

# The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism

**MONEYVAL**

**ANNUAL REPORT 2012**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**The Committee of Experts  
on the Evaluation of Anti-Money  
Laundering Measures and  
the Financing of Terrorism  
MONEYVAL**

**ANNUAL REPORT 2012**

All rights reserved. Reproduction is authorised, provided the source is acknowledged, save where otherwise stated. For any use for commercial purposes, no part of this publication may be translated, reproduced or transmitted, in any form or by any means, electronic (CD-Rom, Internet, etc) or mechanical, including photocopying, recording or any information storage or retrieval system without prior permission in writing from the

MONEYVAL Secretariat  
Directorate General of Human Rights and Rule of Law  
Council of Europe  
F-67075 Strasbourg  
E-mail: [moneyval@coe.int](mailto:moneyval@coe.int)

© Council of Europe 2013

## CONTENTS

Introduction by Vladimir Nechaev, Chairman of MONEYVAL.....	5
EXECUTIVE SUMMARY .....	7
1. Introduction and Background .....	8
1.1 Introduction .....	8
1.2 Overview of work conducted in 2012.....	8
1.3 Structure of this report .....	9
2. Mission and Working Framework .....	10
2.1 Aim and status of MONEYVAL .....	10
2.2 Objectives and key information .....	11
2.3 Governance .....	13
2.4 Scientific Experts .....	13
3. Key findings of adopted assessment visit reports 2012 .....	14
3.1 3 <sup>rd</sup> round assessment visit reports.....	14
3.2 4 <sup>th</sup> round assessment reports .....	16
4. 3 <sup>rd</sup> round progress reports .....	28
4.1 Objectives and format.....	28
4.2 3rd round progress reports adopted in 2012 .....	28
4.3 Summary of findings of the progress reports .....	29
5. 4 <sup>th</sup> round follow-up reports .....	30
5.1 Objectives and Format.....	30
5.2 4 <sup>th</sup> round follow-up reports considered in 2012 .....	31
5.3 Summary of findings of the 4 <sup>th</sup> round follow-up reports.....	31
6. Compliance Enhancing Procedures (CEPs).....	32
6.1 CEPs Structure .....	32
6.2 CEPs reports heard in 2012 .....	32
7. Important identified deficiencies brought to the attention of the MONEYVAL jurisdictions not within the CEPs Process.....	34
7.1 Background to this process .....	34
7.2 Plenary consideration in 2012 .....	34
8. Typologies Work .....	36
8.1 Structure of Typologies work .....	36
8.2 Typologies projects in 2012.....	36
8.3 Typologies working group meeting.....	36
9. Other important MONEYVAL work 2012 .....	37
9.1 Key partnerships.....	37
9.2 Participation in other forums.....	39
9.3 Training and awareness-raising .....	40
10. The Conference of the Parties to CETS 198 (COP).....	41
11. Conclusion .....	42
Appendix I.....	43
Speech by Mr Thorbjørn Jagland, Secretary General of the Council of Europe.....	43

Speech by Mr Jean-Claude Mignon, President of the Parliamentary Assembly ..... 45

Speech by Mr Bjørn S. Aamo, President of the FATF..... 47

Speech by Mr Vladimir Nechaev, Chairman of MONEYVAL ..... 48

Appendix II ..... 50

List of abbreviations and acronyms..... 50

# Introduction by the Chairman of MONEYVAL



It is a privilege for me to present the Annual Report of MONEYVAL for 2012.

2012 was again a very busy year for MONEYVAL and the principal activities are set out in the Annual Report.

MONEYVAL is one of a number of FATF Style Regional Bodies (FSRB). I believe that a primary function of a FSRB is to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively. MONEYVAL thinks that, broadly, it is achieving this aim. We received some external confirmation of this last year, with the publication in September of an independent evaluation of the European Commission's cooperation with the Council of Europe, where the reviewers stated: *"What can be said without hesitation is that the MONEYVAL monitoring process has contributed to better compliance as countries have been forced to report on concrete steps and their reports have been carefully scrutinised by the MONEYVAL secretariat"*.

We are not, however, complacent. We know, sadly, that we cannot eradicate money laundering through our reports but we can minimise the risks through better compliance. This is a long haul. Overall, as we say in the Executive Summary, reports which have been considered in 2012 have broadly indicated a consistent improvement of formal compliance with international standards, particularly on the preventive side. But more is still required of all countries by way of effective implementation of the legal, financial and law enforcement standards. In particular, we think that more still needs to be done by law enforcement and prosecutorial authorities in achieving serious money laundering convictions and deterrent confiscation orders in major proceeds-generating offences. I regret that convictions of those third parties who launder proceeds on behalf of organised crime still remain very much the exception.

In December last year, I had the honour of presiding over MONEYVAL's 15<sup>th</sup> anniversary plenary meeting. The Secretary General, the President of the Parliamentary Assembly and the current President of the Financial Action Task Force each addressed us.

In his intervention, the President of the FATF had these encouraging words for us: *"The work and experience of MONEYVAL have helped to strengthen the global AML/CFT network. MONEYVAL, through its hard work, has had an influence on how we as the global network ensure implementation of these standards by our member countries. In my view, the global AML/CFT network would not have been where it is today if it were not for this contribution."*

In his intervention in December, the Secretary General stated: *"Throughout the years, we have seen MONEYVAL become one of the most high profile and important monitoring mechanisms in Europe and we are very proud of its work."*

In July 2012 MONEYVAL published its report on the Holy See (including Vatican City State). This was, I think, the first independent review of the Holy See ever undertaken, and understandably it attracted global media coverage for the work of this organisation. We were gratified by the Holy See's response to the report

in which they appreciated the objectivity of the mutual evaluation procedures, the evaluators' acumen, and the active participation of the Members of the Plenary which adopted the report.

We look forward to considering the Holy See's first progress report in 2013.

Another significant development in 2012 was the decision to allow for the full participation in MONEYVAL of the Crown Dependencies of Guernsey, Jersey and the Isle of Man, following a request by the United Kingdom. This brings the number of States and jurisdictions for which MONEYVAL is now responsible to 33.

Mutual evaluation reports are widely read by demanding and informed audiences. They are read not only by the governments that receive them, but by other governments assessing the risks in dealing with evaluated countries, by other important partner international bodies, including the IMF, and by the private sector, when making investment decisions in respect of our countries. Thus these reports are documents which need expert preparation.

The requirements of the international community on the secretariats of the AML/CFT assessment bodies will only increase in the future. We are fortunate in MONEYVAL to have a small but highly professional secretariat staff, backed up by very welcome secondments from member states and in conclusion, I would like to thank the secretariat for the quality of their work.

Vladimir Nechaev  
**Chairman of MONEYVAL**

# Executive Summary

This is the second report to the Committee of Ministers by the Chair and Executive Secretary of MONEYVAL under Article 10 of the Statute of the Committee of Experts on the Evaluation of anti-money laundering measures and the financing of terrorism, which was adopted by Resolution CM/Res(2010)12 (the statute of MONEYVAL).

Of the 30 jurisdictions evaluated by MONEYVAL at the beginning of 2012, 22 were subject to active monitoring processes by MONEYVAL in 2012<sup>1</sup>.

In October 2012, the Committee of Ministers accepted the application of the United Kingdom for the United Kingdom Crown Dependencies of Guernsey, Jersey and the Isle of Man to become subject to MONEYVAL processes. Therefore, MONEYVAL is now responsible for the evaluation of 33 states and jurisdictions.

Reports which have been considered at MONEYVAL plenary meetings have broadly indicated a consistent improvement of compliance with international standards, particularly on the preventive side. Nonetheless, more still needs to be done by law enforcement and prosecutorial authorities in achieving serious money laundering convictions and deterrent confiscation orders in major proceeds-generating offences. Furthermore, convictions of those third parties who launder proceeds on behalf of organised crime remain very much the exception.

MONEYVAL is an internationally recognised and influential global player in the anti-money laundering and countering the financing of terrorism (AML/CFT) world. It is a leading Associate Member of the Financial Action Task Force. It is respected as an effective monitoring mechanism for the quality of its outputs and the strength of its robust follow-up procedures, which are acknowledged as delivering results. Through its activities, MONEYVAL identifies and helps to reduce risks to the global financial system and identifies gaps in national AML/CFT systems, and actively follows up the progress countries made to rectify them.

In 2012 MONEYVAL contributed significantly to the visibility of the Council of Europe with the publication of its detailed assessment report on the Holy See (including Vatican City State), which was the subject of global media interest.

The Council of Europe's and MONEYVAL's strong market position in this area may be difficult to sustain in the longer term without more permanent AML/CFT expertise in the MONEYVAL Secretariat and for the Conference of the Parties to the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention (CETS No.198).

---

<sup>1</sup> The full list of states and jurisdictions evaluated by MONEYVAL is set out in section 2.1 below.



# 1. Introduction and Background

## 1.1 Introduction

2012 marks MONEYVAL's 15<sup>th</sup> year of existence and in December MONEYVAL held its 40<sup>th</sup> plenary meeting. It is in its sixth year as a leading Associate Member of the FATF and, as such, remains a key player in the global network of anti-money laundering and countering the financing of terrorism (AML/CFT)<sup>2</sup> assessment bodies (FATF Style Regional Bodies (FSRBs)). MONEYVAL's evaluation processes in 2012 were based upon the major global AML/CFT standards, as represented by the 2003 FATF 40 Recommendations and the 9 Special Recommendations on Terrorism Financing.

28 Council of Europe member States are assessed by MONEYVAL (the full list of States is set out in section 2.1 below). In addition, Israel and the Holy See (including Vatican City State) participate fully in the evaluation processes of MONEYVAL and are subject to its procedures. Following a request by the United Kingdom, at their meeting on Wednesday 10 October 2012, the Committee of Ministers of the Council of Europe adopted a resolution agreeing to the participation in MONEYVAL of the Crown Dependencies of Guernsey, Jersey and the Isle of Man with immediate effect. Subsequently, the Crown Dependencies of Guernsey, Jersey and the Isle of Man all participated in MONEYVAL's 40<sup>th</sup> plenary meeting in December 2012. Thus MONEYVAL now is responsible for assessing 33 jurisdictions.

MONEYVAL is now in its 4<sup>th</sup> round of assessment visits. This round commenced in late 2009, at the conclusion of the 3<sup>rd</sup> round of on-site visits. The 4<sup>th</sup> round of on-site visits is intended to be a shorter and more focused follow-up to the recommendations made in the 3<sup>rd</sup> round reports of all jurisdictions that undertook a 3<sup>rd</sup> round evaluation. MONEYVAL's 4<sup>th</sup> round reassesses a number of the so-called core and key FATF standards (see Appendix II for details) and follows up all those Recommendations which received low ratings in the 3<sup>rd</sup> round. The 4<sup>th</sup> round focuses even more closely on the effectiveness of implementation of the international standards, particularly as many MONEYVAL countries have now had AML/CFT legislation in place for more than 15 years.

## 1.2 Overview of work conducted in 2012

2012 has once again been a year of intensive MONEYVAL monitoring work. Of the 30 jurisdictions subject to evaluation by MONEYVAL at the start of the year, 22 were subject to active monitoring processes by MONEYVAL in 2012:

### Principal Achievements in 2012

- Five full on-site visits were undertaken with key findings left with the jurisdiction (Bulgaria, Croatia, Lithuania, Monaco and Poland). In addition a short follow-up visit to the Holy See (including Vatican City State) was conducted to assess the impact of new legislation.
- One 3<sup>rd</sup> round evaluation report was adopted and published (Holy See (including Vatican City State)).
- Six new 4<sup>th</sup> round evaluation reports were adopted and published<sup>3</sup> (Andorra, Georgia, Latvia, Lithuania, Malta and Republic of Moldova).
- Four 3<sup>rd</sup> round progress reports were subject to detailed Secretariat review, full plenary discussion, adoption and publication (Armenia, Montenegro, Serbia and Ukraine).
- Two 4<sup>th</sup> round follow-up reports were subject to detailed Secretariat review and full plenary discussion (Czech Republic and Slovenia).
- In addition, Hungary provided an interim follow-up report setting out the remedial action it has taken.
- Five Compliance reports for jurisdictions in the Compliance Enhancing Procedures (CEPs) have been presented to the plenary in respect of the two jurisdictions currently in CEPs (Albania, 2 reports and Bosnia and Herzegovina, 3 reports).
- Progress was reviewed and further action taken in respect of 6 other jurisdictions not in the CEPs, which had received letters from the MONEYVAL chair in December 2010 and April 2011 requesting the remedying of specific important deficiencies (Azerbaijan, Croatia, Georgia, Republic of Moldova,

<sup>2</sup> A list of all abbreviations and acronyms used in the report are set out in Appendix II.

<sup>3</sup> Due to their adoption in December 2012, the reports on Lithuania and the Republic of Moldova will be published in 2013.

“the former Yugoslav Republic of Macedonia” and Ukraine).

- A member of the MONEYVAL Secretariat participated in a UN Counter-Terrorism Committee Executive Directorate (CTED) mission to Albania.

As well as undertaking its own monitoring work, MONEYVAL occupies a position of high political relevance in the AML/CFT environment. In 2009 G20 called upon the FATF to identify jurisdictions which pose threats to the global financial system. The MONEYVAL Secretariat supports the Vice Chair of MONEYVAL, Dr Anton Bartolo (Malta), who currently co-chairs with a senior regulator from an FATF country (Germany), the Europe/Eurasia Regional Review Group (ERRG) which feeds into this global process in respect of all European and Eurasian jurisdictions, whether or not they are evaluated by MONEYVAL. During 2012, one MONEYVAL country, Albania, was subject to examination by the ERRG, although numerous other jurisdictions in the Europe/Eurasia region have also been reviewed.

In addition to the foregoing, the typology report on “Criminal money flows on the Internet: methods, trends and multi-stakeholder counteraction” was adopted and published in March 2012 and was well received. Work also continued on the typologies projects that had been commenced in 2011 and a core group meeting was held in Poland in October. MONEYVAL also conducted a number of awareness raising activities related to the revised FATF Recommendations 2012 and related draft Methodologies<sup>4</sup>.

The Chairman and the Executive Secretary consider that all MONEYVAL activities in 2012 clearly demonstrate that the Committee of Ministers’ expectations of MONEYVAL, as reflected in Article 1.2 of the MONEYVAL statute, have been met or exceeded in 2012.

## 1.3 Structure of this report

This report continues by setting out the formal mission and framework of MONEYVAL with key information on the evaluation processes. It then details information on the state of compliance with AML/CFT international standards in the jurisdictions that have been monitored through formal plenary processes in 2012 in accordance with article 10 of the statute of MONEYVAL.

The report then covers other important topics: MONEYVAL’s key partnerships with other organisations (FATF; IMF; World Bank; EU; UN and others). Thereafter, it covers other major MONEYVAL activities in 2012 (typologies, representation in other forums and awareness-raising).

There then follows a section on the Conference of the Parties (COP) to the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention (CETS 198). This is because the Warsaw Convention was drafted taking into account problems identified in MONEYVAL evaluations and because the separate monitoring mechanism set up under A.48 of the Convention specifically refers to the COP “using the procedures and mechanisms of MONEYVAL in its processes”.

This report concludes with a section on resources and a brief conclusion.

---

<sup>4</sup> MONEYVAL will commence using the 2012 revised FATF Recommendations at the conclusion of the 4<sup>th</sup> round of follow-up visits.

## 2. Mission and Working Framework

### 2.1 Aim and status of MONEYVAL

MONEYVAL is a monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems.

Through a dynamic process of mutual evaluation, peer review and regular follow up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

MONEYVAL is a permanent monitoring mechanism of the Council of Europe reporting directly to the Committee of Ministers in accordance with Article 10 of the Statute.

Evaluation by MONEYVAL covers, under Article 2 of the Statute of MONEYVAL:

(a) member States of the Council of Europe that are not members of the FATF (Article 2 2a of the Statute) and member States of the Council of Europe that become members of the FATF and request to continue to be evaluated by MONEYVAL (Article 2. 2b. of the Statute), currently:

- Albania
- Andorra
- Armenia
- Azerbaijan
- Bosnia and Herzegovina
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Estonia
- Georgia
- Hungary
- Latvia
- Liechtenstein
- Lithuania
- Malta
- Republic of Moldova
- Monaco
- Montenegro
- Poland
- Romania
- Russian Federation<sup>5</sup>
- San Marino
- Serbia
- Slovak Republic
- Slovenia
- “The former Yugoslav Republic of Macedonia”
- Ukraine

---

<sup>5</sup> Also a member of FATF.

- (b) Non-member States of the Council of Europe (Article 2. 2e. of the Statute), currently:
- Israel<sup>6</sup>
- (c) The Holy See (including Vatican City State)<sup>7</sup> by virtue of Resolution CM/Res (2011)5.
- (d) The UK Crown Dependencies of Guernsey, Jersey and the Isle of Man<sup>8</sup> by virtue of Resolution CM/Res(2012)6.

## 2.2 Objectives and key information

The objective of MONEYVAL is to ensure that its evaluated jurisdictions have in place effective systems to counter money laundering and terrorist financing and comply with the relevant international standards in these fields. MONEYVAL endeavours to achieve this by:

### Methodology

- Assessing compliance with all relevant international standards in the legal, financial and law enforcement sectors through a peer review process of mutual evaluations.
- Issuing reports which provide detailed recommendations on ways to improve the effectiveness of domestic regimes to combat money laundering and terrorist financing and States' capacities to co-operate internationally in these areas.
- Ensuring an effective follow-up of evaluation reports, including compliance enhancing procedures, to improve levels of compliance with international AML/CFT standards by the states and jurisdictions which participate in MONEYVAL's evaluation processes.
- Conducting typologies studies of money laundering and terrorist financing methods, trends and techniques.

MONEYVAL evaluations are currently based on the following standards:

### International Standards upon which MONEYVAL Evaluations are currently based<sup>9</sup>

- FATF 40 Recommendations 2003<sup>10</sup>.
- 1988 United Nations Convention on Illicit Traffic of Narcotics, Drugs and Psychotropic Substances (Vienna Convention and the 2000 United Nations Convention against Transnational Organised Crime (Palermo Convention).
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg Convention) (ETS No. 141).
- 9 Special Recommendations of FATF on financing of terrorism and several other related UN instruments (UN Convention for Suppression of the Financing of Terrorism, relevant UN Security Council Resolutions for the freezing of terrorist assets).
- Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and the implementing Commission Directive 2006/70/EC of 1 August 2006.

<sup>6</sup> Under the Statute of MONEYVAL, Israel is ineligible to stand for the Bureau or vote in elections for the Bureau.

<sup>7</sup> The Holy See (including Vatican City State) is ineligible to stand for the Bureau or vote in elections for the Bureau.

<sup>8</sup> UK Crown Dependencies of the Guernsey, Jersey and Isle of Man are ineligible to stand for the Bureau or vote in elections for the Bureau.

<sup>9</sup> MONEYVAL will commence using the 2012 revised FATF Recommendations at the conclusion of the 4<sup>th</sup> round of follow-up visits.

<sup>10</sup> The revised FATF Recommendations of 2012 will form the basis of MONEYVAL's next round of evaluations.

MONEYVAL has conducted three rounds of mutual evaluations and is currently involved in a follow-up assessment round.

#### **Mutual Evaluation Rounds**

##### **First evaluation round (1998-2000)**

The first round of mutual evaluations, based on the 1996 FATF Recommendations, was initiated in April 1998 and on-site visits were concluded in December 2000. 22 Council of Europe member states were evaluated in the first evaluation round.

##### **2nd evaluation round (2001-2004)**

MONEYVAL concluded at the end of 2003 its 2<sup>nd</sup> round of on-site visits. This 2<sup>nd</sup> round was also based largely on the 1996 FATF Recommendations and included evaluation against the FATF's 2000 Criteria for non-co-operative states and territories. 27 Council of Europe member states were evaluated in the 2<sup>nd</sup> evaluation round.

##### **3<sup>rd</sup> evaluation round (2005-2009<sup>11</sup>)**

The 3<sup>rd</sup> round of mutual evaluations was based on the 2003 revised FATF Recommendations. In addition the evaluation reviewed aspects of compliance with the European Union's Third Anti-Money Laundering Directive, which came into force on 15 December 2007. 28 Council of Europe member states together with the Holy See (including Vatican City State) and Israel have been evaluated in the 3<sup>rd</sup> evaluation round.

##### **Follow-up evaluation round (MONEYVAL 4<sup>th</sup> Round) (2009-2014)**

MONEYVAL commenced a follow-up round of on-site visits in 2009. For each country, these evaluations focus on the effectiveness of implementation of core and key and some other important Recommendations in the FATF 2003 Recommendations together with any Recommendations for which the country received either a non-compliant or partially compliant rating. In addition the evaluation also reviews aspects of compliance with the European Union's Third Anti-Money Laundering Directive.

As such on-site visits constitute one of the cornerstones of the work carried out by MONEYVAL. In 2012 MONEYVAL has conducted the following missions:

#### **On-Site Visits in 2012**

- Lithuania (April)
- Poland (May/June)
- Bulgaria (October)
- Croatia (November)
- Monaco (November)

A short follow-up visit was also conducted to the Holy See (Including Vatican City State) in March to assess the impact of new legislation prior to finalising the evaluation report.

The reports resulting from the 2012 on-site visits to the Holy See (Including Vatican City State) and Lithuania were considered in Plenary meetings in 2012. The other reports will be considered at MONEYVAL Plenary meetings in 2013.

<sup>11</sup> Although the 3rd round of evaluations concluded in 2009 the Holy See (including Vatican City State) was subsequently evaluated in 2011 with the report being adopted in 2012 following the adoption by the Committee of Ministers on 6 April 2011 of Resolution CM/Res(2011).

The following Mutual Evaluation Reports were adopted in 2012:

#### Mutual Evaluation Reports Adopted in 2012

- Andorra (March)
- Malta (March)
- Georgia (in co-operation with IMF) (July)
- Holy See (including Vatican City State) (July)
- Latvia (July)
- Lithuania (December)
- Republic of Moldova (December).

## 2.3 Governance

Article 6 of the MONEYVAL Statute provides for Bureau comprised of a Chair, Vice-Chair and three other persons. The functions of the Bureau are to assist the Chair, supervise the preparation of meetings and to ensure continuity between meetings as necessary.

### Bureau

In 2012, the Bureau comprised:

#### MONEYVAL Bureau in 2012

- Chair: Mr V. Nechaev (Russian Federation)
- Vice Chair: Dr A. Bartolo (Malta)
- Mr A. Codescu (Romania)
- Ms E. Frankow-Jaskiewicz (Poland)
- Mr N. Muccioli (San Marino)

In 2012 the MONEYVAL Chair, Mr Nechaev, was appointed as Vice President of the FATF taking up his duties on 1 July 2012. Mr Nechaev will become President of the FATF on 1 July 2013. As a consequence of this Mr Nechaev will step down as Chair of MONEYVAL after the 41<sup>st</sup> Plenary in April 2013, when a new Chair will be elected.

## 2.4 Scientific Experts

MONEYVAL is fortunate in having a panel of independent 'scientific experts'. The function of the scientific experts is to provide neutral, experienced opinions where necessary and to assist the Chair and Secretariat in ensuring the consistency of MONEYVAL's outputs. This includes fulfilling a quality control function for draft mutual evaluation reports and attending all MONEYVAL plenaries and enriching debates with their experience and knowledge as well as contributing in other ways to MONEYVAL's activities. In 2012, the scientific experts were:

#### MONEYVAL Scientific Experts in 2012

- Mr W Gilmore (Professor of Public International Law, Edinburgh University);
- Mr B Verhelst (Deputy Director CTIF-CFI, and Attorney General in Belgium), law enforcement scientific expert;
- Mr G Ilacqua (Head of International Co-operation Division, Banca d'Italia), financial scientific expert;
- Mr A Strijker (former Head of the Dutch delegation to FATF), a financial scientific expert with special responsibility for the EU Directives.

Mr Philipp Röser (Executive Officer, Legal and International Affairs, Financial Market Authority, Liechtenstein) was appointed as a new financial scientific expert in 2012 and commences his work in 2013.

### 3. Key findings of adopted assessment visit reports 2012

An overview of each of the adopted reports follows, taken from the key findings in the executive summaries of those evaluation reports which were debated, adopted and published in 2012.

#### 3.1 3<sup>rd</sup> round assessment visit reports

##### 3.1.1 Holy See (including Vatican City State)<sup>12</sup>

The HS/VCS authorities have come a long way in a very short period of time and many of the building blocks of an AML/CFT regime are now formally in place. But further important issues still need addressing in order to demonstrate that a fully effective regime has been instituted in practice.

In order to bring the legal system of the HS/VCS into line with international standards on AML/CFT matters the Act of the Vatican City State No. CXXVII, concerning the prevention and countering of the laundering of proceeds resulting from criminal activities and financing of terrorism, was enacted on 30<sup>th</sup> December 2010 and came into force on 1 April 2011. By an Apostolic letter of 30 December 2010, in the form of a '*Motu Proprio*', His Holiness Pope Benedict XVI also extended this law to the Holy See itself and created the Autorità di Informazione Finanziaria (Financial Intelligence Authority (FIA)) as the financial intelligence unit (FIU) for the HS/VCS and AML/CFT supervisor. This original AML/CFT Law was rapidly revised after the first MONEYVAL visit, largely to take into account the evaluators' emerging findings. The first law was wholly supplanted and replaced by Decree No. CLIX of 25 January 2012 making amendments and additions, all of which came into force also on 25 January 2012. The Decree has since been confirmed. The revised AML/CFT Law introduced a significant number of necessary and welcome changes, but due to the timing of its introduction it was not possible for the evaluators to assess the effectiveness of implementation. The amended AML/CFT Law also clearly establishes the Secretariat of State as responsible for the definition of the policies on AML/CFT, and for adhesion to international treaties and agreements.



Money laundering has been fully criminalised in accordance with the FATF standards although effectiveness of application has yet to be demonstrated as there have been no investigations, prosecutions or convictions for money laundering. Likewise, financing of terrorism has been criminalised, although the specific criminalisation of financing in respect of certain terrorist acts in relevant UN counter-terrorism conventions is absent. The authorities have the necessary powers to freeze, seize and confiscate criminal funds and assets although effectiveness of implementation has also still to be demonstrated. Detailed legislative provisions have been introduced to give full force and effect to the freezing of funds associated with terrorism and financing of terrorism in accordance with relevant UN Security Council Resolutions (UNSCRs). However, as of January 2012, they had not been brought into practical effect.

The VCS has an established Gendarmerie whose responsibilities now include the investigation of financial crime and money laundering offences, though there does not appear to have been enough training provided to them in financial investigation. Both the Gendarmerie and the FIA appear to have adequate legal and material resources.

The preventive measures established by the original AML/CFT Law provided a comprehensive framework, including Customer Due Diligence (CDD) and record keeping requirements. These represented a major step forward for the HS/VCS. The legal provisions were augmented by Regulations and Instructions issued by the FIA. However, some elements of the original preventive regime did not clearly meet the FATF standards. The amendments and additions made by the revised AML/CFT Law have filled a considerable number of gaps identified in the original AML/CFT Law. The gaps that remain relate mainly to the requirements for appropriate monitoring and scrutiny of business relationships and transactions and the implementation of the

<sup>12</sup> The full report can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Countries/HolySee\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Countries/HolySee_en.asp)



risk based approach established by the Law.

The IOR launched a process in November 2010 (in advance of the enactment of AML/CFT legislation) to review its client database. The IOR is committed to complete this process with up to date CDD information by the end of 2012, though this was still at an early stage at the time of the on-site visits. Though there is an IOR

bylaw that sets out the categories of persons that may hold accounts in IOR, it is recommended that serious consideration be given to a statutory provision describing the categories of legal and natural persons who are eligible to maintain accounts in the IOR.

The AML/CFT Law introduced a suspicious transaction reporting regime and the FIA have issued guidance on indicators of anomalous transactions. But attempted transactions are not clearly covered by the requirements and there are deficiencies in the reporting provisions regarding terrorist financing. In the period under review 2 STRs had been filed under the AML/CFT regime by a financial institution. This appears to be low as the SAR regime has been in effect since 1 April 2011. Even if allowances are made for the small size of the financial sector in the HS/VCS and for the need of the reporting entities to accustom themselves to the new regime and acquire experience, effectiveness of the reporting system is questionable.

The FIA is the main supervisor for AML/CFT purposes. Nonetheless, there appeared to be a lack of clarity about the role, responsibility, authority, powers and independence of the FIA as supervisor. The legislative basis for supervision and inspection needs strengthening to ensure that it includes the review of policies, procedures, books and records and, above all, sample testing. The supervisory authorities should have the clear legal right of entry into premises under supervision and the right to demand access to books of account and other information. The FIA does not appear to have adequate powers to carry out its supervisory duties and has no ability to issue sanctions in respect of one of the two identified financial institutions (APSA) as APSA is regarded as a "public authority". Following its formation, the FIA concentrated on preparing and issuing guidance. At the time of the MONEYVAL on-site visits the FIA had not conducted an on-site inspection, notwithstanding the fact that the primary financial institution, the IOR, had requested that the FIA do so. No specific training had been provided to the FIA for its supervisory tasks.

The FIA is not involved in the process of licensing of senior staff in the financial institutions and there is no provision for the financial institutions to be prudentially supervised. It is strongly recommended that IOR is also supervised by a prudential supervisor in the near future. Even if this is not formally required it poses large risks to the stability of the small financial sector of HS/VCS if IOR is not independently supervised.

The AML/CFT Law covers lawyers and accountants who are operating within the VCS for STR reporting purposes. There are a number of non-profit organisations (NPO) based within the HS/VCS, all of which are linked to the mission of the Church. However, there is no supervisory regime in place in the NPO sector and no systemic outreach on AML/CFT issues has taken place as yet to the NPO sector.

Overall there are adequate arrangements in place to facilitate both national and international cooperation. In January 2012 the HS/VCS became a party to the Vienna, Palermo and Terrorist Financing Conventions of the United Nations which the evaluators warmly welcome as this will facilitate judicial mutual legal assistance. While information provided to the evaluators showed a broadly satisfactory track record in judicial international cooperation, one country indicated that it had encountered some difficulties in mutual legal assistance relationships with the HS/VCS.

The FIA is limited in its ability to exchange information with other FIUs by the requirement to have a Memorandum of Understanding (MOU) in place with its counterparts. As no MOUs had been signed at the time of the MONEYVAL on-site visits, the effectiveness of the FIU in international co-operation was not demonstrated. The FIA does not have the explicit authority to share supervisory information.



## 3.2 4<sup>th</sup> round assessment reports

### 3.2.1 Andorra<sup>13</sup>

This is the 4<sup>th</sup> round mutual evaluation report on Andorra by MONEYVAL. Since the last assessment the Andorran Government has adopted an AML/CFT action plan (in 2007), which resulted in a series of tangible measures as from 2008. Among the main new developments mention can be made in particular of: (1) amendment of the AML/CFT legislation and regulations (in particular the Act on international criminal co-operation and the fight against the laundering of money or securities deriving from international delinquency - the LCPI - and its implementing regulation - the RLCPI), resulting in concrete improvements to the AML/CFT preventive system; (2) changes to criminal law concerning the offences of laundering and terrorism financing; (3) adoption of new legislation governing the Andorran financial system; (4) adoption of new legislation governing legal persons and foundations; (5) an active commitment at the international level through the ratification of the relevant international conventions in AML/CFT matters and of bilateral agreements on the exchange of tax information; (6) reinforced tasks and responsibilities for the Andorran FIU so as to consolidate its pivotal role within the Andorran AML/CFT system; (7) the establishment of a Standing Committee on Money Laundering and Terrorism Financing.



The changes made to Andorra's legislation and regulations, and more generally the AML/CFT system, are largely based on the provisions of Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and seek to implement the recommendations made in the previous evaluation round and to improve implementation of the FATF Requirements.

The authorities, with whom the issue was raised, consider that the AML/CFT risks identified, on the basis of an analysis of the results of judicial proceedings, primarily concern the use of the financial system to launder the proceeds of offences perpetrated abroad and that the risk arising from domestic crime is low. The most frequent predicate offence of laundering is still drug trafficking, followed by fraud and corruption. The terrorist financing risk is considered to be low, although the authorities are aware of the exposure arising from the geographical location of Andorra and the proximity of regional terrorist movements, combined with the potential attractiveness of the Andorran financial services centre. A global, in-depth analysis of money laundering and terrorism financing risks at national level should be carried out so as to identify the existing risks and weaknesses and sectors potentially at risk and to be in a position to take the appropriate steps.

The new offences of money laundering and terrorism financing are partially compliant with the FATF standards. The system permitting the freezing, seizure or confiscation of the proceeds of crime is solidly based in law, with some minor deficiencies, and the growing number and scale of confiscations indicates a growing awareness of the financial aspects. Despite the increase in the number of laundering convictions, there are still some problems of effectiveness, as shown by the significant difference between the numbers of prosecutions and convictions. No prosecution has been brought for terrorism financing.

To date Andorra has not adopted a full statutory basis for freezing assets linked to terrorism in accordance with the United Nations Security Council resolutions.

A number of positive developments have been noted regarding the legislative framework and the action taken by the Andorran FIU, including as regards its new role regarding terrorism financing aspects, its broader responsibilities and the efforts made to be more active vis-à-vis the private sector. However, the human and technical resources at its disposal are insufficient, and this seriously affects the performance of its tasks.

Overall, the AML/CFT prevention system has been reinforced, in particular regarding requirements for: customer due diligence, politically exposed persons, correspondent banking relationships, measures relating to new technology, professional confidentiality, record keeping, the obligation to report suspicions concerning terrorism financing, wire transfers, internal control and shell banks. The new legislation introduces rules allowing a risk-based approach and concerning reliance on third parties and business generators. Nonetheless, there are still a number of deficiencies and the implementation of supervision of

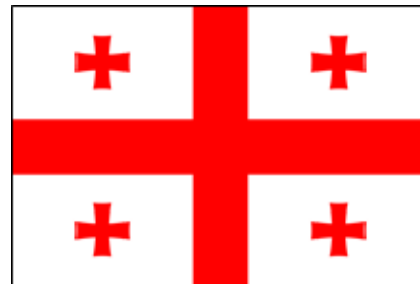
<sup>13</sup> The full report can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Andorra\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Andorra_en.asp)

the effective application of the AML/CFT machinery by financial institutions and designated non-financial businesses and professions (DNFBPs) raises real concerns, even if no sanctions have been imposed.

The international co-operation system and practice appear sound and effective, although there are some deficiencies regarding the exchange of information and co-operation with foreign supervisory authorities in matters of insurance (non-banking entities) and DNFBPs. Andorra is able to offer a broad range of judicial assistance measures and the authorities' attitude is flexible and constructive.

### 3.2.2 Georgia<sup>14</sup>

The Georgian AML/CFT regime has significantly improved since the last assessment in 2007. The amendments to the legal framework enacted between 2008 and February 2012 have improved technical compliance with the FATF Recommendations, in particular with respect to the criminalisation of ML and FT and the preventive measures for financial institutions. Significant progress has been made since 2007 with regard to the effective use of the ML criminal provisions, provisional and confiscation measures, and international cooperation.



However, weaknesses remain with regard to compliance with key elements of the standard. A combination of technical deficiencies, poor implementation, and limited resources undermine the effectiveness of the financial intelligence unit (FIU) and AML/CFT supervision. In addition, there are still major loopholes in terms of transparency of legal entities, domestic cooperation, measures to prevent terrorism financing, and preventive measures for designated nonfinancial businesses and professions (DNFBPs).

These weaknesses should be urgently addressed in light of the significant ML/FT vulnerabilities and threats. These include: i) customers that are, or are owned by, offshore companies for which the identity of their beneficial owners is unknown or where the identity has not been verified; ii) a rapid and ongoing increase of non-resident deposits; iii) the development of private banking activities, including a clientele of foreign politically-exposed persons (PEPs); iv) the rapid growth of the casino business and rising number of non-face-to-face transactions; v) the existence of large Georgian-led criminal organisations abroad which exposes the risk of proceeds of crime being transferred back to Georgia; and vi) domestic statistics demonstrating the existence of major proceeds-generating crimes, such as corruption, tax evasion, and drug trafficking.

---

<sup>14</sup> The full report can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Georgia\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Georgia_en.asp)

### 3.2.3 Latvia<sup>15</sup>

Latvia established an inter-agency working group to draft a national AML/CFT risk assessment in 2010 but at the time of the on-site visit the national AML/CFT risk assessment was not completed<sup>16</sup>. The authorities consider that the money laundering and financing of terrorism risk has not changed considerably since the last evaluation report. Nonetheless, the authorities identified the following money laundering (ML) threats to the Latvian economy: tax evasion involving organised criminal groups, money laundering through the real estate sector, grey economy, phishing schemes and fraud involving complex legal arrangements. The authorities consider the terrorist financing (TF) risk to be low.



Latvia has a comprehensive legal structure and has taken significant legislative steps to remedy many of the deficiencies identified in the third evaluation round, particularly on the preventive side. In particular, Latvia enacted a new Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing (AML/CFT Law) on 13 August 2008. The last amendment to the AML law, which entered into force on the 31<sup>st</sup> of March 2011, brought the material elements of the ML offence more into line with the Palermo and Vienna Conventions.

The TF offence is incriminated in the Criminal Law, but does not fully encompass all TF Convention and Special Recommendation (SR) II requirements. The evaluators noted that the Criminal Law does not specifically cover all acts which constitute an offence within the scope of, and as defined in, some of the treaties listed in the Annex to the TF Convention. The limitation arises from the fact that a part of the offences need to have an additional mental element in order to qualify as “acts of terror”.

The amendments made to the Criminal Procedural Law (CPL) since 2006 have improved the legislative framework for confiscation, particularly by subjecting indirect proceeds of crime to confiscation. The Latvian legal system has two confiscation concepts, which are the penalty confiscation and the confiscation of criminally obtained property. The Latvian legal framework provides for provisional measures and confiscation with regard to property laundered, proceedings from and instrumentalities used in and intended for use in ML and TF or other predicate offences.

Latvia has implemented the UN Security Council Resolutions (UNSCRs) 1267 and 1373 by means of EU Council Regulations and Common Positions, as well as under the AML/CFT Law and other national legislation. The implementation of SR.III relies upon the application of binding EU legislation; however, the overall co-ordination on dissemination of the lists is unclear. While on the financial side the persons subject to the AML/CFT Law seemed to be sufficiently aware of the obligations related to SR III, there is a lack of appropriate coordination on the dissemination of the lists which stem from the UNSCR and EC Regulations in respect of some designated non-financial businesses and professions (DNFBP) sectors (real estate agents, car dealers, auditors and lawyers).

The Latvian AML Law establishes the Financial Intelligence Unit (FIU) referred to as the “*Office for Prevention of Laundering of Proceeds derived from Criminal Activity*”, within the Prosecutor’s Office system. The Latvian FIU is entitled to disseminate its reports either to the pre-investigation institutions or directly to the Prosecutor’s Office. This is considered to be a welcome improvement from the position in the third round evaluation report. The Latvian FIU’s disseminations to the competent Law enforcement agencies (LEA) are mainly related to criminal offences of tax evasion and misuse of bank accounts (mainly abroad). Guidelines provided to the reporting entities are generic and not sector-specific to the financial institutions (FIs) and DNFBP.

Overall progress has been made to strengthen the preventive AML/CFT system. The AML/CFT Law has expanded the scope of persons subject to the AML/CFT Law (obligors), established enhanced customer due diligence measures, increased the number of supervisory authorities and their role in preventing money laundering and terrorism financing, and introduced a risk-based approach to customer due diligence (CDD). Since the last Mutual Evaluation Report (MER), the Latvian authorities have established the concept of Enhanced CDD through both law and regulation - where Latvia has applied it to PEPs, Correspondent banking, and non-face-to-face business. In particular, the Financial and Capital Market Commission (FCMC) issued the Regulation for Enhanced Due Diligence that is binding on its obligors. The financial sector appears to be aware of the prohibition on the use of anonymous accounts; however fictitious accounts and

<sup>15</sup> The full report can be found on

[http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/LTV4\\_MER\\_MONEYVAL%282012%2916\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/LTV4_MER_MONEYVAL%282012%2916_en.pdf)

<sup>16</sup> The results of the national risk assessment were planned to be published in September 2011 after the on-site visit concluded.

numbered accounts are not expressly prohibited by law. With respect to politically exposed persons (PEPs), Latvia has adopted a restrictive legal approach, therefore not covering all categories of persons in the FATF definition.

The Latvian AML/CFT Law establishes an obligation for all covered entities to report to the FIU without delay any unusual or suspicious transaction for ML and TF.

Since the 3<sup>rd</sup> round report Latvia has improved the supervisory regime, transposing into the new AML/CFT law both the provisions of the third European Union (EU) AML/CFT Directive (2005/60/EC) and its Implementing Directive (2006/70/EC). Under the new AML/CFT legal framework, almost all FIs have a designated supervisory authority. However, the evaluation team found a lack of a dedicated supervisor for the following categories: persons providing money collecting services, reinsurance services, and micro-credit lending services provided by nonbanks.

The AML/CFT supervision of the financial sector is divided between the FCMC, the Bank of Latvia (BoL) and the Ministry of Transport (MoT). However, according to the AML/CFT Law, only the FCMC is permitted to issue regulatory provisions for the supervision and control of AML/CFT regime. This raises questions with regard to the regulation and supervision of both sectors.

The FCMC is the only supervisory entity that can issue financial sanctions, according to the AML/CFT Law. The BoL, on the other hand, can suspend licenses for a limited period of time or withdraw the license. This power has been exercised in practice for failure to comply with AML/CFT regulations. The MoT's sanctioning powers are unclear.

With regard to DNFBP, Latvia has also designated the Ministry of Finance's State Revenue Service as a supervisory body for most DNFBP. During the on-site visit, the evaluation team noted that there was a lack of effective systems for monitoring and ensuring compliance with CDD requirements across most of the DNFBP sectors, as well as indications of gaps in CDD practices among DNFBP.

As set out in the 3<sup>rd</sup> round mutual evaluation report (MER), Latvia is a party to a number of international agreements, such as the 1959 European Convention on Mutual Legal Assistance (MLA) in Criminal Matters and its Additional Protocols, and the 1990 Strasbourg Convention and 2005 Warsaw Convention. It is a party to several bilateral mutual legal assistance agreements. MLA is provided on the basis of international, bilateral, or multilateral agreements, where available. Where there is no agreement on MLA, the CPL states that MLA is provided on the basis of reciprocity.

### 3.2.4 Lithuania<sup>17</sup>

Since 1999, an interagency working group, which also includes representatives from the business sector, has been responsible for anti-money laundering and countering terrorist financing (AML/CFT) policies. The working group is responsible for, among other things, the analysis of trends, the elaboration of legislative and other proposals and the coordination of activities related to international organisations such as the EU and MONEYVAL.



The authorities consider the risk of terrorist financing to be low, even though no formal risk assessment was conducted to shore up this conclusion. A report issued by Europol in 2011 on terrorism seems to corroborate the authorities' view since it indicates that there is no evidence of terrorist activity in or from Lithuania. With respect to the risk of ML, no description of the general situation of money laundering and profit-generating crimes was made available. Although the interagency working group is responsible for the analysis of trends, it appears that no such analysis was ever undertaken. Information obtained by the evaluators from open sources indicates that criminal activities have increased in recent years, possibly as a result of the financial crisis. The crisis brought about an expansion of the underground economy, although official figures appear to downplay the significance of this phenomenon. According to publicly-available information, the major proceeds-generating crimes, especially with respect to criminal organisations, are drug and human trafficking, smuggling and fraud schemes committed both domestically and on a cross-border level. Corruption also appears to be widely entrenched within the system. Proceeds are generally laundered through the integration of funds into financial and construction businesses and the acquisition of economic entities made insolvent by the financial crisis. According to information from open sources, flows of dirty money generated in foreign jurisdictions are introduced into the Lithuanian financial system through the use of shell companies and other entities, including non-profit organisations.

Since the Third Round Evaluation, Lithuania has introduced new provisions criminalising unlawful enrichment and allowing for extended confiscation. These provisions usefully complement the existing regime on confiscation and temporary measures. Nevertheless, certain key elements relating to the criminalisation of ML, as provided for under the Vienna and Palermo Conventions, are still missing. There has been no real progress in terms of ML convictions. Certain initiatives were undertaken in 2011 to encourage a broader use of financial investigations with a view to targeting proceeds of crime. However, results in this area remain modest both in terms of ML convictions and confiscation of proceeds, especially when considering the high incidence of proceeds-generating crime in Lithuania.

The criminalisation of TF has remained virtually unchanged since the last evaluation, with all the attendant deficiencies identified by the evaluators in the Third Round. A draft law, which is intended to address those deficiencies, was sent to parliament at the end of 2010. However, no developments have occurred since then. The only notable improvement was the amendment to the definition of TF which is now aligned to EU standards in this area. A TF conviction concerning support to the Irish Republican Army was obtained in 2011 on the basis of the present legislation. An appeal from the judgement of the court of first instance is currently pending before the court of appeal.

The legislative framework dealing with the freezing of terrorist funds appears to be largely in place. Nevertheless, further clarification is required regarding the mechanism which is to be resorted to when challenging domestic and EU freezing orders. Further awareness and guidance on the implementation of the relevant UNSCRs would also be a welcome development. Additionally, the supervisory process to enforce the application of resolutions needs to be strengthened.

Notwithstanding the fact that the Financial Crime Investigation Service (FCIS) is the entity designated as the financial intelligence unit (FIU) of Lithuania, the Money Laundering Prevention Department, which is situated within the FCIS, is effectively responsible for all the core functions of a FIU. The situation could present legal difficulties, which may potentially impair the effectiveness of the FIU. In addition to various other legal deficiencies within the legal framework regulating the FIU, it was noted that the analytical work undertaken by the FIU has not had a major tangible impact on the overall effectiveness of the AML/CFT regime in Lithuania. The same applies to the law enforcement authorities responsible for the investigation of ML/FT, although an improvement was registered since the last evaluation. The number of ML investigations initiated by law enforcement authorities is still considered to be low by the evaluators. Additionally, the approach to money laundering investigations in a significant number of investigations of predicate offences is not sufficiently proactive. The preventive AML/CFT measures are not being implemented effectively by the

<sup>17</sup> The full report can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Lithuania\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Lithuania_en.asp)

financial sector and DNFBPs. Although to some extent the required CDD measures are in place, some financial institutions

and most DNFBPs do not appear to be sufficiently familiar with the full extent of their obligations. In particular, awareness of the requirements dealing with the identification of beneficial ownership and PEPs appears to be rather scant. With the notable exception of the banking sector, a large majority of financial institutions and DNFBPs have never submitted a STR to the FIU. Although supervision is exercised on all sectors, except for company service providers, it appears to be weak in practice and insufficiently focused on AML/CFT-related issues.

In principle, a number of measures guarantee the transparency of legal persons and arrangements. For instance, the existence of a central register of legal persons ensures that information on such entities is easily accessible. Nevertheless, certain information is still not available in electronic format. Additionally, it is debatable whether information on all the beneficial owners of legal persons is contained within the central register. The evaluators also noted that the authorities have still not reviewed the suitability of the legal and supervisory framework regulating non-profit organisations as recommended in the Third Round.

Lithuania has ratified all the relevant international conventions and it can provide a broad range of assistance to foreign countries, provided that cooperation is not technically hindered by the shortcomings identified, for instance, with respect to the criminalisation of ML, FT and temporary measures.

Overall, the many deficiencies identified with respect to the implementation of the AML/CFT regime puts into question the effectiveness of the existing coordination mechanisms between the various competent authorities involved in the prevention of ML/FT.



### 3.2.5 Malta<sup>18</sup>

The Maltese authorities explained that the money laundering and financing of terrorism risk to which the jurisdiction is exposed has not changed considerably since the last evaluation report. No specific national AML/CFT risk assessment has been undertaken since then. However, the Police and the FIAU have identified a number of risks and vulnerabilities, derived mainly from drug trafficking and economic crimes, such as fraud and misappropriation. Representatives of the financial sector emphasised the risks related to foreign investment, possibly for tax evasion purposes and the distinct risk of inward investment by foreign PEPs from Eastern Europe and North Africa. The overall economic loss from crime is not routinely quantified. The authorities consider the TF risk to be low.



Malta has a comprehensive legal structure to combat money laundering. The money laundering offences are broad, fully covering the elements of the Vienna and Palermo Conventions. The evaluation team welcomes the significant progress made by the Maltese authorities in extending the mental element of money laundering to cover 'suspicion' and in the effective application of the legal provisions emphasised by the convictions achieved in practice, both in self and autonomous money laundering cases since the third round.

The legislative base for the financing of terrorism is largely in place. FT is broadly in line with the international standards. However, the material element of the terrorism financing described in the Maltese legislation could leave room for interpretation in respect of financing of "legitimate" activities furthering terrorism and on direct and indirect financing of terrorism. Also, the financing of offences covered in the annex to the TF Convention has, in the Maltese law, an additional mental element not required by the TF Convention. The existing legislative framework has not been tested so that the effectiveness of the system is difficult to assess.

The legal requirements for provisional measures and the confiscation regime are carefully constructed in Malta. However, the lack of information on freezing and confiscation orders made in proceeds-generating predicate offences generally, coupled with lack of evidence of use of attachment orders in proceeds generating cases, raise doubts as to the effectiveness of the freezing and attachment regime, and indeed the confiscation regime overall.

Malta has implemented the UN Security Council Resolutions (UNSCRs) by domestic and EU legislation. However, there is not any clear and publicly known procedure for de-listing and unfreezing in appropriate cases in a timely manner. While there is a system in place for freezing the assets of EU internals, there is no evidence that designations of EU internals have been made under the Maltese legal framework. The evaluation team found insufficient guidance and communication mechanisms in respect of DNFBP and insufficient monitoring of compliance in respect of DNFBP.

The FIU of Malta (FIAU) is an independent government agency falling within the structure of the Ministry of Finance, the Economy and Investment. Although, the FIAU has limited direct access to databases, the AML/CFT legislation provides indirect gateways to financial, administrative and law enforcement information. However in respect to law enforcement and administrative information no reference is made in law or guidance which expressly provides for law enforcement and administrative authorities to respond to the FIAU on a timely basis.

Overall progress has been made to strengthen the preventive AML/CFT system. The Prevention of Money Laundering and Financing of Terrorism Regulations (PLMFTR) introduced the concept of the risk-based approach and includes, inter alia, provisions catering for simplified and enhanced customer due diligence measures. Although the reporting obligation for suspicions of terrorism financing is now in place in Malta, the level of reporting STRs for both ML and TF suspicions remains relatively low. The PLMFTR obliges subject persons to determine whether an applicant for business is a politically exposed person. There were some difficulties by some categories of subject persons in the implementation of effective measures when dealing with PEPs, especially in relation to the identification of clients who acquire the status of a PEP in the course of the business relationship. The FATF requirements regarding correspondent relationships and professional/banking secrecy are fully implemented.

The ongoing practice of joint inspections carried out by MFSA and FIAU is a welcome step that has certainly contributed towards strengthening the supervisory regime. However, the number of the on-site visits remains

<sup>18</sup> The full report can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Malta\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Malta_en.asp)

low and not commensurate with the size of the financial market. In addition, the absence of a national risk assessment to identify the most risky areas for money laundering and financing of terrorism (ML/FT) give rise to concerns with regard to the effective implementation of risk based supervisory activity.

The current Maltese legislation provides for broad measures in terms of powers of sanctioning of subject persons for non-compliance. There is a range of sanctions in the Law which are potentially effective, proportionate, and dissuasive (both criminal, and administrative). However, the evaluators consider that they have not been sufficiently used, and that the financial penalties that have been imposed were not necessarily dissuasive. It must be underlined that no sanctions have been imposed on the financial institutions. The lack of publicity of sanctions imposed is considered as a backward step from the 3<sup>rd</sup> round report.

With regard to DNFBP, a clear increase in the volume of reports is noticeable since the last mutual evaluation report (MER), due mainly to the modification of the legal provisions on reporting obligations and to the efforts made in awareness-raising by the FIAU and some of the supervisory authorities. However, the uneven level of awareness of reporting obligations and procedures between different parts of this sector could negatively impact on the overall reporting behaviour of DNFBP. Enhancement of the resources involved for the oversight process is needed, together with a formalised risk based approach in order to leverage effectiveness.

The Maltese mutual legal assistance framework allows the judicial authorities to give sufficient assistance in money laundering and terrorism financing cases, including the execution of foreign criminal seizure or confiscation orders related to laundered property, proceeds, instrumentalities and equivalent value assets. The legal provisions regulating the mutual legal assistance appear to be effectively applied in practice by Maltese authorities.

Significant progress has been achieved since the 3<sup>rd</sup> round report, in order to address FATF requirements related to non-profit organisations (NPOs) on the legislative side, by the adoption of the Voluntary Organisations Act. However, the registration of the NPOs is still not compulsory in Malta. No specific risk assessment has been undertaken to identify possible vulnerabilities to misuse of NPOs for terrorist financing purposes. No awareness raising measures have been put in place and public access to NPO information is impeded by the lack of an electronic form of the register. The office of the Commissioner for Voluntary Organisations is understaffed for the fulfilment of its obligations under this standard.

### 3.2.6 Republic of Moldova<sup>19</sup>

In September 2010 the Republic of Moldova's authorities adopted a national strategy for prevention and combating of money laundering and financing of terrorism for 2010-2012 (the National Strategy). The authorities involved in the process of implementation of the National Strategy have set the main objectives for improving the AML/CFT system in the country: compliance with the relevant international standards, appropriate and viable legislation and efficient collaboration between law enforcement and supervision bodies in the area of AML/CFT. Some of the objectives were set as a result of recommendations issued by the specialised international organisations, including the recommendations stated in the 3<sup>rd</sup> round evaluation report of MONEYVAL.



The AML/CFT Law has been modified due to a 2010 Constitutional Court decision, the main adjustment being related to the specific provisions on the reporting regime and on the organisation of the Office for Preventing and Combating Money Laundering (OPCML) within the structure of the Centre for Combating Economic Crimes and Corruption (CCECC).

The Republic of Moldova has developed the criminal legislation since the 3<sup>rd</sup> round evaluation by bringing the money laundering offence more in line with the Vienna and Palermo Conventions. The money laundering offence, which was reformulated according to this standard, is generally understood and actually interpreted by practitioners so as to cover the laundering by the author of the predicate offence (self-laundering). Such laundering activities have actually been subject to prosecution in a number of criminal cases. Nonetheless, the continued judicial insistence on a prior conviction for the predicate offence as a precondition of prosecuting stand-alone money laundering is a major deficiency.

The terrorism financing (TF) offence now addresses the general concept of financing of terrorist organisations and individual terrorists. It was also positively noted that the Moldovan criminal substantive law appears to cover all offences within the scope of the nine treaties listed in the Annex to the TF convention. There has not been any investigation or prosecution for TF offences in the Republic of Moldova.

The structural characteristics of the confiscation and provisional measures regime in the Republic of Moldova remained largely the same since the previous round of evaluation. The fundamental principles of the constitution are thus unchanged and so is the structure by which the general rules of confiscation are provided in the Criminal Code (CC). Sequestration (i.e. seizure of goods) as the main provisional measure is prescribed in the Code of Criminal Procedure (CCP).

As far as the freezing of assets of designated persons and entities pursuant to SR.III is concerned, the evaluation team noted some fundamental deficiencies in the domestic legislation. On the positive side, there is some legislation in place that regulates the publication of the respective lists as well as the possibility to elaborate national lists in this respect. The AML/CFT Law also requires, at least implicitly, the reporting entities to postpone transactions that involve assets of designated persons and entities. Notwithstanding all these measures, there is no specific legislation in the Republic of Moldova to provide for the actual freezing of these assets beyond the period of postponement (i.e. 5 days) nor are there any procedural rules for delisting, unfreezing etc. This in itself raises questions as to the meaning and purpose of the entire regime.

The Republic of Moldova's FIU (OPCML) is placed within the administrative structure and premises of the CCECC. The functions and responsibilities of the FIU, are set out in AML/CFT Law, and appear to sufficiently cover the core requirements set out in Recommendation 26. On a legislative level, the issue of the independence and autonomy of the FIU was resolved with the enactment of a series of amendments to the AML/CFT Law brought into force in April 2011. Notwithstanding the fact that the OPCML continues to be situated within the operational structure of the CCECC, the AML/CFT Law now provides for the establishment of the OPCML as an independent subdivision with powers and functions which are clearly distinct from those of the CCECC.

There are various law enforcement authorities which are involved in the investigation of ML/FT cases. The authority which is mainly responsible for receiving disseminations by the OPCML is the Criminal Investigation Directorate (CID) within the CCECC. Although this Directorate has dedicated two sub-Directorates to deal with ML/FT cases, the level of knowledge related to the financial aspect of investigations, asset identification and tracing does not appear to be very comprehensive. Additionally, in

<sup>19</sup> The full report can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Moldova\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Moldova_en.asp)

spite of a number of steps taken (MoUs signed, joint working groups, etc.) there appears to be a lack of co-operation and co-ordination between the various law enforcement authorities in order to properly pursue and investigate ML/FT cases.

As evident from the statistical data provided, suspicious transaction reports (STRs) are to a very large extent reported by banks. This indicates a serious lack of awareness by some of the reporting entities, especially in the designated non-financial businesses and professions (DNFBP) sector.

The Republic of Moldova has taken significant steps in order to improve the AML/CFT legal and regulatory framework, as well as the supervisory system. The new AML legislation introduced the risk-based approach. The preventive measures are established by the AML/CFT Law, the Law on Financial Institutions, the Law on Foreign Exchange Regulation and various other sector specific Laws and regulations which provide a comprehensive legal framework including customer due diligence (CDD) and record keeping requirements.

The financial supervision is undertaken by the National Bank of Moldova (NBM) for banks and foreign exchange entities. The National Commission on Financial Market (NCFM) was established in 2007 and is the supervisory authority for the non-banking financial market. Both the NBM and the NCFM apply on-site and off-site supervisory measures, although their effectiveness was not fully demonstrated.

The Republic of Moldova has made a number of improvements in the legal framework in relation to the DNFBP. By amending the AML/CFT Law, the Moldovan authorities have now listed all the DNFBP as reporting entities, including independent accountants.

The AML/CFT Law provides the list of the authorities empowered to supervise the DNFBP. However, there is no specific provision to establish a clear link between every specific category of DNFBP and the specific authority empowered to supervise it. The allocation of supervisory powers over a specific DNFBP should be more clearly stated. The effective supervision over the DNFBP was not demonstrated.

The use of shell or “ghost” companies for money laundering remains an issue despite the current company registration rules.

Legal provisions for providing mutual legal assistance are laid down in domestic law, bilateral and multilateral treaties and apply both to ML and FT. According to the AML/CFT Law, the Moldovan judicial authorities are able to co-operate without concluding a treaty, since the national legislation allows co-operation on the basis of reciprocity and, to some extent, even in absence of it.

## 4. 3<sup>rd</sup> round progress reports

### 4.1 Objectives and format

One year after the adoption of the 3<sup>rd</sup> round evaluation report, each country submits a progress report describing the new measures it has adopted since the adoption of the report.

The MONEYVAL Secretariat prepares a written analysis of progress against the FATF core Recommendations. This desk review is circulated to the plenary participants before the discussion of the progress report. One jurisdiction acts as rapporteur to assist the plenary in its peer review. The rapporteur jurisdiction raises questions on the replies to the progress report questionnaire other than on the core Recommendations, which, as noted, are analysed by the Secretariat. The rapporteur jurisdiction advises the plenary as to whether the information provided adequately answers the questions raised. If the plenary is satisfied with the information provided and the progress being undertaken, the progress report and the analysis of the core Recommendations will be adopted and published on the MONEYVAL website. If the plenary is not satisfied with the information provided the reporting jurisdiction will be invited to submit a fuller report to the next meeting. If the progress is considered to be insufficient further steps can be taken including the imposition of CEPs.

#### Progress report Format

- A general overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field;
- An update on improvements which have been made in respect of the 2003 FATF so called core Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV);
- An update on improvements which have been made in respect of those other FATF Recommendations which were rated either non-compliant or partially compliant in the mutual evaluation report;
- Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC); and
- Updated statistical data.

### 4.2 3<sup>rd</sup> round progress reports adopted in 2012<sup>20</sup>

#### Plenary meeting

38 <sup>th</sup> meeting (5-9 March)	➤ Montenegro
39 <sup>th</sup> meeting (2-6 July)	
40 <sup>th</sup> meeting (3-7 December)	➤ Armenia
	➤ Montenegro
	➤ Serbia
	➤ Ukraine

<sup>20</sup> All of the progress reports can found in the countries section on the MONEYVAL website [http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Country\\_profiles\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Country_profiles_en.asp)

## **4.3 Summary of findings of the progress reports**

### **4.3.1 2<sup>nd</sup> and 3<sup>rd</sup> progress reports of Montenegro (Rapporteur: Slovakia)**

Montenegro presented its 2<sup>nd</sup> progress report at the 38<sup>th</sup> Plenary. Although it was noted that progress had been achieved in some areas several concerns were raised in respect of the criminalisation of money laundering and the financing of terrorism, as well as with regard to measures to freeze terrorist assets. As a result Montenegro was asked to provide a further report to the 40<sup>th</sup> Plenary.

At the 40<sup>th</sup> Plenary Montenegro reported that they had taken a number of steps to address the areas of concern and draft legislation was in the parliamentary process. The proposed legislative changes would appear to remedy many of the identified deficiencies. However, it should be noted that the deficiencies would only be fully addressed once the necessary amendments and changes to the legislation have been brought into force and effect.

### **4.3.2 2<sup>nd</sup> progress report of Serbia (Rapporteur: Holy See)**

Serbia's progress report demonstrated its clear progress in addressing all the recommendations in the third round formulated in respect of the core Recommendations. As regards specific issues, the shortcomings in the criminalisation of money laundering have now been addressed and the offence as it stands appears to be used effectively. Furthermore, jurisprudence on money laundering related cases has developed. Additionally, Serbia has improved the legislative framework of preventative measures not only by amending the AML/CFT legislation but also by issuing implementing secondary legislation and guidelines. It also appeared that the FIU and other supervisory authorities are actively involved in awareness raising and training activities for obliged entities and measures taken should in principle impact positively on the implementation of the AML/CFT requirements.

Nevertheless there remained deficiencies in the criminalisation of the financing of terrorism, although legislation was in the process of being introduced to remedy these deficiencies. There were also some residual concerns in respect of the effectiveness of the overall reporting system.

### **4.3.3 2<sup>nd</sup> progress report of Armenia (Rapporteur: Israel)**

Armenia has continued to work on the basis of a specific action plan to address the deficiencies identified and the recommendations formulated in the mutual evaluation report. As a result, a revised package of 15 draft laws, including revisions of the AML/CFT Act and the Criminal Code, has been presented to the National Assembly for adoption. It is considered that many of the proposed amendments to existing legislation as drafted should address almost all of the deficiencies identified in the mutual evaluation report once they are adopted and in force. Furthermore, the statistics attached to the progress report indicated improvements in respect of effectiveness, although concerns on this issue remain. There have been positive steps on the implementation of the criminalisation of money laundering and case law has gradually developed.

However, there has been no progress on the issue of introducing criminal liability of legal persons and Armenia has no current plans to address this as they consider that the administrative sanctioning powers can achieve the same results in practice.

### **4.3.4 2<sup>nd</sup> progress report of Ukraine (Rapporteur: Hungary)**

The measures taken by Ukraine in respect of all the FATF Core Recommendations are evidence of concrete progress made by Ukraine to correct the identified deficiencies. The majority of shortcomings identified in the context of the third round mutual evaluation report appear to have been addressed, strengthening the AML/CFT regime. Although the issue of corporate criminal liability has been revisited, there is no progress on the issue of criminal liability of legal persons. The authorities should also consider that the terrorist acts covered under the Criminal Code include explicitly all acts provided for in the international conventions annexed to the Terrorist Financing Convention and continue raising awareness and expertise on the

application of recently introduced offences. As regards the preventive regime, there remain a few issues, which would require further clarifications.

## **5. 4<sup>th</sup> round follow-up reports**

### **5.1 Objectives and Format**

MONEYVAL's 4<sup>th</sup> round follow-up process broadly follows the practices and procedures used by the FATF in its 3<sup>rd</sup> round of assessments. There are three types of process that could occur following the discussion and adoption of a 4<sup>th</sup> round MONEYVAL mutual evaluation report:-

- biennial update;
- regular follow-up; and
- enhanced follow-up.

#### **Biennial update**

Countries which have received compliant or largely compliant ratings in the six core Recommendations in their evaluation report are only required to provide a biennial update of their progress in meeting the deficiencies identified in their mutual evaluation report (MER) or in taking other action to enhance their AML/CFT regime, starting two years after their MER is discussed.

#### **Regular follow-up**

Where countries have received partially compliant or non-compliant ratings in any of the six core Recommendations they are placed in regular follow-up. The country is then expected to report back to the Plenary, initially within two years, and provide information on the actions it has taken or is taking to address the factors/deficiencies underlying any of the Recommendations that are rated partially compliant or non-compliant. Countries are encouraged to seek removal from the follow-up process within three years after the adoption of the 4<sup>th</sup> round evaluation report, or very soon thereafter. Before a country can be removed from regular follow-up it is required to demonstrate that it has taken the necessary steps to resolve the identified deficiencies on all core and key Recommendations.

#### **Enhanced follow-up**

Where the plenary is concerned about the lack of progress against the findings in the 3<sup>rd</sup> round report as demonstrated in a 4<sup>th</sup> round evaluation report, the assessed country can be placed into enhanced follow-up. The procedures to be applied can range from requesting the country to provide regular reports on progress in remedying deficiencies earlier than two years from the adoption of the report and possibly coupled with placing the country into compliance enhancing procedures (see section 6 below). These procedures contemplate further peer pressure to rectify deficiencies.

#### **Publication**

Unlike the 3<sup>rd</sup> round progress reports, 4<sup>th</sup> round follow-up reports are not routinely published. Biennial reports are published on the MONEYVAL website but regular or enhanced follow-up reports, together with the Secretariat's analysis are only published once the assessed country has successfully been removed from either regular or enhanced follow-up.

## 5.2 4<sup>th</sup> round follow-up reports considered in 2012

Plenary meeting	Follow-up Report
38 <sup>th</sup> meeting (05-09 March)	➤ Slovenia (Regular follow-up)
39 <sup>th</sup> meeting (02-06 July)	➤ Czech Republic (Enhanced follow-up)
40 <sup>th</sup> meeting (03-07 December)	➤ Hungary (Regular follow-up)

## 5.3 Summary of findings of the 4<sup>th</sup> round follow-up reports

### 5.3.1 Enhanced follow-up report of the Czech Republic

There has been a general improvement in the AML/CFT supervisory regime, and the Czech Republic has now extended the criminalisation of money laundering to legal persons, thus two of the most important deficiencies identified in the evaluation report have been addressed. Furthermore, the ratification process of the Palermo Convention and its Protocols has been started. However, there has been little progress to remedy the identified deficiencies in the other core and key Recommendations. The Czech authorities state that, in some cases they are waiting for the finalised text of the new FATF Recommendations and related Methodology as well as for the 4<sup>th</sup> EU Money Laundering Directive before amending the relevant laws, as they anticipate that extensive amendments will be required.

### 5.3.2 Regular follow-up report of Hungary

Based on the 4<sup>th</sup> round evaluation report the Government of Hungary has adopted an Action Plan reflecting all the recommendations made in the evaluation report. As a consequence of the execution of the Action Plan significant legal and institutional changes are in the process of being implemented in the Hungarian AML/CFT system. Although the Hungarian authorities have already started the implementation of the tasks determined by the Action Plan with certain important results, several core elements of the Action Plan are still in progress. Furthermore, although the modification of the AML/CFT Act and the relevant sectoral acts have been drafted, the finalisation as well as the adoption of these acts by the Government and the Parliament is still awaited.

### 5.3.3 Regular follow-up report of Slovenia

Since the on-site visit in October 2009, Slovenia has taken positive steps to remedy a number of the identified deficiencies, particularly with regard to the criminalisation of money laundering. However, the deficiencies relating to confiscation and freezing of terrorist assets largely remain. It was noted that since the on-site visit there have been virtually no confiscations of the proceeds of funds-generating crime. Improvements were noted with regard to the level of law enforcement involvement in AML/CFT investigations and also with regard to supervisory activity. It was, however, noted that the sanctioning regime cannot be regarded as effective, proportionate or dissuasive and no action has yet been taken to remedy the deficiencies related to non-profit organisations.



## 6. Compliance Enhancing Procedures (CEPs)

### 6.1 CEPs Structure

MONEYVAL's compliance enhancing procedures ensure that countries take steps to meet the international standards and follow MONEYVAL recommendations within an appropriate time frame.

There are 5 steps in this graduated process:

#### CEPs Process

- i) A letter from the MONEYVAL Chair to the head of delegation drawing attention to the non-compliance with the reference documents. The letter is copied to the plenary meeting.
- ii) A letter from the MONEYVAL Chair to the Secretary General drawing his attention to the non-compliance by a MONEYVAL participating state. The letter is copied to the head of delegation concerned.
- iii) A letter from the Secretary General of the Council of Europe to the relevant government minister drawing attention to non-compliance with the reference documents.
- iv) A high level mission to the country concerned, to reinforce this message from step iii).
- v) A formal public statement drawing attention to the state's failure to comply with MONEYVAL's reference documents.

The CEPs process can be applied flexibly according to need.

Countries may be placed in the CEPs process as a result of plenary discussions on mutual evaluation reports, progress reports, as a result of horizontal reviews of overall progress at the end of an evaluation round, or for other reasons. In 2012 two countries (Albania and Bosnia and Herzegovina) were in the CEPs process. Furthermore, following the Plenary discussion of the evaluation report of Lithuania (See 3.2.4 above) it was agreed that the Chairman of MONEYVAL, under Step (ii) of the Compliance Enhancing Procedures, will send a letter to the Secretary General of the Council of Europe, with a copy to the Head of Delegation of Lithuania, raising concerns about non-compliance by the country with the reference documents and inviting Lithuania to submit a first 4<sup>th</sup> round progress report in the first plenary of 2014.

Throughout the application of these steps the country concerned is required to submit reports to the plenary detailing the steps taken to achieve compliance, which, in certain cases, may include action plans endorsed at government level. If the plenary is satisfied with progress they can be removed from the CEPs.

### 6.2 CEPs reports heard in 2012

Plenary meeting	CEPs Report
38 <sup>th</sup> meeting (5-9 March)	➤ Albania (step ii) ➤ Bosnia and Herzegovina (step i)
39 <sup>th</sup> meeting (2-6 July)	➤ Albania (step ii) ➤ Bosnia and Herzegovina (step i)
40 <sup>th</sup> meeting (3-7 December)	➤ Bosnia and Herzegovina (step i)

The findings of the reports are as below:

#### 6.2.1 Albania

In 2012 it was concluded that Albania had not demonstrated sufficient action to resolve in a timely manner the important deficiencies identified in September 2010 in respect of customer due diligence, criminalisation of terrorist financing and non-profit organisations. Considering the remaining concerns, it had decided to apply Step (ii) in the CEPs.

Subsequently, significant progress appears to have been achieved by Albania as regards the implementation of corrective measures in respect of customer due diligence and criminalisation of terrorist financing. It appears that the adoption of the new amendments to the AML/CFT Law and the amendments brought to the Criminal Code, place Albania in compliance with the FATF standards in respect of the above mentioned Recommendations. However, it could not be concluded that Albania had taken sufficient action to address the deficiencies identified relating to non-profit organisations.

## **6.2.2 Bosnia and Herzegovina<sup>21</sup>**

At the hearing of the first 3<sup>rd</sup> round progress report at the 34<sup>th</sup> plenary in December 2010 it was concluded that there were significant concerns about the extent of or speed of progress overall to rectify deficiencies in the 3<sup>rd</sup> round evaluation report across a range of core and key Recommendations and CEPs were applied, requiring significant improvements on a broad range of issues. An action plan to remedy the numerous deficiencies identified in the mutual evaluation report received political endorsement at ministerial level in October 2011. Steps are now being taken under an agreed Action Plan to meet the recommendations of MONEYVAL, according to a timetable for improvements to be made in the short, medium and long term.

At the 38<sup>th</sup> plenary Bosnia and Herzegovina reported that they had addressed a significant number of the short term action points. Subsequently, at the 40<sup>th</sup> Plenary it was reported that the Bosnian authorities have made considerable progress in preparing draft amendments to the AML/CFT Law and Criminal Code. Subsequent to the 39<sup>th</sup> plenary meeting the Bosnian authorities approached the Council of Europe and requested that they provide technical assistance in reviewing the draft amendments to the AML/CFT Law and Criminal Code. It was anticipated that the Council of Europe will conclude its review and issue its opinion on the amendments to the Criminal Code in early 2013. The progress that had been achieved by the Bosnian authorities in respect of the short and medium-term action points was welcomed. It was however noted that, due to inevitable delays in enacting the revised laws and consequential amendments to laws, guidance, procedures and training, very few of the medium-term action points had been fully met. It was agreed that Bosnia and Herzegovina would remain in step (i) of CEPs and submit a further report on progress at the 41<sup>st</sup> plenary meeting in 2013.

---

<sup>21</sup> The compliance reports for BiH can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Countries/BH\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Countries/BH_en.asp)

## 7. Important identified deficiencies brought to the attention of the MONEYVAL jurisdictions not within the CEPs Process

### 7.1 Background to this process

Six countries, reviewed at the end of the third round, had important deficiencies below the threshold decided for institution of CEPs. The Chair wrote to the relevant Heads of Delegation, outside of the CEPs process, inviting them to address these deficiencies in a timely manner. It was agreed that the Bureau would revert to these issues and review progress in December 2012, in advance of the 40<sup>th</sup> plenary.

Jurisdictions Concerned	
>	Azerbaijan
>	Croatia
>	Georgia
>	Republic of Moldova
>	"The former Yugoslav Republic of Macedonia"
>	Ukraine

### 7.2 Plenary consideration in 2012

Progress on the identified important deficiencies in the countries concerned were considered at plenary meetings throughout the year. In particular a full review of progress by the countries concerned was conducted at the 40<sup>th</sup> Plenary. This review will continue until such time as the identified deficiencies have been satisfactorily remedied.

#### Azerbaijan

The identified deficiencies related to a lack of criminal liability for legal persons and failure to extend the confiscation regime to all designated categories of predicate offence. Both deficiencies have been largely addressed by the introduction of amendments to the Criminal Code. Minor issues of both deficiencies which have not been tackled by the amendments will be addressed during the on-site visit to Azerbaijan taking place in 2014.

#### Croatia

Legislation to amend criminalisation of Financing of Terrorism had been enacted but will not come into force until 2013. The Croatian authorities have established clear and publicly known procedures and criteria for de-listing in respect of UNSCR 1267. However, a few technical deficiencies remained including *inter alia* the need to develop provisions in place to ensure that there are clear and publicly known procedures and criteria for unfreezing in respect of UNSCR 1267 and de-listing and unfreezing in respect of UNSCR 1373 in appropriate cases and in a timely manner.

#### Georgia

The lack of CDD obligations on lawyers, accountants and auditors had been a continuing important deficiency. Although a draft law has been submitted to parliament extending the CDD obligation to auditors and accountants, no progress has yet been made with regard to extending the obligation to lawyers.

## **Republic of Moldova**

The identified deficiencies mostly relate to serious shortcomings in the AML/CFT sanctioning regime due to the very short list of breaches that can constitute a basis for penalties and the unclear sanctioning powers given to different supervisory authorities and the FIU. Furthermore, there is still no sanctioning regime applicable in practice for certain DNFBPs, due to the lack of supervision. In addition to these shortcomings, another deficiency relates to effectiveness of the supervision measures taken by the Republic of Moldova.

## **“The former Yugoslav Republic of Macedonia”**

The lack of a comprehensive regime for freezing terrorist assets and deficiencies in the preventive regime for casinos has been addressed in a satisfactory way. However, legislation still needs to be introduced to address deficiencies in the criminalisation of financing of terrorism.

## **Ukraine**

Substantive progress has been achieved in addressing the important deficiencies in respect of freezing of terrorist assets and reporting was lifted on this issue. Furthermore, Ukraine had taken satisfactory measures in order to rectify the remaining deficiencies related to the implementation of the requirements in respect of cross border money movement.

Deficiencies still remain in respect of confiscation of assets although draft legislation has been prepared and is being re-adjusted (at ministerial level), with a view to its submission to Parliament, following the entry into force in November 2012 of the revised Criminal Procedure Code.

## 8. Typologies Work

### 8.1 Structure of Typologies work

Another important function of MONEYVAL is to identify new and emerging money laundering and terrorist financing techniques, and to assess the level of these threats and report on the findings. Each year, MONEYVAL undertakes typologies researches to better understand the money laundering and terrorist financing environment in the European region and to assist decision makers and operational experts with up-to-date information in order that they may develop policies and strategies to combat these threats.

### 8.2 Typologies projects in 2012

#### Typologies projects in 2012

1. Criminal money flows on the internet: methods, trends and multi-stakeholder counteraction.
2. The use of internet gambling for ML and FT purposes.
3. Trade based money laundering in cash intensive economies.
4. The postponement of financial transactions and the monitoring of bank accounts.

Work on the Criminal Money Flows on the Internet: methods, trends and multi-stakeholder counteraction was concluded in 2012 and has been published on the MONEYVAL website<sup>22</sup>. Work is continuing on the three other reports and it is anticipated that they will all be published in 2013.

### 8.3 Typologies working group meeting

At the beginning of 2012 questionnaires were sent to all MONEYVAL delegations on both the Trade Based Money Laundering and Postponement of Financial Transactions by FIUs projects. During 2012 a significant number of responses were received.

A working group meeting was held in Warsaw, Poland on 29-30 October. At this meeting the working groups for both the Trade Based Money Laundering and Postponement of Financial Transactions by FIUs typology reports met to consider the responses received. During the meeting the structure, content and focus of the reports were agreed. At the conclusion of the meeting responsibilities were allocated and a timetable for completing the respective reports was agreed.

The Polish authorities are warmly thanked for hosting this successful event.

<sup>22</sup> The published report is available on [http://www.coe.int/t/dghl/monitoring/moneyval/Typologies/MONEYVAL\(2012\)6\\_Reptyp\\_flows\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Typologies/MONEYVAL(2012)6_Reptyp_flows_en.pdf)

## 9. Other important MONEYVAL work 2012

Aside from its fourth round evaluation cycle, follow-up reports and compliance enhancing procedures, MONEYVAL has engaged in many other important activities:

### 9.1 Key partnerships

As noted, MONEYVAL is a key partner in the global network of interdependent AML/CFT assessment bodies.

#### The FATF

The FATF continues to be MONEYVAL's primary international partner and collaborator. As an Associate Member of the FATF, MONEYVAL contributes to the policy-making work of FATF. The Chair, the Vice-Chair and the Executive Secretary regularly attend all the FATF working group and plenary meetings with delegates from MONEYVAL States. Thus MONEYVAL States have real opportunities of inputting into FATF global AML/CFT policy making. The revision of the FATF Recommendations was completed in February 2012 and the revised FATF Recommendations were published. Evaluation by FATF under the revised Recommendations is likely to commence at the end of 2013 and by MONEYVAL at the conclusion of its follow-up round. Considerable FATF and MONEYVAL resources were devoted in 2012 to the preparation of Technical Compliance and Effectiveness Methodologies for evaluation under the revised FATF Recommendations of 2012. The MONEYVAL Secretariat has actively participated in the process. Furthermore, MONEYVAL, through the Executive Secretary, was actively involved in the revision of the law enforcement standards. Considerable MONEYVAL Secretariat resources are applied to following the work of each of the main FATF working groups, and in attendance at intersessional meetings – particularly the International Co-operation Review Group (ICRG) (to which the ERRG reports), and the Working Group on Evaluations and Implementation (WGEI), which is the group that deals with issues involving interpretation of the global standards and the development of the global AML/CFT Methodology.

The President of FATF appoints 2 FATF delegations to MONEYVAL with voting rights. The delegations in 2012 were Austria and France. These delegations are thanked for their support and very helpful contributions to plenary discussions.

MONEYVAL welcomed Mr Bjørn Aamo (Norway), the current President of FATF at the 40<sup>th</sup> plenary meeting in December. In his very complimentary speech to MONEYVAL (excerpts attached at Appendix I), he underlined once again how advanced MONEYVAL is as an Associate Member of the FATF and MONEYVAL's crucial importance to the global network of AML/CFT assessment bodies, and how the FATF benefits from MONEYVAL's experience. The full speech can be found on the website: [http://www.coe.int/t/dghl/monitoring/moneyval/Activities/Speech/Speech\\_Aamo\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Activities/Speech/Speech_Aamo_en.asp).

As previously noted the current MONEYVAL Chair, Mr Vladimir Nechaev, will become the FATF President in July 2013.

MONEYVAL has mutual observer status with other Associate Members of FATF and cooperates with them on a number of levels.

#### ICRG/ERRG

In 2009, the G20 called on the FATF to identify jurisdictions which were threats to the global financial system. Countries can be nominated directly or are considered automatically if their evaluation reports have an identified number of low ratings in the important core and key Recommendations. All European jurisdictions identified for review by the ICRG are referred to the ERRG. The ERRG then analyses the factual situations and reports to the ICRG. The ICRG decides whether a full targeted review is required and final decisions are taken on this by the FATF plenary. During 2012 Albania was the only MONEYVAL subject to consideration by the ERRG.

The ICRG process is intended to complement the follow-up procedures of the FSRBs.

#### **MONEYVAL Evaluated Countries considered by the ICRG/ERRG in 2012**

##### **Albania**

Following the adoption and publication of its evaluation report in 2011 Albania was referred to the ERRG for consideration as a consequence of a number of strategic deficiencies identified. A prima facie review was conducted by the ERRG. After examining the review, the EERG recommended to the ICRG that a targeted review should be carried out. Albania remained under review by the ERRG at the end of 2012.

#### The IMF and World Bank (the international financial institutions)

Since 11 September 2001, the role of the international financial institutions (IFIs) in AML/CFT has expanded. The clear engagement of the IFIs with the FATF and MONEYVAL was based in the decisions of their Boards after 11 September 2001 that AML/CFT issues should be routine parts of all their much larger financial sector assessments in their member States.

MONEYVAL (and FATF) negotiated with the IFIs in 2003-4 'burden sharing' agreements under which the IMF or World Bank<sup>23</sup> would conduct a small number of MONEYVAL or FATF evaluations in an evaluation round and present the report for adoption at MONEYVAL and FATF plenaries. In 2011 the IMF led the MONEYVAL on-site evaluation of Georgia (with a MONEYVAL expert covering the 3<sup>rd</sup> EU Money Laundering Directive), and presented this report in July 2012. The report has subsequently been published. The benefit for MONEYVAL in this relationship is that the IFIs also accept all other MONEYVAL reports (prepared by MONEYVAL alone) as the AML/CFT components of their own wider financial assessments in other MONEYVAL countries.

In 2012 both the IMF and the World Bank actively participated in all MONEYVAL plenary meetings and were involved as trainers in September on the joint workshop on the 2012 revision of the FATF Recommendations (see under 9.3 below). Their contributions to MONEYVAL are appreciated.

#### The European Union

The European Union (EU) has been actively involved in MONEYVAL since its inception. In fact, the EU encouraged its creation. It is represented in MONEYVAL through the European Commission and the Council to the European Union. As a distinctly European monitoring mechanism, MONEYVAL has always had the European Union Directives as part of its mandate. Currently, MONEYVAL additionally evaluates all its jurisdictions (whether EU members or not<sup>24</sup>) on those parts of Directive 2005/60/EC (the 3<sup>rd</sup> EU Directive) that depart from the FATF standards. This assessment is published with each report that MONEYVAL produces (though without ratings). This is unique to MONEYVAL. The older members of the EU (evaluated by FATF) are not assessed on the EU Directives through a peer review process currently, as FATF only evaluates global standards. It is now possible under Article 2.2 c. of the MONEYVAL Statute for Council of Europe member States not evaluated by MONEYVAL under FATF standards, to apply for an evaluation by MONEYVAL in respect of the European standards in the 3<sup>rd</sup> Directive on the same basis as MONEYVAL member States. MONEYVAL would anticipate assessing the 4<sup>th</sup> Directive on the same basis, when it has been implemented.

#### The European Parliament

On the 28<sup>th</sup> November 2012, Executive Secretary, Mr John Ringguth participated in a hearing of the European Parliament's Special Committee on Organised Crime and Money Laundering (CRIM). He made a presentation on "MONEYVAL's role in ensuring the establishment of effective systems to counter money laundering and terrorist financing"<sup>25</sup> and responded to questions.

<sup>23</sup> In practice only the IMF has undertaken MONEYVAL countries as the IMF concentrates more on developed countries.

<sup>24</sup> Currently, 12 MONEYVAL States are EU members.

<sup>25</sup> Details of the presentation are available on

<http://www.europarl.europa.eu/document/activities/cont/201211/20121130ATT57098/20121130ATT57098EN.pdf>



## The United Nations

The United Nations (UN) global AML/CFT standards are embodied in the FATF 40 Recommendations and 9 Special Recommendations. The United Nations Office on Drugs and Crime (UNODCP) and Counter-Terrorism Committee Executive Directorate (CTED) send representatives to MONEYVAL.

MONEYVAL has successfully collaborated on several occasions with CTED in their separate assessments of the UN Security Council Resolutions on Financing of Terrorism in MONEYVAL countries, most recently in January 2012 in Albania.

In 2012, Ms Livia Stoica Becht of the MONEYVAL Secretariat contributed to the special meeting organised by the United Nations Counter-Terrorism Committee (UN CTC) with member States, and international, regional and sub-regional organisations on “preventing and suppressing terrorist financing” which was held on 20 November 2012. The event was aimed at raising awareness of the threat of terrorist financing, and focused on the measures required to prevent and suppress such activity. MONEYVAL's contribution to this meeting consisted in presenting an overview of the implementation of the United Nations Resolution 1373(2011) in MONEYVAL jurisdictions, as well as the existing gaps in members' compliance with its requirements and challenges identified through MONEYVAL's monitoring processes<sup>26</sup>. The meeting constituted an important opportunity to enhance cooperation and information-sharing among international, regional and sub-regional organisations, and member states. It also underlined the continued commitment of the Council of Europe, through MONEYVAL, in facilitating and supporting the implementation of United Nations Security Council Resolutions and improving their counter-terrorism capabilities.

## OSCE

The Irish Presidency of OSCE in 2012 focussed partly on AML/CFT issues. MONEYVAL representatives participated in three OSCE meetings during the year. This included the participation of the Executive Secretary in the 20<sup>th</sup> Economic and Environmental Forum in Prague where he made a presentation on multi-stakeholder cooperation in a session on “promoting security and stability through good governance”. In his presentation, the importance and benefits of MONEYVAL-OSCE cooperation were underlined and areas were identified where further work needs to be done by states on their AML/CFT frameworks.

## The Egmont Group

The Egmont Group was established in 1995 as an international forum bringing together financial intelligence units (FIUs)<sup>27</sup> in order to improve and systemise AML/CFT co-operation, particularly at intelligence level. MONEYVAL has observer status and has actively participated in Egmont Group meetings and contributed to training of FIU staff. The Egmont Group was active in pressing for FIU standards to be covered in an international legal instrument and contributed actively to the negotiation of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198). MONEYVAL's law enforcement scientific expert, Mr Boudewijn Verhelst, is currently the Chair of the Egmont Group.

# **9.2 Participation in other forums**

## High Level Conference on Asset Recovery

In October, the Executive Secretary to MONEYVAL participated in the High Level Conference on Asset Recovery in Ayia Napa (Cyprus) and made a presentation covering the common problems identified by MONEYVAL in asset recovery and the importance of the Council of Europe Convention CETS 198 in this area at both the domestic and international levels.

<sup>26</sup> Details of the presentation are available on [http://www.un.org/en/sc/ctc/specialmeetings/2012/docs/moneyval\\_20nov\\_ctc1373.pdf](http://www.un.org/en/sc/ctc/specialmeetings/2012/docs/moneyval_20nov_ctc1373.pdf)

<sup>27</sup> The receiving units for suspicious transaction reports from the private sector.



### Federation of European Accountants (FEE)

FEE is an international non-profit organisation based in Brussels that represents 45 institutes of professional accountants and auditors from 33 European countries, including all of the 27 EU Member States. In April a member of the MONEYVAL Secretariat attended an Anti-Money Laundering Round Table organised by FEE in Brussels acting as the moderator in a session on Enhancing International Cooperation. The aim of the workshop was to create a forum for genuine dialogue between relevant stakeholders and to support the fight against money laundering and financial crime.

### Academy of European Law

In April, the Executive Secretary participated in the Academy of European Law's conference on Current Developments in anti-money laundering and presented the current European and global anti-money laundering policy agenda as background to the current review of the EU Directive.

### Anti-Money Laundering Professionals Forum

In October, the Executive Secretary participated in the annual London Conference of AML/CFT Professionals which was attended by AML/CFT professionals from across Europe. At the meeting he presented AML/CFT challenges across Europe and further promoted the ratification of CETS 198.

### Enlarged Partial Agreement on Sport (EPAS)

Following the adoption of Recommendation CM/Rec(2011)10 and the Conference of Ministers responsible for Sport (Belgrade, 15 March 2012), the Committee of Ministers had invited the Enlarged Partial Agreement on Sports (EPAS) Governing Board to launch the negotiation of a possible Council of Europe Convention against manipulation of sports results and notably match-fixing, and to involve relevant Council of Europe bodies and committees in this process, including MONEYVAL. Representatives from the MONEYVAL Secretariat have attended EPAS meetings.

The Executive Secretary of EPAS made a presentation at the 40<sup>th</sup> Plenary. MONEYVAL will continue to follow developments with this convention and provide any assistance on AML/CFT issues as far as possible.

## **9.3 Training and awareness-raising**

In response to the revision of the FATF Recommendations and consequential changes being prepared to the underlying methodologies, MONEYVAL has undertaken a number of initiatives to raise awareness among MONEYVAL jurisdictions.

In both the July and December plenary meetings there were presentations on national risk assessments in which various MONEYVAL member countries presented the steps that they had taken to prepare to implement the new FATF requirements.

In September MONEYVAL hosted a joint workshop with the Eurasian group on combating money laundering and financing of terrorism (EAG) which is the FATF-style regional body covering the Eurasia region. The aim of the workshop was to brief MONEYVAL and EAG countries on the most important changes in the new FATF Recommendations and their implications for policy makers. The workshop was attended by approximately 150 delegates from 38 countries. Speakers were provided by FATF, IMF, World Bank and MONEYVAL and there was a lively and constructive exchange of views by a number of the delegate countries.

An exchange of views also took place in the December plenary to raise the awareness of the MONEYVAL delegations of the proposed FATF "effectiveness" methodology to be used in the next evaluation round. The Secretariat gave a brief presentation of the key aspects of the methodology and a number of delegations intervened on specific aspects. These and other issues were subsequently taken up in the relevant FATF Working Group by the MONEYVAL Secretariat.

## 10. The Conference of the Parties to CETS 198 (COP)

The 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, which came into force on 1 May 2008, builds on the success of the 1990 Convention. It is the first comprehensive anti-money laundering treaty covering prevention, repression and international co-operation in anti-money laundering and confiscation. Additionally, its provisions are extended to financing of terrorism. The Convention currently has 22 ratifications and it is anticipated that, as has been the case with the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141), all Council of Europe member States will become full parties to it. There are 13 signatories not followed by ratification, including the European Union.

Under A.48 a separate monitoring mechanism is created for States parties (the Conference of the Parties). In 2011, Mrs Eva Rossidou-Papakyriacou (Cyprus) was elected to be the first Chair of the COP.

### Bureau of the Conference of the Parties

- Mrs Eva ROSSIDOU-PAPAKYRIACOU, President (Cyprus)
- Ms Alina BICA, Vice-President (Romania)
- Ms Kateryna BUHAYETS, Member (Ukraine)
- Ms Hasmik MUSIKYAN, Member (Armenia)
- Mr Sorin TANASE, Member (Romania)

In 2011, Mr Paolo Costanzo (Italy) was appointed to be a scientific expert to the COP.

The COP agreed at its first meeting that it would not duplicate the assessments of MONEYVAL or FATF and only assess those new parts of the Convention that add value to the current global standards and which can assist States in achieving greater success in this area. The assessment is based on a review by rapporteurs for legal issues, FIU issues and international co-operation issues of the replies to a detailed questionnaire. Where necessary, MONEYVAL (and FATF) reports will be drawn upon. There is no on-site visit unless, after hearing the draft report, the COP requires further information before adopting the report.

The second report of the COP was adopted in 2012 – on Romania, and it is published on the COP website<sup>28</sup>. The MONEYVAL Executive Secretary doubles as Executive Secretary to the COP because of the COP's direct linkages to the work of MONEYVAL (and the FATF), and the MONEYVAL Secretariat provide full secretariat support to the COP.

In 2012 the COP and MONEYVAL agreed to pilot new procedures whereby the COP could benefit from MONEYVAL processes. Whenever possible, questions by the Secretariat on the implementation of Convention requirements will be raised during MONEYVAL on-site visits in order to deepen COP reports.

There are currently ongoing discussions with the FATF in respect of similar collaborative arrangements with regard to COP issues in future FATF evaluations of states which have ratified the Convention.

<sup>28</sup> [http://www.coe.int/t/dghl/monitoring/cop198/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/cop198/default_en.asp)

## 11. Conclusion

Of the 30 jurisdictions evaluated by MONEYVAL at the start of the year, 22 were subject to active monitoring processes by MONEYVAL in 2012, which is a very positive achievement given MONEYVAL's Secretariat resources.

Reports which have been considered at MONEYVAL plenary meetings have broadly indicated a consistent improvement of compliance with international standards, particularly on the preventive side. Nonetheless, more still needs to be done by law enforcement and prosecutorial authorities in achieving serious money laundering convictions and deterrent confiscation orders in major proceeds-generating offences. Furthermore, convictions of those third parties who launder proceeds on behalf of organised crime remain very much the exception.

MONEYVAL is now an internationally recognised and influential global player in the AML/CFT world. It is a leading Associate Member of the FATF. It is respected as an effective monitoring mechanism for the quality of its outputs and the strength of its robust follow-up procedures, which are acknowledged as delivering results. Through its activities, MONEYVAL identifies and helps to reduce risks to the global financial system and identifies gaps in national AML/CFT systems, and actively follows up the progress countries made to rectify them.

# Appendix I

## Speeches on occasion of the 15<sup>th</sup> Anniversary of MONEYVAL at the 40<sup>th</sup> plenary meeting on 3 December 2012

### Speech by Mr Thorbjørn Jagland, Secretary General of the Council of Europe

Chairman,  
President of the Parliamentary Assembly,  
Distinguished guests,  
Ladies and gentlemen,

I am pleased to be here with you today to address your Committee on the occasion of its fifteenth anniversary. I am also happy to welcome my compatriot and the President of the Financial Action Task Force, Mr Bjørn Skogstad Aamo, to the Council of Europe.

MONEYVAL has a great deal to celebrate.

I would therefore like to reflect on the Council of Europe's action in this field and the accomplishments of your committee since it was set up in 1997.

In 1980 the Council of Europe was the first international organisation to voice its concerns about organised crime and the spread of money laundering throughout the world. It called for the establishment of an overall policy and insisted on co-ordinated and strengthened action by member States to combat this phenomenon.

To effectively fight against these forms of crime, States need to be bound by common standards. They need to know what to expect of each other and to work on the basis of shared principles to guide their action. They have to join forces in order to be able to stop criminals. Effective mechanisms for information exchange and co-operation are crucial in this context. The 1990 Strasbourg Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime CETS has been widely ratified by all Council of Europe member states and Australia. This is a clear measure of its success.

MONEYVAL's establishment back in 1997 marked a crucial step forward in the international fight against money laundering. The 21 countries, which formed it at the time, agreed to be subjected to a peer to peer evaluation of the performance of their national systems.

Throughout the years, we have seen MONEYVAL become one of the most high profile and important monitoring mechanisms in Europe and we are very proud of its work.

This is why there was broad political support in the Committee of Ministers in 2010 to recognise its status as a permanent Council of Europe monitoring mechanism, with its own Statute, to report directly to the Committee of Ministers.

This is also why the Committee of Ministers responded positively to the requests of Israel, and more recently, to those of the Holy See and of the United Kingdom for the Crown Dependencies of Jersey, Guernsey and the Isle of Man to be evaluated by MONEYVAL.

Today MONEYVAL counts 33 jurisdictions which adhere to its mutual evaluation processes, and I am pleased to see that all these jurisdictions are represented today in MONEYVAL.

Ladies and gentlemen,

Today's celebration is an opportunity not only to look backwards, but to look forward.

We all know that there are new threats which must be faced, or perhaps old threats in new forms, new forms of money laundering methods and new forms of terrorism.

I also believe that at a time when the world continues to face the severe effects of the financial and economic crisis, criminals try to exploit the weakest links.

Council of Europe member States, and especially MONEYVAL's jurisdictions, cannot be their entry points. Reliance on money of criminal origin to sustain an economy is not only wrong, it is shortsighted. It will inevitably undermine confidence in the financial system of the country, thus directly undermining its economic development.

It is also clear, not least from the financial crisis now affecting every country that our world is much more interdependent than most people had realised.

The Council of Europe standards have not remained static. They have been adapted to better address new issues of concern, based on MONEYVAL's experience. The Council of Europe Warsaw Convention of 2005 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism and the Convention on the Prevention of Terrorism, also adopted in Warsaw in 2005, are living proof. At global level, the Financial Action Task Force has adopted revised standards in February of this year, which of course MONEYVAL has endorsed.

They are powerful tools. I would therefore urge all States to ratify these two important Conventions at the earliest possible date.

Reform of standards also requires that the authorities put them to good use. These standards are there to help your countries, your governments, your institutions, to organise their action and block the entry of criminal proceeds into the financial system.

There will always be challenges in adjusting national policies to respond to new threats. The effective implementation of legal, regulatory and operational measures for combating money laundering and terrorist financing is no easy task.

Austerity measures that are being put in place are likely to render this task even more difficult.

Only concerted vigilance and co-operation among states with a systematic exchange of information will offer any real hope of denying criminals their opportunities.

That is why I believe that MONEYVAL's mandate is as relevant today as the day it was born.

As Secretary General of the Council of Europe, my role is to ensure that we do everything we can to ensure that our standards and monitoring mechanisms, such as MONEYVAL, are effective and continue to make a difference in people's daily lives. Ladies and gentlemen,

Allow me to conclude by congratulating you, the representatives of MONEYVAL, on the fifteenth anniversary of your committee. May the next fifteen years be as fruitful as the last.

Thank you.

# Speech by Mr Jean-Claude Mignon, President of the Parliamentary Assembly

Mr Chairman,  
Mr Secretary General,  
Ladies and gentlemen,

It is a great honour for me to participate in this 40<sup>th</sup> plenary session of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, better known as MONEYVAL.

I joined the Council of Europe in 1993 and, over the years, I have never ceased to marvel at the exceptional richness and diversity of our Organisation. Our major asset – what makes the Council of Europe unique on the international scene – is the fact that the vast range of legal standards and examples of best practice which we have put in place is supervised, on a technical level, by expert bodies of a very high quality, such as MONEYVAL, and also, on a political level, by the Parliamentary Assembly and the Committee of Ministers.

It is this specific characteristic which makes our institutional model of co-operation so effective. Today, at the very time that we are implementing a major reform of the Organisation at all levels, it is important that we ensure the further development of the existing dynamics of co-operation between the political level and the experts.

For this reason, while addressing you today on the occasion of MONEYVAL's 15<sup>th</sup> anniversary, I would like to suggest some possible lines of thought to see how we might advance together in this direction, and thus ensure the sustainability of the work you have accomplished hitherto.

I would like first of all to return to the question of the complementarity between the “political” level and that of the “experts” within the Council of Europe.

Our Committee on the Honouring of Obligations and Commitments by Member States (Monitoring Committee) makes systematic use of MONEYVAL's reports in the specific monitoring and post-monitoring dialogue procedures which currently cover 14 Council of Europe member states. In addition to that, under the so-called general monitoring procedure, which covers all the other Council of Europe member states, the Monitoring Committee studies the thematic monitoring reports produced by bodies such as MONEYVAL in order to send out political messages to member states when recommendations are not implemented to our full satisfaction.

Yet we could do much more than that. When our relevant committees discuss reports on subjects which fall within MONEYVAL's remit, we could envisage the possibility of holding exchanges of views with members of the Committee and its “scientific experts”, who are well placed to provide Assembly members with concrete information to guide them in their work.

If this idea is to be put into practice, it is essential for Assembly members to be informed about MONEYVAL's activities. The Committee's Statute allows the Parliamentary Assembly to send a representative to meetings of MONEYVAL, and I think we should avail ourselves of this possibility.

Secondly, I would like to raise the question of MONEYVAL's co-operation with the institutions of the European Union and the Parliamentary Assembly's potential role in this field.

I have made closer ties with the European Union one of the political priorities of my term of office and I welcome in particular the excellent level of co-operation between the European Union and MONEYVAL. MONEYVAL evaluates all states, be they EU members or not, according to the standards contained in the European Directives against money laundering and the financing of terrorism. I think that this is an excellent example of complementarity between the EU and the Council of Europe. In these times of budgetary austerity we must endeavour to optimise the use of public funds, avoid duplication and create synergies between existing monitoring mechanisms.

The European Commission refers systematically to MONEYVAL's reports in its own progress reports on the candidate countries and those which aspire to join the European Union one day. In order to create even

greater synergies at political level and harmonise our messages still further, we will, in the course of our contacts, provide relevant information to the European Parliament's rapporteurs on the countries covered by MONEYVAL's activities.

Thirdly, and to conclude my remarks on this aspect, I would like to say a few words about the implementation of MONEYVAL recommendations at national level, which is the key to the proper functioning of our monitoring model.

Your working method based on self-evaluation and mutual evaluation provides in itself a means of establishing dialogue between experts and practitioners, fosters the exchange of good practices and makes it possible to put forward recommendations tailored to each country's specific circumstances.

How could national parliaments contribute to this process? Clearly, when the implementation of MONEYVAL recommendations calls for changes in legislation, it is for national parliaments to pass new laws or amend existing ones. It is important, therefore, to ensure that parliamentarians are aware of MONEYVAL's reports and the recommendations made, and are conversant with the standards on which those evaluations are based. Quite a programme, you might say.

Nevertheless, I believe we can do something tangible in this field. In fact, the key role here lies with the members of the national delegations to the PACE, who should systematically inform the chairs of the relevant national parliamentary committees about reports in preparation and reports already published. Consideration might be given to the possibility of holding parliamentary hearings attended by government officials and experts, including MONEYVAL experts, to present the evaluators' findings to parliamentarians. This would allow better expert input at the early stages of drafting bills and legislative proposals designed to remedy the shortcomings found by MONEYVAL in its reports.

Of course, as a parliamentarian myself and a "former" member of the French delegation to the PACE, I am aware of the difficulty involved in putting in place a procedure of this kind. However, we must try to do it, on the model of certain countries where there is a practice of presenting the national reports of the Council of Europe's monitoring mechanisms to experts, politicians and civil servants. A week ago, during my official visit to Berlin, I was informed that this practice had been adopted at the German Institute of Human Rights, specifically as regards presentation of the national reports of the CPT and ECRI. The issues addressed in MONEYVAL's reports are obviously much more technical, but we can nevertheless use the main lines of this procedure to make those reports better known and thus facilitate their implementation.

Ladies and gentlemen, as I come to the end of this introductory statement, I would like to assure you once again of the Assembly's full political support for your work.

Thank you for your attention.

# Speech by Mr Bjørn S. Aamo, President of the FATF

I am very honoured to be here in Strasbourg today to address the 40<sup>th</sup> Plenary Meeting of MONEYVAL and to be part of the celebration of its 15 years of existence.

I believe that it is important for the FATF President to see first-hand the work that you and other regional bodies are doing in the fight against money laundering and terrorist financing. A little later this morning, I will have the chance to outline some of key points of our programme for this year. For right now however, I would like to focus on the essential role that MONEYVAL plays in the global AML/CFT network.

## THE MONEYVAL CONTRIBUTION TO THE GLOBAL AML/CFT NETWORK

The role played by FATF-style regional bodies (FSRBs), such as MONEYVAL, in bringing about effective implementation of the FATF standards is absolutely essential to our common effort of combating money laundering and terrorist financing. Some of the contributions from MONEYVAL include:

The MONEYVAL mutual evaluation process and the overall high quality of MONEYVAL mutual evaluation reports have been crucial in helping to ensure consistent and accurate interpretation of the FATF standards in the European region, and they have also been an example for others.

FATF experts have always been encouraged to take an active role in the MONEYVAL mutual evaluation process. MONEYVAL experts have also had the opportunity to participate in FATF evaluations. This exchange of expertise contributes to the quality of evaluations and thus helps reinforce implementation of the FATF Recommendations regionally and globally.

MONEYVAL has collectively and through individual member delegations actively participated in FATF deliberations on AML/CFT matters. This includes most recently the work on revising the FATF Recommendations just completed this year, as well as participation in other initiatives such as typologies.

Mutual evaluations are not truly effective as a process unless they are accompanied by thorough and timely follow-up. MONEYVAL has developed its follow-up and compliance enhancing procedures with this in mind. Indeed, MONEYVAL is currently working to complete its "fourth" round of evaluations with the specific aim of ensuring action is taken to remedy previously identified shortcomings. In my view, this experience is very relevant to the FATF and the other FSRBs as processes for the next round evaluations are developed.

Although MONEYVAL was first created with the aim of evaluating compliance with the FATF standards by Council of Europe members, I am very pleased to see that MONEYVAL's terms of reference (and later its statute) have broadened over time. This has provided the possibility for evaluating other jurisdictions that had previously been excluded from the global network, such as Israel, the Holy See / Vatican City State and, according to a Council of Europe Committee of Ministers decision in October, the UK Crown Dependencies of Guernsey, Jersey and the Isle of Man. These additions also reinforce the global AML/CFT network.

Finally, both this year and next year we should see an even more visible demonstration of the close co-operation between MONEYVAL and the FATF. As you know, the current MONEYVAL Chairman Vladimir NECHAEV became FATF Vice-President under the Norwegian Presidency this past July and is going to assume the FATF Presidency starting from July 2013. I've already had the pleasure of working with Vladimir for some months now, and I believe that he brings a great deal to the FATF – and to the global network – not at least due to his MONEYVAL experience. The work and experience of MONEYVAL have helped to strengthen the global AML/CFT network. MONEYVAL, through its hard work, has had an influence on how we as the global network ensure implementation of these standards by our member countries. In my view, the global AML/CFT network would not have been where it is today if it were not for this contribution. I can only commend MONEYVAL for what it has achieved over the past 15 years and look forward to its continued success in the coming years as part of the global network.

Thank you for your attention, and I look forward to addressing you later today with highlights of the programme of work for the current FATF Presidency.



# Speech by Mr Vladimir Nechaev, Chairman of MONEYVAL

Firstly, let me thank you most warmly, Secretary General, for your remarks and continuing strong support of our work.

May I also thank M Mignon for his intervention. We thank you for joining us here on this occasion. We very much share, M Mignon, your views on the importance of creating synergies between monitoring mechanisms (where this is possible) and we will most certainly explore ways in which we can develop even closer contact with the Parliamentary Assembly as we move forward with our work.

And, of course, I thank my colleague, Bjørn Aamo, for his warm words on behalf of the FATF, which is of course MONEYVAL's key external partner in the global network of assessment bodies.

It gives me great personal pleasure that this anniversary falls during my Chairmanship of MONEYVAL. I am very pleased to welcome back my immediate predecessor, Dr Vasil Kirov, who served as our Chairman from 2006 to 2009, and his predecessor, Mr Klaudio Stroligo – who was both our very first chairman, holding office during the first round of evaluations and who subsequently became our 3<sup>rd</sup> Chairman. I am sorry that Dr Camilleri, who as Chief Justice of Malta has important domestic business today, cannot be here. He was our first vice chairman and then our second chairman. I understand he has kindly sent a message via his compatriot, Dr Bartolo, who will read this to the plenary shortly. It is important that today we also mark the leadership and great service that these 3 former chairmen gave to this Committee in shaping its development.

I have been directly involved in MONEYVAL as head of the Russian delegation, Bureau member, vice chairman and now chairman for almost ten years. It has been a privilege for me to work with MONEYVAL and I firmly believe we have much to be proud of.

I was particularly pleased that during my chairmanship, the work of MONEYVAL was recognised so clearly by the Committee of Ministers, in 2010, by the elevation of the Committee to be a permanent, independent monitoring body of the Council of Europe reporting directly to them. This, together with the spread of MONEYVAL's reach from 2006 beyond Council of Europe member States to Israel, the Holy See and now the UK Crown Dependencies of Guernsey, Jersey and the Isle of Man, would indicate that we are perceived externally as a very effective mechanism, playing a vital role in the global network of anti-money laundering and countering the financing of terrorism assessment bodies.

We have never been just a body which writes reports and puts them in the bottom drawer. Since the decision in the second plenary in 1998 to institute a system of progress reports, underpinned by Compliance Enhancing Procedures, there has always been an emphasis on follow-up. This is what a monitoring body should be about, in my view.

We have not been not been afraid to use our compliance procedures on many occasions even up to the level of public statements about one of our States – which resulted in real progress in that jurisdiction. I think we have been creative in the range of our follow-up procedures and flexible in their use, so that, where necessary, we have been able to react to urgent situations, which merited immediate intervention. And we have done so with great success where circumstances required urgent action. In my chairmanship the immediate imposition of a MONEYVAL high level visit, where we had concerns about the possible effects of a Court decision on a national suspicious transaction reporting system produced quick and satisfactory legislative change so that those compliance procedures could be lifted within a matter of months. This ability to react quickly if necessary is very much a part of our strength.

I should also like to say a special word of thanks to all who have served on Bureaus during the last 15 years. A lot of hard work is done in those meetings by Bureau members in monitoring country's follow-up and developing legislation to meet MONEYVAL recommendations so we can fairly and accurately advise the plenary on whether we consider further peer pressure is necessary between evaluation visits. This unseen work by Bureau members is also vital to MONEYVAL.

I would like also to thank our scientific experts for their valuable contributions to our work and for their important role in commenting on draft evaluation reports for quality and consistency before our debates. This too adds to the quality of our products. It is good also to welcome back here today one of our distinguished

former financial scientific experts, Mr Herbert Laferla, who was one of our founder members – and we look forward to hearing from him shortly.

Last but not least, I would like to thank John (Ringguth), our Executive Secretary of almost ten years, and his small but very professional secretariat, for everything that he and they do tirelessly to ensure that MONEYVAL's work does credit to this organisation and to the global network of assessment bodies.

I think MONEYVAL is now firmly established as part of the international architecture in this field and I trust that it will only build further on its many achievements in the coming years.

Thank you.

## Appendix II

### List of abbreviations and acronyms

AML	Anti-money laundering
CDD	Customer Due Diligence
CDPC	European Committee on Crime Problems
CEPs	Compliance Enhancing Procedures
CETS 198	2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention
CFT	Countering the financing of terrorism
COP	Conference of the Parties to the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention (CETS 198)
Core Recommendations	FATF Core Recommendations: R.1 Money laundering offence R.5 Customer due diligence R.10 Record keeping R.13 Suspicious transaction reporting SR.II Criminalise terrorist financing SR.IV Suspicious transaction reporting – terrorist financing
CTED	UN Counter Terrorism Committee
CTIF-CFI	The Belgian Financial Intelligence Unit
DNFBP	Designated non-financial businesses and professions
EPAS	Enlarged Partial Agreement on Sport
ERRG	Europe/Eurasia Regional Review Group
ESAAMLG	Eastern and South African Anti Money Laundering Group
EU	European Union
FATF	Financial Action Task Force
FEE	Federation of European Accountants
FIU	Financial intelligence unit
FSRB	FATF Style Regional Bodies
FT	Financing of Terrorism
GIABA	Inter-Governmental Action Group against Money Laundering in West Africa
ICRG	International Co-operation Review Group of the FATF
IFIs	International financial institutions – IMF and World Bank
IMF	International Monetary Fund
Key Recommendations	FATF key Recommendations R. 3 Confiscation and provisional measures R. 4 Secrecy laws consistent with the Recommendations R. 23 Regulation, supervision and monitoring R. 26 The FIU R. 35 Conventions R. 36 Mutual legal assistance R. 40 Other forms of co-operation SR. I Implement UN instruments SR. III Freeze and confiscate terrorist assets SR. V International co-operation
KYC	Know your customer
MER	Mutual evaluation report
ML	Money laundering
MLA	Mutual legal assistance
MTB	Money Transfer Business
NPO	Non-profit organisation
OSCE	Organization for Security and Co-operation in Europe
PEP	Politically exposed person
Statute	Resolution CM/Res(2010)12 on the Statute of the Committee of Experts on the

	Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)
SAR	Suspicious activity report
STR	Suspicious transaction reports
TF	Terrorist financing
UN	United Nations
UN CTC	United Nations Counter-Terrorism Committee
UNODCP	United Nations Office on Drugs and Crime
UNSCR	United Nations Security Council Resolutions
WGEI	Working Group on Evaluations and Implementation of the FATF



<http://www.coe.int/moneyval>