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George Rodríguez

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Two Proposed Bills Would Keep Costa Rica Away From GAFILAT’s ‘Grey List’

by George Rodriguez
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In keeping with its record as a country set on fighting organized crime and drug-related activities, Costa Rica is about to pass two key bills against money laundering and terrorism funding.

According to the latest evaluation by the Grupo de Acción Financiera de Latinoamérica (Latin America Financial Action Task Force, GAFILAT), Costa Rica complies with most of the international requirements for the prevention of both types of crimes, but the country shows weaknesses that could land it on a “grey list” of nations not cooperating in the international fight against drugs and terrorism.

For one thing, Costa Rica does not have legislation typifying terrorism as a crime, according to GAFILAT, a regional branch of the global Financial Action Task Force (FATF) whose global aim is to counter money laundering and the funding of terrorism (NotiCen, July 16, 2015).

GAFILAT member nations had been, up to last year, evaluated by their compliance with the group’s standards, which consist of 40 recommendations that basically focus on measures that have been implemented to correct flaws highlighted by the organization. The measures include passing specific legislation as well as implementing regulations.

A strengthened evaluation methodology was launched during GAFILAT’s 31st plenary meeting, held last July 9-10 in San José, Costa Rica’s capital, with delegates of the 16 member countries as well as several observers and international organizations attending.

The evaluation now assesses compliance with, and effectiveness of measures taken, both components added to the traditional focus.

According to the director of the Instituto Costarricense sobre Drogas (ICD), Guillermo Araya, those components make up “the country’s actual armoring against penetration of money coming from organized crime into the country’s financial systems” and against the funding of terrorism.

Weaknesses in current law

In its evaluation of Costa Rica, GAFILAT pointed out weaknesses in fields such as freezing of assets, typifying terrorism funding as a crime, and taking into account international lists issued by the United Nations Security Council of possible terrorist organizations or cells.

In GAFILAT evaluations, “a quantitative grade cannot be given … mostly, it’s [about] compliance, noncompliance, partial compliance with certain recommendations,” Araya told NotiCen.

“There’s a combination of recommendations [according to] which, if they’re not ranked as complied with, we could be entering what’s called a ‘grey list’ … in which non-cooperating countries are shown. Being non-cooperating means that state efforts are not being made to introduce technical or specific norms or to effectively implement them,” he said.
Being “grey listed” does not imply sanctions, but it damages a country’s international image, and it could affect, for example, financially, in that international banks’ subsidiaries may not want to be in Costa Rica simply because it doesn’t ensure that money in this country will not be the object of laundering or be used to fund terrorism, he said.

Were Costa Rica to enter the “grey list,” which it has not, “we’d be giving the image that we’re not cooperating, that we’re not making an effort, that we don’t control, that we don’t armor our country against such money entering our national economy,” Araya added.

“Thus, there could be direct and in direct economic repercussions,” including the possibility that “it could be an element assessed by the OECD [the Paris-based Organization for Economic Cooperation and Development] for Costa Rica’s affiliation,” he added. “It’s not implied anywhere, but it could be an element.”

Araya was referring to the process Costa Rica is undergoing—since former President Laura Chinchilla’s administration (2010-2014)—to become a member of the OECD.

Being “grey listed” is something this Central American nation, definitely seeks to avoid. In this regard, the country must make certain efforts, which include both reformed and new legislation.

A draft bill about to be submitted to the Asamblea Legislativa, the country’s single-chamber parliament, addresses the points highlighted by GAFILAT by introducing changes in four articles of the law called Ley de Estupefacientes, Sustancias Psicotrópicas, Drogas de Uso No Autorizado, Actividades Conexas, Legitimación de Capitales y Financiamiento al Terrorismo (Law on Narcotics, Psychotropic Substances, Unauthorized Drugs, Related Activities, Money Laundering and Terrorism Financing).

“Mostly, they’re immediate measures, such as, for instance, enabling ICD to order the freezing of funds,” as well as “taking into account international lists of terrorist, of terrorist cells,” and “having more efficient tracking of money, of international transfers that may be made, even by certain people who could be linked to this scourge,” Araya said. “We’ve included these recommendations in reforming the four articles … so we can have a more effective instrument for our judicial bodies to use in this field.”

Araya said the draft bill is in its final review, and will be presented, by the executive, to the Asamblea Legislativa as early as this week.

“With these changes, we’d be complying with [GAFILAT’s] recommendations, and ensuring effectiveness, and this totally distances us from entering the ‘grey list,’ which is our goal,” Araya said.

He also pointed out that on Dec. 18, the legislative Comisión de Seguridad y Narcotráfico (a commission on security and drug trafficking) green-lighted a bill on extinction of ownership, which awaits debate in the Asamblea’s plenary.

Security and judicial authorities have repeatedly said this particular legislation is essential to hit drug traffickers where it hurts them the most: their assets.

**Strengthening measures against money-laundering, terrorism funding**

With both of these laws in force, Costa Rica would beef up its protection against money laundering and terrorism funding, a shield that includes a national strategy, Araya said. The Estrategia Nacional
de Lucha contra la Legitimación de Capitales y el Financiamiento al Terrorismo (the country’s strategy in the fight against money laundering and financing of terrorism), unveiled during last year’s GAFILAT meeting in San José, includes 30 goals, with the corresponding projects for implementation. Its centerpiece is a project that creates a network for information and statistics sharing.

The strategy sticks to three main principles of the GAFILAT Anti Money-Laundering and Counter-Terrorism Financing program (AML/CTF): prevention, detection and intelligence, and investigation and criminal justice.

As is stated in its text, among other goals, the strategy aims to “reinforce joint work and inter-institutional coordination allowing progress toward adequate prevention, detection and repression” of both crimes. This implies “developing and strengthening inter-institutional coordination and cooperation … to contribute to the development of financial and property intelligence.”

It also implies oversight of “physical transportation of money (…) and other negotiable instruments in order to ensure that criminal and terrorist organizations cannot move resources to or from other jurisdictions.”

GAFILAT was founded in December 2000, in Cartagena, Colombia. It was originally named the Grupo de Acción Financiera de Sudamérica (Financial Action Task Force of South America, GAFISUD) and included nine South American member nations. As a result of the Sept. 11 terrorist events in the United States, the task force expanded its scope to preventing funding of terrorism.

During its July 2014 meeting, GAFISUD became GAFILAT as a means to cover all Latin American nations. It now has 16 members. FATF, its umbrella organization, was founded in 1989 by the Group of 7 (G-7) as an effort to combat money laundering and the threat it was seen as posing to banking and financial institutions worldwide. Its scope widened two years later to include action against terrorism funding as well.

From its original 16 member nations, FATF has expanded to 36, five of which are in the Americas: Argentina, Brazil, Canada, Mexico, and the US.

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