

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 16 January 2017

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## **CONFERENCE OF THE PARTIES**

**Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no. 198)**

### **8<sup>th</sup> MEETING**

**Strasbourg, 25 – 26 October 2016**

### **MEETING REPORT**

Memorandum prepared by the Secretariat  
Directorate General of Human Rights and Rule of Law

## **SUMMARY ACCOUNT OF THE PROCEEDINGS**

1. The Conference of the Parties to the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no. 198) held its eight meeting in Strasbourg, from 25 to 26 October 2016, under the Chairmanship of its Chair Mr Branislav BOHACIK (Slovak Republic). The agenda of the meeting, the decisions taken and the list of participants are annexed to the present report.

### **Item 1. Opening of the Meeting**

2. The Chair opened the meeting and welcomed the participants.

### **Item 2. Adoption of the Agenda**

3. The Conference of the Parties adopted the agenda as it appears in Appendix I.

### **Items 3 and 4. Information from the Chair, the Director of the Information Society and Action against Crime and the Executive Secretary**

4. Mr Jan KLEIJSSSEN, Director of the Directorate of Information Society and Action against Crime, informed the Plenary of a number of important developments concerning the Council of Europe's work on the fight against terrorism. The Additional Protocol to Council of Europe Convention No. 196 on prevention of terrorism has been adopted on 19 May 2015, aiming at tackling the problem of "foreign terrorist fighters". He also mentioned on-going work of the Committee of Ministers concerning the negotiation of a new Convention against illicit trafficking of cultural property.
5. Mr KLEIJSSSEN further welcomed the signature by Germany and ratifications by France and Turkey of the Warsaw Convention. He encouraged further speeding up of the evaluation cycle and streamlining the work of the Secretariat. In this connection, Mr KLEIJSSSEN informed the Plenary of the workload the Secretariat is currently dealing with regard to MONEYVAL's 5<sup>th</sup> round of mutual evaluations.
6. The Executive Secretary of COP, Mr Matthias KLOTH, gave an overview of the changes in the composition of the staff in the Secretariat and stressed the importance of the Warsaw Convention. He informed the Plenary about the printed copies of the Conference of the Parties' first Activity Report and gave an overview of the COP Secretariat's efforts to liaise with other CoE bodies. He also presented a short summary of the work undertaken by MONEYVAL since the last COP meeting. Finally, he reported about the outcome of the Bureau's meetings held in May and October 2016 and the proposal to review the rules of procedure in order to streamline the working methods of the COP.
7. The Chair informed the Conference of the Parties about discussions in which he had been involved highlighting the negotiations on the CoE Action Plan on Combating Transnational Organised Crime (2016-2020).
8. The Conference of the Parties adopted the 2015 COP meeting report of its 7<sup>th</sup> Plenary.

### **Item 5. The state of signatures and/or ratifications of the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism**

9. The Conference of the Parties welcomed that, since its last meeting, France and Turkey ratified the Convention in December 2015 and May 2016 respectively. It also welcomed Germany's

signing of the Convention in January 2016. Germany updated the Conference of the Parties that its parliament had adopted legislation which allows the German government to ratify the Convention. This ratification is expected to take place in the first half of 2017. The Executive Secretary added that in September 2016, the Czech Republic had informed the MONEYVAL Plenary that its authorities considered the ratification of the Convention.

10. The Secretariat informed the Conference of the Parties on the possible accession to the Convention by Council of Europe's neighbourhood partners (Morocco, Tunisia, Jordan). The Conference also instructed the Secretariat to reach out to Israel on a possible accession to the Convention. This was done through delivering the invitation in the course of a general Council of Europe meeting with the Israeli authorities which took place in December 2016.
11. The Chair reiterated the invitation to member (and non-member) States of the Council of Europe to accede to the Convention as soon as possible.

#### **Item 6. Monitoring of Parties' implementation of CETS n° 198 of the Conference of the Parties Draft Evaluation Report on Armenia**

12. The Secretariat introduced the rapporteurs (Albania, Poland, and the Slovak Republic). The Head of Delegation of Armenia presented an overview of the country's situation with regard to the implementation of the Convention and relevant legislative steps undertaken in past years.
13. The rapporteurs presented an overview of their main findings and recommendations.
14. The Chair proceeded with the discussion of the draft report. The most important issues of the discussion are summarised below.
15. Regarding Article 9, the scientific expert requested clarification of two points. The first point concerned the rapporteur's concern whether the counterfeiting and piracy of products, insider trading and market manipulation were fully criminalised in the Armenian Criminal Code. Given the language of the Explanatory Report of the CETS No. 198, these considerations were not reflected in the report<sup>1</sup>. However, Armenia indicated that it would be possible to revise this part of the Criminal Code if an international standard on this matter existed. The other issue was the ruling by the Court of Cassation of Armenia which underlined that the commission of the predicate offence has to be established in order to pursue ML cases. The Armenian delegation informed the Plenary that, since this ruling, the all-crimes approach had been adopted and, consequently, the recommendation of the COP encouraging Armenia to issue guidelines to practitioners is sufficient.
16. Regarding Article 10, the scientific expert requested clarification why the corporate liability mechanisms were not applied. The rapporteur stated that no practical reason had been identified. One of the recommendations made to Armenia was to carry out a stock-taking initiative to identify any legal, evidentiary and institutional impediments to apply corporate liability. However, Armenia further clarified that the measures providing practical tools to implement the corporate liability mechanism had been in place since the end of 2014.
17. The Conference of the Parties decided, upon proposal by one delegation, to clarify in the report that the three options provided under Article 31 of the AML/CFT Law for corporate liability in Armenia are alternative (and not cumulative).

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<sup>1</sup> In its chapter VII, the Explanatory Report of the CETS No. 198 stated that "when deciding on the range of offences to be covered in each of the categories contained in the Appendix, each Party may decide, in accordance with its domestic law, how it will define these offences and the nature of any particular elements of these offences that make them serious offences" (paragraph 310).

18. Despite the fact that a reversal of the burden of proof would be contrary to the principle of the presumption of innocence as set out in the Constitution of Armenia and the Criminal Procedure Code (CPC), Armenia did not make any declaration under Article 3(4). In this context, the Conference of the Parties decided to keep the existing text of the report and to recommend the Armenian authorities to take appropriate legislative measures to implement Article 3 paragraph 4 of the Convention.
19. Regarding Article 17, the Conference of the Parties decided, upon proposal by the scientific expert, to further clarify in the report that dual criminality was not a prerequisite for MLA.
20. Concerning Article 46, the report stated that, as a matter of practice in the country, the FMC (the Armenian FIU) always needs to ensure the consent of the competent authorities which provided the information concerned before disseminating it to the requesting FIU. Although such regulation might in principle raise some concerns, the report (following the explanation by the authorities and upon proposal by the scientific expert) specified that so far there was no evidence that such consent had ever been denied by the authorities in charge.
21. Regarding the same provision, one delegation asked for a more detailed evaluation of requests for cooperation between FIUs, i.e. to specify the number of requests based on the Warsaw Convention. Given that statistics in this matter were not available, the COP did not further look into this proposal.
22. Concerning Article 47, the Conference of the Parties decided, upon proposal by the scientific expert, to further clarify that the requesting FIU – the one applying for the postponement of a transaction - is informed of the internal procedure which requires the intervention of the Board of Central Bank of Armenia (CBA). In other words, the CBA Board decides on the proposal of the FMC to suspend a suspicious transaction or business relationship. It is important to note that the prior consent of the foreign FIU is required by the FMC to proceed and request the CBA Board to approve the suspension of a transaction. This communication is strictly confidential and security safeguards are applied to protect this information.
23. In order to align the draft report with the questionnaire, the Conference decided to delete the title "effective implementation" under the evaluation of Article 28. However, the reference to the statistics was maintained.
24. The Conference of the Parties adopted the report on Armenia and decided that it should be amended, in the light of discussions held in the Plenary and the changes made by the Secretariat. Pursuant to the Rules of Procedure, the COP instructed the Secretariat to publish the report as amended, within four weeks of adoption.

## **Item No. 7 – Follow-up by the Conference of the Parties of progress made by assessed Parties**

### **Second follow-up report on Poland**

25. The Conference of the Parties examined the second follow-up report on Poland and the analysis prepared by the Secretariat, with Romania acting as a Rapporteur. The Secretariat presented the developments in Poland since the time of the adoption of the first follow-up report, in particular the legislative changes made into the Criminal Code, with a view to address the recommendations made by the Conference of the Parties.
26. Regarding Article 9, the reform of the Criminal Code in October 2015 seems to have adequately addressed the deficiencies identified in the evaluation report. For example, ML offence is fully in line with international requirements since the offence now covers conversion, concealment, acquisition, possession, transfer or use of property. The only element which was not introduced

was the disguise of property. However, the lack of case law makes it impossible to verify whether the recommendations have been fully implemented. Therefore, the overall conclusion is that the recommendations made under this article have been partly implemented.

27. As regards international cooperation (Articles 23 and 25), the authorities reported that the draft law had been prepared, introducing the forfeiture of instrumentalities if the criminal proceedings were discontinued due to failure to identify the perpetrator, their death or insanity or the statute of limitations. The same refers to the situation when the proceedings are suspended because of the perpetrator's inability to participate due to severe illness. The draft legislation thus fully reflects the requirements of the EU directive on asset recovery. However, it is yet not in force. Therefore, it was concluded that recommendations have not been implemented.
28. As regards FIU cooperation, the Polish authorities indicated that the relevant paragraphs of Article 46 were introduced as a part of the MoUs signed. As to date, 86 MoUs have been signed by the Polish FIU. The authorities are currently amending the legislation as to meet the requirements of the 4<sup>th</sup> EU AML Directive. The amendments shall include provisions of Article 46 of the Convention, although it is yet unknown whether the amendments will also be applied to all States Parties of the Convention or just to the EU member states. As for the statistics and in view of a recommendation set in the assessment report, it could be concluded that FIU to FIU cooperation had been intensive and therefore satisfactory. Overall, the analysis concludes that limited progress has occurred with regard to implementation of the recommendations made under the Article 46 of the Convention.
29. Concerning the remaining deficiencies, the authorities did not provide sufficient information. Hence the Secretariat was not in a position to modify the conclusions of the first follow-up report.
30. The Conference of the Parties decided to adopt the Secretariat analysis. Given that the country made only limited progress, the Conference decided not to adopt the country's replies to the questionnaire, but to invite Poland to submit an updated follow-up report at 9<sup>th</sup> COP Plenary meeting. The Chair was instructed to send an official letter to the Head of the Polish Delegation on this matter. The Conference decided to retain the option to apply measures under Rule 19, paragraph 39 (g) of its Rules of Procedure, including the possibility to take advantage of the procedure and mechanisms of MONEYVAL.

### **First follow-up report on Croatia**

31. The Conference of the Parties examined the first follow-up report of Croatia and the analysis prepared by the Secretariat, with Spain acting as a Rapporteur. The Secretariat presented the developments in Croatia since the time of the adoption of the evaluation report, in particular the legislative changes undertaken in order to address the recommendations made in the report. Furthermore, the Conference of the Parties took note of the changes proposed to the draft analysis, based on the statements of the scientific expert and the Croatian delegation.
32. With regard to the criminalisation of money laundering, Article 9, paragraph 3 of the Convention enables parties to introduce legislative or other measures to establish liability in cases where the person suspected or ought to have assumed that the property was proceeds. The analysis stated that the lesser subjective element was still not fully covered by Croatian legislation. The country delegation indicated that in practice the criminalisation of negligent behaviour (article 265 par. 5 of the CC) covers the cases when the person suspected that the property was proceeds. Given the language of the Explanatory Report of the CETS No. 198, it is clearly left to the discretion of the country whether or not to provide for a lesser subjective mental element in its legal framework<sup>2</sup>. However, the Conference of the Parties decided to retain this recommendation with

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<sup>2</sup> In its chapter III, the Explanatory Report of the CETS No. 198 stated that: "Paragraph 3 [of Article 9] is optional. It follows that the fact that a Party decides not to adopt it in its internal law cannot be raised or criticized during the monitoring process envisaged by the Convention" (point 98).

a view to encourage the Croatian authorities to consider introducing such element into their legal framework.

33. Upon proposal by the scientific expert and following the presentation of the case law by Croatia, the Conference of the Parties decided to emphasise in the analysis the efforts made by the authorities to develop jurisprudence on autonomous money laundering.
34. Regarding the liability of legal persons, the analysis stated that the cases provided in the follow up report were not sufficient to demonstrate the full implementation of the recommendations set. Nevertheless the scientific expert stated that the two indictments reported by Croatia might demonstrate a relevant improvement. The Conference of the Parties decided to reflect this assumption in the analysis.
35. Concerning confiscation measures, the Secretariat reported that none of the information submitted in the follow-up report addressed the issue of consistency between the definition of “pecuniary advantage” under the Criminal Code and the definition provided under the Act on Proceedings for the Confiscation of Pecuniary Benefit Resulting from Criminal Offences and Misdemeanors. Croatia stated that an Act on Criminal Procedure, replacing the Act on Proceedings for Confiscation, should address this discrepancy. Until then, the practitioners refer to the definition provided under the Criminal Code.
36. The Conference of the Parties requested further elaboration in the analysis on the efforts made by the authorities to demonstrate the effective implementation of Article 3 of the Convention. The statistical data covering the value of frozen and confiscated pecuniary gain appeared to be sufficient to conclude that this recommendation has been implemented.
37. The Secretariat also requested clarifications regarding the extent to which Croatia can cooperate with States Parties in the execution of foreign non-conviction based confiscation orders. Croatia reported that the legislative framework regulating the cases where this recognition is possible should be modified in accordance with EU legislation.
38. The Conference of the Parties adopted the replies to the questionnaire prepared by Croatia and the draft analysis of the Secretariat with the amendments agreed by the Conference of the Parties. Pursuant to the Rules of Procedure, these documents will be published within four weeks of adoption.

#### **Item 8. Monitoring of Parties’ implementation of CETS no. 198 of the Conference of the Parties Draft Evaluation Report on Belgium**

39. The Secretariat introduced the rapporteurs (Armenia, Romania, and Slovenia). The Head of Delegation of Belgium introduced the members of the Belgian Delegation and presented an overview of the AML/CFT situation in Belgium and the relevant legislative steps undertaken in the past years.
40. The rapporteurs presented an overview of their main findings and recommendations.
41. The Chair proceeded with the discussion on the draft report, using a Bureau paper as a framework for reference. The most important issues of the discussion are summarised below.
42. Regarding Articles 3, 9 and 10, the Conference of the Parties decided to revise the wording of the recommendations made in order to avoid any overlap or consistency issue between the recommendations made by the FATF and those by the Conference of the Parties.

43. More specifically, the Conference of the Parties decided to revise the recommendations on the implementation of Article 10. The recommendation to further clarify in the legal framework the criteria for application of criminal liability of legal persons was deleted. The opinion of the Conference was that, if such criteria would be explicitly numerated by the law, the courts would not be allowed to apply it as widely as it is currently the case. Nevertheless, the Conference recommended Belgium to clarify, where necessary, the criteria for the application of corporate liability for lack of supervision.
44. Regarding Article 6, the Conference of the Parties agreed, upon proposal by Belgium, to further clarify the role of the Central Office for Seizure and Confiscation (OCSC). The Ministry of Finance, on request of the public prosecution authority, implements confiscation orders issued by the courts, while the OCSC acts as intermediary between the Ministry and the prosecution. The Conference of the Parties also decided to add in the report that Belgium should ensure that clear procedures for managing seized property are set, in line with the requirements of Article 6.
45. Concerning Article 7, the Belgian authorities assured the Conference of the Parties that the term 'suspect' is not a legally defined term. The way it is understood and applied in practice covers any natural or legal person who is linked to an investigation open by a prosecutor. Therefore, the Conference of the Parties concluded that the domestic legal provisions were in compliance with the provisions of the Convention and decided to delete the respective recommendation.
46. Regarding Article 25, the Conference of the Parties decided to further clarify the wording of the report in order to recommend to Belgium to give *priority consideration* to such restitution.
47. In light of the changes made under Article 7, the Conference of the Parties decided to make the relevant changes in relation to Articles 17, 18 and 19. The Conference of the Parties also decided to add a recommendation encouraging Belgium to improve the availability of detailed statistics on MLA, to allow better evaluation of the effective implementation of the measures covered by Articles 17, 18 and 19 of the Convention. It was decided that this subject would be evaluated in future COP assessment reports.
48. Regarding Article 34, the Conference of the Parties decided, upon proposal by the Secretariat, to further clarify that Belgium is encouraged to improve the system of keeping statistics also in relation to direct requests.
49. As a result of the discussion, the Conference of the Parties adopted the report on Belgium and decided that it should be amended in the light of discussion. Pursuant to the Rules of Procedure, the Conference instructed the Secretariat to publish the report as amended, within four weeks of adoption.

**Item 9. Review of the Rules of Procedure (RoP) and timescales for monitoring the implementation of CETS no. 198**

50. The Executive Secretary presented an overview of the amendments prepared by the Bureau (together with the Secretariat) in June 2016.
51. The Chair proceeded with the discussion of these amendments. The most important issues of the discussion are summarised below.
52. With regarding to the Rule No. 4, the Conference of the Parties agreed to double the term of office of the Bureau members from one to two years. This term can be renewed once. Furthermore, one delegation requested clarifications on the situation where a Bureau member cannot perform his/her function anymore. The Conference clarified the question but decided that this situation did not need to be regulated explicitly in the rules of procedure.

53. Concerning the Rule No. 14, the Conference of the Parties agreed to introduce in the Rule of Procedure the possibility to apply the “silence procedure”, when specific conditions are met. Such procedure cannot be applied for adoption of COP assessment reports.
54. As for the Rule No. 19, para. 10, the Conference of the Parties decided that the deadline proposed by the amendment was too short. Thus, the time to complete the Questionnaire was set to 10 weeks.
55. Concerning the Rule No 19, par. 14, the Conference of the Parties decided to reduce the time to provide comments upon the receipt of the draft report from 6 to 4 weeks.
56. The Conference of the Parties agreed to regulate the case where, in the follow-up procedure, the amended replies to the Questionnaire were not satisfactory. In such situations the Conference shall liaise with the Party concerned taking advantage, if so required, of the procedure and mechanisms of MONEYVAL. The Conference of the Parties decided to precise which concrete measures could be applied in this case, and include the following in the RoP: i) inviting the Secretary General of the Council of Europe to write a letter to the competent minister(s); ii) organising an on-site visit; and iii) issuing a public statement on the website of the Conference of the Parties.
57. Further to its discussion, the Conference of the Parties adopted the amendments to the Rules of Procedure.

#### **Item 10. COP 198 Mutual legal assistance template**

58. The Conference of the Parties examined the COP 198 Mutual legal assistance template.
59. It has been decided to add the reference to Articles 21 and 22 of the Convention when dealing with the procedure/requirements related to the execution of provisional measures (freezing, seizing) including the lifting of these measures and applicable time limits.
60. Regarding the Mutual Legal Assistance concerning the liability of legal persons, Ukraine requested clarifications whether the nature of the requested information is rather procedural or practical, or both. This issue remained outstanding.
61. The Conference of the Parties adopted the parts of the mutual legal assistance template on “procedures for search, asset tracing and seizure” and “procedures for confiscation, recovery and confiscated assets”. For the remaining parts, the Conference decided to apply the “silence procedure” on the basis of documents circulated for comments/objections by the Secretariat by the 15 December 2016.

#### **Item 11. Survey: Gathering of examples of cases of use or implementation CETS no. 198's provisions**

62. The Conference heard a presentation from the Secretariat on the survey of “Gathering examples of cases of the use or implementation of CETS 198's provisions”. The main finding is that the instruments and tools provided by the Convention were still underused by States Parties, while the practitioners remain unaware of most of its provisions.
63. This study remained incomplete due to the fact that not all countries submitted their answers to the questionnaire, while some did only partially. Furthermore, countries have often reported that they have the necessary legal provisions in place or that legal developments had been

undertaken to meet the requirements of the Convention, but very few countries provided actual cases which confirm the effective implementation of respective Convention provisions.

64. The Conference of the Parties instructed the Secretariat to circulate this presentation and invited countries to submit proposals for further action to the Secretariat by 31 January 2017, on the basis of which the Bureau would submit a proposal to the Conference.

#### **Item 12. Self-executing articles of the Convention**

65. This agenda item was not discussed due to time constraints and the focus on the assessment reports. The Conference of the Parties decided to resume the discussion at its next meeting, under participation of a representative from the Directorate of Public International Law and Legal Advice.

#### **Item 13. Review and discussion of reservations and declarations with respect to CETS no. 198**

66. The Conference of the Parties took note of the information paper prepared by the Secretariat outlining reservations and declarations of State Parties as of October 2016. One country had not made a mandatory declaration under Article 33, paragraph 2 of the Convention (concerning the central authority for legal assistance), while seven Parties to the Convention had not indicated the unit which is a Financial Intelligence Unit within the meaning of Article 46, paragraph 13 of the Convention.
67. Since the last COP plenary meeting, Slovenia made a declaration under Article 46, paragraph 13. The delegation of Armenia informed the Plenary that its Permanent Representative to the Council of Europe addressed this declaration in July 2016. Furthermore, Albania stated that they will make the declarations both under Article 33, paragraph 2 and Article 46, paragraph 13 as soon as possible.
68. The Conference of the Parties instructed the Executive Secretary to write an official letter to the delegations concerned, inviting delegations to provide this information.
69. The Conference of the Parties took note of the updates from several State Parties on developments on reservations made in relation to several provisions of the Convention:
  - a. Hungary informed the Plenary that its Ministry of Justice had the intention to introduce before the Hungarian Parliament the necessary amendments in order to revoke the reservation made under the Article 53(1) in relation to the provisions of Article 9(4) of the Convention.
  - b. The Slovak Republic stated that they would consider the possibility to revise or revoke the reservations made under the Article 53 in relation to the provisions of Articles 3 (4), 9 (6) and 7 (2) of the Convention.
70. Upon request by Belgium, the Conference of the Parties discussed the practical implications for some provisions in the Convention with regard to declarations/reservations on the territorial application of the Convention. In the absence of the Parties concerned, the Conference instructed the Secretariat to further liaise on this issue.

#### **Item 14. Further work programme of the Conference of the Parties**

71. The Conference of the Parties decided to add Poland to the planning for the follow-up reports of 2017, following the request to Poland to provide an updated report in that year.

72. The Conference of the Parties invited the Bureau to elaborate a proposal for the revision of the questionnaire for evaluations, with a view to update and streamline it and avoid any duplication with the evaluations of the FATF and MONEYVAL.
73. Following the adoption of the COP mutual legal assistance template, the Conference of the Parties invited the Bureau to develop a respective model form for mutual legal assistance.
74. The Conference of the Parties agreed that the agenda item related to cases and practical implementation of the Convention should become recurring item in of the agenda of future meetings.
75. The Conference of the Parties also invited the Bureau to consider interpretative issues related to Article 3, paragraph 4, Article 11 and Article 25, paragraph 2, and report back at the next COP meeting.

#### **Item 15. Election of Bureau members**

76. The Conference of the Parties decided, pursuant the new Rule 4 of the Rules of Procedure, to elect Mr Besnik Muci (Albania), Ms Oxana Gâscă (Republic of Moldova) and Mr Sorin Tanase (Romania) as members of the bureau for a term of office of two years.
77. The Conference of the Parties thanked the out-going member of the Bureau, Ms Ani Melkonyan (Armenia), for her very valuable work in the past year.

#### **Item 16. Update from the Gender Equality Rapporteur**

78. In the absence of the gender equality rapporteur, Ms. Liljana KACI (Albania), the Secretariat presented the recent developments in the Council of Europe in this area. The CoE Gender Equality Commission has prepared recommendations to the Committee of Ministers on the implementation of the CoE gender equality strategy for the period 2014-2017. Several conferences on gender equality have been held this year in partnership with the United Nations and the European Union. Furthermore, the European Commission issued in 2015 a report on equality between women and men in the European Union. Finally, a factsheet on gender equality has been recently published by the ECHR on its website.

#### **Item 17. Information from other Council of Europe bodies: Action Plan on Transnational organized Crime, presentation by Mr. Oscar ALARCON JIMENEZ, European Committee on Crime Problems (CDPC), DGI**

79. This agenda item was not discussed due to time constraints. However, the presentation document was circulated to the Parties after the meeting.

#### **Item 18. Adoption of decisions**

80. The Conference of the Parties adopted the list of decisions of the meeting.

## APPENDIX I – Agenda

Monday, 24 October 2016	Lundi, 24 octobre 2016								
<b>C198-COP Bureau Meeting</b>	<b>Réunion du Bureau de la C198-COP</b>								
Agora, Room G6	Agora, salle G6								
14 – 17.30	14h-17h30								
Tuesday, 25 October 2016	Mardi, 25 octobre 2016								
<b>1. Opening of the Meeting</b> <b>9.30 am</b> <ul style="list-style-type: none"> <li>- <i>Report of the 7th meeting and list of decisions</i></li> <li>- <i>Bureau of the COP : list of decisions and proposals</i></li> </ul>	<b>Ouverture de la réunion</b> <b>9h30</b> <ul style="list-style-type: none"> <li>- <i>Rapport de la 7e réunion et liste des décisions</i></li> <li>- <i>Bureau de la COP : liste des décisions et propositions</i></li> </ul>								
<b>2. Adoption of the agenda</b>	<b>Adoption de l'ordre du jour</b>								
<b>3. Statement by Mr Jan Kleijssen, Director of the Information Society and Action against Crime</b>	<b>Déclaration de M. Jan Kleijssen, Directeur, Direction de la Société de l'Information et de la Lutte contre la Criminalité</b>								
<b>4. Communication by the Chair and the Executive Secretary</b>	<b>Communication de la Présidence et du Secrétaire Exécutif</b>								
<b>5. The state of signatures and/or ratifications of the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism</b> <ul style="list-style-type: none"> <li>- <i>Information by delegations</i></li> </ul>	<b>Etat des signatures et/ou ratifications de la Convention du Conseil de l'Europe relative au blanchiment, au dépistage, à la saisie et à la confiscation des produits du crime et au financement du terrorisme</b> <ul style="list-style-type: none"> <li>- <i>Information des délégations</i></li> </ul>								
<b>6. Monitoring of Parties' implementation of CETS No. 198</b> <ul style="list-style-type: none"> <li>- <i>Examination with a view to adoption of the assessment report</i></li> </ul> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Party assessed</th> <th style="width: 50%;">Rapporteur Party</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><b>Armenia</b></td> <td>Poland Slovak Republic Albania</td> </tr> </tbody> </table>	Party assessed	Rapporteur Party	<b>Armenia</b>	Poland Slovak Republic Albania	<b>Monitoring de la mise en œuvre de la STCE n°198 par les Parties</b> <ul style="list-style-type: none"> <li>- <i>Examen en vue de l'adoption du rapport d'évaluation de</i></li> </ul> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Partie évaluée</th> <th style="width: 50%;">Partie Rapporteur</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><b>Arménie</b></td> <td>Pologne République Slovaque Albanie</td> </tr> </tbody> </table>	Partie évaluée	Partie Rapporteur	<b>Arménie</b>	Pologne République Slovaque Albanie
Party assessed	Rapporteur Party								
<b>Armenia</b>	Poland Slovak Republic Albania								
Partie évaluée	Partie Rapporteur								
<b>Arménie</b>	Pologne République Slovaque Albanie								

**7. Follow-up by the Conference of the Parties of progress made by assessed Parties**

- *Examination with a view to adoption of the progress report*

Party assessed	Rapporteurs
Poland	Romania
Croatia	tbc

**Suivi par la Conférence des Parties des progrès accomplis par les Etats Parties déjà évalués**

- *Examen en vue de l'adoption du rapport de progrès*

Partie Evaluée	Partie Rapporteur
Pologne	Roumanie
Croatie	à confirmer

**Wednesday, 26 October 2016**

**Mercredi, 26 octobre 2016**

**8. Monitoring of Parties' implementation of CETS No. 198**

- *Examination with a view to adoption of the assessment report*

Party assessed	Rapporteur Party
<b>Belgium</b>	Slovenia Romania Armenia

**Monitoring de la mise en œuvre de la STCE n°198 par les Parties**

- *Examen en vue de l'adoption du rapport d'évaluation de*

Partie évaluée	Partie Rapporteur
<b>Belgique</b>	Slovénie Roumanie Arménie

**9. Review of the Rules of Procedure and timescales for monitoring the implementation of CETS No. 198**

- *This item includes the discussion on how to streamline the reporting and produce friendly, accurate and comprehensive reports which focus on added value of the CETS 198*

**Examen des Règles de Procédure et du calendrier de suivi de la mise en œuvre de la STCE n° 198**

- *Discussion sur la façon de rationaliser les rapports et de produire des rapports intelligibles, précis et complets axés sur la valeur ajoutée de la STCE n° 198*

**10.COP 198 Mutual legal assistance template**

**Modèle de questionnaire sur la coopération juridique mutuelle**

**11. Survey: Gathering of examples of cases of use or implementation CETS No. 198's provision**

- *Horizontal review prepared by the Secretariat*
- *issues of concern*

**Enquête: Collecte d'exemples d'utilisation ou de mise en œuvre des dispositions de la STCE n° 198**

- *Note de synthèse préparée par le Secrétariat*
- *Sujets de préoccupation*

**12.Self-executing articles of the Convention**

**Articles de la Convention directement applicables**

**13.Review and discussion of reservations and declarations with respect to CETS No.198**

- *Update*

**Examen et discussion sur les réserves et les déclarations au titre de la STCE n° 198**

- *Mise à jour*

<p><b>14. Further work programme of the Conference of the Parties</b></p> <ul style="list-style-type: none"> <li>- <i>Future assessments of the COP and rapporteurs</i></li> <li>- <i>Training of rapporteurs</i></li> <li>- <i>COP website</i></li> </ul>	<p><b>Programme de travail futur de la Conférence des Parties</b></p> <ul style="list-style-type: none"> <li>- <i>Evaluations à venir de la COP et rapporteurs</i></li> <li>- <i>Formation des rapporteurs</i></li> <li>- <i>Site web de la COP</i></li> </ul>
<p><b>15. Election of Bureau members</b></p>	<p><b>Elections de membres du Bureau</b></p>
<p><b>16. Update from the Gender Equality Rapporteur</b></p>	<p><b>Mise à jour du Rapporteur sur l'égalité des genres</b></p>
<p><b>17. Other business</b> (e.g. CoE Action Plan on Transnational Organised Crime)</p>	<p><b>Divers</b> (ex : Plan d'action du CoE contre le crime organisé transnational)</p>
<p><b>18. Adoption of decisions</b></p>	<p><b>Adoption des décisions</b></p>
<p><b>19. Close of the meeting</b> 17.00</p>	<p><b>Fin de la réunion</b> 17h00</p>

## APPENDIX II – List of decisions

At its eighth meeting, held in Strasbourg from 25 to 26 October 2016, the Conference of the Parties to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS n° 198):

- Heard an opening address from Mr Jan Kleijssen, Director of Information Society and Action against Crime.
- Adopted the Agenda without changes.
- Adopted the meeting report of its 7<sup>th</sup> meeting (5-6 November 2016, document C198-COP7(2015)REP).
- Welcomed the ratification of the Convention by France and Turkey and the recent signature by Germany, and invited all Council of Europe Member States which have not done yet to accede to the Convention.
- Took note of an update by the Secretariat on the possible accession to the Convention by Council of Europe's neighbourhood partners (Morocco, Tunisia, Jordan) and instructed the Secretariat to reach out to Israel on a possible accession to the Convention.
- Took note of the information provided by the Secretariat on synergies and cooperation with other bodies in the Council of Europe, in particular the recent exchange of views between the Chair and MONEYVAL in April 2016.
- Discussed the absence of a mandatory declaration under Article 33, paragraph 2 of the Convention by one delegation, in respect of informing about the central authority responsible for legal assistance, as well as the absence of the voluntary indication of the financial intelligence unit (within the meaning of Article 46, paragraph 13) by several delegations, and instructed the Executive Secretary to write an official letter to the delegations concerned, requesting/inviting (as appropriate) delegations for the information to be provided.
- Took note of the updates from several State Parties on developments on reservations made in relation to several provisions of the Convention, and encouraged them to reconsider their necessity with a view to their withdrawal. The Conference discussed the practical implications for some provisions in the Convention with regard to declarations/reservations on the territorial application of the Convention. The Conference instructed the Secretariat to liaise with the countries concerned on this issue.
- Discussed the draft assessment report on Armenia and decided to adopt it, subject to the changes agreed during the Plenary discussion.
- Discussed the draft assessment report on Belgium and decided to adopt it, subject to the changes agreed during the Plenary discussion.
- Examined the draft follow-up report on Poland and decided to adopt the Secretariat analysis. Given that the country had made some progress on certain issues, but not on other parts of the Convention, the Conference decided not to adopt the follow-up report, but to invite Poland to submit an updated follow-up at its 9<sup>th</sup> meeting. The Chair was instructed to send an official letter to the Polish Head of Delegation on the matter. The Conference decided to retain the option to apply measures under Rule 19, paragraph 39 (g) of its Rules of Procedure, including the possibility to take advantage of the procedure and mechanism of MONEYVAL.
- Examined the draft follow-up report on Croatia and decided to adopt the country's replies to the questionnaire together with the Secretariat analysis.
- Amended its Rules of Procedure on the basis of a proposal elaborated in May 2016 by the *ad hoc* Working Group established to that effect after the 7<sup>th</sup> meeting.

- Invited the Bureau to elaborate a proposal for the revision of the questionnaire for evaluations, with a view to update and streamline it to avoid any duplication with the evaluations of the FATF and MONEYVAL which have occurred since the revision of the FATF standards in 2012.
- Heard a presentation from the Secretariat on the survey of “Gathering examples of cases of the use or implementation of CETS 198’s provisions” and instructed the Secretariat to circulate this presentation. The Conference also invited countries to submit proposals for further action to the Secretariat by 31 January 2017, on the basis of which the Bureau would submit a proposal to the Conference.
- Agreed that the agenda item related to cases and practical implementation of the Convention should become recurring items of the agenda of future meetings.
- Adopted the parts of the COP mutual legal assistance template on “procedures for search, asset tracing and seizure” and “procedures for confiscation, recovery and confiscated assets”. For the remaining parts, the Conference decided to apply the silent procedure on the basis of documents circulated by the Secretariat by the 15 December 2016.
- Invited the Bureau to develop a respective model form for mutual legal assistance.
- Invited the Bureau to consider interpretative issues related to Article 3, paragraph 4, Article 11 and Article 25, paragraph 2, and report back at the next COP meeting.
- In the absence of the Gender Equality Rapporteur, heard a short presentation by the Secretariat on recent developments in the Council of Europe in this area.
- Elected Mr Besnik Muci (Albania), Ms Oxana Gâscă (Republic of Moldova) and Mr Sorin Tanase (Romania) as members of the bureau for a term of office of two years, and thanked Ms Ani Melkonyan (Armenia) for her very valuable work in the Bureau of the COP in the past year.
- Decided to hold its next meeting in Strasbourg from 21-22 November 2017.
- Adopted the list of decisions of the meeting.

## APPENDIX III – List of participants

### *I. States Parties to CETS 198 / États parties à la Convention STCE 198*

#### ALBANIA / ALBANIE

Mrs Gloria ÇARKAXHIU  
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Ministry of Justice

Mr Besnik MUÇI  
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Department of Foreign Jurisdictional Relations  
General Prosecutor's Office of Albania

Mr Sabiela SEITAJ,  
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Mr Artan SHIQERUKAJ,  
**RAPPORTEUR FOR ARMENIA**  
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General Directorate for the Prevention of Money Laundering – Albanian FIU

#### ARMENIA / ARMÉNIE

Mr Edgar ARSENYAN  
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of the RA Connected with Illegal Turnover of Narcotic Drug and Cybercrimes  
Office of the Prosecutor General

Ms Arpi HARUTYUNYAN  
Chief specialist, Civil and Economic Cases Division,  
the European Court of Human Rights Department,  
Ministry of Justice of Armenia

Ms Asya KHOJOYAN  
**RAPPORTEUR FOR BELGIUM**  
Methodologist - Legal Advisor, of the Legal Compliance Division of the FMC

Ms Ani MELKONYAN  
**MEMBER OF THE BUREAU / MEMBRE DU BUREAU**  
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Central Bank of Armenia;

Ms Sona SUVARYAN  
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## **BELGIUM / Belgique**

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**HEAD OF DELEGATION**

**VICE-PRESIDENT DE LA C198-COP / VICE PRESIDENT OF THE C198-COP**

Service public fédéral Justice

Direction générale de la Législation et des Libertés et Droits fondamentaux,

Service des infractions particulières, Blanchiment d'argent et financement du terrorisme,

Manipulation des compétitions sportives

Mme Huguette OWANDJI

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Service Public Fédéral Justice

M. Erik VERBERT

Attaché à la Direction générale de la Législation et des Libertés et Droits fondamentaux,

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## **BOSNIA AND HERZEGOVINA / BOSNIE-HERZÉGOVINE**

Mr Zeljko BOGUT

Ministry of Justice of BiH

Ms Arijana CUROVAC

State Investigation and Protection Agency

Financial intelligence Department

Ms Sanela LATIC

Ministry of Justice of BiH

Ms Jadranka LOKMIC-MISIRACA

High Judicial and Prosecutorial Council of Bosnia and Herzegovina

Mr Hasija MASOVIC

Court of Bosnia and Herzegovina

Mr Nikola SLADOJE

Ministry of Justice of BiH

Ms Gordana TADIĆ

The Prosecutor's Office of BiH,

Ms Aleksandra GOLIJANIN

The Prosecutor's Office of BiH, official translator

## **BULGARIA / BULGARIE**

Ms Magdalena GEORGIEVA

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Ms Tea VASSILEVA PENEVA

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## CROATIA / CROATIE

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## CYPRUS / CHYPRE

Mrs Antigoni HADJIXENOPHONTOS  
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## FRANCE

Apologised / *Excusé*

## GEORGIA / GEORGIE

Ms Tamta KLIBADZE  
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Mr Aleksandre MUKASASHVILI  
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## HUNGARY / HONGRIE

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deputy head of department (National Tax and Customs Administration, Directorate General of Criminal Affairs, Department for the Coordination of Criminal Affairs)

Mr Márk MÉSZÁRICS  
Financial investigator  
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## LATVIA / LETTONIE

Mr Viesturs BURKĀNS  
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Proceeds Derived from Criminal Activity  
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Ms Sintija DZALBE  
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**MALTA / MALTE**

Ms Kristina DEBATTISTA  
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**REPUBLIC OF MOLDOVA / RÉPUBLIQUE DE MOLDOVA**

Mrs Oxana GISCA  
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High Officer for exceptional cases  
Office for prevention and fight against money laundering  
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Mr Eduard VARZARI  
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**MONTENEGRO / MONTÉNÉGR**

Ms Ana BOSKOVIC  
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Mr Vesko LEKIC  
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**NETHERLANDS / PAYS-BAS**

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**POLAND / POLOGNE**

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Mr Marcin SEROCKI  
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Mrs Ewa SZWARSKA-ZABUSKA  
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**PORTUGAL**

Mr António FOLGADO  
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Ms Carla LEÃO  
Detective Inspector  
Unidade de Informação Financeira (UIF)  
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#### **ROMANIA / ROUMANIE**

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#### **SAN MARINO / SAINT-MARIN**

M. Guido BELLATTI CECCOLI  
Ambassadeur  
Représentant Permanent

Mme Michela BOVI  
Représentante Permanente Adjointe

#### **SERBIA / SERBIE**

*Apologised / Excusé*

#### **SLOVAKIA / SLOVAQUIE**

Mr Branislav BOHACIK  
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Prosecutor, General Prosecutor's Office of the Slovak Republic

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Ms Anna OLOFSSON  
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Ms Sunchica TODOROVSKA  
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## **TURKEY / TURQUIE**

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Maliye Bakanlığı Mali Suçları Araştırma Kurulu/Ministry of  
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## UKRAINE

Mr Vitaliy BEREGIVSKIY  
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## UNITED KINGDOM / ROYAUME-UNI

Mr Justin MILLAR  
Home Office, London

Apologised / *Excusé*

## ***II. Signatory / contracting / observer States / États signataires / contractants /***

## ESTONIA / ESTONIE

Mrs Sören MEIUS  
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## GERMANY / ALLEMAGNE

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Mr Marco TETZLAFF  
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## MEXICO / MEXIQUE

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