

CCBE paper regarding AML supervision and practices by Bars

17/05/2024

EXECUTIVE SUMMARY

This report aims to present in summary and in aggregated figures the most important findings that stem from a data collection conducted by the CCBE amongst its members from 2022 to 2024. It presents the supervisory measures and practices by Bars in the field of AML.

The findings demonstrate that Bars seriously engage in and undertake their supervisory duties under the AML framework. The findings show that the majority of Bars that are enabled by law to do so, have put in place supervisory measures to ensure that the AML framework is complied with by lawyers. On the other hand, the paper formulates recommendations for the issues where room for improvement was identified.

The aim of this paper is to facilitate the exchange of information amongst Bars and to inspire the CCBE members to learn from each other. In addition, the CCBE hopes that these findings will inform the work of legislators regarding AML.

1. Background and methodology

In the course of 2022-2024, the CCBE has collected a wide set of data from its member Bars and Law Societies regarding AML/CFT framework.

The data was collected through a survey composed of a series of questions that concerned inter alia AML/CFT activities, competences and powers for Bars and Law Societies (e.g. supervisory body, powers of the supervisor, existence of risk-based supervision, sanctions, existence of information, training and assistance for lawyers, cooperation with other stakeholders). The questionnaire was based on the EU AML framework in force during the data collection period, i.e. consolidated AML Directive.

26 members of the CCBE provided answers to this detailed questionnaire: Austria, Belgium, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland.¹

¹ The CCBE will consider making available the full answers provided by Bar associations on a case by case basis, upon request.

Although the research aimed at covering all the CCBE members, it was not possible to obtain data from all the members.

This report aims to present in summary and in aggregated figures the most important findings that stem from this data collection.

For the purpose of readability, only one or two examples of practices/measures existing in a country are given to illustrate the point, but these practices may exist in other countries and many other examples from other countries exist that could well be indicated to illustrate the point. The structure of the paper follows the structure of the questionnaire.

The CCBE hopes that these findings will feed into the work of the European Commission in the field of AML, including the next Supra National Risk Assessment.

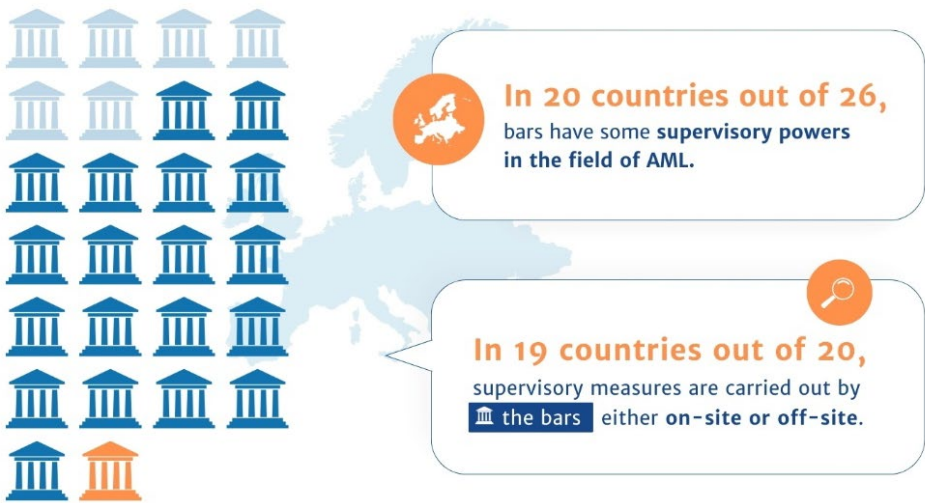
2. Summary of the results

In all but six countries covered by the data collection, the Bars have **supervisory powers in the field of AML**.²

Practices vary per state and include supervision by local or regional Bars, or a more central supervision at the national level (e.g. by a supervisory council of the Bar of the national Bar association). In some countries, the supervisory powers are split between the Bar and national authorities.

→ **Example:** In France, the 164 Bar Associations oversee their members' compliance with AML obligations. In addition, the *Caisse Autonome des Règlements Pécuniaires des Avocats* ("CARPA") monitors the handling of funds by lawyers.

Where the Bars have some supervisory powers (20 countries), supervisory measures are carried out by the Bars **either on-site or off-site** in 19 countries.



² For some questions it was not appropriate to take into account the answers from all the 26 countries - for example if the bar does not have supervisory powers, it is normal that they do not carry out inspections. That is why every time, the paper specifies out of how many countries to better reflect the proportion.

Regarding the **modalities to supervise**, in the vast majority of countries the supervision by the Bars is performed both off-site and on-site. Bars use this combination in 16 countries. In other countries, on-site inspections, audits take place.

Supervisory measures (e.g. audits and inspections) can take place both:



→ **Example:** In Austria, 100% of the lawyers are subject to off-site supervisory measures annually, and on-site visits are carried out in the offices chosen on a risk-based approach (around 20%). Random controls are also in place.

Asked about what are the **powers of the supervisor**, most Bars (18 out of 20) indicated a significant set of powers, including (i) inspection of files, (ii) request of information and (iii) review of documents. In one country the supervision process is not undertaken by the Bar as the Bar's role is limited to accompanying the inspection carried out by a competent national authority.

When it comes to the **recurrence of the supervisory measures**, 16 Bars (out of 20) confirmed the supervisory measures are undertaken on a regular basis, in the majority of cases, on an annual basis. In addition, 16 Bars (out of 20) confirmed that they undertake a risk-based approach to supervision.

→ **Example:** In Denmark, lawyers are placed on a scoreboard following an extensive data-based risk assessment model. All lawyers are subjected to at least one supervision every ten years – the extent, focus and location of which depends on the individual lawyers risk score.

When it comes to **sanctioning non-compliance by lawyers**, practices vary again from one country to another, also bearing in mind the distinction between disciplinary sanctions, administrative sanctions and penal/criminal sanctions and the attribution of competences at the national level.

In 19 countries (out of 20) the Bar has powers to impose **disciplinary sanctions**. These may be imposed by the local Bar, by the bâtonnier, by a disciplinary commission or board, depending on the organisation of the Bar at the national level. In the one remaining country, the sanctions are imposed by the competent ministry.

There is a **variety of possible sanctions** often applied according to the seriousness of the offence committed by a lawyer. They can be applied directly or indirectly by the Bar and they include (out of 26)³:

- fines (indicated in 24 countries)
- warning/reprimand (reported in 17 countries)
- temporary suspension, disbarment or ban on practicing the legal profession (13 countries)
- permanent disbarment / expulsion / removal from the list of lawyers (in 17 countries).



When it comes to **measures undertaken by the Bars to assist lawyers in complying with their AML-related duties**, it is reported that in 20 countries (out of 26) there is possibility for lawyers to contact the Bar regarding AML questions: while 9 Bars reported that they have a hotline understood as a specific phone number or e-mail dedicated to AML issues, 10 Bars specified that they can be contacted or they have an e-mail address or persons through which contact can be taken.

→ **Example:** In Belgium, the French and German speaking Bar association have a dedicated e-mail address (blanchiment@avocats.be) where lawyers can send their questions on the matter. The AML Commission is expected to then provide a quick and clear answer. This e-mail address is published in every other newsletter of the French and German speaking Bar association together with an article about an AML subject.

→ **Example:** In Ireland, through a dedicated AML Helpline, the Law Society provides tailored guidance in response to solicitor AML enquiries. The AML Helpline provides real-time specific guidance by phone/email.

³ It includes sanctions imposed by the authorities in some countries.

In all 26 countries, Bars provide or organise **AML-related training for lawyers**.

→ **Example:** In the Netherlands, the 11 local Bar presidents have established the Wwft (AML) knowledge centre (*Wwft kenniscentrum*). This knowledge centre is located at the office of the local Hague Bar Association and it provides courses on a regular basis. Courses on AML/CFT are regularly organised in all judicial districts, by the knowledge centre and by the local Bar associations. In addition, a substantial number of AML/CFT courses are offered by commercial parties. These courses provide particular attention to case positions regarding how the AML/CFT is to be applied to the services offered. Wherever possible, AML/CFT courses are organised in cooperation with external parties, such as the Financial Intelligence Unit in-the Netherlands. All lawyers that offer legal services where AML/CFT is applicable are obliged to follow a course on an annual basis. This is checked by the local Bar Presidents through the Central Check.

In all 25 countries (out of 26) the Bar prepares specific, additional **guidance for lawyers**.

→ **Example:** In Sweden, the national Bar (SBA) provides the document Guidance for advocates and law-firms on the Act on Measures against Money Laundering and Terrorist Financing.

In 25 countries (out of 26), there are **regular updates for lawyers** such as information included in newsletters or updates in journals for lawyers.

→ **Example:** In the Czechia, the Bar publishes regular AML/CFT updates on its website or in the official journals (*Bulletin advokacie, Advokátní deník*).



In 23 countries (out of 26), CCBE members reported to have some **cooperation/contacts with the FIU**. However, it stems from the description of this cooperation that in several countries, these contacts do not seem to be well structured or on a regular basis and therefore there is room for improvement in this field. This would however require willingness both on the part of the Bar and on the part of FIUs.

→ **Example:** In Luxembourg, there is regular cooperation with the FIU on all AML/CFT aspects, including common trainings and specific reports about breaches of AML/CFT professional obligations.

→ **Example:** In Germany, there is an exchange/formation of expert groups at the Anti Financial Crime Alliance at the FIU (as a private-public partnership).

In 23 countries (out of 26), there is some **cooperation with other sectors** (e.g. notaries, financial sector). It can take the form of participating in working groups, national committees, *ad hoc* meetings or private sector forum.

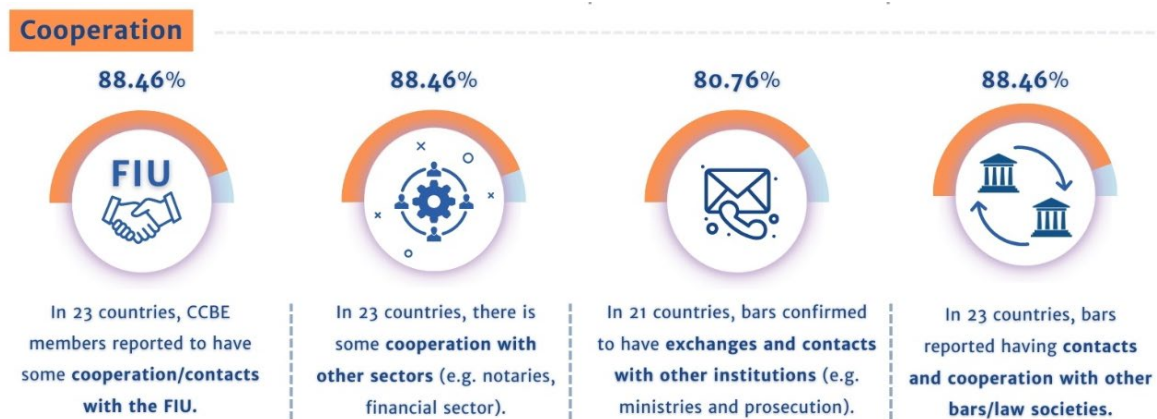
→ **Example:** In Portugal, *Ordem dos Advogados* is a member of the national committee on AML prevention policies, and regularly participates at meetings to discuss these issues with all sectors.

→ **Example:** In Lithuania, *Lietuvos advokatūra* is a member of the Working Group on the implementation of the MONEYVAL recommendations, established by the Prime Minister.

In 21 (out of 26) countries, Bars confirmed to have **exchanges and contacts with other institutions** such as ministries and prosecution.

→ **Example:** In France, the Bar insists on the participation of the representatives of the legal profession in the work of authorities in charge of AML/CFT such as FATF evaluations. Representatives of other public authorities active in the AML field are regularly invited to the workshops organised by the Bars.

Vast majority of Bars – 23 (out of 26) - reported having **contacts and cooperation with other Bars/Law Societies**. The CCBE has been mentioned by several Bars as the forum where these exchanges occur.



Finally, with regards to the **monitoring of the sector**, in 13 countries (out of 20), the Bar carries out a **sectoral risk assessment**. In 2 additional countries, the Bar feeds into the national risk assessment. Moreover, in 19 countries the Bar **collects statistical data**.

→ **Example:** In Germany, the Bar / Law Society compiles a sectoral risk assessment and publishes collected statistical data in annual reports. In addition, data on supervisory measures is transmitted annually to the FIU and the Federal Ministry of Finance (BMF).

3. Cooperation between national Bars with International European bodies of the legal profession

The data collected shows that the CCBE is a useful platform for the Bars to exchange information and cooperate in the AML field. Although the present paper focuses on national practises, it is important to underline that the legal profession through the CCBE, European Lawyers Foundation, national Bars and other professional organisations or international cooperation have produced training materials and guidance for national practitioners.

The following example illustrate the relevance and potential of the cross-border cooperation of Bars in this field:



ELF & CCBE webinar on Anti-money laundering for lawyers: “The new EU AML package and general practical advice⁴”, which took place on 26th February 2024, was attended by 1000 lawyers.



ELF project “AML4Lawyers” (2019-2021) produced a series of training materials (e.g. a manual and webinars) to improve lawyers’ understanding of the AML framework and is still a valuable source of information and guidance for lawyers⁵.



“The Light EU project: Illuminating dark corners” aimed to increase the legal competency and then ensure the effectiveness of AML/CFT policy.⁶



Bars cooperate with European Commission subcontractors during their work analysing the implementation of the AML Directives.



“A Lawyer’s Guide to Detecting and Preventing Money Laundering”, was published in 2014 as a result of the collaboration of the International Bar Association, the American Bar Association and the CCBE. It provides professionals with practical guidance to develop their own risk-based approaches to AML compliance which are suited to their practices.⁷

⁴ <https://elf-fae.eu/aml-for-lawyers/>

⁵ <http://aml4lawyers.eu/>

⁶ <https://light-aml.eu/partners/>

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https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/ANTI MONEY LAUNDERING/AML Guides Recommendations/EN_AML_20141022_A_Lawyer_s_Guide_to_Detecting_and_Preventing_Money_Laundering.pdf

The CCBE believes that there is common responsibility for authorities and Bars to ensure the effectiveness of AML/CFT framework. There is room for boosting these efforts by multiplying EU funded projects and intensifying trainings in this field. The examples quoted above should serve as inspiration for future initiatives in this field.

4. Conclusions and recommendations

Achievements and positive aspects

The findings of this data collection demonstrate that Bar associations seriously engage in and undertake their supervisory duties under the AML framework.

The results show that the majority of Bars that are enabled by law to do so, have put in place supervisory measures to ensure that the AML framework is complied with by lawyers. This constitutes evidence that, most of the time, Bars have acted and are ready to act as responsible actors in the field of AML.

The high number of accompanying measures such as training, guidelines or updates for lawyers highlighted above also demonstrates that Bars strive to educate lawyers and assist them in complying with their AML-related duties.

The CCBE hopes that the above mentioned best practices will serve as inspiration for Bar associations and will be replicated.

While Bars play an important role in the AML framework by supervising, guiding and educating the legal profession, it should be borne in mind that it is up to individual lawyers and law firms to make sure that they are aware of and comply with their AML obligations.

Potential fields of improvement

Based on the findings above, there is room for improvement when it comes to some measures. The CCBE therefore encourages Bar associations to:

- Establish hotlines for lawyers at the Bar level specifically dedicated to AML issues. These should be easily available and responsive with specialised advice on AML-matters.
- Create regular and formal exchanges with national FIUs and other authorities regarding AML and specificities of the sector. It could take the form of an annual meeting. The CCBE believes that cooperation with FIUs, especially feedback provided by FIUs on emerging and evolving money-laundering trends, typologies, and risk indicators might help Bars in their supervisory role.⁸ Private-public partnerships in the area of AML could provide a platform for exchange of best practices and might help improve the exchange of information between public authorities and private sector entities. If there is an exchange of information within the form of a PPP, this

⁸ See also the CCBE's views on public-private partnerships [here](#).

should be under conditions and a framework with guarantees and protection of fundamental rights.

- Encourage intensification of exchanges and sharing of information and experiences through the CCBE, especially its AML Committee. The exchange of the best practices among the Bars, through such exercise as this could be done regularly, for instance, every two years.
- Make sure they have in place proper and systematic collection of statistics and data about lawyers' compliance with AML and risks lawyers might face.
- Engage in a dialogue with their national authorities in order to improve legislation where regulatory gaps exist and to find solutions where practical gaps are identified.
- Bars could improve their efforts to conduct or contribute to a sectoral risk assessment. Given their knowledge of the specificities of the sector, their views can only make these assessments more credible and sound. A sector-based analysis of AML risks is an important tool in the fight against ML/TF.