cases concluded during trial proceedings.

Type of person, against whom the proceedings were conducted:

Our considerations are based on a selection from the following code list:

- 1) Natural person
- 2) Legal entity
- 3) Natural person – juvenile
- 4) Natural person under age of 15
- 5) Combination of 1) through 4)
- 6) Not specified (including unknown perpetrator)

All of the 105 above referred criminal cases were conducted against a natural person.

Diagram no. 22 – number of cases involving one accused person and multiple accused persons:

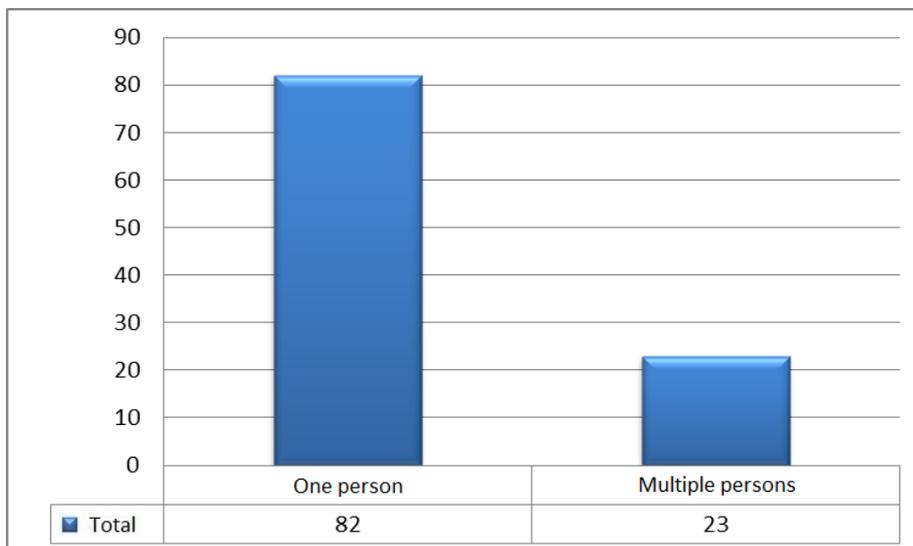


Diagram no. 23 – relationship of the person suspected of legalization crime and the person suspected of source crime:

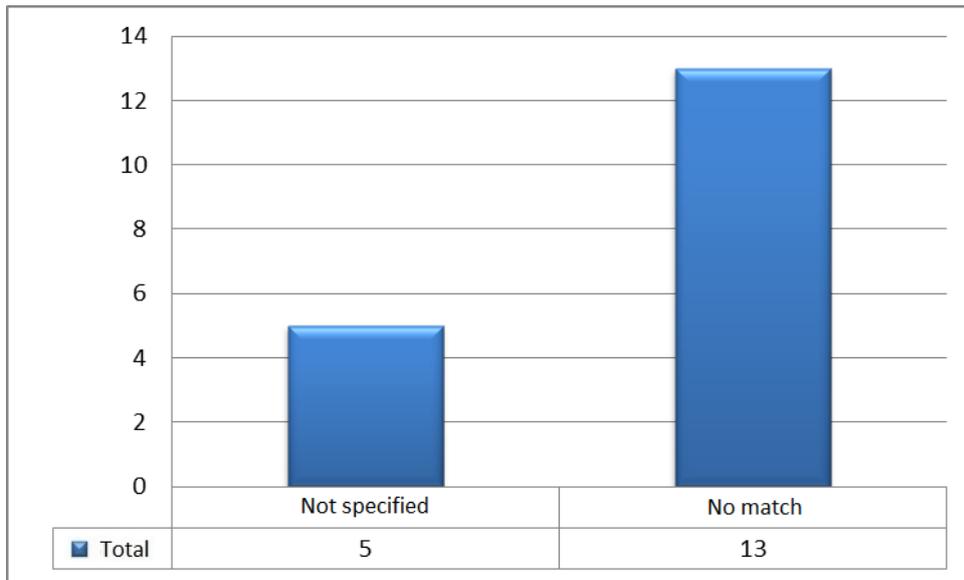
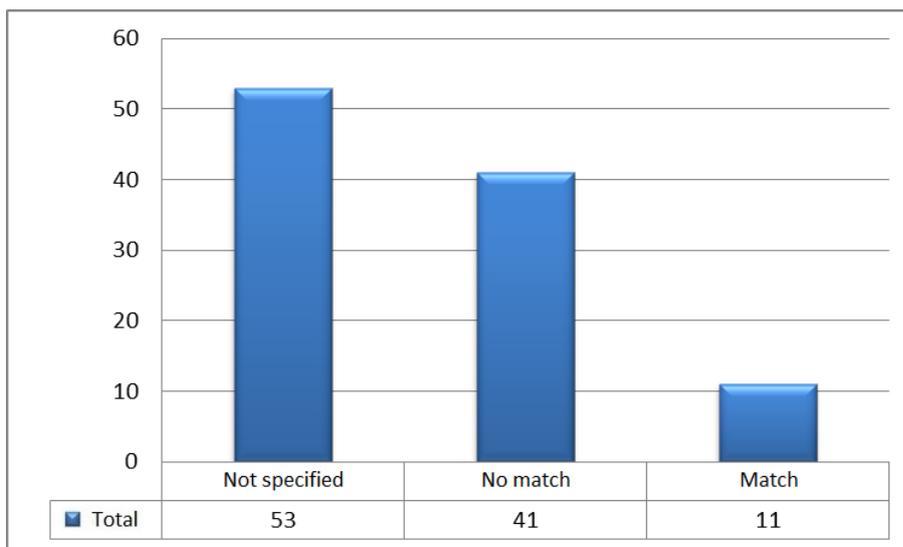


Diagram no. 24:

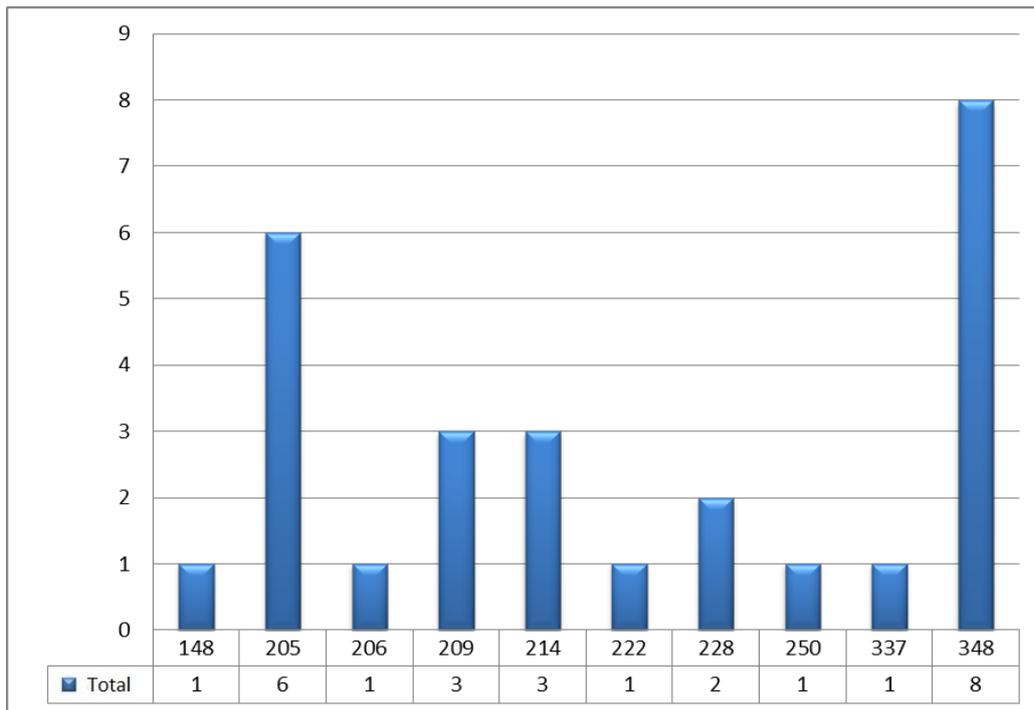


This diagram no. 24 is significant in view of so called self-money laundering. The above referred indicates only a limited number of such cases.

Independence or concurrence of criminal activity:

Out of the total of 105 criminal cases there were 78 cases (74 %) conducted only for one of the legalization crimes. In 27 criminal cases (26 %) the criminal proceedings were conducted in concurrence with another criminal offense – for more details see the following diagram no. 25, which implies that the most frequent criminal offenses in concurrence with legalization crimes were forgery and alteration of public documents according to Section 348 of the Criminal Code and theft according to Section 205 of the Criminal Code.

Diagram no. 25:



Source criminal activity:

Diagram 26 below shows whether source criminal activity was known or unknown with a distinction, whether it was allegedly committed inland or abroad.

Diagram no. 26:

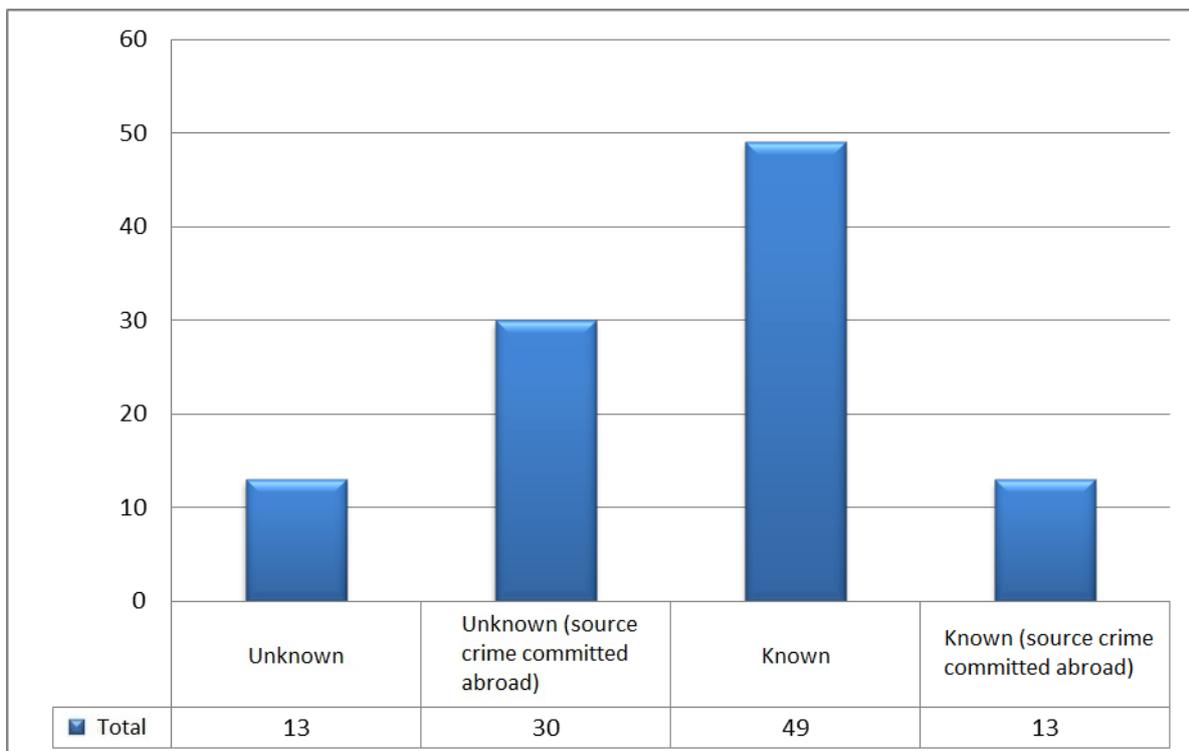


Diagram no. 27 – legal qualification of known source criminal activity (source crime committed inland):

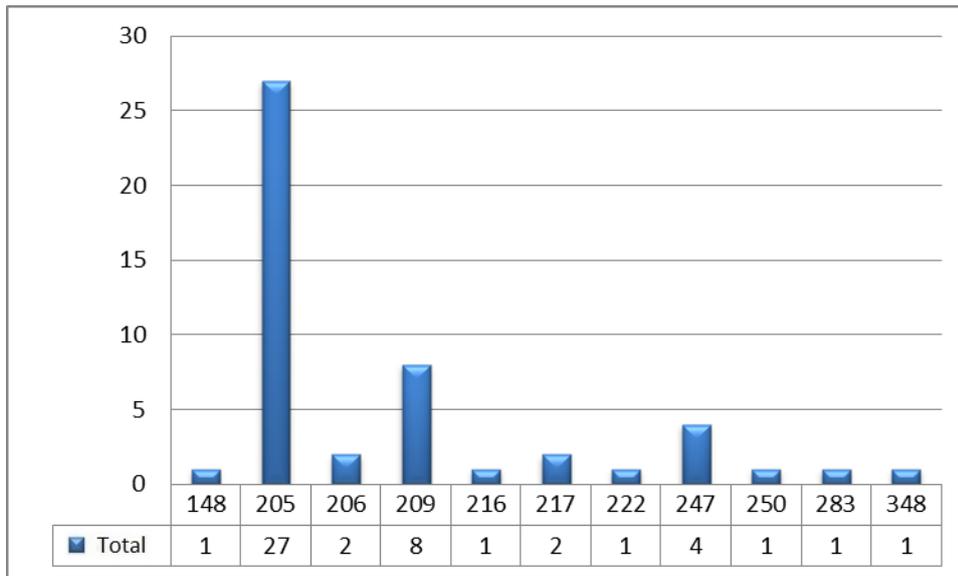


Diagram no. 27 above shows that the most frequent types of domestic source criminal activity in these cases were the following crimes (the diagram considers legal qualification according to both the old Criminal Code and the new Criminal Code):

- theft according to Section 205 of the Criminal Code
- fraud according to Section 209 of the Criminal Code
- theft according to Section 247 of the old Criminal Code

Diagram no. 28 – qualification of known source criminal activity (source crime committed abroad):

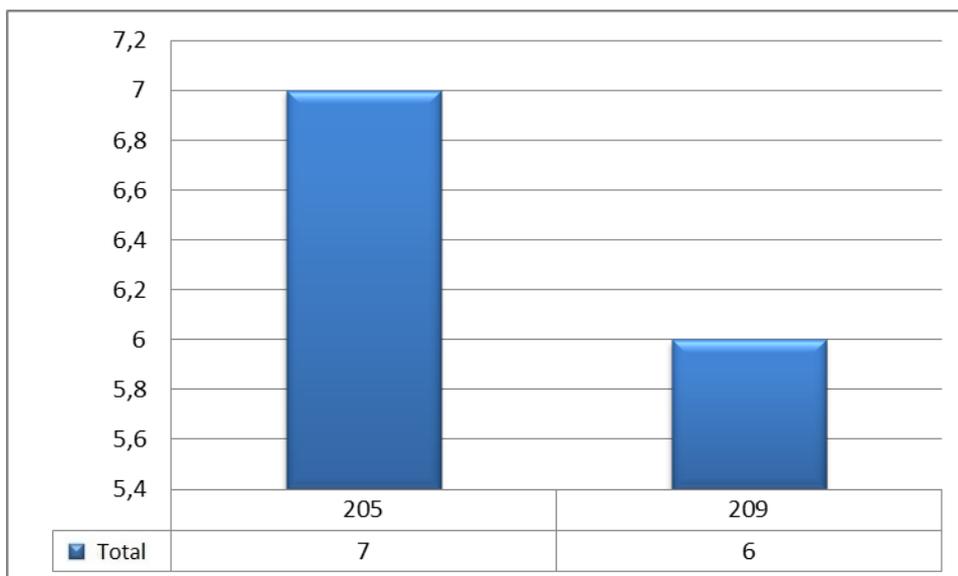


Diagram no. 28 above shows that the most frequent types of source criminal activity committed abroad in these cases were the following crimes (the diagram considers legal qualification according to both the old Criminal Code and the new Criminal Code):

- theft according to Section 205 of the Criminal Code

- fraud according to Section 209 of the Criminal Code

Categories of source criminal offences (there was a selection of up to 3 items made available for one criminal case):

Phishing, pharming	24
Fraud	27
Credit fraud	0
Subvention fraud	0
Embezzlement	2
Breach of obligation in administration of property of another	0
Tax crime	1
Damnification of creditors	1
Crimes associated with public tenders	0
Crimes associated with insolvency proceedings	1
Corruption	0
Conducting business without license	1
Other economic crime	0
Theft, robbery	47
Extortion	1
Offenses against morality	0
Drug crime	1
Terrorism, distribution of weapons of mass destruction, violation of international sanctions	0
Other known criminal activity	0
Source crime is so far unknown, it was committed abroad	15
Source crime is so far unknown, it was committed in the Czech Republic	1

Manner of legalization of proceeds from crime (there was a selection of up to 3 items, whereas it was necessary to select one that best corresponds to the technique used in the given case):

2. 1. Use of bank accounts by the perpetrator – transactions

- possible involvement of the obliged person as such (infiltrated, controlled or established by illegal structures)	1
- bank account opened by natural person (e.g. so called temporary worker), who makes his account available to the perpetrator, withdraws and transfers money according to instructions (especially in case of phishing)	31
- multiple electronic transfers between bank accounts in the Czech Republic and abroad	3
- withdrawing and depositing cash to and from accounts	18
- siphoning off proceeds to foreign country	7
- other banking transactions	3

2. Use of transport of cash

- couriers, money mules	0
- companies officially dealing with sending cash money	18
- unofficial services for sending money – hawala etc.	0
- other cash transactions	9

3. New payment methods and their abuse	
- pre-paid cards	0
- mobile payment services	0
- e-money	0
- abuse of virtual currencies	2
- other abuse of payment methods	4
4. Use of companies for concealing criminal activity and the real owner of the company:	
- so called shell corporations, straw persons	1
- mixing illegal proceeds with legal business – use of standard companies engage in criminal activity in parallel to their own legal activity (TBML)	0
- trust funds, trusts	0
- other abuse of companies	2
5. Placement of companies	
- office houses	2
- offshore companies	1
6. Business activities that are most frequently used for concealing criminal activity	
- companies providing legal services (attorneys, notaries, distrainers)	0
- companies providing consultation services (tax advisors, accountants, auditors)	0
- marketing services	0
- outsourcing of any services (legal , cleaning, laundry)	0
- suspicious links between trade parties, chain of companies interlinked by assets or personal occupancy or unfounded transactions between private and corporate accounts	0
- abuse of gambling	0
- other entrepreneurship activities	8
7. Use of financial market products for legalization of proceeds from crime	
- loans (payment of installments to a financial institution)	0
- loans, future loans between interconnected companies (which are not financial institutions)	0
- master loan agreements	0
- mortgages	0
- securities	0
- debt collecting companies	0
- trade with receivables	0
- investments into the environment	0
- payment of dividends	0
- other abuse of financial system	6
8. Use of high-value commodities for investing proceeds from crime	
- gold, diamonds, high-value jewelry	0
- art (paintings, sculptures)	0
- real estate	2

- luxury goods (luxury vehicles, electronic devices, watches, luxurious accessories)	3
- other high-value commodities	2
9. Use of illegal activities	
- forgery of identity and other documents	13
- fictional identity – completely fictional identity	12
- stolen identity	5
- abuse of variant identification	4
- other illegal activities	7
10. Terrorism financing	
- from legal proceeds	1
- from illegal proceeds	0
11. Other	25

Type of asset that forms proceeds from the source crime (there was a selection of up to 3 items at the same time, whereas it was necessary to select the type of asset that best corresponds to the given case – in case of multiple types of assets, 3 most frequently used were selected):

Chart no. 13:

Type of asset	Number of criminal cases
Cash money	15
Money deposited on an account	40
Securities and other financial means, such as electronic or virtual currencies	0
Ownership interest	1
Automobiles, automobile parts	46
Other movable assets	6
Other immovable assets (real estate)	0
Other	1

The chart above shows that the most frequently used type of property, which constitutes proceeds from crime and which is subsequently used for legalization, is automobiles and automobile parts.

Type of asset that is the result of (existing) legalization (there was a selection of up to 3 items, whereas it was necessary to select the type of asset that best corresponds to the given case:
– in case of multiple types of assets, 3 most frequently used were selected
– the resulting asset of legalization as was ascertained in the specific case was to be selected – this did not include assets that were mere transition links in the legalization chain):

Chart no. 14:

Type of asset	Number of criminal cases
Real estate	2

Automobile	41
Securities	0
Ownership interest	1
Cash money CZK	33
Cash money other currency	10
Money on an account	19
Securities and other financial means, such as electronic currencies or virtual currencies	0
Other movable assets	8
Other	1

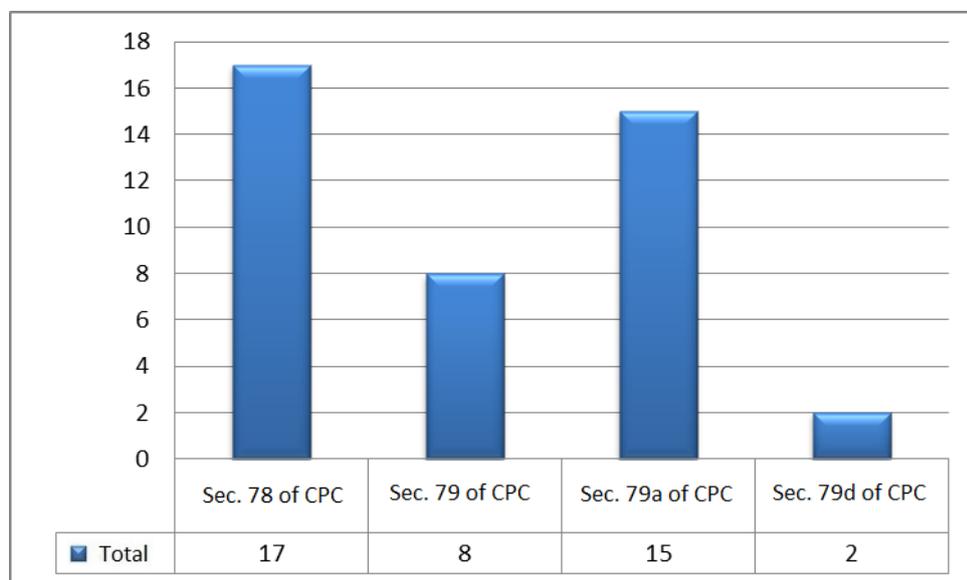
The chart above identifies automobiles, closely followed by cash money in CZK, as the most frequent types of assets used as final product of legalization of proceeds from crime.

Out of the total of 105 criminal cases in this category the value of the legalized property was not determined in 12 cases, in 93 cases the value was determined at least approximately, whereas the sum amounts to 62.500.000 CZK, whereas the average amount of legalized property per one criminal case amounted to ca 670.000 CZK.

Seizure of property:

Statistical data implies that out of the above referred 105 criminal cases, property was seized in 6 cases in directly assessed value of ca 5.300.000 CZK and in additional 3 cases property was seized as well, but in undetermined value. Seizure of property occurred in a total of 9 criminal cases, i.e. in approximately 8.5 % of cases.

Diagram no. 29 – legal grounds for seizure of property:



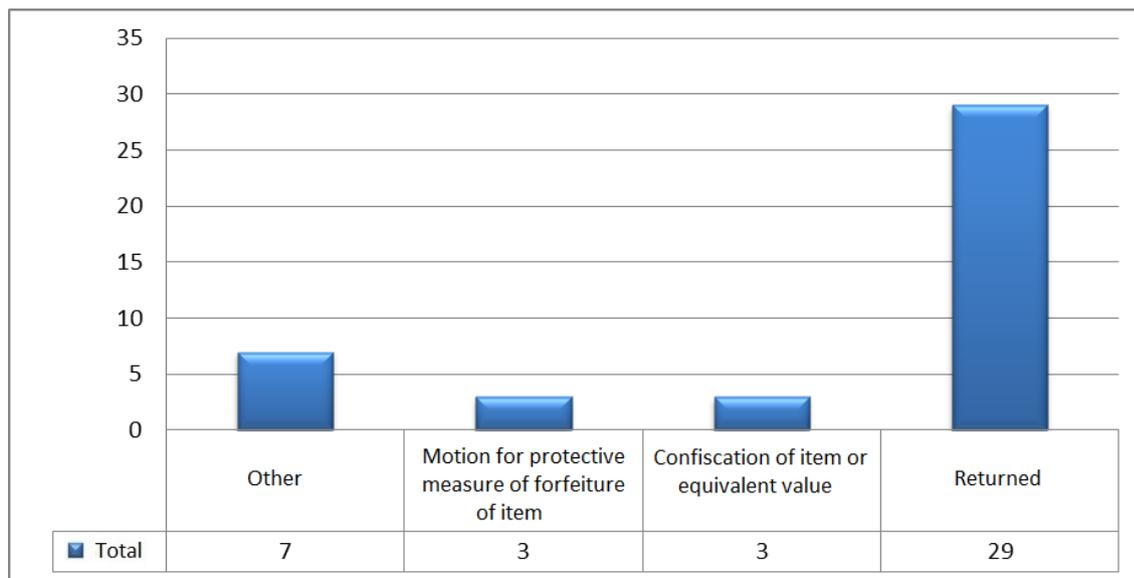
In cases where property was seized, procedure according to Section 78 and 79a of the Code of Criminal Procedure prevail.

Chart no. 15 – type of seized asset:

Type of asset	Number of criminal cases
Real estate	2

Automobile	22
Securities	0
Ownership interest	0
Cash money CZK	12
Cash money other currency	4
Other movable asset	3
Other	3

Diagram no. 30 – manner of disposal with seized property



Out of the 42 criminal cases in which seizure of property occurred, in 29 cases the seized property was returned and in other cases it was disposed of otherwise, as shown in diagram no. 30, whereas the overall value of property drained by confiscation or forfeiture amounted to ca 5.400.000 CZK.

International judicial cooperation:

Out of the total number of 105 cases, international cooperation of some kind was requested in 24 cases (23 %).

Sentences imposed:

In the above referred 105 criminal cases the main offenders were imposed the following sentences (here we must take into account possible concurrence with another criminal offense, as well as the fact that the main offender may have been imposed several sentences in parallel):

Chart no. 16:

Type of sentence	Number	Average assessment (rounded off to whole months)
Unsuspended sentence of imprisonment – prison with medium security	7	29 months
Unsuspended sentence of	13	52 months

imprisonment – prison with high security		
Suspended sentence of imprisonment	56	12 moths with a probation period of 26 months
Suspended sentence with supervision	2	9 moths with a probation period of 24 months
Prohibition to conduct business in private sector (including licensed trade, positions and memberships within legal entities)	5	55 months
Prohibition of another activity	6	29 months
Confiscation of assets	9	In 4 cases in the overall sum of 5.412.957 CZK in in 5 additional cases in unspecified value
Financial penalty	9	Approximately 53.000 CZK on average, overall sum of 473.000 CZK
Banishment	7	---
Waiver of imposition of aggregate sentence/criminal measure (Section 37 of old Criminal Code or Section 44 of new Criminal Code)	2	---
Waiver of punishment (Section 24 old Criminal Code or Section 46 of new Criminal Code)	1	---

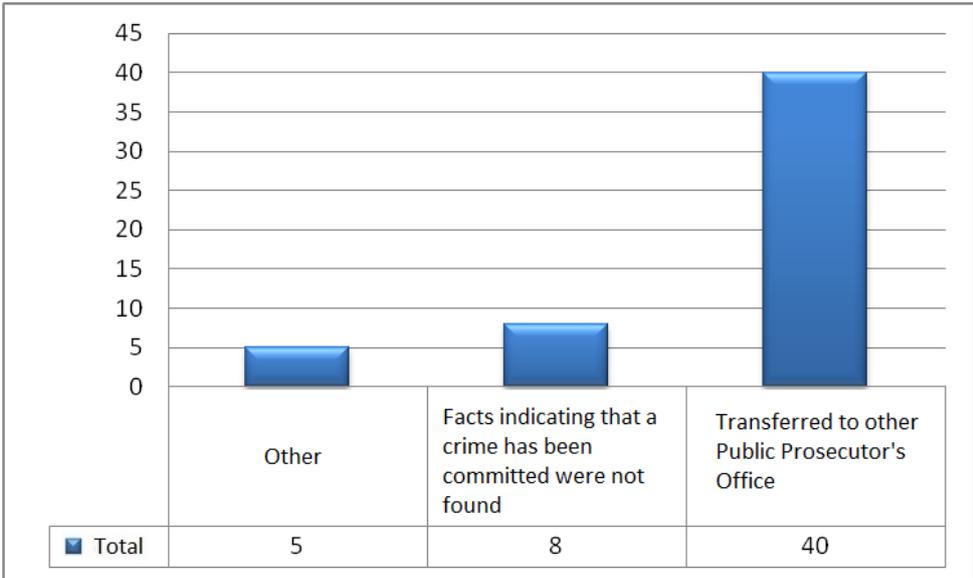
The chart above shows that in cases where perpetrators are found guilty of legalization crime, the perpetrators are also imposed a sentence; various types of waivers of punishment are insignificant. At the same time it is worth noting the relatively lower number of sentences associated with affecting the property of the perpetrator (confiscation or financial penalty). Given the fact that legalization crime is in its nature property crime, application of Section 39 (7) of the Criminal Code is in place and under the statutory conditions it is pertinent to impose one of the sentences referred to in Section 66 to 72 of the Criminal Code, either as a stand-alone sentence or in parallel to another sentence. The above referred statistical data alone shows a certain deficiency in this respect (even though no deeper analysis of individual criminal cases has been performed).

II.E. Cases prosecuted in 2013, 2014 and 2015:

II.E.1. Cases concluded prior to initiation of criminal proceedings:

In the monitored period there were a total of 54 cases concluded prior to initiation of criminal proceedings, in one case the reason for such procedure was not indicated, so for further considerations we will take into account 53 cases.

Diagram no. 31 – grounds for conclusion of cases prior to initiation of criminal proceedings:

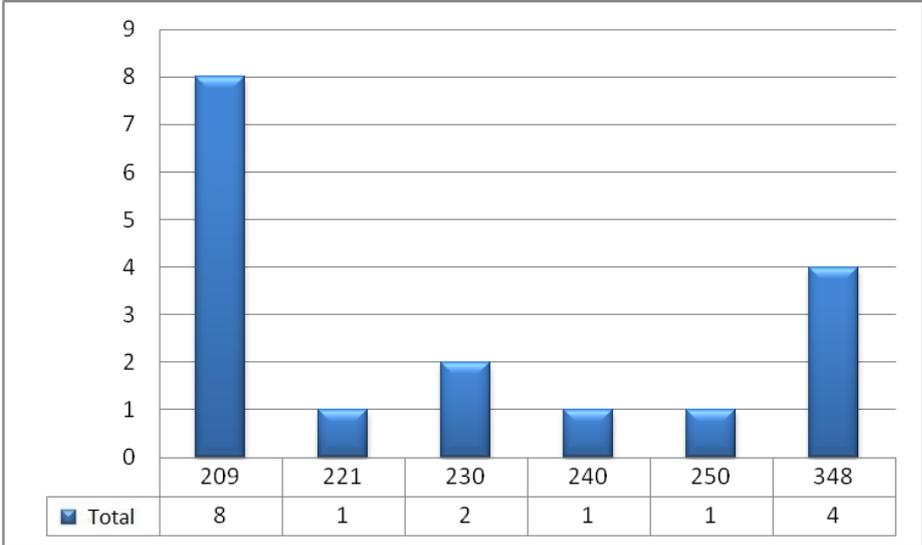


The diagram above indicates that the majority part of 40 cases shows transfer to another Public Prosecutor’s Office as the reason for conclusion of the case prior to initiation of criminal proceedings. This means that the case was closed at the specific Public Prosecutor’s Office, but the case itself was not terminated. It is worth noting that only an inconsiderable number of the prosecuted cases are terminated by the Public Prosecutor’s Office prior to initiation of criminal proceedings, on the contrary, criminal proceedings are being initiated and the matters implying that a crime has been committed are subject to verification in criminal proceedings.

II.E.2. Cases concluded during verification:

In the period between 2013 and 2015 a total number of 724 criminal cases were terminated during verification. 17 out of these 724 cases were re-qualified to another criminal offense than legalization crime (for more details see the following diagram):

Diagram no. 32 – re-qualification to another criminal offense:



The diagram above implies that if the case was not assessed as legalization crime, the most frequent other qualifications were:

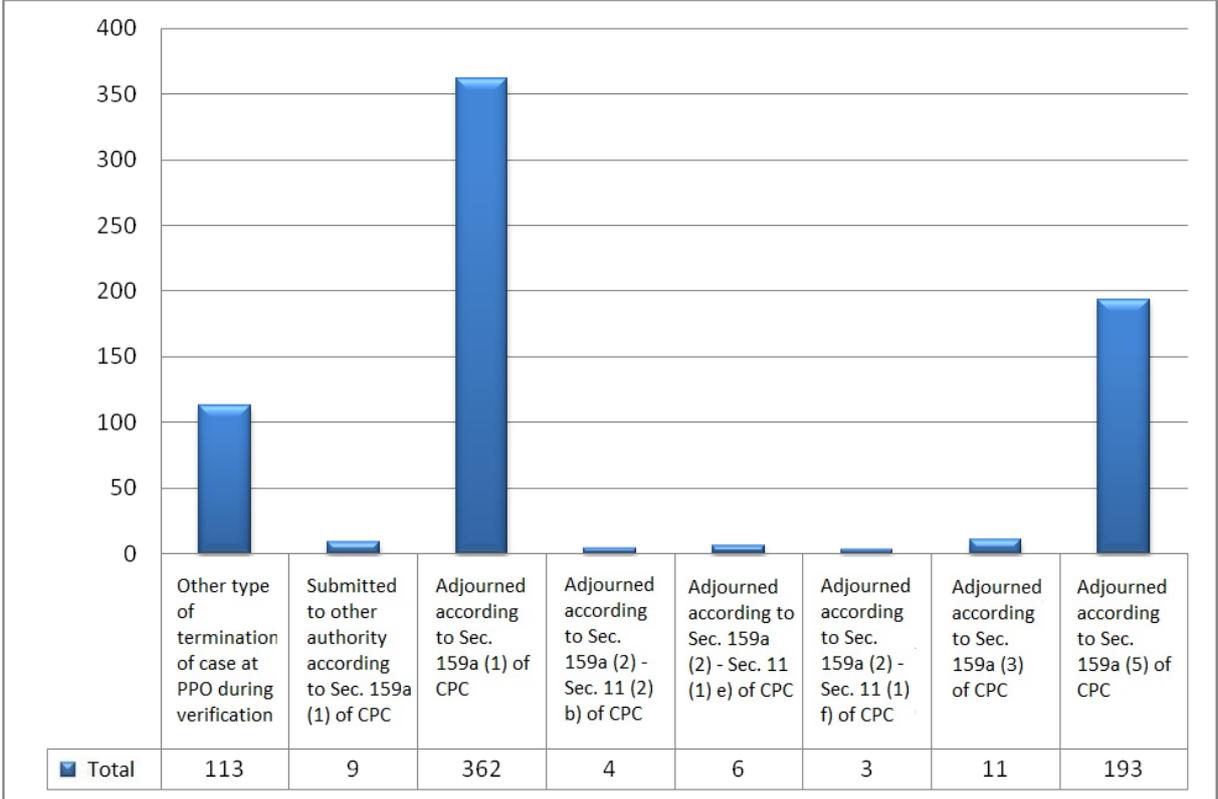
- fraud according to Section 209 of the Criminal Code
- forgery and alteration of public documents according to Section 348 of the Criminal Code
- evasion of tax, fees and similar compulsory payment according to Section 240 of the Criminal Code

The number of cases qualified as other criminal offenses is shown in the diagrams above, where under each column is a numerical designation of criminal offenses according to the Criminal Code and under this designation the number of such criminal offenses.

Additionally, in 6 cases the manner of termination of verification was not indicated.

Diagram no. 33 below shows a total of 701 cases according to the legal grounds for termination of verification and this value is taken into account as the final number for further considerations.

Diagram no. 33 – cases prosecuted in years 2013, 2014 and 2015 – cases concluded during verification:



The column “Other type of termination of case at PPO during verification” includes joining of cases (in 1 instance) and transferring the case to another Public Prosecutor’s Office (a total of 112 cases), which means these cases were not completely terminated, but the proceedings in the given case (on the criminal offense) continued, but within another file of the same Public Prosecutor’s Office or at a different Public Prosecutor’s Office.

In 603 of the cases referred to in diagram no. 9, the decision or measure was made by Police authority, in other cases by public prosecutor – these were in principle the above referred transfers to another Public Prosecutor’s Office.

We need to point out that given the overall number of 1479 cases, only 193 were adjourned according to Section 159a (5) of the Code of Criminal Procedure – these are cases of so called unknown offenders, which represents a ca. **13 % of unclarified cases**. This may be seen as a **very positive** result, considering the average ratio of unclarified criminal cases oscillates around 50 %.³

Chart no. 17 – cases concluded during verification according to qualification and category of criminal offenses:

Qualification	Misdemeanor	Felony
Section 216 (1)	232	---
Section 216 (2)	203	---
Section 216 (3)	---	86
Section 216 (4)	---	31
Section 217 (1)	118	---
Section 217 (2)	9	---
Section 217 (3)	2	---
Section 252a (1)	22	---
Section 252a (2)	2	---
Section 252a (3)	5	---
Section 252a (4)	---	4
Section 252a (5)	---	0
Total⁴	593	121

The above referred chart clearly shows that there is approximately a 5:1 ratio of misdemeanors (83 %) to felonies (17 %) in legalization crimes as far as cases terminated during verification are concerned. As such we cannot claim that these proceedings were conducted only in petty cases of legalization crimes (it is worth noting the value indicated next to Section 216 (2) of the Criminal Code, which does not constitute basic elements of this criminal offense.

Lower counts next to Section 252a of the Criminal Code effective until 31. 12. 2009 are logical since this is an “expiring” criminal activity under the previous legal regulation (the new Criminal Code is effective from 1. 1. 2010 and the monitored period is 2013 to 2015).

Type of person, against whom criminal proceeding was conducted:

Here the following options were made available in the code lists:

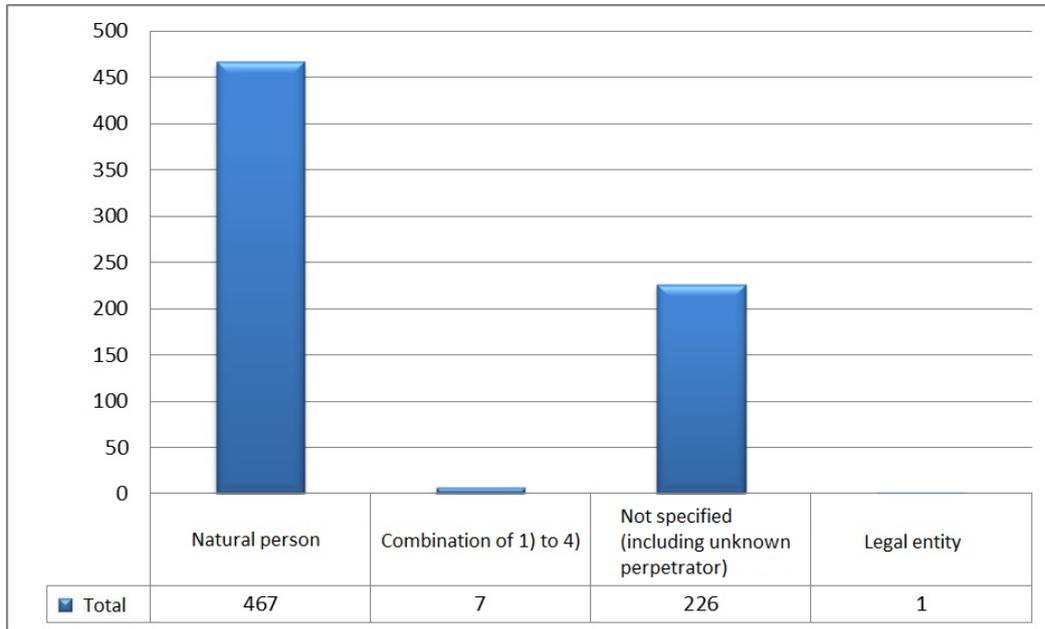
- 1) Natural person
- 2) Legal entity
- 3) Natural person – juvenile
- 4) Natural person under age of 15

³ See statistical overviews of crime available at <http://www.policie.cz/statistiky-kriminalita.aspx>

⁴ The sum shows more than 701 cases, because accidentally in some cases more than one legal qualification was indicated – however, this does not change anything in the overall picture of the issue at hand.

- 5) Combination of 1) through 4)
- 6) Not specified (including unknown perpetrator)

Diagram no. 34:



From the comparison of diagrams no. 33 and 34 it is apparent why the “Not specified” value (including unknown perpetrator) is dominant in diagram no. 34, when in diagram no. 9 the majority grounds for termination of verification is adjourning the case according to Section 159a (5) of the Code of Criminal Procedure (matters substantiating the initiation of criminal prosecution were not found).

Diagram no. 35 – number of suspects:

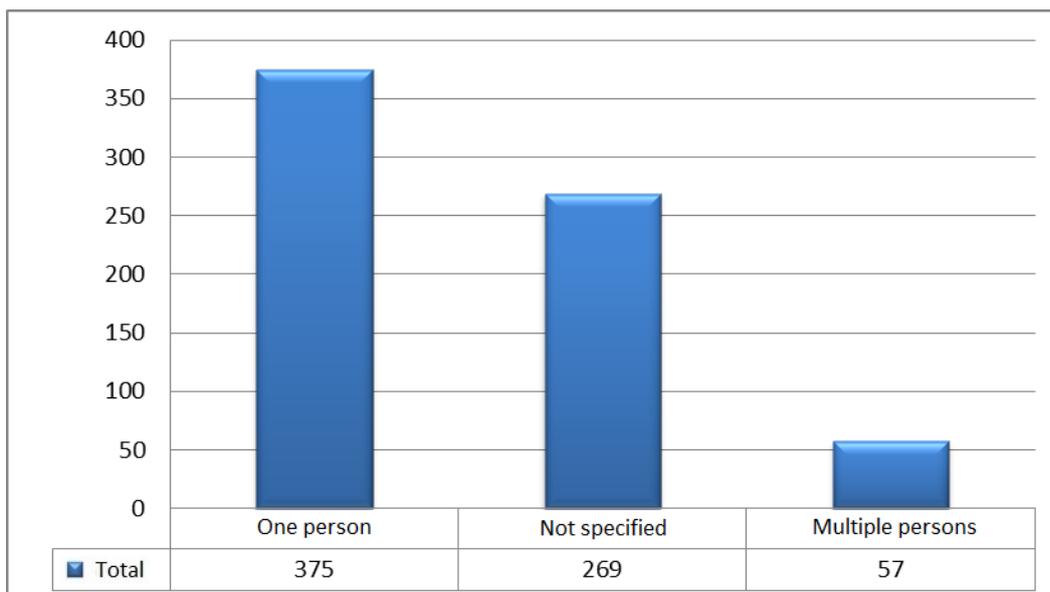
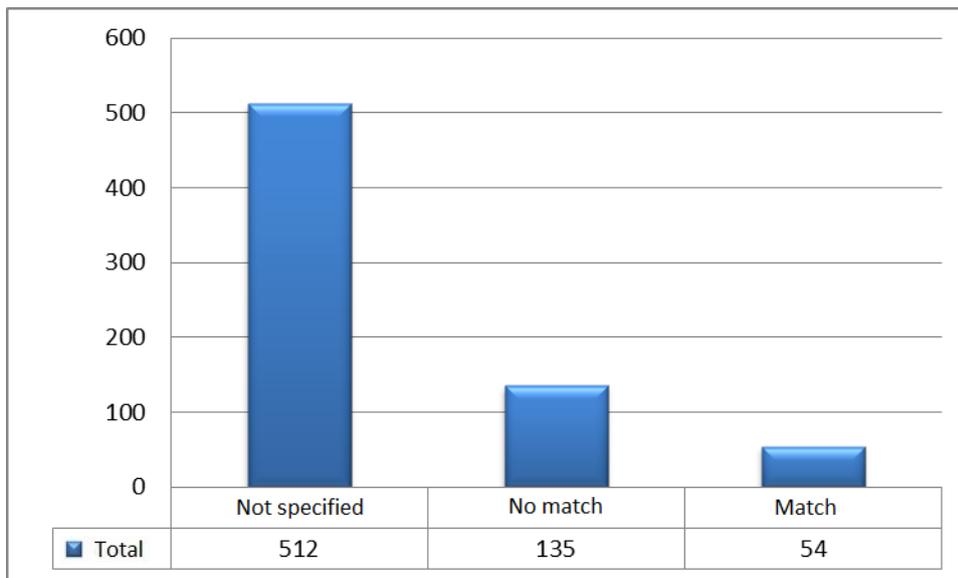


Diagram no. 36 – relationship of the person suspected of legalization crime and the person suspected of the source crime:

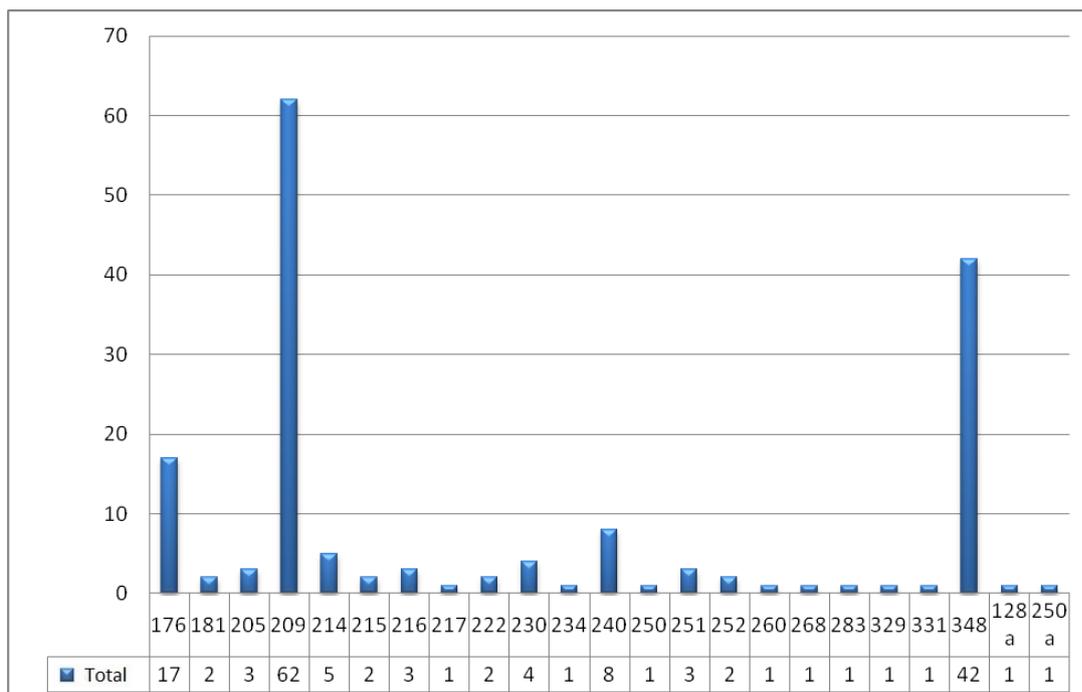


This diagram is important in view of so called self-money laundering. The above referred indicates occurrence of this phenomenon in only an inconsiderable number of cases.

Independence or concurrence of criminal activity:

Out of the total number of 701 criminal cases, 536 cases (76 %) were conducted only for one of the legalization crimes. In 165 criminal cases (24 %) the proceedings were conducted in concurrence with another criminal offense – for more detail see the following diagram no. 37 implying that the most frequent criminal offense in concurrence with the legalization crimes is fraud according to Section 209 of the Criminal Code.

Diagram no. 37:



Source criminal activity:

Diagram no. 38 below shows whether source criminal activity was known or unknown with a distinction, whether it was allegedly committed inland or abroad.

Diagram no. 38:

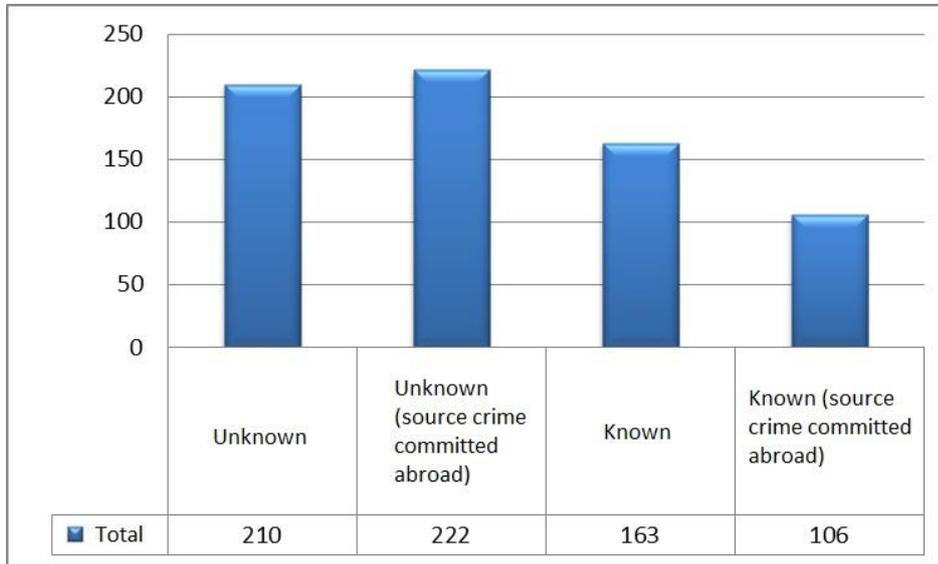


Diagram no. 39 – qualification of known source criminal activity:

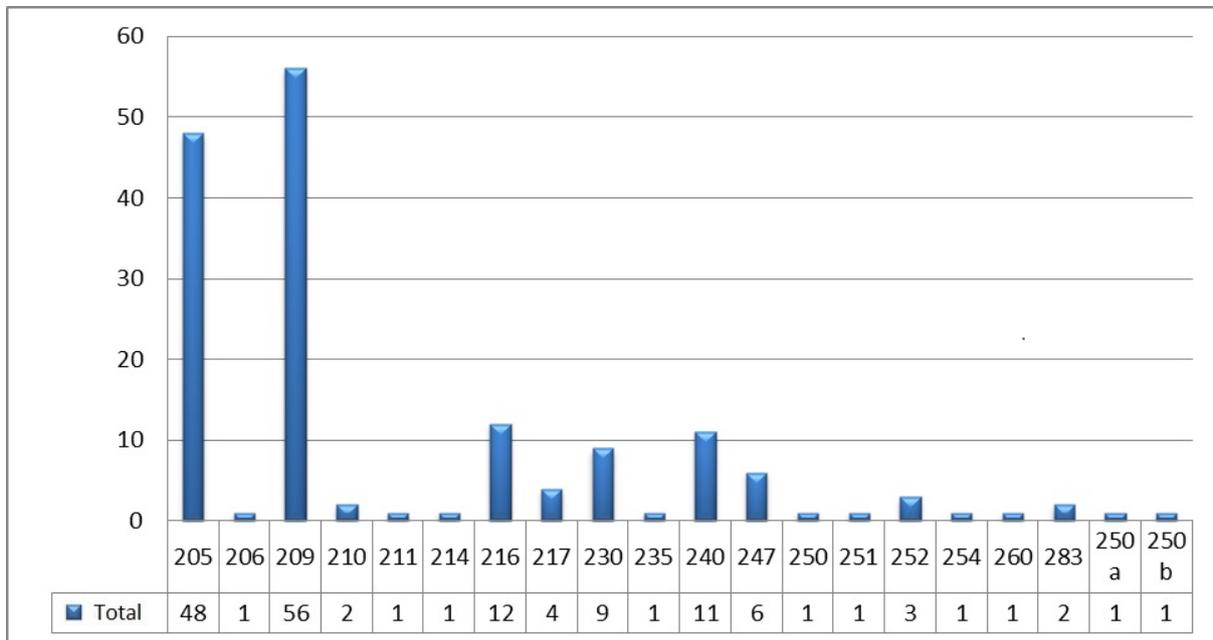


Diagram no. 39 above shows that the most frequent types of domestic source criminal activity in these cases were the following crimes:

- fraud according to Section 209 of the Criminal Code
- theft according to Section 205 of the Criminal Code

Diagram no. 40 – qualification of known source criminal activity (source crime was committed abroad):

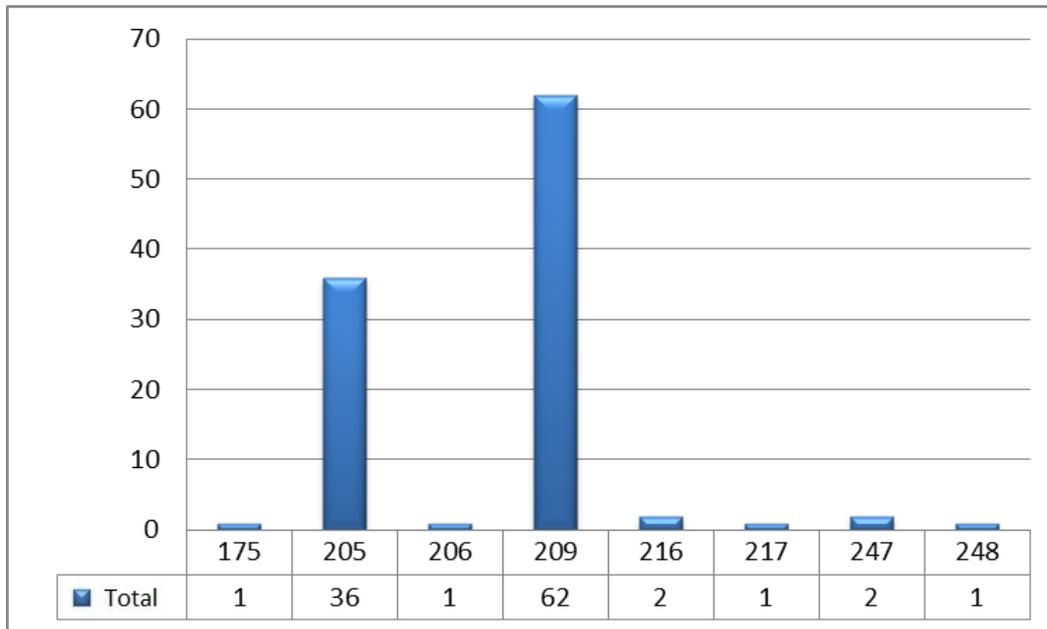


Diagram no. 40 above shows that the most frequent types of source criminal activity committed abroad in these cases were the following crimes:

- fraud according to Section 209 of the Criminal Code
- theft according to Section 205 of the Criminal Code

Categories of source criminal offences (there was a selection of up to 3 items made available for one criminal case):

Phishing, pharming	159
Fraud	162
Credit fraud	6
Subvention fraud	1
Embezzlement	5
Breach of obligation in administration of property of another	0
Tax crime	18
Damnification of creditors	0
Crimes associated with public tenders	0
Crimes associated with insolvency proceedings	0
Corruption	1
Conducting business without license	3
Other economic crime	10
Theft, robbery	152
Extortion	1
Offenses against morality	0
Drug crime	2
Terrorism, distribution of weapons of mass destruction, violation of international sanctions	0
Other known criminal activity	21

Source crime is so far unknown, it was committed abroad	161
Source crime is so far unknown, it was committed in the Czech Republic	103

Manner of legalization of proceeds from crime (there was a selection of up to 3 items, whereas it was necessary to select one that best corresponds to the technique used in the given case):

1. Use of bank accounts by the perpetrator – transactions	
- possible involvement of the obliged person as such (infiltrated, controlled or established by illegal structures)	12
- bank account opened by natural person (e.g. so called temporary worker), who makes his account available to the perpetrator, withdraws and transfers money according to instructions (especially in case of phishing)	222
- multiple electronic transfers between bank accounts in the Czech Republic and abroad	24
- withdrawing and depositing cash to and from accounts	76
- siphoning off proceeds to foreign country	51
- other banking transactions	51
2. Use of transport of cash	
- couriers, money mules	2
- companies officially dealing with sending cash money	76
- unofficial services for sending money – hawala etc.	1
- other cash transactions	37
3. New payment methods and their abuse	
- pre-paid cards	0
- mobile payment services	1
- e-money	2
- abuse of virtual currencies	9
- other abuse of payment methods	20
4. Use of companies for concealing criminal activity and the real owner of the company:	
- so called shell corporations, straw persons	8
- mixing illegal proceeds with legal business – use of standard companies engage in criminal activity in parallel to their own legal activity (TBML)	7
- trust funds, trusts	0
- other abuse of companies	9
5. Placement of companies	
- office houses	4
- offshore companies	3
6. Business activities that are most frequently used for concealing criminal activity	
- companies providing legal services (attorneys, notaries, distrainers)	0
- companies providing consultation services (tax advisors, accountants, auditors)	0
- marketing services	2

- outsourcing of any services (legal , cleaning, laundry)	0
- suspicious links between trade parties, chain of companies interlinked by assets or personal occupancy or unfounded transactions between private and corporate accounts	3
- abuse of gambling	4
- other entrepreneurship activities	29

7. Use of financial market products for legalization of proceeds from crime

- loans (payment of installments to a financial institution)	1
- loans, future loans between interconnected companies (which are not financial institutions)	1
- master loan agreements	0
- mortgages	0
- securities	0
- debt collecting companies	1
- trade with receivables	0
- investments into the environment	0
- payment of dividends	0
- other abuse of financial system	17

8. Use of high-value commodities for investing proceeds from crime

- gold, diamonds, high-value jewelry	0
- art (paintings, sculptures)	0
- real estate	8
- luxury goods (luxury vehicles, electronic devices, watches, luxurious accessories)	11
- other high-value commodities	7

9. Use of illegal activities

- forgery of identity and other documents	124
- fictional identity – completely fictional identity	69
- stolen identity	28
- abuse of variant identification	13
- other illegal activities	29

10. Terrorism financing

- from legal proceeds	0
- from illegal proceeds	0

11. Other 155

Type of asset that forms proceeds from the source crime (there was a selection of up to 3 items at the same time, whereas it was necessary to select the type of asset that best corresponds to the given case – in case of multiple types of assets, 3 most frequently used were selected):

Chart no. 18:

Type of asset	Number of criminal cases
Cash money	70
Money deposited on an account	352
Securities and other financial means, such as electronic or virtual currencies	3
Ownership interest	0
Automobiles, automobile parts	245
Other movable assets	23
Other immovable assets (real estate)	5
Other	26

The chart above shows that the most frequently used type of property, which constitutes proceeds from crime and which is subsequently used for legalization, is money deposited on an account, followed by cars and car parts.

Type of asset that is the result of (existing) legalization (there was a selection of up to 3 items, whereas it was necessary to select the type of asset that best corresponds to the given case:

- in case of multiple types of assets, 3 most frequently used were selected
- the resulting asset of legalization as was ascertained in the specific case was to be selected – this did not include assets that were mere transition links in the legalization chain):

Chart no. 19:

Type of asset	Number of criminal cases
Real estate	10
Automobile	246
Securities	1
Ownership interest	0
Cash money CZK	154
Cash money other currency	36
Money on an account	245
Securities and other financial means, such as electronic currencies or virtual currencies	6
Other movable assets	24
Other	29

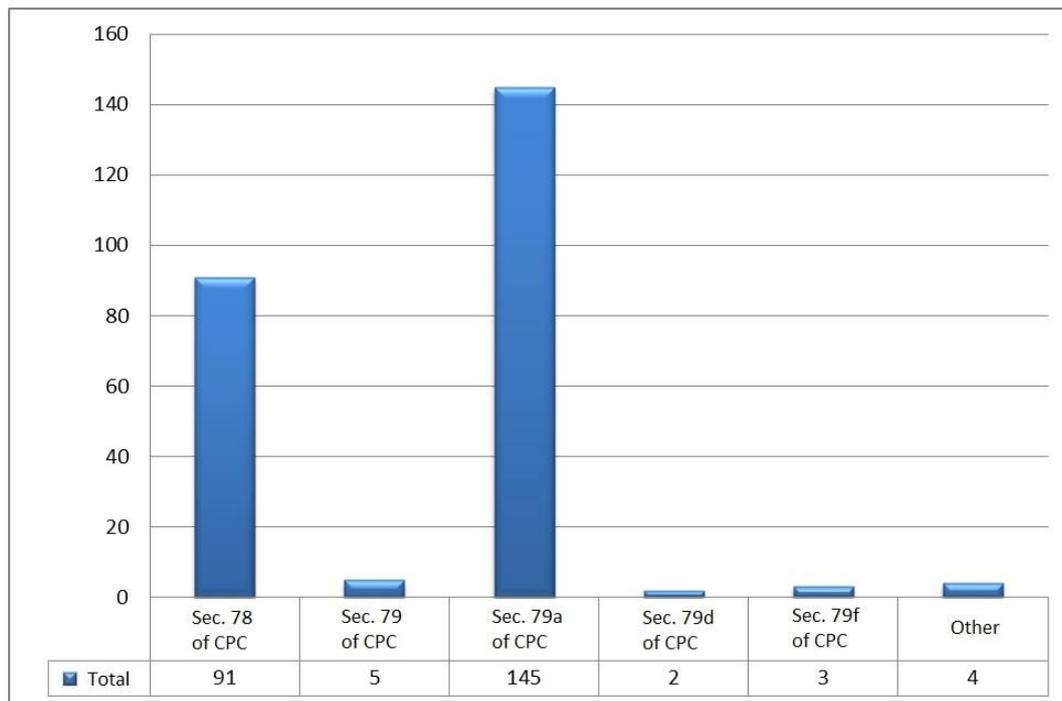
The chart above identifies automobiles and money on an account as the most frequent types of asset used as final product of legalization of proceeds from crime.

Out of the total number of 701 criminal cases the value of the legalized property was not determined in 255 cases, in 446 cases the value was determined at least approximately and its sum amounts to ca 5.800.000.000 CZK, whereas the average value of the legalized property per one criminal case was 13.000.000 CZK (however, this value cannot be taken as absolute, since it was influenced by several cases with higher value of legalized assets).

Seizure of property:

Statistical data implies that out of the above referred 701 criminal cases, property was seized in 174 cases in directly assessed value of ca 140.000.000 CZK and in additional 77 cases property was seized as well, but in undetermined value (these were e.g. automobiles, value of which was not determined for the purpose of criminal proceedings). Seizure of property occurred in a total of 251 criminal cases, i.e. in approximately 36 % of cases, which may be perceived as a decent result.

Diagram no. 41 – legal grounds for seizure of property:



In cases where property was seized, procedure according to Section 78 and 79a of the Code of Criminal Procedure prevails.

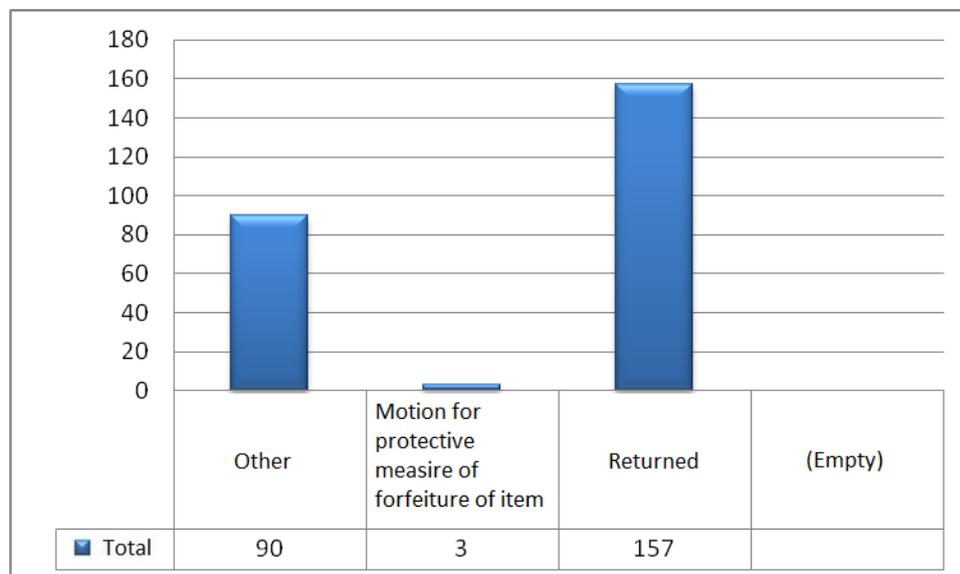
Chart no. 20 – type of seized asset:

Type of asset	Number of criminal cases
Real estate	4
Automobile	81
Securities	0
Ownership interest	0
Cash money CZK	105
Cash money other currency	22
Other movable asset	7
Other	39

Out of the 251 criminal cases, in which seizure of property occurred, in 77 cases the value of the seized property was not determined and in 8 cases the value was determined, whereas the total value of the seized property amounted to ca. 140.000.000 CZK, whereas the average value per one criminal case was ca. 800.000 CZK.

Out of the 251 criminal cases in which seizure of property occurred, the seized property was disposed of as shown in diagram no. 42: .

Diagram no. 42:



Following the diagram above we state that within the frame of the protective measure of forfeiture of items, a total sum of 72.500 CZK was drained.

International judicial cooperation:

Out of the total number of 701 cases, international cooperation of some kind was requested in 100 cases (14 %).

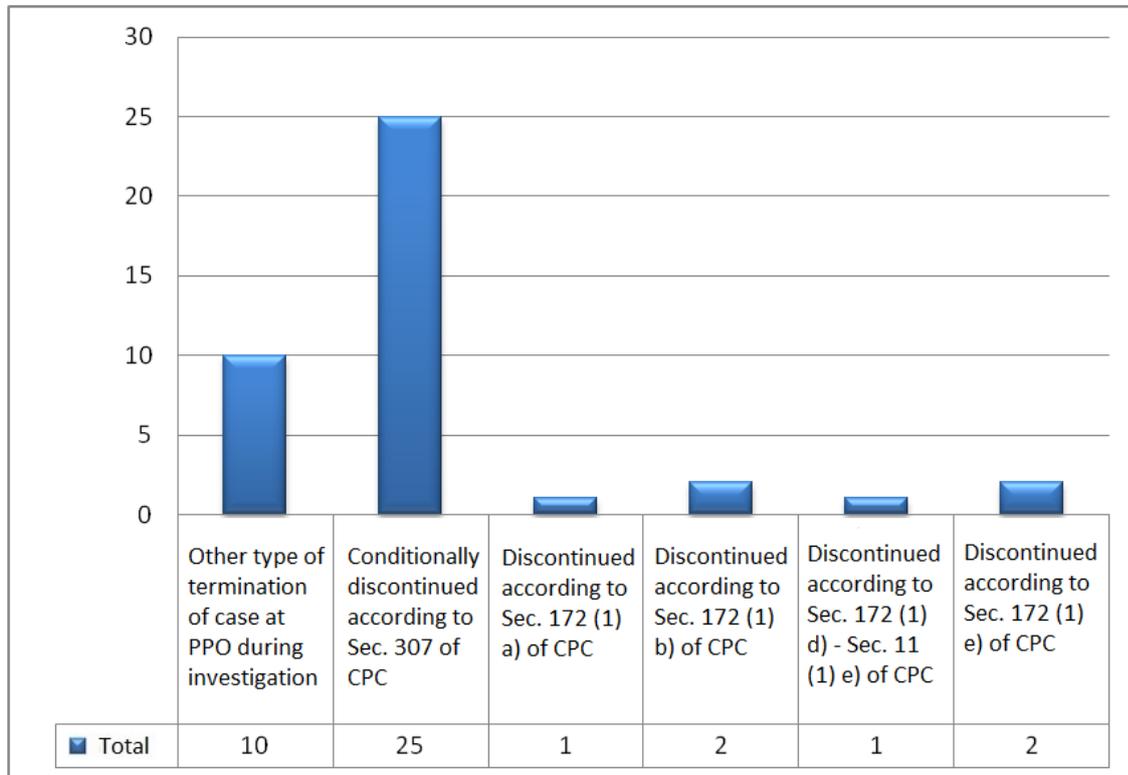
II.E.3. Cases concluded in summary pre-trial proceedings:

In the period between 2013 and 2015 a total of 8 criminal cases were concluded in summary pre-trial proceedings, in 1 case no other data was indicated, and all these concerned negligent legalization of proceeds from crime according to Section 217 (1) of the Criminal Code, whereas all of them were concluded by conditional suspension of submission of a motion for punishment according to Section 179c (2) h) and Section 179g of the Code of Criminal Procedure. As such these cases have no statistically significant information value.

II.E.4. Cases concluded during investigation:

In the period between 2013 and 2015 a total of 41 cases were concluded during investigation.

Diagram no. 43 – cases prosecuted in years 2013, 2014 and 2015 – concluded during investigation



If we compare the results of the type of conclusion during investigation according to diagram no. 43 above (majority of cases – conditional discontinuation of criminal prosecution according to Section 307 of the Code of Criminal Procedure) and according to chart no. 21 below the majority of cases dealt with the criminal offense of negligent legalization of proceeds from crime according to Section 217 (1) of the Criminal Code, then termination of investigation by an alternative decision in ca 67 % of cases is completely correspondent to the general preference of using alternative decisions in criminal proceedings, especially in case of these less harmful crimes .

Furthermore we need to add that the above referred 10 cases under the column “Other type of closing the case at the Public Prosecutor ‘s Office” do not mean complete termination of the case, but transfer to another Public Prosecutor ‘s Office in all ten cases.

Chart no. 21:

Qualification	Misdemeanor	Felony
Section 216 (1)	3	---
Section 216 (2)	7	---
Section 216 (3)	---	1
Section 216 (4)	---	2
Section 217 (1)	25	---
Section 217 (2)	2	---
Section 217 (3)	1	---
Section 252a (1)	0	---
Section 252a (2)	0	---

Section 252a (3)	0	---
Section 252a (4)	---	0
Section 252a (5)	---	0
Total	38	3

The above referred chart clearly shows that there is approximately a 9:1 ratio of misdemeanors (93 %) to felonies (7 %) in legalization crimes as far as cases terminated during investigation are concerned.

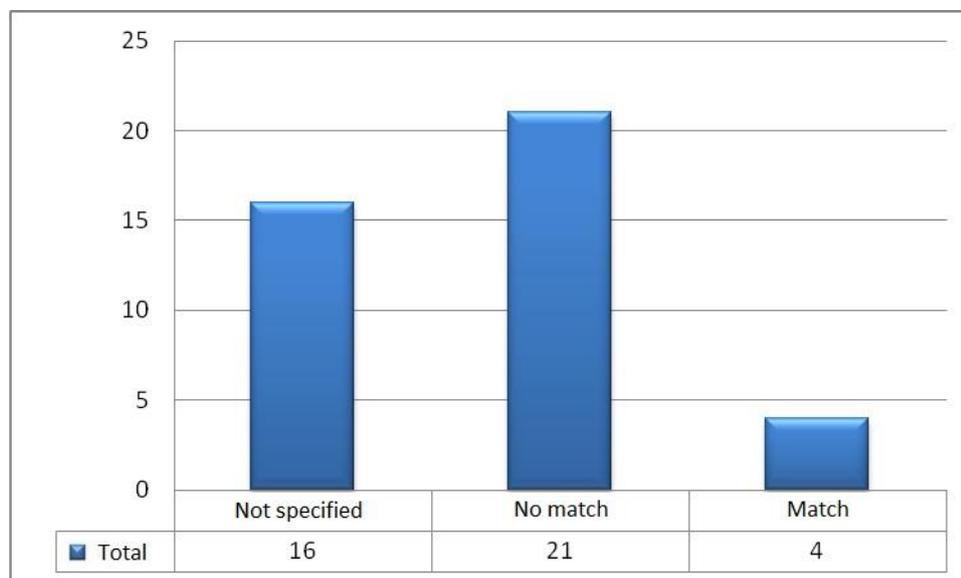
Type of person, against whom criminal proceeding was conducted:

Here the following options were made available in the code lists:

- 1) Natural person
- 2) Legal entity
- 3) Natural person – juvenile
- 4) Natural person under age of 15
- 5) Combination of 1) through 4)
- 6) Not specified (including unknown perpetrator)

All of the 41 above referred criminal cases were conducted against a natural person, only in 3 cases there were multiple accused persons involved.

Diagram no. 44 – relationship of the person suspected of legalization crime and the person suspected of the source crime:



This diagram is important in view of so called self-money laundering. The above referred indicates 4 such cases.

Independence or concurrence of criminal activity:

Out of the total number of 41 criminal cases, 36 cases (88 %) were conducted for some of the legalization crimes. In 5 criminal cases (12 %) the proceedings were conducted in concurrence with another criminal offense (in two cases it was fraud according to Section 209

of the Criminal Code and then there was one case of each criminal offense according to Section 205, 211 and 240 of the Criminal Code).

Source criminal activity:

Diagram 45 below shows whether source criminal activity was known or unknown with a distinction, whether it was allegedly committed inland or abroad.

Diagram no. 45:

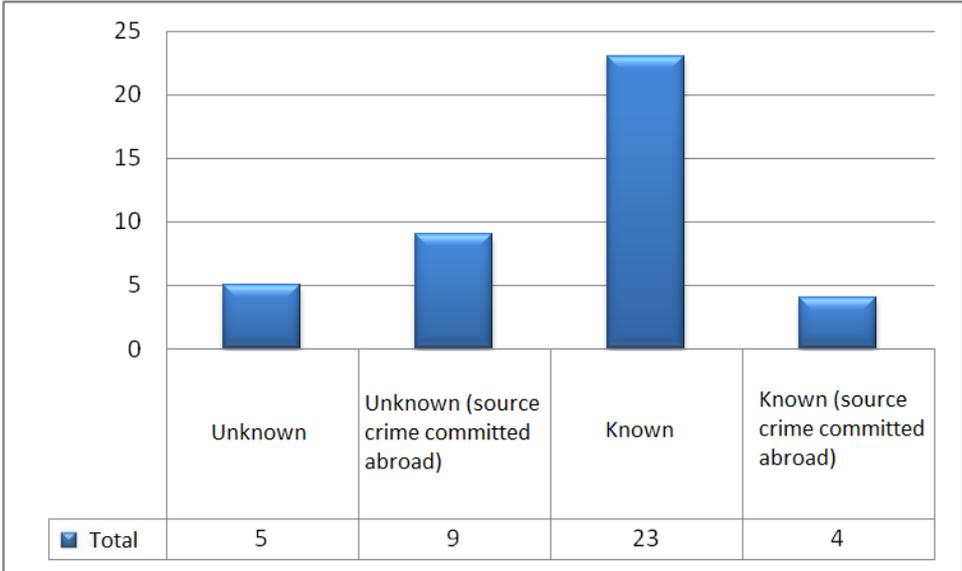
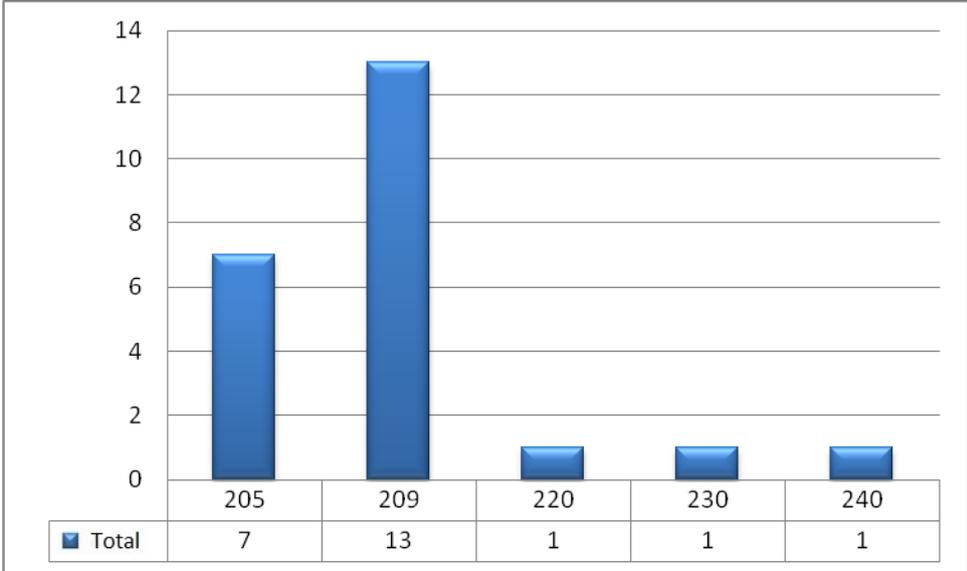


Diagram no. 46:



The most frequent qualification of known domestic source crime (23 cases) were:
 - fraud according to Section 209 of the Criminal Code
 - theft according to Section 205 of the Criminal Code

Qualification of known source crime (source crime committed abroad) – 4 criminal cases:

- fraud according to Section 209 of the Criminal Code (3 cases)
- theft according to Section 205 of the Criminal Code (1 case)

Categories of source criminal offences (there was a selection of up to 3 items made available for one criminal case):

Phishing, pharming	13
Fraud	18
Credit fraud	0
Subvention fraud	0
Embezzlement	0
Breach of obligation in administration of property of another	1
Tax crime	1
Damnification of creditors	0
Crimes associated with public tenders	0
Crimes associated with insolvency proceedings	0
Corruption	0
Conducting business without license	0
Other economic crime	0
Theft, robbery	9
Extortion	0
Offenses against morality	0
Drug crime	0
Terrorism, distribution of weapons of mass destruction, violation of international sanctions	0
Other known criminal activity	2
Source crime is so far unknown, it was committed abroad	1
Source crime is so far unknown, it was committed in the Czech Republic	2

Manner of legalization of proceeds from crime (there was a selection of up to 3 items, whereas it was necessary to select one that best corresponds to the technique used in the given case):

1. Use of bank accounts by the perpetrator – transactions

- possible involvement of the obliged person as such (infiltrated, controlled or established by illegal structures)	0
- bank account opened by natural person (e.g. so called temporary worker), who makes his account available to the perpetrator, withdraws and transfers money according to instructions (especially in case of phishing)	26
- multiple electronic transfers between bank accounts in the Czech Republic and abroad	2
- withdrawing and depositing cash to and from accounts	6
- siphoning off proceeds to foreign country	4
- other banking transactions	3

2. Use of transport of cash

- couriers, money mules	0
- companies officially dealing with sending cash money	9

- unofficial services for sending money – hawala etc.	0
- other cash transactions	0
3. New payment methods and their abuse	
- pre-paid cards	0
- mobile payment services	0
- e-money	0
- abuse of virtual currencies	1
- other abuse of payment methods	1
4. Use of companies for concealing criminal activity and the real owner of the company:	
- so called shell corporations, straw persons	0
- mixing illegal proceeds with legal business – use of standard companies engage in criminal activity in parallel to their own legal activity (TBML)	0
- trust funds, trusts	0
- other abuse of companies	1
5. Placement of companies	
- office houses	0
- offshore companies	0
6. Business activities that are most frequently used for concealing criminal activity	
- companies providing legal services (attorneys, notaries, distrainers)	1
- companies providing consultation services (tax advisors, accountants, auditors)	0
- marketing services	0
- outsourcing of any services (legal , cleaning, laundry)	0
- suspicious links between trade parties, chain of companies interlinked by assets or personal occupancy or unfounded transactions between private and corporate accounts	0
- abuse of gambling	0
- other entrepreneurship activities	1
7. Use of financial market products for legalization of proceeds from crime	
- loans (payment of installments to a financial institution)	0
- loans, future loans between interconnected companies (which are not financial institutions)	0
- master loan agreements	0
- mortgages	0
- securities	0
- debt collecting companies	0
- trade with receivables	0
- investments into the environment	0
- payment of dividends	0
- other abuse of financial system	1
8. Use of high-value commodities for investing proceeds from crime	
- gold, diamonds, high-value jewelry	0

- art (paintings, sculptures) 0
- real estate 0
- luxury goods (luxury vehicles, electronic devices, watches, luxurious accessories) 0
- other high-value commodities 0

9. Use of illegal activities

- forgery of identity and other documents
- fictional identity – completely fictional identity 1
- stolen identity 0
- abuse of variant identification 2
- other illegal activities 2

10. Terrorism financing

- from legal proceeds 0
- from illegal proceeds 0

11. Other 7

Type of asset that forms proceeds from the source crime (there was a selection of up to 3 items at the same time, whereas it was necessary to select the type of asset that best corresponds to the given case – in case of multiple types of assets, 3 most frequently used were selected):

Chart no. 22:

Type of asset	Number of criminal cases
Cash money	7
Money deposited on an account	28
Securities and other financial means, such as electronic or virtual currencies	0
Ownership interest	0
Automobiles, automobile parts	7
Other movable assets	1
Other immovable assets (real estate)	0
Other	0

The chart above shows that the most frequently used type of property, which is proceeds from crime and which is subsequently used for legalization, is money deposited on account.

Type of asset that is the result of (existing) legalization (there was a selection of up to 3 items, whereas it was necessary to select the type of asset that best corresponds to the given case:
 – in case of multiple types of assets, 3 most frequently used were selected
 – the resulting asset of legalization as was ascertained in the specific case was to be selected – this did not include assets that were mere transition links in the legalization chain):

Chart no. 23:

Type of asset	Number of criminal cases
Real estate	0
Automobile	7
Securities	0
Ownership interest	0
Cash money CZK	19
Cash money other currency	2
Money on an account	18
Securities and other financial means, such as electronic currencies or virtual currencies	0
Other movable assets	1
Other	0

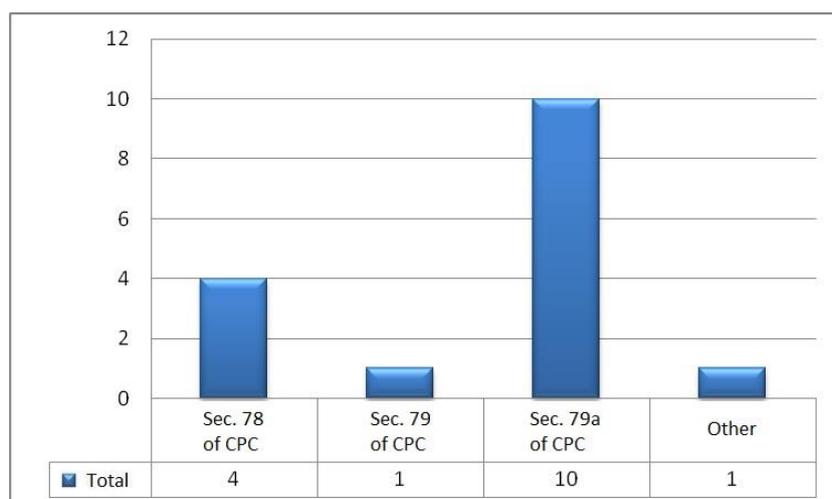
The chart above identifies cash money in CZK and money f an account as the most frequent type of asset used as final product of legalization of proceeds from crime.

Out of the total number of 41 criminal cases the value of the legalized property was not determined in 4 cases, in 37 cases the value was determined at least approximately and its sum amounts to ca 16.400.000 CZK, whereas the average value of the legalized property per one criminal case was 440.000 CZK; however, we must take into account the relatively smaller number of criminal cases concerned.

Seizure of property:

Statistical data implies that out of the above referred 41 criminal cases, property was seized in 15 cases in directly assessed value of ca 1.750.000 CZK and in additional 1 case property was seized as well, but in undetermined value. Seizure of property occurred in a total of 16 criminal cases, i.e. in approximately 37 % of cases.

Diagram no. 47 – legal grounds for seizure of property:



In cases where property was seized, procedure according to Section 79a and 78 of the Code of Criminal Procedure prevails.

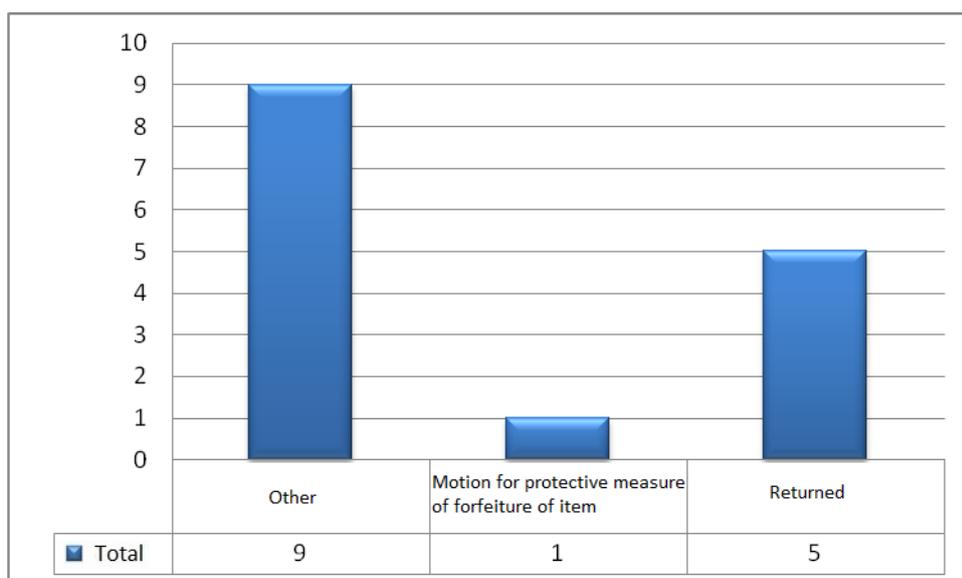
Chart no. 24 – type of seized asset:

Type of asset	Number of criminal cases
Real estate	0
Automobile	4
Securities	0
Ownership interest	0
Cash money CZK	10
Cash money other currency	0
Other movable assets	0
Other	2

Out of the 16 criminal cases, in which seizure of property occurred, in 1 case the value of the seized property was not determined and in 15 cases the value was determined, whereas the total value of the seized property amounted to ca. 1.700.000 CZK, whereas the average value per one criminal case was ca. 116.000 CZK.

Out of the 16 criminal cases in which seizure of property occurred, the seized property was disposed of as shown in diagram no. 48.

Diagram no. 48:



Following the diagram above, it is worth noting that within the frame of the protective measure of forfeiture of items, a total sum of 4.000 CZK was drained.

International judicial cooperation:

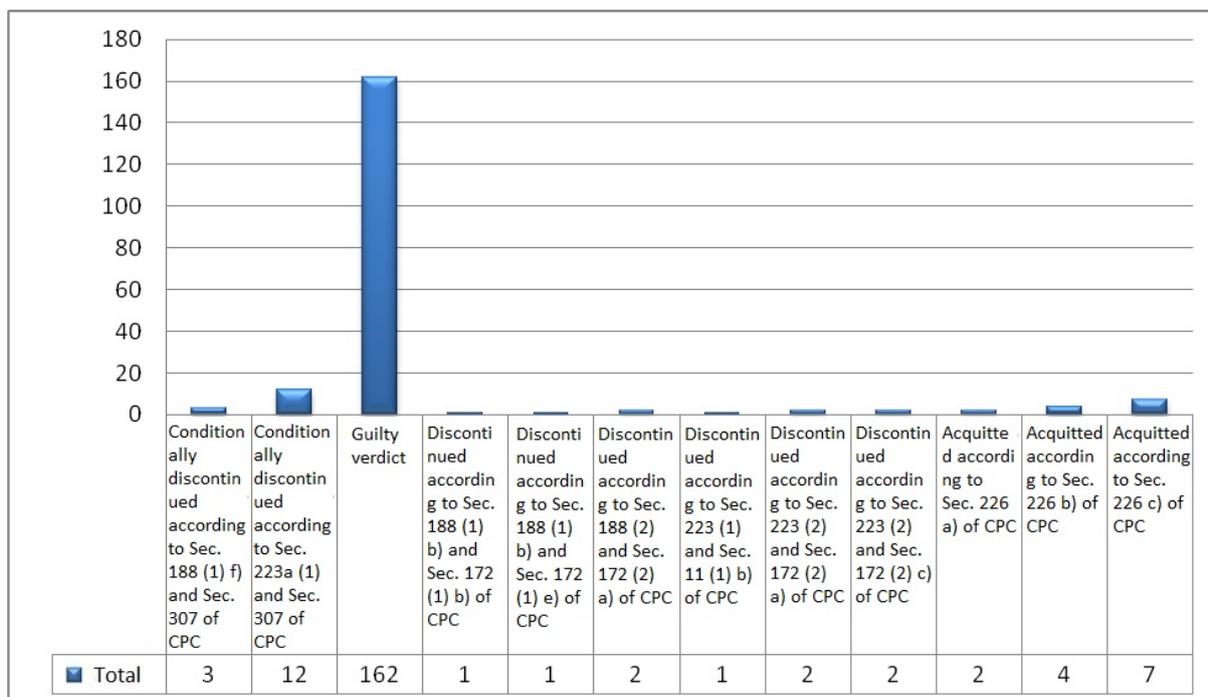
Out of the total number of 41 cases, international cooperation of some kind was requested in 6 cases (15 %).

II.E.5. Cases concluded in trial proceedings:

In the period between years 2013 and 2015 there were 210 criminal cases concluded in trial proceedings. In one instance the case was transferred to another Public Prosecutor's Office

and in 10 instances the manner of termination of investigation was not indicated – these were in principle cases of re-qualification to another criminal offense. The diagram below shows a total of 199 cases according to the legal grounds for termination of investigation and this value is taken into account as the final number for further considerations.

Diagram no. 49 – cases prosecuted in years 2013, 2014 and 2015 – concluded in trial proceedings:



The values indicated in diagram no. 49 show a relatively high success rate of the conducted criminal proceedings – out of the total number of 199 criminal cases, conviction (guilty verdict) was achieved in 162 cases (81 %). Acquittal is indicated in a total of 13 cases (7 %).

For a comparison we may quote the report on the operation of the Public Prosecutor’s Office in year 2014⁵, which says: „Out of the persons put on trial at the District Public Prosecutor’s Office level, 6.16 % were acquitted of the charges (no ground for acquittal stipulated in Section 226 paragraph e) of the Code of Criminal Procedure was present), at the Regional Public Prosecutor’s Office level it was 11.42 % and at the High Public Prosecutor’s Office level 6.59 % of persons.”.

Even though the rate of acquittal is higher in case of legalization criminal activity than in case of the entirety of crime, the number also means an overall indictment success rate of 81 %, which may be perceived as a positive result. **As such we cannot by any means say that the authorities involved in criminal proceedings are unable to lead these criminal cases to a convicting judgment.**

⁵ http://www.nsz.cz/images/stories/PDF/Zpravy_o_cinnosti/2014/Zoc-2014-textova.pdf - str. 5

Chart no. 25:

Qualification	Misdemeanor	Felony
Section 216 (1)	14	---
Section 216 (2)	63	---
Section 216 (3)	---	18
Section 216 (4)	---	0
Section 217 (1)	95	---
Section 217 (2)	7	---
Section 217 (3)	0	---
Section 252a (1)	0	---
Section 252a (2)	0	---
Section 252a (3)	1	---
Section 252a (4)	---	0
Section 252a (5)	---	0
Total	190	18

The above referred chart clearly shows that there is approximately a 9:1 ratio of misdemeanors (91 %) to felonies (9 %) in legalization crimes as far as cases terminated during trial proceedings is concerned.

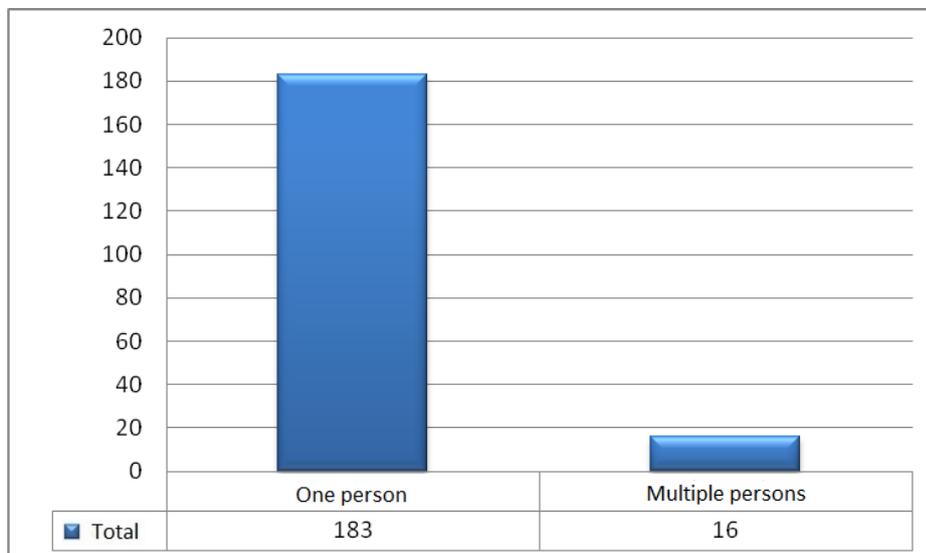
Type of person, against whom criminal proceeding was conducted:

Here the following options were made available in the code lists:

- 1) Natural person
- 2) Legal entity
- 3) Natural person – juvenile
- 4) Natural person under age of 15
- 5) Combination of 1) through 4)
- 6) Not specified (including unknown perpetrator)

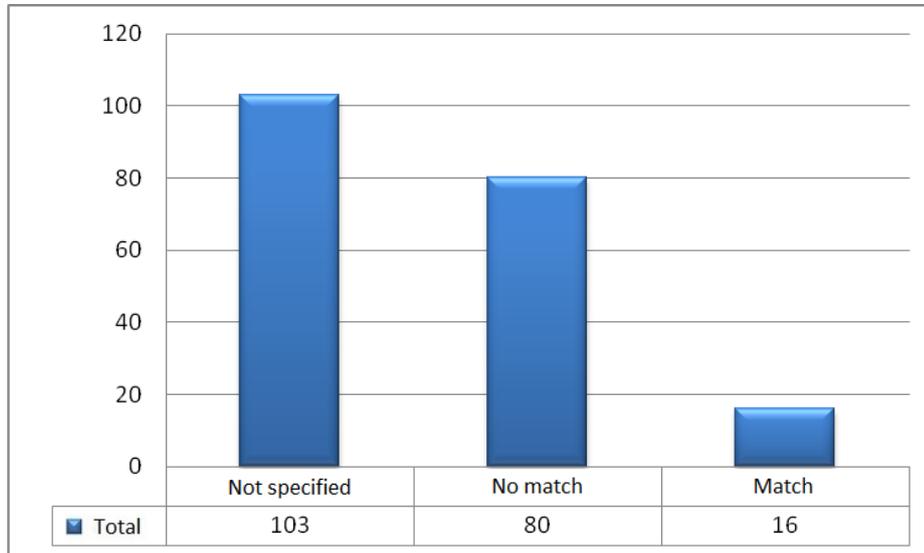
All of the 199 above referred criminal cases were conducted against a natural person.

Diagram no. 50 – number of cases involving one accused person and multiple accused persons:



Relationship of the person suspected of legalization crime and the person suspected of the source crime is indicated in the following diagram no. 51.

Diagram no. 51:

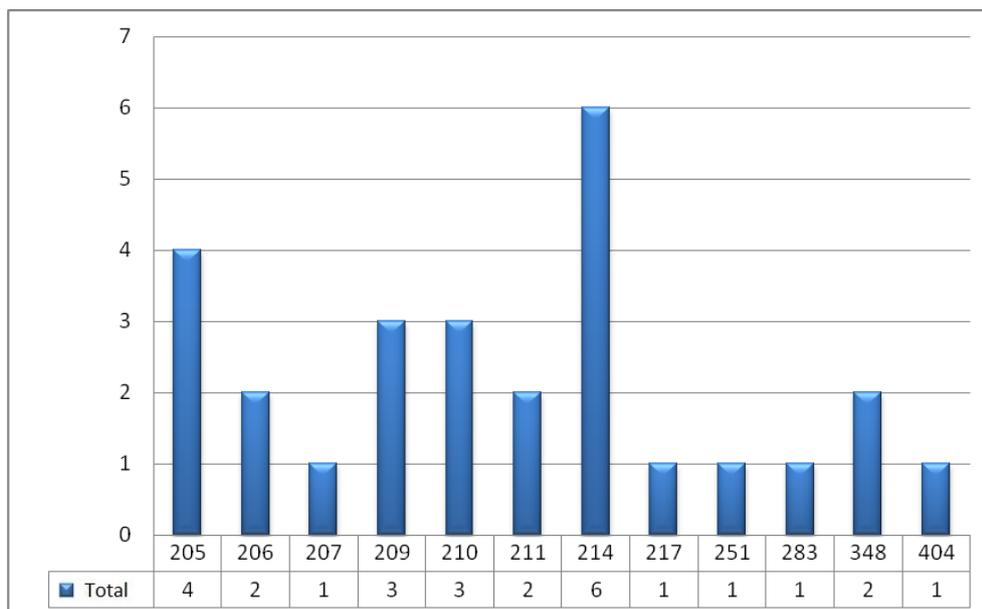


This diagram no. 51 is important in view of so called self-money laundering. The above referred indicates only a small number of such cases.

Independence or concurrence of criminal activity:

Out of the total number of 199 criminal cases, 172 cases (86 %) were conducted only for one of the legalization crimes. In 27 criminal cases (14 %) the proceedings were conducted in concurrence with another criminal offense – for more detail see the following diagram no. 52 implying that the most frequent criminal offense in concurrence with the legalization crimes is participation according to Section 209 of the Criminal Code and theft according to Section 205 of the Criminal Code.

Diagram no. 52:



Source criminal activity:

Diagram no. 53 below shows whether source criminal activity was known or unknown with a distinction, whether it was allegedly committed inland or abroad.

Diagram no. 53:

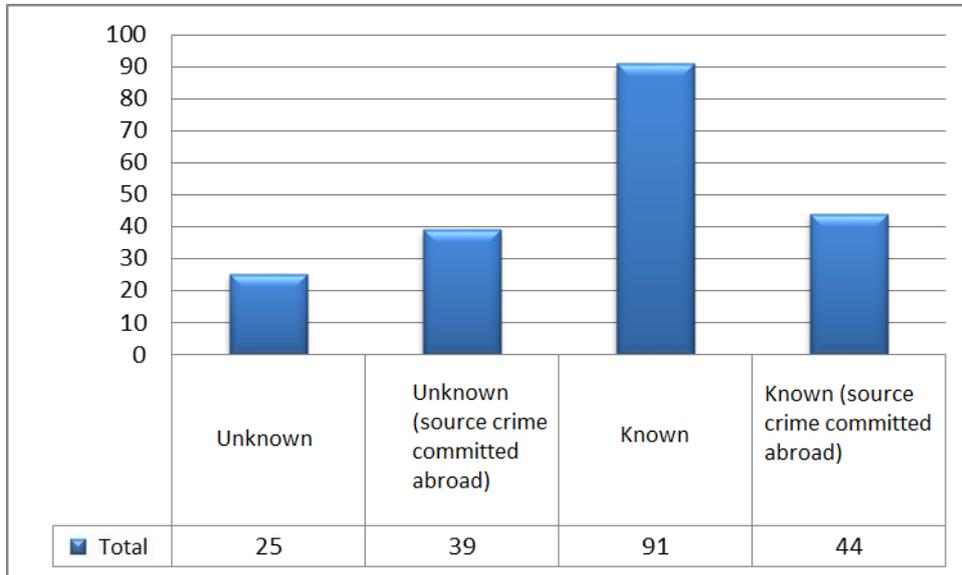
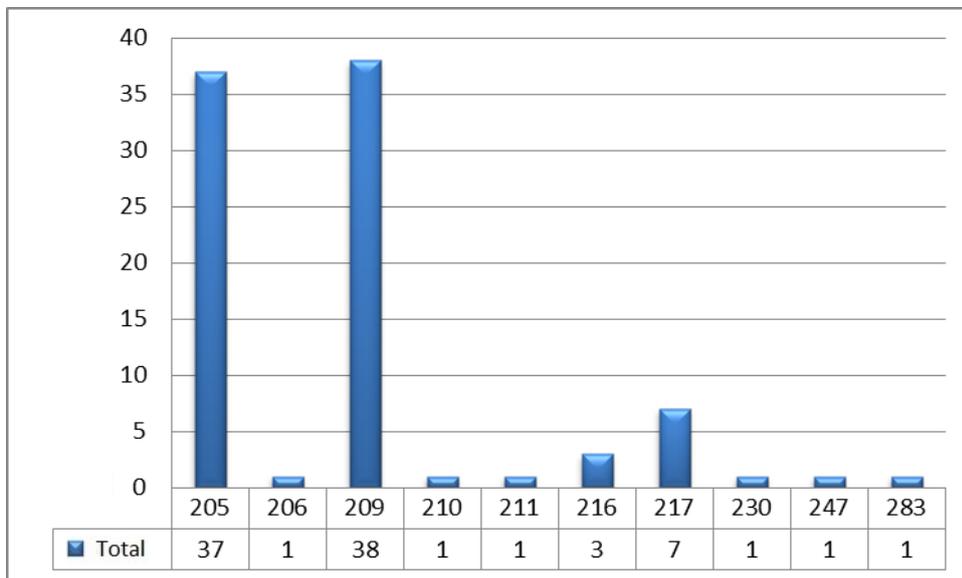


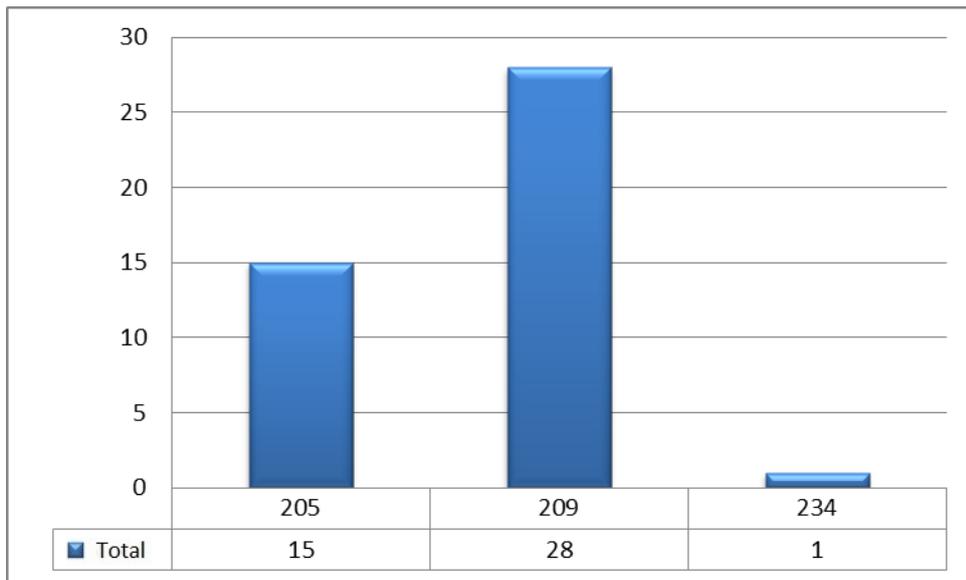
Diagram no. 54:



The most frequent qualification of known domestic source crime (91 cases) were:

- fraud according to Section 209 of the Criminal Code
- theft according to Section 205 of the Criminal Code

Diagram no. 55:



Qualification of known source crime (source crime committed abroad):

- fraud according to Section 209 of the Criminal Code (28 cases)
- theft according to Section 205 of the Criminal Code (15 cases)

Categories of source crime (there was a selection of up to 3 items made available for one criminal case):

Phishing, pharming	82
Fraud	71
Credit fraud	2
Subvention fraud	0
Embezzlement	1
Breach of obligation in administration of property of another	0
Tax crime	0
Damnification of creditors	0
Crimes associated with public tenders	0
Crimes associated with insolvency proceedings	0
Corruption	0
Conducting business without license	0
Other economic crime	0
Theft, robbery	59
Extortion	0
Offenses against morality	0
Drug crime	1
Terrorism, distribution of weapons of mass destruction, violation of international sanctions	0
Other known criminal activity	4
Source crime is so far unknown, it was committed abroad	17
Source crime is so far unknown, it was committed in the Czech Republic	11

Manner of legalization of proceeds from crime (there was a selection of up to 3 items, whereas it was necessary to select one that best corresponds to the technique used in the given case):

1. Use of bank accounts by the perpetrator – transactions	
- possible involvement of the obliged person as such (infiltrated, controlled or established by illegal structures)	2
- bank account opened by natural person (e.g. so called temporary worker), who makes his account available to the perpetrator, withdraws and transfers money according to instructions (especially in case of phishing)	111
- multiple electronic transfers between bank accounts in the Czech Republic and abroad	6
- withdrawing and depositing cash to and from accounts	18
- siphoning off proceeds to foreign country	15
- other banking transactions	10
2. Use of transport of cash	
- couriers, money mules	0
- companies officially dealing with sending cash money	41
- unofficial services for sending money – hawala etc.	0
- other cash transactions	11
3. New payment methods and their abuse	
- pre-paid cards	0
- mobile payment services	2
- e-money	2
- abuse of virtual currencies	0
- other abuse of payment methods	9
4. Use of companies for concealing criminal activity and the real owner of the company:	
- so called shell corporations, straw persons	5
- mixing illegal proceeds with legal business – use of standard companies engage in criminal activity in parallel to their own legal activity (TBML)	2
- trust funds, trusts	0
- other abuse of companies	1
5. Placement of companies	
- office houses	4
- offshore companies	0
6. Business activities that are most frequently used for concealing criminal activity	
- companies providing legal services (attorneys, notaries, distrainers)	0
- companies providing consultation services (tax advisors, accountants, auditors)	0
- marketing services	1
- outsourcing of any services (legal , cleaning, laundry)	0
- suspicious links between trade parties, chain of companies interlinked by assets or personal occupancy or unfounded transactions between private and corporate	0

accounts	
- abuse of gambling	0
- other entrepreneurship activities	8

7. Use of financial market products for legalization of proceeds from crime

- loans (payment of installments to a financial institution)	0
- loans, future loans between interconnected companies (which are not financial institutions)	0
- master loan agreements	1
- mortgages	0
- securities	0
- debt collecting companies	0
- trade with receivables	0
- investments into the environment	0
- payment of dividends	0
- other abuse of financial system	9

8. Use of high-value commodities for investing proceeds from crime

- gold, diamonds, high-value jewelry	0
- art (paintings, sculptures)	0
- real estate	0
- luxury goods (luxury vehicles, electronic devices, watches, luxurious accessories)	1
- other high-value commodities	3

9. Use of illegal activities

- forgery of identity and other documents	
- fictional identity – completely fictional identity	15
- stolen identity	5
- abuse of variant identification	2
- other illegal activities	4

10. Terrorism financing

- from legal proceeds	0
- from illegal proceeds	0

11. Other 53

Type of asset that forms proceeds from the source crime (there was a selection of up to 3 items at the same time, whereas it was necessary to select the type of asset that best corresponds to the given case – in case of multiple types of assets, 3 most frequently used were selected):

Chart no. 26:

Type of asset	Number of criminal cases
Cash money	29
Money deposited on an account	124
Securities and other financial means, such as	0

electronic or virtual currencies	
Ownership interest	0
Automobiles, automobile parts	49
Other movable assets	8
Other immovable assets (real estate)	0
Other	1

The chart above shows that the most frequently used type of property, which constitutes proceeds from crime and which is subsequently used for legalization, is money deposited on an account.

Type of asset that is the result of (existing) legalization (there was a selection of up to 3 items, whereas it was necessary to select the type of asset that best corresponds to the given case:

- in case of multiple types of assets, 3 most frequently used were selected
- the resulting asset of legalization as was ascertained in the specific case was to be selected – this did not include assets that were mere transition links in the legalization chain):

Chart no. 27:

Type of asset	Number of criminal cases
Real estate	0
Automobile	44
Securities	0
Ownership interest	0
Cash money CZK	86
Cash money other currency	25
Money on an account	62
Securities and other financial means, such as electronic currencies or virtual currencies	0
Other movable assets	5
Other	3

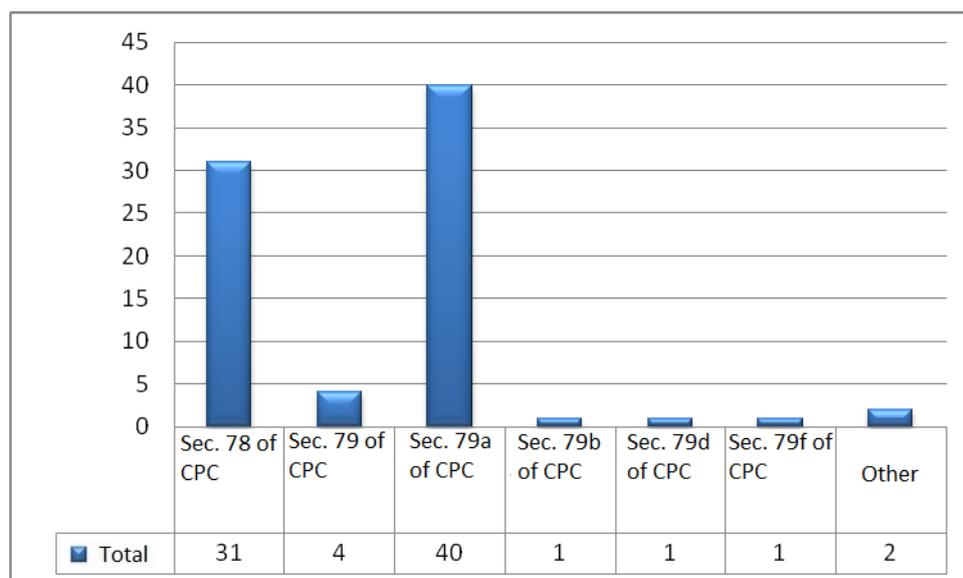
The chart above identifies cash money in CZK and money on an account as the most frequent type of asset used as final product of legalization of proceeds from crime.

Out of the total number of 199 criminal cases the value of the legalized property was not determined in 16 cases, in 183 cases the value was determined at least approximately and its sum amounts to ca 55.000.000 CZK, whereas the average value of the legalized property per one criminal case was 300.000 CZK.

Seizure of property:

Statistical data implies that out of the above referred 199 criminal cases, property was seized in 69 cases in directly assessed value of ca 15.300.000 CZK and in additional 11 cases property was seized as well, but in undetermined value. Seizure of property occurred in a total of 80 criminal cases, i.e. in approximately 40 % of cases, which may be perceived as a positive result.

Diagram no. 56 – legal grounds for seizure of property:



International judicial cooperation:

Out of the total number of 199 cases, international cooperation of some kind was requested in 37 cases (19 %).

Sentences imposed:

In the above referred 162 criminal cases the main offenders were imposed the following sentences (here we must take into account possible concurrence with another criminal offense, as well as the fact that the main offender may have been imposed several sentences in parallel):

Chart no. 28:

Type of sentence	Number	Average assessment (rounded off to whole months)
Unsuspended sentence of imprisonment – prison with medium security	2	12 months
Unsuspended sentence of imprisonment – prison with high security	5	36 months
Suspended sentence of imprisonment	132	10 months with a probation period of 25 months
Suspended sentence with supervision	5	19 months with a probation period of 42 months
Community service	8	---
Prohibition to conduct business in private sector (including licensed trade, positions and memberships within legal entities)	1	24 months
Prohibition of another activity	3	33 months

Confiscation of assets	8	In 3 cases in a total sum 195.419 CZK and in additional 5 cases in undetermined value
Confiscation of equivalent value	1	120.000 CZK
Financial penalty	18	Approximately 30.000 CZK on average, overall sum of 533.000 CZK
Banishment	3	---
Waiver of imposition of aggregate sentence/criminal measure (Section 37 of old Criminal Code or Section 44 of new Criminal Code)	3	---

The chart above shows that in cases where perpetrators are found guilty of legalization crime, the perpetrators are also imposed a sentence; various types of waivers of punishment are insignificant. At the same time it is worth noting the relatively lower number of sentences associated with affecting the property of the perpetrator (confiscation or financial penalty). Given the fact that legalization crime is in its nature property crime, application of Section 39 (7) of the Criminal Code is in place and under the statutory conditions it is pertinent to impose one of the sentences referred to in Section 66 to 72 of the Criminal Code, either as a stand-alone sentence or in parallel to another sentence. The above referred statistical data alone shows a certain deficiency in this respect (even though no deeper analysis of individual criminal cases has been performed).

II.E.6. Pending cases:

As of the decisive date of 31. 12. 2015, there were a total of 467 pending cases indicated within the collected statistical data, whereas in one case there were no additional data available. So for further considerations we will take into account 466 pending newly prosecuted cases in years 2013 to 2015.

Diagram no. 57 – pending cases according to the stage, or more precisely phase of criminal proceedings

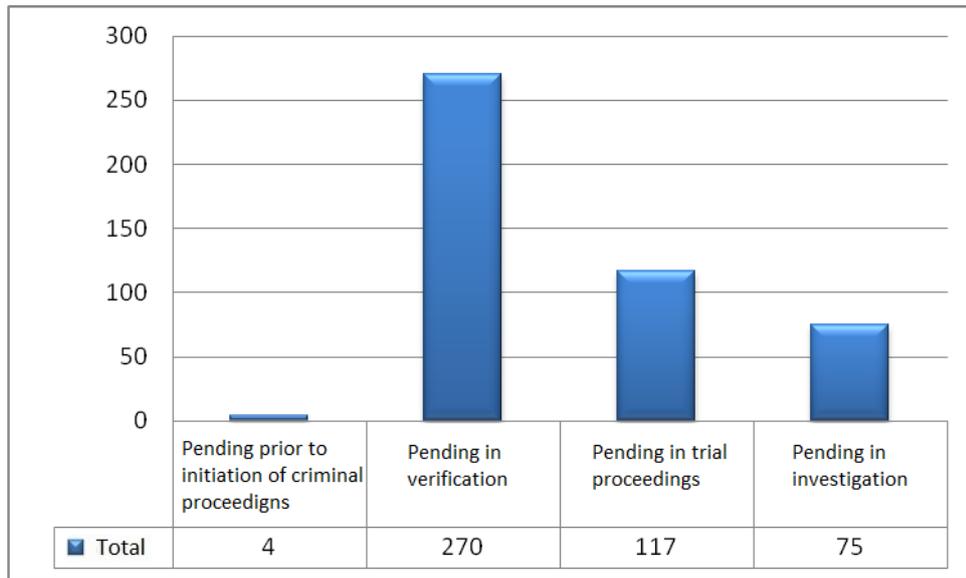


Chart no. 29:

Qualification	Misdemeanor	Felony
Section 216 (1)	56	---
Section 216 (2)	144	---
Section 216 (3)	---	114
Section 216 (4)	---	53
Section 217 (1)	65	---
Section 217 (2)	11	---
Section 217 (3)	6	---
Section 252a (1)	2	---
Section 252a (2)	1	---
Section 252a (3)	1	---
Section 252a (4)	---	0
Section 252a (5)	---	1
Total	286	198

The above referred chart clearly shows that there is approximately a 3:2 ratio of misdemeanors (60 %) to felonies (40 %) in legalization crimes, as far as pending cases are concerned. **The above referred values imply that pending cases are conducted not only for misdemeanors, but in a relatively high portion also for more serious category of crimes.** We definitely see this as a positive trend showing the endeavor to uncover even the most serious forms of legalization crimes.

Source criminal activity:

Diagram no. 58 below shows whether source criminal activity was known or unknown with a distinction, whether it was allegedly committed inland or abroad (out of the overall number of 466 criminal cases this was indicated in 437 cases).

Diagram no. 58:

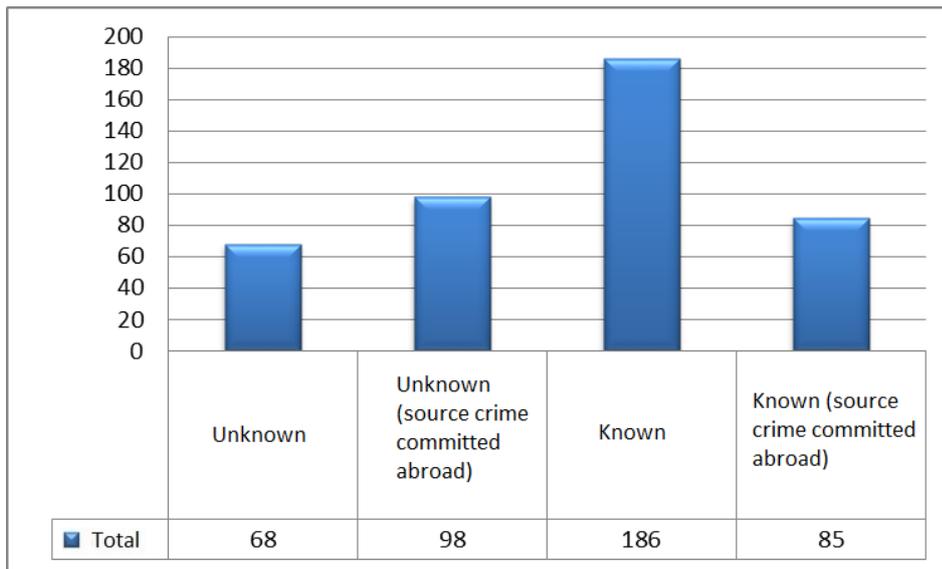
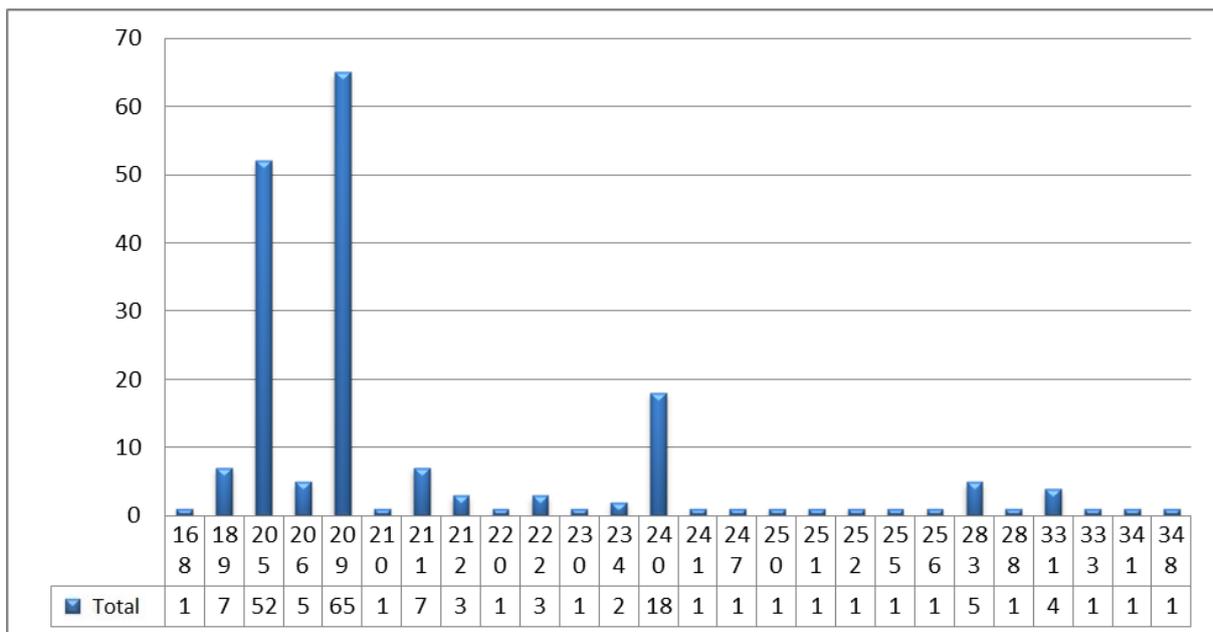


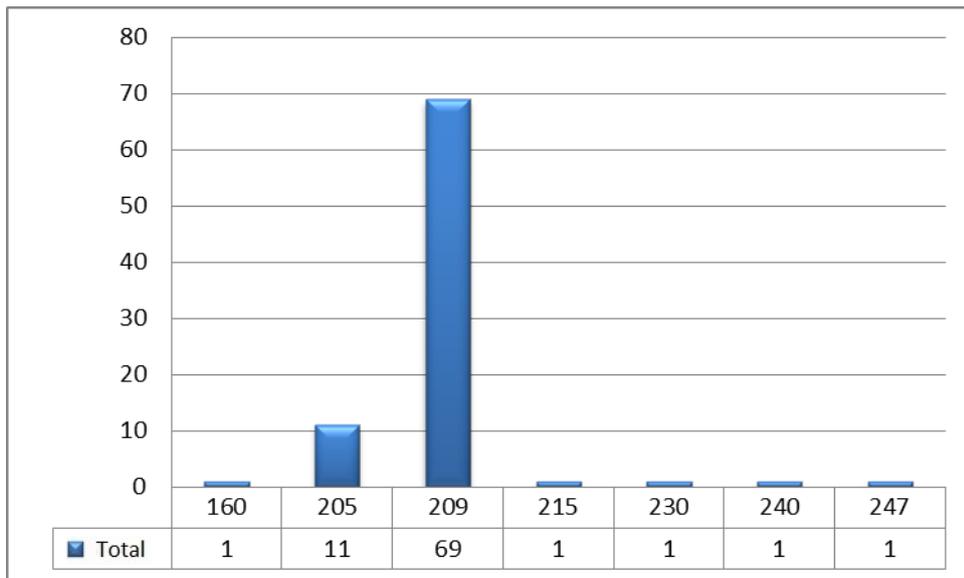
Diagram no. 59:



The most frequent qualification of known domestic source crime (186 cases) were:

- fraud according to Section 209 of the Criminal Code
- theft according to Section 205 of the Criminal Code

Diagram no. 60:



Qualification of known source crime (source crime committed abroad) – a total of 85 cases:

- fraud according to Section 209 of the Criminal Code (28 cases)
- theft according to Section 205 of the Criminal Code (15 cases)

Categories of source criminal offences (there was a selection of up to 3 items made available for one criminal case):

Phishing, pharming	132
Fraud	170
Credit fraud	9
Subvention fraud	3
Embezzlement	8
Breach of obligation in administration of property of another	3
Tax crime	26
Damnification of creditors	4
Crimes associated with public tenders	2
Crimes associated with insolvency proceedings	2
Corruption	6
Conducting business without license	2
Other economic crime	3
Theft, robbery	80
Extortion	0
Offenses against morality	6
Drug crime	6
Terrorism, distribution of weapons of mass destruction, violation of international sanctions	0
Other known criminal activity	5
Source crime is so far unknown, it was committed abroad	64
Source crime is so far unknown, it was committed in the Czech Republic	24

Manner of legalization of proceeds from crime (there was a selection of up to 3 items, whereas it was necessary to select one that best corresponds to the technique used in the given case):

1. Use of bank accounts by the perpetrator – transactions	
- possible involvement of the obliged person as such (infiltrated, controlled or established by illegal structures)	18
- bank account opened by natural person (e.g. so called temporary worker), who makes his account available to the perpetrator, withdraws and transfers money according to instructions (especially in case of phishing)	208
- multiple electronic transfers between bank accounts in the Czech Republic and abroad	32
- withdrawing and depositing cash to and from accounts	59
- siphoning off proceeds to foreign country	70
- other banking transactions	49
2. Use of transport of cash	
- couriers, money mules	10
- companies officially dealing with sending cash money	32
- unofficial services for sending money – hawala etc.	0
- other cash transactions	59
3. New payment methods and their abuse	
- pre-paid cards	1
- mobile payment services	4
- e-money	1
- abuse of virtual currencies	2
- other abuse of payment methods	18
4. Use of companies for concealing criminal activity and the real owner of the company:	
- so called shell corporations, straw persons	25
- mixing illegal proceeds with legal business – use of standard companies engage in criminal activity in parallel to their own legal activity (TBML)	15
- trust funds, trusts	0
- other abuse of companies	14
5. Placement of companies	
- office houses	15
- offshore companies	7
6. Business activities that are most frequently used for concealing criminal activity	
- companies providing legal services (attorneys, notaries, distrainers)	3
- companies providing consultation services (tax advisors, accountants, auditors)	4
- marketing services	2
- outsourcing of any services (legal , cleaning, laundry)	2
- suspicious links between trade parties, chain of companies interlinked by assets or personal occupancy or unfounded transactions between private and corporate	11

accounts	
- abuse of gambling	0
- other entrepreneurship activities	40

7. Use of financial market products for legalization of proceeds from crime

- loans (payment of installments to a financial institution)	6
- loans, future loans between interconnected companies (which are not financial institutions)	6
- master loan agreements	0
- mortgages	0
- securities	6
- debt collecting companies	6
- trade with receivables	1
- investments into the environment	0
- payment of dividends	1
- other abuse of financial system	16

8. Use of high-value commodities for investing proceeds from crime

- gold, diamonds, high-value jewelry	1
- art (paintings, sculptures)	1
- real estate	11
- luxury goods (luxury vehicles, electronic devices, watches, luxurious accessories)	7
- other high-value commodities	7

9. Use of illegal activities

- forgery of identity and other documents	
- fictional identity – completely fictional identity	17
- stolen identity	18
- abuse of variant identification	6
- other illegal activities	27

10. Terrorism financing

- from legal proceeds	0
- from illegal proceeds	0

11. Other 62

Type of asset that forms proceeds from the source crime (there was a selection of up to 3 items at the same time, whereas it was necessary to select the type of asset that best corresponds to the given case – in case of multiple types of assets, 3 most frequently used were selected):

Chart no. 30:

Type of asset	Number of criminal cases
Cash money	70
Money deposited on an account	302
Securities and other financial means, such as	1

electronic or virtual currencies	
Ownership interest	1
Automobiles, automobile parts	80
Other movable assets	14
Other immovable assets (real estate)	8
Other	7

The chart above shows that the most frequently used type of property, which constitutes proceeds from crime and which is subsequently used for legalization, is money deposited on an account.

Type of asset that is the result of (existing) legalization (there was a selection of up to 3 items, whereas it was necessary to select the type of asset that best corresponds to the given case:

- in case of multiple types of assets, 3 most frequently used were selected
- the resulting asset of legalization as was ascertained in the specific case was to be selected – this did not include assets that were mere transition links in the legalization chain):

Chart no. 27:

Type of asset	Number of criminal cases
Real estate	11
Automobile	64
Securities	4
Ownership interest	4
Cash money CZK	176
Cash money other currency	54
Money on an account	204
Securities and other financial means, such as electronic currencies or virtual currencies	3
Other movable assets	19
Other	8

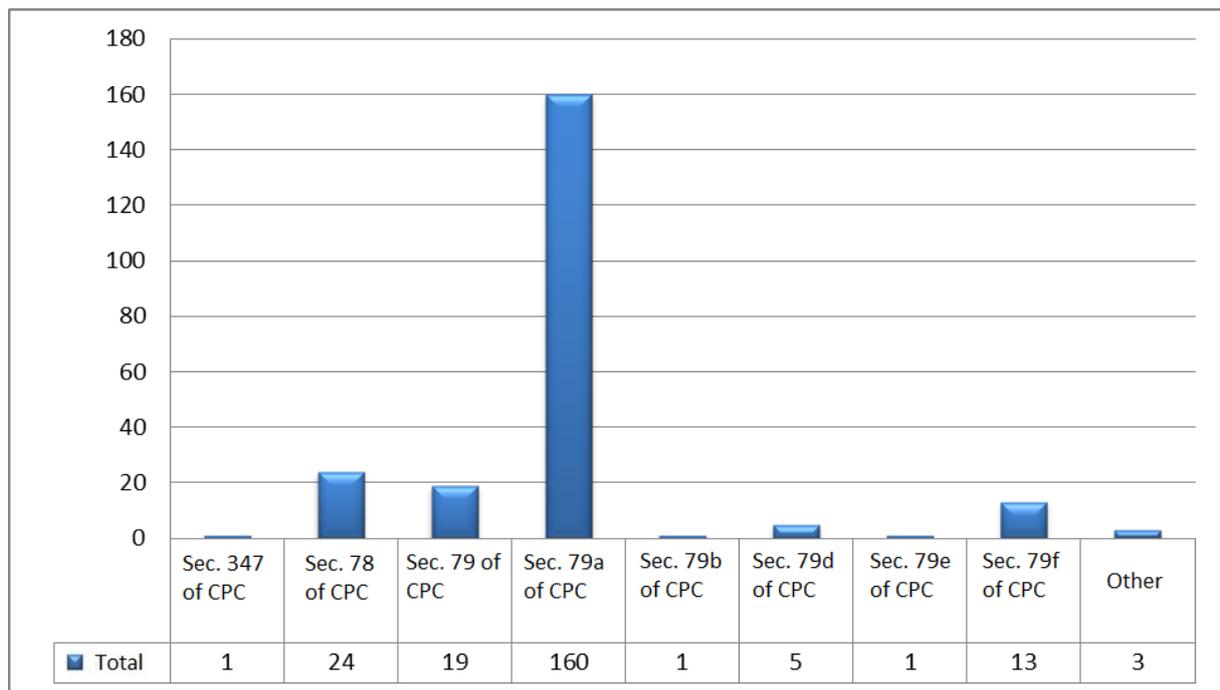
The chart above identifies money on an account and cash money in CZK as the most frequent types of assets used as final product of legalization of proceeds from crime.

Out of the total number of 466 criminal cases the value of the legalized property was determined at least approximately in 351 cases and its sum amounts to ca 4.500.000.000 CZK, whereas the average value of the legalized property per one criminal case was 13.000.000 CZK (however, this value cannot be taken as absolute, since it was influenced by several cases with higher value of legalized assets).

Seizure of property:

Statistical data implies that out of the above referred 466 criminal cases, property was seized in 167 cases in directly assessed value of ca 691.000.000 CZK and in additional 60 cases property was seized as well, but in undetermined value (these were e.g. automobiles, value of which was not determined for the purpose of criminal proceedings). Seizure of property occurred in a total of 227 criminal cases, i.e. in approximately 49 % of cases, which may be perceived as a very positive result.

Diagram no. 61 – legal grounds for seizure of property:



International judicial cooperation:

Out of the total number of 466 cases, international cooperation of some kind was requested in 143 cases (31 %).

III. Suggestions and comments of Public Prosecutor's Offices to the efficiency of sanctioning of money laundering:

Within the framework of collection of statistical data on criminal activity associated with money laundering, the individual Public Prosecutor's Offices were also asked to briefly evaluate the efficiency of sanctioning criminal offences associated with money laundering and to identify any eventual weak spots. Some of the received answers imply that due to the low individual numbers of these cases in the specific District Public Prosecutor's Offices relevant information cannot be provided or that no issues were detected.

On the other hand, some issues repeatedly occurred in the answers of the individual Public Prosecutor's Offices or appear to be significant:

1) Difficulties in evidence procedure:

- use of so called straw persons – difficulties with tracing and proving the *mens rea*
- hiding property abroad, often in countries where international criminal cooperation is problematic (especially due to difficulties with breaching the banking secrecy in case of a number of states, which the perpetrators like to use for legalization – e.g. Switzerland, Lichtenstein, Austria, Great Britain and a number of dependent territories of the British Crown)
- success rate of criminal proceedings dealing with legalization criminal activity tends to be lower in cases, where in the moment it is uncovered, the legalization is already completed and the perpetrators have blinded their trails
- problems with proving the *mens rea* of these crimes, especially in case of so called phishing
- discovery of this criminal activity takes place “ex post” in the situation where the trail is usually blinded, the accounts used are empty etc.

2) Legalization of proceeds from crime is often prosecuted in cases, where predicative offences cannot be proved (e.g. in some cases of legalization of automobiles)

3) Non-existence of any central database of bank accounts

4) Non-existence of any obligation to document the origin of property

5) Exclusion of legalization criminal offences to separate proceedings especially in case of predicative crimes in the Regional jurisdiction – which in turn leads to confusion and unclarity of the case

6) In case of regular property crime (petty, but at the same time the most frequent offences), the perpetrator often has no interest in any sophisticated legalization of proceeds from such crime, but the proceeds from such crimes (most often cash money) are relatively quickly used up by the perpetrator himself (e.g. spend on food, alcohol, gambling etc.).

7) Some Public Prosecutor's Offices point out the understaffing of Police authorities or insufficient experience of Police officers, in particular in the baseline units, with conducting financial investigation for the purposes of criminal proceedings (some Public Prosecutor's Offices do not appear to have this problem) – however, eventual reinforcement of staff (along with thorough training) would undoubtedly lead to increase in efficiency of the whole process

8) It was pointed out that in order to increase the efficiency of criminal sanctions it would be beneficial if the Financial Analytical Unit of the Ministry of Finance regularly sent its criminal complaints (which are in general assessed as very well executed) not only to Police authorities, but at the same time for information to the competent Public Prosecutor's Office. Furthermore, the attention was also drawn to the need to increase the interconnection between the activities of FAU at MOJ and Police authorities, especially in the beginning of criminal proceedings.

The possibility of re-introducing such procedure will be subject to further discussion between FAU and the Supreme Public Prosecutor's Office. The objective of these discussions will be to clarify the specific modalities of procedure in particular with regard to their practicability.

9) Only a limited possibility to breach the obligation of confidentiality in tax proceedings according to Section 53 (2) of the Tax Proceedings Code.

10) Insufficient legal regulation of Section 5 and 6a (3) of the Act no. 254/2004 Coll., on Limitation of Cash Payments, and on the amendment of Act no. 337/1992 Coll., on Administration of Taxes and Payments, as amended, in view of statute of limitations applicable to infractions committed by natural persons, since an appreciable number of criminal cases involve above-limit financial transactions between natural persons and in time the criminal activity is uncovered and such infraction comes to light, it is often already statute-barred. In view of draining proceeds from crime the administrative sanction would be quicker and more efficient than criminal proceedings with uncertain outcome; therefore a change of the provision on the statute of limitations to match the regulation applicable to administrative wrongs committed by legal entities would be most appreciated.

In addition we state that there is a Government draft of the Act on the Liability for Infractions and Proceedings Thereon being discussed in the Chamber of Deputies of the Parliament of the Czech Republic (Parliament file no. 555). Expiration of liability for an infraction and liability of legal successor is dealt with in Chapter VI of the draft Act. This draft harmonizes the provisions on the statute of limitations for both natural persons and legal entities. In relation to discussing this draft Act the Ministry of the Interior should prepare a draft Act to amend certain laws in connection to adopting the Act on the Liability for Infractions and Proceedings Thereon and the Act on Certain Infractions (accompanying act to the Parliament file no. 555, 554). The accompanying act envisages repealing of Section 6a, sub-section (1) to (4) of the Act on Limitation of Cash Payments. The aim of the Ministry of the Interior is to introduce a general regime of expiration of liability for infraction with only minimal procedural differences in regulations in each sector. If the general regime of the statute of limitations provided for in the Parliament file no. 555 is not satisfactory, it would be pertinent to deal with the issue of special regulation within the frame of discussing the draft Act amending certain laws in connection to adopting the Act on the Liability for Infractions and Proceedings Thereon and the Act on Certain Infractions (under the Ministry of the Interior).

11) Failure to recognize this type of criminal activity or over-concentration on the source crime.

12) Need to prove the source crime – in case the priority in criminal proceedings is to prove the source crime and it can be reasonably expected that the perpetrators transfer the proceeds outside the jurisdiction of authorities involved in criminal proceedings (typical in case of so called missing trader frauds, where hundreds of millions in proceeds vanish somewhere abroad) and as such commission of a legalization offense can be expected, such procedure

appears to be highly impractical and inefficient – evidence procedure is usually highly complicated, proceeds are hard to quantify, in vast majority of cases there is no way to bypass international judicial cooperation in relation to countries which do not tend to react to such request very helpfully or flexibly for reasons arising out of their own complicated legislative rules, which in turn does not make the cumulative or aggregate sentence imposed to the perpetrator any more severe (at least not significantly).

Identification of vulnerability – insufficient legal regulation of Section 8 (2), first sentence, of the Code of Criminal Procedure

At this point we must point out another problem, which is the unsubstantiated differentiation stipulated in Section 8 (2), first sentence, of the code of Criminal Procedure. This provision reads as follows: *“If the criminal proceedings require it for a proper investigation of the circumstances indicating that a criminal offence has been committed, or in trial proceedings also for assessing the circumstances of the accused person, or for execution of a decision, the public prosecutor and after lodging an indictment or a motion for punishment the presiding judge may request information subject to banking secrecy and data from the register of securities”*. This implies that within the frame of pre-trial proceedings the public prosecutor may request information subject to banking secrecy and data from the register of securities solely for the purpose of due clarification of circumstances indicating that a crime has been committed, unlike in trial proceedings, where this information may be requested also for the purpose of assessing the circumstances of the accused person.

To this issue we need to add that the solution is already being drafted, as the Chamber of Deputies of the Parliament of the Czech Republic currently discusses a draft Act amending certain acts in relation to adopting the Act on Central Record of Accounts (Parliament file no. 719, VII. election period). This draft Act includes also an amendment of the Code of Criminal Procedure, which, if passed, would change Section 8 (2) of the Code of Criminal Procedure as follows: *“If the criminal proceedings require it for a proper investigation of the circumstances indicating that a criminal offence has been committed or for assessing the circumstances of the accused person, or in trial proceedings also for execution of a decision, the public prosecutor and after lodging an indictment or a motion for punishment the presiding judge may request information subject to banking secrecy and data from the register of securities”*. As indicated in the explanatory report to this change: *“Search and investigation of criminal activity and prosecution of perpetrators also involves searching for money on accounts that may have been seized within criminal proceedings e.g. as proceeds from crime. The objective of the proposed change is to rectify the deficiency of the current regulation contained in the Code of Criminal Procedure, which in pre-trial proceedings allows to request information subject to banking secrecy solely for the purpose of investigating the circumstances indicating that a crime has been committed, not to assess the circumstances of the accused person, as it is possible in trial proceedings. The proposed change will reinforce the legal basis for conducting financial investigation and in particular the possibility to seize proceeds from crime within the framework of pre-trial proceedings.”*

IV. Conclusion:

The above-referred statistical data and comments of the individual Public Prosecutor's Offices indicate that authorities involved in criminal proceedings are able to effectively combat legalization crime and they certainly do so in practice.

Certain deficiencies can be found in the area of clarification of this type of criminal activity, locally in the field of financial investigation in the pre-trial stage of proceedings and in insufficient imposition of sentences affecting property in trial proceedings.

On the other hand, when a criminal complaint is filed for legalization criminal activity, it is virtually always followed by criminal proceedings for its due investigation (only a very low number of cases is terminated before initiation of criminal proceedings – which without further ado cannot be seen as negative thing either) and authorities involved in criminal proceedings are able to successfully “lead” the cases to convicting judgment. There have been a favorable number of so called alternative decisions, in compliance with the general trend (of course while meeting all statutory conditions). Convicting judgment was achieved in 245 cases and some of the so called alternative decisions were opted for in additional 65 cases. If we compare these values to values of overall crime, we may see these do not quite reach the overall average, but with regard to what was said especially in chapter III., we need to mind certain specifics of legalization crime and difficulties associated with bearing the burden of proof implied by the nature of this type of crime itself and the focus of perpetrators of this type of criminal activity on systematical use of means impeding its detection and clarification.

Worth noting is in particular chapter II.E.6 above dealing with pending cases, which reflects the latest development in the area of legalization criminal activity and steps taken by authorities involved in criminal proceedings against it. Here we can see a very positive increasing trend of property seizure in criminal proceedings also in the area of legalization criminal activity, which follows an increasing trend in this area also in case of other types of criminal activity in recent years.

As we have said above, we have identified 3 risk factors:

- 1) Insufficient statistics in the judiciary resort on criminal activity associated with money laundering
- 2) Failure to send criminal complaints of FAU for information to the competent Public Prosecutor's Office
- 3) Insufficient legal regulation of Section 8 (2), first sentence, of the Code of Criminal Procedure.