

Argentina's Frustrating Fight against Money Laundering

By Daniel Santoro*

Argentina has been losing the fight against money laundering. This crime is increasingly affecting the health of Argentina's economy and, most of all, it has been impairing the effectiveness of its justice system. Thanks to the problems plaguing the justice system, Argentina has the dubious honor of not having a single person behind bars for money laundering, the only country in the world to achieve such a distinction.

Despite the fact that the number of drugs seized by police grows every year, along with arrests for tax evasion and political corruption, the lack of adequate laws, the inefficiencies of the government, along with other factors allows money launderers to continue to operate with impunity. From 2006 until the present, the Financial Information Unit (*UIF – Unidad de Información Financiera*) filed 837 reports about suspicious operations (*ROS – Reportes de Operaciones Sospechosas*) to the Money Laundering and Terrorism Financing Investigations Unit (*UILDFTI – Unidad de Investigación de Lavado de Dinero y Financiamiento del Terrorismo Internacional*). However, the head of this unit, prosecutor Raúl Plee, was willing to categorize only two of these reports under the crime of money laundering (Article 278 of the Penal Code), while five of the reports are still under preliminary investigation. Plee sent the rest to be investigated for tax evasion.

The president of the UIF, José Sbattella, estimated that the main source of money laundering is tax evasion, which adds up to 22.5 billion dollars every year. Half of that money escapes abroad. Thanks to tax evasion, Argentines have invested US\$140 billions abroad – money that hasn't been declared to fiscal authorities and isn't reinvested into the economy. That amount is approximately equivalent to Argentina's foreign debt.

UIF: Failure to Investigate

The central problem is that the same informal financial circuits that allow tax evasion money to flee the country are also used to launder or hide dirty money that is made from corruption, drug trafficking, and smuggling. The UIF is part of the system of financial regulatory agencies formed to deal with this problem. (It was formed on the advice of the international organization Financial Action Task Force [FATF], of which Argentina is a member. The FATF is an inter-governmental agency tasked with developing and promoting national and international policies to combat money laundering and terrorist financing.)

However, since its formation in 2001, the UIF has gone through a series of changes in its leadership while engaging in debilitating

fighters with other state agencies such as the Central Bank, and the General Tax Office (DGI — *Dirección General Impositiva*). Alicia López, former head of the UIF, said that during her tenure the agency was “inoperative because no one gave it information and without information there is no investigation.”

“I was president of the UIF in 2002, 2003 and 2005. I quit because I was tired. No one from the government would see me,” said López. “I asked for things and never got them because I didn’t agree with their policy on prevention, nor with the fact that UIF was a members’ body. I asked for a meeting with President Néstor Kirchner several times. He never granted me a single one. Honestly, I am convinced that I wasn’t the person they wanted for the job and that’s why I decided to leave,” she said

“In addition, I criticized federal judges and have stopped believing in them from an ethical and professional point of view,” López added. Meanwhile, she opined that “the UIF needs to end its focus on banks, which are there to do business. It’s madness. The state should be the one that controls banks to ensure that they carry out their business lawfully and don’t hide dirty dealings.”

In January 2010, President Cristina Kirchner named the Peronist economist José Sbatella to the presidency of the UIF and promised changes to end the impunity that the launderers enjoy in Argentina today, with the complicity of banks in Uruguay and other fiscal havens. “By offering me the position and giving me all her support to replace the leadership of the UIF in its entirety, the president showed she has the political will to fight against money laundering. In contrast, she demanded the full application of current legislation, and amendment of the legislation if it wasn’t considered effective,” Sbatella told Global Integrity.

A Lack of Action

The appointment of Sbatella took place a few months before the FATF reviewed Argentina’s actions to decide if the country was meeting the international requirements needed in the fight against money laundering or was deserving of a warning that could lead to sanctions.

To prevent any sanctions, Sbatella sent the Argentinean congress a bill to declare money laundering “an autonomous crime.” During 2010, he imposed the first three fines in the UIF’s history against the Galicia and Francés banks and the financial company Masventas for failing to properly inform authorities about suspicious financial operations.

The head of UILDFTI, Raúl Plee, admitted that over the last few years “[he] only accepted 8 percent” of the ROS reports on suspicious operations that were issued by the UIF. His unit is responsible for all reports on money laundering. He explained that

the majority of ROS reports were referred to judges who investigate fiscal evasion and other crimes.

He defended his position by noting that the ROS reports “are for previous offenses and not laundering itself.” On this point, he agreed with Sbattella that a law is needed that would punish laundering as a separate crime and not one that only takes place as a consequence of another crime.

Plee believes the statistics that show how other Latin American countries, such as Brazil, have a high number of convictions “are really cases involving other crimes, in which laundering happens later.” Plee says that in addition to incorporating the money laundering as a crime into the Argentine Penal Code, “it’s necessary to change the culture of judges and prosecutors who order raids on charges of defrauding the state, drug trafficking or corruption. They may send police officers and dogs, but they do not send accountants or finance experts.”

“The police go with court orders to seize the drugs, the scales, detain the drug traffickers and seize their luxury cars, but when they come across a bank statement they may not seize it,” he added. He said judges should investigate the cash flow in corruption cases such as the so-called Medicine Mafia, the IBM-Banco Nación and the so-called Ephedrine Route. The Medicine Mafia scandal investigation, which was conducted by Federal Judge Norberto Oyarbide, revealed 30 healthcare schemes that involved different unions implicated in selling false and stolen medicines.

The Medicine Mafia and Other Cases

In the case of the Medicine Mafia, the UILDFTI sent an ROS to Judge Oyarbide, in which it identified a series of cash deposits that amounted to almost US\$1 million that were alleged to have been made by the business executive Néstor Lorenzo in his Santander bank accounts. Lorenzo has been accused and placed under pretrial detention for more than a year. He is the same business executive who is being investigated for contributing, through third parties and in a suspicious manner, more than US\$200,000 to Cristina Kirchner’s 2007 presidential campaign. The ROS points out that Lorenzo then issued checks in the name of the Bank Employees’ Health Insurance Company (OSBE — *Obra Social de los Empleados Bancarios*), which is run by Juan José Zanola, who also has been accused and detained in this case. The most suspicious aspect is that part of this money was later collected in cash by businessman Ibar Pérez Corradi, who is under pretrial detention and has a pending extradition request from the U.S. Justice Department for his connection to another drug trafficking case.

The Corradi extradition request is being analyzed by Argentina's Supreme Court of Justice (*Corte Suprema de Argentina*). In addition, Corradi is suspected of being the mastermind behind the murder of Sebastián Forza and two other men in the pharmacies business in the case known as the Triple Crime that took place in November 2007. Forza also shows up as one of the contributors to Cristina Kirchner's 2007 campaign, but for a sum of more than US\$60,000. Those pharmacies are alleged to be involved in the Medicine Mafia.

Former Health Minister Graciela Ocaña, who investigated the Medicine Mafia case, said that "in the government there are 'informal circuits' through which under-the-table corruption circulates. This is a long-running practice in Argentina, but due to the Medicine Mafia case, I now suspect money also comes in from drug traffickers." She referred to the Ibar Pérez Corradi case as an example of this practice.

Time to Follow the Money

For prosecutor Plee, the key is following the money in these types of cases and not simply relying on an ROS. "To think that there would be more sentences if the UIF were more efficient is a mistake. The UIF is there to detect but not to investigate," Plee added. Lawmaker Elisa Carrió, from the opposition Civic Coalition (*Coalición Cívica*) party, presented another bill to transfer the UIF from the Executive to the Congress and give it autonomy. Sbattella qualified Carrió's proposal as "absurd."

Carrió is the author of a detailed congressional report on money laundering that scandalized Argentina in 2001 (see www.elisacarrio.gov.ar). As of the end of 2010, the Sbattella and Carrió bills are only now being discussed in the Finance and Penal Legislation committees of the lower house of Congress, and lawmakers have yet to reach a consensus on whether to send them to the full chamber.

Félix Marteau, a lawyer and expert on the topic, says the lack of jail sentences for offenders is caused by "the global inefficiency of the system that is supposed to prevent and repress laundering." This includes the UIF, the Central Bank, the banks, the judiciary, and the police. Particularly, the problem of the UIF "is that it was thought of as an intelligence organism and it rarely acts, rather it simply dedicates itself to compiling information," he said. In addition, seizing assets is not an action that is regularly taken in Argentina.

Up to now, judges and prosecutors have failed to follow the money trail that is left by criminal organizations. While the money launderers continue to take money abroad with ease or launder it on the local market, the most important political parties cannot

agree on what the best law is, or the most appropriate structure for the UIF, to combat this scourge.

After the summit in Paris in October 2010, the FATF expressed its “disappointment and serious concern regarding Argentina’s failure to implement an adequate and effective anti-money laundering and countering of the financing of terrorism system, and (it) will engage closely with Argentina to ensure that it quickly rectifies the identified deficiencies.”

The rectifications, however, are yet to be seen.

Daniel Santoro is the national political editor at **Clarín, Argentina’s largest newspaper, and has conducted extensive investigation into government corruption, national security matters, and international drug trafficking. Santoro has broken a number of scandals detailing arms smuggling, including one story linking former president Carlos Menem with the traffic of 6,500 tons of weapons to Croatia, which at the time was under a U.N. arms embargo, and Ecuador. He has published several books and is a member of the International Center of Investigative Journalism and president of Foro de Periodismo Argentino.*