COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 11 December 2008

MONEYVAL (2008) 38 REV1

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES
(MONEYVAL)

Second written progress report submitted to MONEYVAL by Slovenia[1]

[1] As adopted by MONEYVAL at its 28th Plenary Meeting (Strasbourg, 8-12 December 2008). For further information on the examination and adoption of this report, please refer to the Meeting report (ref. MONEYVAL (2008) 40 at http://www.coe.int/moneyval

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1. *General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field*

Position as at date of last progress report (31 August 2006)

The third evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Slovenia took place from 30 January 2005 to 5 February 2005. The detailed assessment report described and analysed the AML/CFT measures in place in Slovenia at the date of the on-site visit, and provided recommendations on how certain aspects of the system could be strengthened.

After the adoption at the 17th MONEYVAL plenary meeting (30 May – 3 June 2005) the report on Slovenia was presented to the Government of the Republic of Slovenia, which at its governmental session of 3 November 2005 adopted a comprehensive action plan for implementation of recommendations made by the Selected Committee of Experts on the Evaluation of Anti-Money Laundering Measures (hereinafter: the Action Plan). The Action Plan covers the main content of recommendations and defines (i) measures/tasks/actions planned to give effect to the recommendations, (ii) task performers and (iii) indicative deadlines for implementation. As the Government has been aware of the importance of continuing the monitoring process on the implementation of the recommended actions for the improvement of Slovenia's AML/CFT system, the main task performers have had to report to the Government on the regular basis. The first report, in which the relevant authorities provided information on the measures they have taken to give effect to the MONEYVAL's recommendations, was presented to the Government on 27 July 2006.

General Situation of Money Laundering and Financing of Terrorism

In Slovenia, the money-laundering situation is currently more or less the same as at the time of the third evaluation. According to the police data for the year 2005 and the first half of the year 2006 an increase in numbers of certain criminal offences, especially thefts, robberies, extortion, smuggling and unlawful manufacture of and trade in weapons was recorded. Other criminal offences stayed more or less at the same level. The numbers of economic offences against property and drugs offences are increasing and the Slovenian authorities recognise that, accordingly, the demand for money laundering will grow. In the last year and a half dirty money originated mainly from the predicate offences of business frauds, tax frauds and abuse of the position and rights.

RECORDED CRIMINAL OFFENCES (CO)							
	2000	2001	2002	2003	2004	2005	First half of 2006
CO AGAINST PROPERTY							
Theft	19.408	24.165	23.980	24.695	27.801	28.331	19.403
Burglary	15.962	15.617	16.431	16.947	22.460	20.252	10.233
Fraud	2.546	2.816	2.273	2.167	2.769	3.136	1.158

Robbery	515	579	527	349	398	429	279
Theft of vehicles		691	815	615	704	873	131
Concealment		859	1.170	1.588	1.840	1.583	891
CO of ECONOMIC NATURE							
Business fraud		771	2.079	1.672	1.764	1.759	251
Issuing of an uncovered cheque, misuse of a credit card		1.865	2.516	2.687	1.465	2.158	112
Tax evasion		121	99	83	87	111	3
Forgery		448	520	477	581	512	280
Abuse of authority or rights		333	185	201	207	145	51
OTHER CO							
Production and trafficking with drugs	1.370	1.140	1.164	775	1.231	1.241	772
Illegal migration	871	720	548	406	389	463	186
Production and trafficking with arms	199	173	175	148	143	148	157
Falsification of money	2.171	1.857	1.857	1.177	1.772	1.439	958
Corruption	41	58	51	54	19	18	7
Extortion	321	377	474	327	328	383	208
Smuggling	25	10	3	4	5	31	5
TOTAL*	**67.618**	**74.794**	**77.218**	**76.643**	**78.202**	**76.659**	**48.132**

Source: Annual police reports for 2000, 2001, 2002, 2003, 2004, 2005 and police report for the first half of 2006

* The number includes also other CO which are not presented in the table

Banks are the most used financial intermediary for money laundering and make the most reports (both STRs and CTRs). Since the last evaluation the number of their reports significantly increased.

In 2005 the Office for Money Laundering Prevention (hereinafter: OMLP) sent 32 notifications on money laundering to the Criminal Police Directorate/State Prosecution and 14 written information in respect of other serious offences. In the first half of the year 2006 the OMLP sent to the Criminal Police Directorate/State Prosecution 14 notifications on money laundering and 13 information.

In the cases analysed by the OMLP and sent to the Criminal Police Directorate / State Prosecution the most common ways in which money is laundered are considered to be the following:

- misuse of domestic legal persons and off shore companies for money laundering deriving from criminal offences of tax evasion;
- misuse of non-resident accounts of off shore companies in Slovenia;
- misuse of domestic companies accounts in Slovenian banks for money laundering deriving from economic crime;
- misuse of natural persons accounts in Slovenian banks for money laundering deriving from economic crime;
- misuse of Western Union;
- structuring of transactions (smurfing);
- loans in cash given to individuals by legal persons;
- use of “straw men”.

Since the last evaluation the Police have submitted to the State Prosecution 5 criminal offences in respect of money laundering based on predicate offences of fraud and abuse of economic power. Since 1995 there have been a total of 54 money laundering related criminal cases, which are

presently at various stages of the proceedings. Most of the filed criminal charges are currently in the phase of investigation or a final indictment. Court proceedings are being currently conducted in 5 cases. Courts of first and second instance have by the end of August 2006 decided 8 cases in the following manner:

- in 5 cases proceedings were completed with judgments of acquittal,
- in 1 case with a conviction currently pending appellate procedure,
- 1 case had concluded with a first instance conviction followed by the defendant's death and subsequently appellate proceedings were ceased,
- only 1 of the money laundering cases was so far concluded with a final judgment of conviction in 2006.

The total amount of temporarily seized money substantially decreased due to courts' decisions and currently amounts to app. 3 million EUR. In one case the competent court acquitted the defendants and subsequently temporarily seized funds in a significant amount were released. In other two cases the court opted not to pursue the prolongation of the temporary seizure of funds. In the fourth case the relevant funds were temporarily seized on the basis of the Strasbourg Convention No. 141, while the foreign court ordered for the funds to be returned due to long-lasting court procedures in Slovenia. The Ministry of Justice of the RS proposed for the official supervision to be carried out over the court's work. In order to accelerate long-lasting court proceedings, the Criminal Procedure Act was amended in 2005. The Law on Amendments to the Criminal Procedure Act (ZKP-G; Official Gazette of the RS, No. 101/05) came into force in December 2005. This Law contains also amended provisions on temporary securing of a claim for the deprivation of property benefits, acquired through commission of a criminal offence or because of it (i. e. seizure). Amended Article 502 and new Articles 502.a to 502.d of the Criminal Procedure Act[2] (Official Gazette of the RS, No. 8/06 - Officially Consolidated Text 3) provide for more effective procedures of temporary seizure (in the pre-criminal phase and in the course of ongoing criminal proceedings) of property benefits and by means of a novel Article 502.č, which prescribes that the criminal procedures are to be considered a priority when entailing temporary seizure of property benefits, it is to be expected that proceedings will be more expedient in the future.

As far as terrorist financing is concerned, Slovenia estimates its general vulnerability to international terrorism to be low in comparison to that of other countries of the European Union. The Slovenian authorities have, as yet, not encountered with the offence of financing of terrorism, which was made a separate criminal offence in March 2004, as no criminal charges or indictments have been filed in this respect. Also no freezing orders have been made under the relevant United Nations Security Council or European Union Resolutions.

Developments in respect of AML/CFT measures since the last evaluation

In the context of the third round mutual evaluation on Slovenia and after the adoption of new international AML/CFT instruments (the 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 [hereinafter: the third EU Directive] and the revised Council of Europe Convention on Laundering, Search Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – CETS No. 198 [hereinafter: the revised Strasbourg Convention]) the internal Slovenian legislative agenda is directed towards

[2] For the text of stated Articles of the Criminal Procedure Act please see APPENDIX II.

harmonisation of domestic law with the provisions of these new instruments, and is determined to bring domestic legislation into line with the new standards on countering of the financing of terrorism. Therefore the main task undertaken in the past year has been the preparation of a new Law on Prevention of Money Laundering and Financing of Terrorism, which shall replace the Law on Prevention of Money Laundering (Official Gazette of the RS, Nos. 79/2001 and 59/2002; hereinafter: LPML) as currently in force and implement the latest, revised international standards.

The Ministry of Finance - the Office for Money Laundering Prevention, which is authorized and required to draft the act, has prepared an initial document with starting positions for the new AML/CFT law and in November 2005 a discussion on the presented issues began with the supervisory authorities, Ministry of Interior, Supreme Court, State Prosecution and various associations. Although at the EU level the process of adopting relevant implementing measures to the third EU Directive have not been completed yet, the Slovenian draft preventive law is well under preparation and scheduled to be submitted to the Government (for the governmental deliberations) by the end of 2006 at the latest. However, as this is the case, many activities undertaken to put recommendations into practice, especially concerning measures for combating financing of terrorism, have not been realised yet.

The procedure for the signature and ratification of the revised Strasbourg Convention [ETS No. 198] has been initiated and it is planned to be concluded by the beginning of 2007 at the latest.

Following the recommended action under SR III, the Ministry of Foreign Affairs drew up a new law on restrictive measures. The draft act that will replace the existing Law on Restrictive Measures of 11 May 2001 (as amended on 21 June 2002) was sent to inter-ministerial coordination in May 2006 and it is scheduled to be adopted by the end of 2006.

Before taking further steps regarding the AML/CFT measures several reviews have been undertaken in the last months.

As required by SR VIII, a special study of non-profit organisations was completed in July 2006. A group of experts from different authorities and institutions has tried to assess potential threat to non-profit sector from the point of view of terrorist financing. On the basis of the results and group's proposals, several legislative changes will be prepared to improve transparency and oversight of non-profit organisations, and consequently to lower risks that non-profit organisations would be used for financing of terrorism.

In relation to R 3, the Ministry of Justice carried out an analysis of operative handling of seized objects and assets. On the basis of the findings and with the aim to produce results in terms of money laundering and terrorist financing related convictions and asset recovery, the *Decree on the procedure of handling of seized objects and assets* will be amended by the end of this year.

In the field of supervisory and sanctioning system several changes have taken place in the last year and a half, or are planned for the near future. A constructive debate, notably on creation of an effective system for monitoring and ensuring compliance with AML/CFT standards, continues among competent authorities. According to the valid preventive law, the majority of designated non-financial businesses and professions (DNFBF) are still subjected mainly to control of the OMLP, therefore supervisory powers will be shifted with the introduction of the new AML/CFT law. Supervision of this sector will most likely be shared among the OMLP, the Tax Authorities and the Market Inspectorate.

Although there is a basically sound sanctioning system in place in Slovenia, the speed of the application of sanctions by the courts in general has not improved since the last evaluation. However, with the new Minor Offences Act the sanctioning system has been altered in 2005. The OMPL and other competent supervisors became in charge of ruling on administrative offences under an expedited procedure. After the entry into force of additional amendments to the new Minor Offences Act in May 2006, the OMLP no longer launches a proposal for the initiation of administrative proceedings under the valid LPML but shall conduct the proceedings by itself. To perform this supplementary task one additional post was established and recently occupied, thus the OMLP had 16 staff members and two open positions as of 1 August 2006. Time will, however, show how effective the new sanctioning system can actually be in practice.

Tasks adopted as part of the action plan for implementation of the recommendations contained in the third round assessment report are also largely concerned with law enforcement and prosecution. The police and the the prosecution authorities recently reported that they had systematically increased efforts for further improvement of successful detection, investigation and prosecution of perpetrators of money laundering criminal offences, which also resulted in the increased number of persons against whom State Prosecutors offices filed demands for investigation. However, although more money laundering cases were brought to court, for the time being, as noted earlier, there has been only one final conviction in the courts for the money laundering offence yet.

Some other tasks adopted and undertaken in order to meet recommendations made in the third round assessment report are presented as follows.

New developments since the adoption of the 1st progress report

(In particular, please indicate all new relevant legislative acts with a brief description, and any changes since the adoption of the last progress report in the roles and responsibilities of relevant AML/CFT competent authorities)

The assessment report on the third evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Slovenia, as adopted in June 2005, provided many recommendations on how certain aspects of the system could be strengthened. To give effect to those recommendations different measures and actions have been commenced, notably in the year 2007. For this reason many positive changes have taken places in Slovenia's AML/CFT system since the adoption of the first progress report in September 2006 and considerable progress can be reported at this stage.

General Situation of Money Laundering and Financing of Terrorism

According to the police data for the year 2006 and the first half of the year 2008 an increase in numbers of certain criminal offences such as tax evasion, forgery, abuse of authority or rights, production and trafficking with drugs and falsification of money was recorded. The number of other criminal offences stayed more or less at the same level while the number of some other offences, for example, business fraud and illegal migration declined. The numbers of economic offences and drugs offences are increasing and the Slovenian authorities recognise that, accordingly, the demand for money laundering will grow. According to Police denunciations in respect money laundering in the period of 1 January 2006 to 30 June 2008, dirty money originated mainly from the predicate offences of tax frauds.

RECORDED CRIMINAL OFFENCES (CO)

	2003	2004	2005	2006	2007	2008
CO AGAINST PROPERTY						
Theft	24.695	27.801	28.331	31.639	29.005	14.327
Burglary	16.947	22.460	20.252	18.107	17.891	7.864
Fraud	2.167	2.769	3.136	3.081	3.541	1.824
Robbery	349	398	429	521	445	195
Theft of vehicles	615	704	873	852	839	331
Concealment	1.588	1.840	1.583	1.631	1.615	816
	46.361	**55.972**	**54.604**	**55.831**	**53.336**	**25.357**
CO of ECONOMIC NATURE						
Business fraud	1.672	1.764	1.759	1.452	958	446
Issuing of an uncovered cheque, misuse of a credit card	2.687	1.465	2.158	2.625	2.110	1.122
Tax evasion	83	87	111	194	213	108
Forgery	477	581	512	1.000	986	542
Abuse of authority or rights	201	207	145	175	231	95
	5.120	**4.104**	**4.685**	**5.446**	**4.498**	**2.313**
OTHER CO						
Production and trafficking with drugs	775	997	1.026	1.590	1.429	675
Illegal migration	406	389	463	348	195	155
Production and trafficking with arms	148	143	148	216	129	92
Falsification of money	1.177	1.772	1.439	1.823	2.110	1.216
Corruption	54	19	18	44	19	13
Extortion	327	328	383	403	375	215
Smuggling	4	5	31	28	31	21
	2.891	**3.653**	**3.508**	**4.452**	**4.288**	**2.387**
OTHER CO against life and limb, human rights, honor, sexual integrity, public health etc.	**22.271**	**22.839**	**21.582**	**24.625**	**26.075**	**14.446**
TOTAL	**76.643**	**86.568**	**84.379**	**90.354**	**88.197**	**44.503**

Source: Annual police reports for 2003, 2004, 2005,2006, 2007 and police report for the first half of 2008

With respect to the perception and reporting of money laundering cases, the situation has changed in Slovenia since the last evaluation. The number of STR reports from obligated entities has risen significantly from 116 in 2005, to 165 in 2006 and to 192 in 2007, and several new cases have been under investigation and prosecution. Banks have been reporting the highest number of STR and CTR reports, for example the share of banks in the total amount of STRs was 64% in 2005, 81% in 2007, and in the first half of 2008 this share came to 90%.

In 2006 the Office for Money Laundering Prevention (hereinafter: OMLP) sent 37 notifications on money laundering to the Criminal Police Directorate/State Prosecution and 17 written information notes in respect of other serious offences: there were 70 notifications on money laundering and 56 information notes in 2007. In the first half of the year 2008 the OMLP sent to the Criminal Police Directorate/State Prosecution 38 notifications on money laundering and 29 information notes. Even though the number of notifications on money laundering rose for 89% from 2006 to 2007 the shares of these notifications of all closed cases per year stayed almost the same (35% in 2006 and 37% in first

half of 2008).

In the cases analysed by the OMLP and sent to the Criminal Police Directorate/State Prosecution the most common methods through which money is laundered are more or less the same as reported in the first progress report:

- misuse of domestic companies accounts in Slovenian banks for money laundering deriving from economic crime;
- misuse of non-resident accounts of natural persons in Slovenia;
- misuse of natural persons accounts in Slovenian banks for money laundering deriving from economic crime;
- misuse of Western Union;
- structuring of transactions (smurfing);
- loans in cash given to individuals by legal persons;
- use of "straw men".

From 1 January 2006 until the end of November 2008 the Police have submitted to the State Prosecution 7 criminal offences (3 in 2006, 2 in 2007 and 4 in 2008) in respect of money laundering based on predicate offences of tax evasion (6), abuse of authority or rights (1), business fraud (1) and theft (1). Since 1995 there have been a total of 60 money laundering related criminal cases, which are presently at various stages of the proceedings. Most of the filed criminal charges are currently in the phase of prosecution (14 cases) or a final indictment (9 cases), while in 14 cases prosecutors decides to dismiss. Courts of first and second instance have by the end of August 2008 decided 10 cases in the following manner:

- in 6 cases proceedings were completed with judgments of acquittal,
- in 1 case with a conviction currently pending appellate procedure,
- 1 case had concluded with a first instance conviction followed by the defendant's death and subsequently appellate proceedings were ceased,
- 2 of the money laundering cases were so far concluded with a final judgment of conviction.

The total amount of temporarily frozen or seized money slightly increased from app. 3 million EUR from last evaluation to app. 3,2 million EUR. In addition, proceeds amounting to 4.760.058 EUR have been frozen on the basis of international legal assistance. For the time being prosecutors apply Article 498a of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia, No. 8/2006) by which it is possible to confiscate the money or property even when the case does not end with the conviction. That is possible only for the criminal offence of money laundering according to Article 252 of the Penal Code and criminal offences connected with bribe and corruption. Currently there are two cases where money is confiscated (or try to be confiscated) in relation to the money laundering and afore mentioned article has been used by panel in special rulings. Owing to a low number of such cases the judicial practice is not very clear. However, according to special rulings and some other rulings of the higher courts, it is evident that in the judicial process for money laundering at least predicate offence must be proven and a clear connection must exist between the assets that derive from a predicate offence and assets that are »laundered«.

Concerning terrorist financing the situation has not changed in the last two years. Slovenia still estimates its general vulnerability to international terrorism to be low in comparison to that of other countries of the European Union. As it will be presented below, the major improvement with regard to the fight against financing of terrorism represents a new AML/CFT law, adopted in 2007, which to the OMLP and other subject, which have been so far carrying out measures for detecting and preventing money laundering, finally imposed additional tasks related to financing of terrorism

New developments in respect of AML/CFT measures since the adoption of the last progress report

The main task undertaken by Slovenian authorities in the past two years was the preparation, adoption and implementation of a new Act on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette of the Republic of Slovenia, No. 60/2007; hereinafter: APMLFT). Following the regular procedure the law passed the Parliament on 22 June 2007 and came into force on 21 July 2007. Whereas, however, the new preventive law introduced some major changes concerning the commitments of entities obliged to implement the measures for the prevention and detection of money laundering and terrorist financing, the application of some provisions of Chapters II and III was postponed. In full, the APMLFT became applicable on 21 January 2008, 6 months after its enforcement.

The APMLFT has replaced the previous Law on Prevention of Money Laundering (Official Gazette of the RS, Nos. 79/2001 and 59/2002; hereinafter: LPML) and harmonised national law with the provisions of revised anti-money laundering legal instruments as well as brought Slovenian legislation in line with the new standards on countering of the financing of terrorism.

In addition to the obligatory transposition of "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" (hereinafter: Third EU Directive), and "Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedure and for exemption on grounds of financial activity conducted on an occasional or very limited basis" (hereinafter: Implementation Directive), the preparation of the APMLFT based on the following international documents:

- 40 FATF Recommendations on money laundering of June 2003;
- 9 Special FATF Recommendations on Financing of Terrorism of October 2001 and October 2004;
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS No. 198) of May 2005 (hereinafter: Convention No. 198);
- Regulation (EC) No. 1781/2006 of the European Parliament and Council of 15 November 2006 on information on the payer accompanying transfers of funds
- Regulation (EC) No. 1889/2005of European Parliament and Council of 26 October 2005 on controls of cash entering or leaving the Community.

In accordance with Regulation (ES) No. 1781/2006 of the European Parliament and Council of 15 November 2006 on Data on Payer accompanying Transfers of Funds (hereinafter: Regulation (ES) 1781/2006), the purpose of which is to ensure the united concept on electronic transfer of funds and the use of the Special Recommendation VII, the Government of the Republic of Slovenia issued Decree on the implementation of the Regulation (ES) No. 1781/2006 (Official Gazette of the Republic of Slovenia, No. 1/2008) in December 2007. With that decree Slovenia determined effective, proportional and preventable penalties in the cases of violation of the provisions of the Regulation (ES) 1781/2006, and competent bodies in charge of the supervision of the implementation of the regulation and of deciding on administrative offences. The decree also determines the transfers of funds, for which the regulation is not used in Slovenia.

The new APMLFT, in force since July 2007, anticipates altogether 12 bylaws, 8 of them are obligatory and 4 are optional. According to Article 100 of the APMLFT the minister of finance must issue all 8 obligatory bylaws not later than 6 months after the enforcement of the law. On that basis the Minister of Finance issued in January 2008 the following bylaws (Official Gazette of the Republic of Slovenia, No. 10/2008):

- Rules on Performing Internal Control, Authorized Person, Safekeeping and Protection of Data and Keeping of Records of Organizations, Lawyers, Law firms and Notaries
- Rules on the Method of Forwarding Information to the Office for Money Laundering Prevention of the Republic of Slovenia;
- Rules laying down conditions to be met by a person to act in the role of a third party
- Rules laying down to determine and verify customer's identity by using customers qualified digital certificate
- Rules laying down the list of equivalent third countries
- Rules laying down conditions under which a person may be considered as a customer representing a low risk of money laundering and terrorist financing
- Rules laying down conditions under which there is no obligation to report cash transaction data for certain customers
- Rules on the Method of Communicating the Information on Lawyers, Law Firms or Notaries to the Office for Money Laundering Prevention of the Republic of Slovenia.

At the beginning of 2008 Slovenia passed also a new Foreign Exchange Act (Official Gazette of the Republic of Slovenia, No. 16/2008) for, inter alia, implementing Regulation No. 1889/2005 of the European Parliament and of the Council (EC) of 26 October 2005 on control of cash entering or leaving the Community (hereinafter: Regulation 1889/2005/EC). The new law determines the competent authorities and sanctions for violations of Regulation 1889/2005/EC and regulates currency exchange operations.

As regards the revised Strasbourg Convention No. 198, Slovenia signed that international legal act on 28 March 2007. The procedure for the ratification has been initiated as well. The OMLP has prepared the proposal of the Act on the ratification of the Convention No. 198, according to which the following bodies have been determined as authorities competent for its implementation: Ministry of Justice, Ministry of Interior, Ministry of Finance or the OMLP as its constitutive part. In the Convention 198, which includes also provisions in the area of financing of terrorism, the Article 3 regulates the seizure of the assets to which its Paragraph 4 provides the institute of the reversed burden of proof that can be used only in the cases of the serious criminal offences. With regards to this institute countries can express their reservations on the basis of Subparagraph a) of Paragraph 4 of Article 53 of the Convention No. 198. Slovenia has signed this convention with the reservation on Paragraph 4 of Article 3, namely that she will not use this paragraph. Slovenia's present regulation of the criminal law does not cover the institute of the reversed burden of proof and does not allow it; therefore most probably the reservation with regard to this institute will be expressed when ratifying the Convention No. 198.

As reported already in the first progress report, following the recommended action under SR III the Ministry of Foreign Affairs drew up a new law on restrictive measures. The Act Relating to Restrictive Measures Introduced or Implemented in Compliance with Legal Instruments and Decisions Adopted within International Organisations (Official Gazette of the Republic of Slovenia, No. 127/2006) came into force at the end of 2006.

As far as developments on the legislative side are concerned, two further legal acts shall be mentioned

at this point. As it is described in the sections on Recommendation 1 and Special Recommendation II, a new Criminal Code (Official Gazette of the Republic of Slovenia, No. 55/2008) passed the Parliament on 20 May 2008 and came into force on 1 November 2008. In addition, the Criminal Liability of Legal Entities Act (Official Gazette of the Republic of Slovenia No. 65/08) was amended in 2008.

With the new Criminal Code the national law has been brought in line with the basic principles of European criminal law. In the chapter on criminal offences against economy (which includes also the criminal offence of money laundering) several changes, amendments and new criminal offences have been introduced, which is basically the consequence of the new legislation in the field of economy and obligations, deriving from the Eurepan Union and other international acts and instruments. The text of the criminal offence of money laundering referred to in Article 245 of the Criminal Code has remained the same, except in Paragraph 1, where the criminal offence of money laundering directly refers to the provisions of the AML/CFT act (*See the section on Recommendation 1*).

In the chapter on criminal offences against humanity, terrorism has been defined as a uniform offence without the division on internal and international terrorism as it was laid down in the previous Penal Code. The criminal offence of terrorism has been provided for in Article 109 of the Criminal Code and refers to the criminal offences of terrorism stipulated by Article 108 of the Code.

With regard to the roles and responsibilities of relevant AML/CFT competent authorities, not many other developments, in addition to those already reported on in 2006, have taken place lately. The following steps, mostly in relation to law enforcement, are however planned for the near future.

In Slovenia suggestions for the radical reform of the criminal procedure were presented in for quite some time, as also some legal experts have been of the opinion that the administration of Slovenian justice is too slow. At the end of 2005 the Minister of Justice established a group for the preparation of a new criminal procedure act (ZKP-1). By December 2007 the group drafted the first part of the new Criminal Procedure Act, namely (i) the General Part, (ii) the procedure before filling the indictment (investigating procedure) and (iii) the part that relates to the regulation of the restrictive measures. According to the suggested concept, the main novelty of the draft act on criminal procedure is the so called abolishment of the institute of judicial investigation and consequently of investigative judges. As a consequence, a criminal procedure would be more in line with criminal procedures of other EU member countries, as there are only few of them having the judicial investigation and investigative judge left in their systems. The main role in police investigations of criminal offences will be taken by a state prosecutor as “dominus litis” of the procedure, who directs and supervises the work of the police in the investigative procedure. The draft act on criminal procedure namely foresees only one stage of the procedure, called an investigative procedure, which will, as already noted, replace the preliminary criminal procedure and judicial investigation. The arrangement of the investigative procedure is based on the concept led by a state prosecutor, who alone or through the police performs certain investigative acts.

The readiness to accomplish the reform of the criminal procedure, as presented above, has been confirmed also at the highest level; in 2007 the Parliament namely adopted the Resolution on the National Program of the Prevention and Fight against Criminality for the period 2007-2011 (Official Gazette of the Republic of Slovenia No. 40/2007).

At least one another proposal of the draft act on criminal procedure should be mentioned at this point. According to the drafted General Part, also the customs and tax authorities will be given certain powers which are, according to drafted provisions on the criminal procedure, otherwise exercised only by the police. Such competences will be valid only in circumstance that the customs or tax authorities

discover the reasons to suspect some enumerated criminal offences, among them also money laundering, when performing the control over the implementation of regulations. However, as the first part of the draft act on criminal procedure is still in the stage of the public discussion, it is hard to expect that the present wording will be adopted.

For actions concerning the supervisory and sanctioning system *please see Section 6 – point c) AML/CFT sanctions imposed by supervisory authorities*.

2. *Key recommendations*

Please indicate which improvements have been made in respect of the FATF Key Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

Recommendation 1 (Money Laundering offence)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*Create case law by confronting the courts with as many ML prosecutions as possible and thus challenge the present jurisprudence on the evidential requirements. Ultimately consider legislative action to remedy the situation.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	Following the adopted action plan the MONEYVAL recommendations were brought to attention of the Supreme Court and the State Prosecution Service, which were suggested to take appropriate steps to implement recommended actions. To that end the prosecution authorities systematically had increased efforts for improvement of successful detection and prosecution of perpetrators of money laundering criminal offences over the last year, which resulted also in the increased number of persons against whom State Prosecutors Offices submitted requests for investigation. At the same time State Prosecutor Service notes that there are still too few convictions at first instance and subsequently also insufficient decisions of the courts of appeal. Some activities undertaken by the State Prosecution Service also on the basis of the MONEYVAL recommendations are the following: • The State Prosecution Service continuously requested, in writing, from all District State Prosecutors to encourage investigation of money laundering criminal offences. • In the same manner the State Prosecution Service continuously encouraged District State Prosecutors to endeavor to achieve in courts most favorable treatment of indictments, particularly in order to definitively introduce and put into effect the »*all crime*« model. • Furthermore, the State Prosecution Service requested that District State Prosecutors endeavor for a consistent punishment policy in relation to perpetrators of predicate offences who usually have the highest interest in money laundering in order to conceal the origin of illegally acquired funds. • The State Prosecution Service also urged District State Prosecutors to pay special attention to those procedural institutes that enable confiscation of illegally acquired property benefits and thereby strive to reach such legal interpretation of the relevant legal institutes that would be favorable from perspective of the prosecution. According to the Supreme State Prosecutor's Office of the RS, some positive results have already been attained in the mentioned context, especially in relation to the interpretation of Article 498.a of the Criminal Procedure Act, which encompasses confiscation of property benefits as the procedural legal institute based on the premises of Article 498 of the Criminal Procedure Act, which prescribes (compulsory) confiscation of property benefits in instances where the criminal procedure is not completed with a judgment of conviction. Taking into account above-stated activities of state prosecutors, we estimate that it is reasonable to wait for court decisions and analyze the new jurisprudence before taking any decisions on further amendments to the Article 252 of the Criminal Code (Official Gazette of the RS, No. 95/04 - Officially Consolidated Text 1) that defines the criminal offence of money laundering. The Ministry of Justice has (in co-operation with representatives of the OMLP, Supreme Court of the RS and Supreme State Prosecution Office of the RS) also studied the question whether it would be necessary to define the money laundering criminal cases as "urgent" by the provisions of the Courts Act as it applies to court proceedings. The Law on Amendments to the Criminal Procedure Act (ZKP-G; Official Gazette of the RS, No. 101/05) came into force in December 2005. This Law also contains

	amended provisions on temporary securing of a claim for the deprivation of proceeds arising from the criminal offence or because of it (i.e. seizure). New Article 502.č of the Criminal Procedure Act determines that the court must rapidly take a decision on the proposal for ordering, extension, amendment or abolition of temporary securing. If the temporary securing was ordered, the competent authorities in the pre-trial stage must proceed in a particularly rapid manner, whereas the criminal procedure shall be considered preferential. Since in most money laundering criminal cases the provisional securing (i.e. seizure) is in fact also ordered, stated provision means that the court will be deciding those cases preferentially, and above-mentioned amendment to the Law on Courts is no longer required.
(Other) changes since the last evaluation up to 31 August 2006	The Law on Amendments and Supplements to the State Prosecutor Act (ZDT-C; Official Gazette of the RS, No. 17/06), which came into force in March 2006, amended provisions regulating the position and status of the *Group of State Prosecutors for Special Cases*. The amendments renamed the unit into the *Group of State Prosecutors for Prosecution of Organised Crime* and empowered it to prosecute organized crime, economic crime, terrorism, corruption matters and other criminal offences, investigation and prosecution of which require special organisation and skills. The revised act also defines the procedure of assigning a case to the Group and supplements the provisions regarding the appointment of members, arrangement and functioning of the Group. There are now 6 State Prosecutors in the Group who deal, in addition to district prosecutors, also with money laundering cases.
Measures taken to implement the recommendations since the adoption of the first progress report	As already noted, in May 2008 a new Criminal Code (Official Gazette of the Republic of Slovenia, No. 55/2008; KZ-1) passed the Parliament of the Republic of Slovenia. The Criminal Code that came into force on 1 November 2008 has kept the wording of the criminal offence of money laundering, as provided in Article 245 (previously Article 252), almost unchanged. The only change was made in the first paragraph stating performed acts. Namely, the former Penal Code stated as the last possibility of the performed act "or in any other manner determined by the statute conceals or attempts to conceal by money laundering the origin of money or property", as the new Criminal Code refers directly to the act on money laundering. Therefore the wording is more defined, even though its meaning does not actually change. At the same time the Act amending the Criminal Liability of Legal Entities Act (Official Gazette of the Republic of Slovenia No. 65/08; ZOPOKDB), which was adopted by Parliament on 17 June 2008, came into force, The law determines criminal offences for which the legal persons can be liable for, penalties and security measures, which can be declared to the legal persons and contains special provisions on the procedure against the legal persons within the criminal procedure. Prior the adoption of amendments, in addition to penalties (such as fines, seizure of the assets and the revocation of a legal person) the law imposed also the security measures and legal consequences of the judgment. As security measures the law envisaged the seizure of the object, announcement of the judgment and prohibition of performing certain economic activity of the legal person. Possible legal consequences of the judgment were prohibitions of functioning on the basis of permissions, authorizations and or licenses or their acquisition. The amendments to the Criminal Liability of Legal Entities Act, has brought, inter alia, new lateral punishments: the prohibition of participation at the applications of public ordering and prohibition of trade with financial instruments of legal person in the organized market. Both lateral punishments can be used in connection with all criminal offences against the economy (among them also for money laundering offence). The new wording of Article 245 of the Criminal Code: *Article 245* *Money Laundering*

(1) Whoever accepts, exchanges, stores, disposes, uses in an economic activity or in any other manner determined by the act governing the prevention of money laundering, conceals or attempts to conceal by laundering the origin of money or property that was, to his knowledge, acquired through the commission of a criminal offence, shall be punished by imprisonment of up to five years.

(2) Whoever commits the offence under the preceding paragraph, and is simultaneously the perpetrator of or participate in the criminal offence with which the money or property under the preceding paragraph were acquired, shall be punished to the same extent.

(3) If the money or property under paragraphs 1 or 2 of this Article is of high value, the perpetrator shall be punished by imprisonment of up to eight years and by a fine.

(4) If an offence referred to in the above paragraphs was committed within a criminal association for the commission of such criminal offences, the perpetrator shall be punished by imprisonment of one up to ten years and by a fine.

(5) Whoever should and could have known that the money or property had been acquired through a criminal offence, and who commits the offences from paragraphs 1 or 3 of this Article, shall be punished by imprisonment of up to two years.

(6) The money and property referred to in the preceding paragraphs shall be confiscated.

The Act Amending the Criminal Liability of Legal Entities: (UNOFFICIAL TRANSLATION – English version is not available) stipulates:

Article 15a
"*Prohibition of the Participation at the Applications of Public Ordering"*

1. *The court may declare to the legal person, as the lateral punishment the prohibition of the participation at the applications of public ordering from three to ten years, for the criminal offences from the Chapter 24 and criminal offences according to the Articles 260, 262, 263 and 264 of the Chapter 26 of the Penal Code.*
2. *Ordering person from the procedure of the public ordering must separate every candidate or offerer if it is a legal person sentenced by the lateral punishment according to this article.*

Article 15b
"Prohibition to trade with financial instruments of the legal person in the organized market"

The court may declare to the legal person as the lateral punishment, the prohibition to trade with shares, other securities and financial instruments of the legal person on the organized market from three to eight years, for the criminal offences from the Chapter 24 and criminal offences according to the Articles 260, 262, 263 and 264 Articles of the Chapter 26 of the Penal Code.

A note to the last paragraph: The criminal offence of money laundering is to be found in Chapter 24 of the Criminal Code.

The activities, undertaken by the State Prosecution Service also on the basis of the Moneyval recommendations to create case law by confronting the courts with as many ML prosecutions as

	possible and thus challenge the present jurisprudence on the evidential requirements, are the following. Every four months, the Office of the State Prosecutor General encourages all district state prosecutor offices and the "Group of State Prosecutors for the Fight against Organized Crime" to file charges against perpetrators of the criminal offences of money laundering, if all legal conditions have been fulfilled. Troubles appear by proving predicate criminal offences despite that prosecution unburdens so called "all crime model", as all criminal offences are predicate criminal offences for money laundering. In the period from the last progress report, the improvement in the results of the seizure of the illegally derived assets has been noted. For the first time in the last two years, the advantage of the actual options offered under Article 498a of the Criminal Procedure Act was taken; the article namely allows the seizure also in cases when a (special) procedure indicates that money originates from the criminal offences, although the criminal procedure has not been concluded with the judgment recognizing the defendant guilty. Despite the effort of the state prosecutors and some successfully performed seizures pursuant to Article 498a, the restrictive explanation of the courts, which first of all bound seizures to those solutions that are in the criminal procedure favorable for the prosecutors, represents the barrier for the seizure of assets in such an extent as desired by the prosecutors. The prosecutors active in the field of economic crime are adequately trained also in regard to the fight against the criminal offence of money laundering. The education should remain the permanent obligation in the future as well. The successful work of prosecutors however depends also on the professional education of judges. In relation to that, the problem in not so much in the lack of professional skills but in the strict and limited explanation of legal provisions concerning money laundering. It should be mentioned at this point that the Office of the State Prosecutor General contradicts the estimation, made in the assessment report, that the conditions in the field of money laundering are "alarming", as the successful preventive activities of the OMLP should not be neglected. The prevention namely enables that the most alighted cases have been dealt in criminal proceedings and that repression is the last measure which has been used after all other measures have been applied. The number of criminal procedures has not been essentially lower as in much larger EU member countries. But still, all legislative possibilities should be taken into consideration and the efforts should be focused to the further progress of the cooperation between the OMLP and state prosecutors.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*Produce consistent guidance to ensure same ID standards apply across the financial market.*
Measures reported as of 31 August 2006 to implement the recommendation of the	The problem of 'consistency' of applying same ID procedures across the whole financial sector will be sold by the adoption of the new AML/CFT law, therefore no further guidance has been issued so far. The OMLP and other supervisory bodies however have continued to provide the supervised entities, upon request, with written clarifications on how to interpret the ID provisions as currently in force.

report	As regards the identification threshold for exchange offices, which was recommended to be reduced from general 3 million SIT, the Bank of Slovenia notes that this issue is regulated solely by the valid AML law, which falls within the domain of the Ministry of Finance or the OMLP respectively. The Bank of Slovenia as the supervisory authority for exchange offices does not find it necessary for the existing threshold to be lowered for exchange offices only. It would however be more advisable, according to the national bank, that the efforts to identify and report suspicious and unusual transactions are intensified across the sector. The Bank of Slovenia also reviewed the list of guidelines and indicators for recognising suspicious transactions for exchange offices and assessed (jointly with the OMLP) that no adjustments are indispensable so far. The amendments, if needed, will be made after the introduction of the new AML/CFT law.
Measures taken to implement the recommendations since the adoption of the first progress report	By the adoption of the new AML/CFT law sector-specific guidelines became a legal obligation, as proceeds from: - Article 90 of the AMLPFT, which imposes supervisory authorities an obligation of issuing recommendations or guidelines, either independently or in conjunction with other supervisory authorities, for the uniform implementation of the legal provisions. - Article 6 of the AMLPFT, by which banks are obliged to draw up a risk analysis in order to assess the risk of customers and products considering the guidelines issued by the relevant supervisory authority The Bank of Slovenia began drafting the guidelines for the standard implementation of the prescribed requirements in the banking sector in 2007. The following activities were carried out: - substantive design of the guidelines (November 2007) - preliminary on-site examination of a selected sample of banks for the purpose of identifying potential problems in the implementation of the new legal requirements (January and February 2008) - public discussion of the guidelines with the industry and the round of collecting the comments (April and May 2008) - public discussion of the guidelines and second round of collecting the comments, which included all banks and savings banks (August and September 2008) - discussion of the comments at a conference on the prevention of money laundering (October 2008) - updating of the guidelines and submission to the Governing Board of the Bank of Slovenia for approval (November 2008) Given the significant legal changes and the number of issues that arose in practice, the Bank of Slovenia took the decision to draw up the guidelines in a broader form, incorporating sections on the establishment of a system for the prevention of money laundering and terrorist financing, the implementation of the legal requirements, risk analysis, the implementation of Regulation (ES) No. 1781/2006, and IT support. It should be noted at this point that the guidelines do not expand the legal requirements, but are helpful for banks in common understanding and implementing the legal requirements. Securities Market Agency issued exhaustive guidelines for the securities sector in March 2008; prior to publication of the directions public discussion on the document was held as well. The guidelines of the Insurance Supervision Agency, which is responsible for supervision of insurance undertakings, insurance agencies and insurance brokerage companies, and insurance agents and brokers, are still under preparation.

Recommendation of the MONEYVAL Report	*Introduce the obligation to conduct CDD in case of financing of terrorism suspicion and bring in line threshold to conduct CDD in case of wire transfers (see SR.VII).*
Measures taken to implement the Recommendation of the Report	As mentioned, the new Law on Prevention of Money Laundering and Financing of Terrorism, which will transpose the latest international standards on the countering of the financing of terrorism into national legislation, is well under preparation. The draft law (as of July 2006) envisages a provision according to which entities, subject to the law, will be required to undertake CDD measures, apart from under some other circumstances listed, always when reasons for suspicion of money laundering or financing of terrorism exist in connection with a transaction or a client. The obligation of identification in the case of suspicion of money laundering or financing of terrorism will be a general requirement, which must be applied irrespective of whether the customer relationship is permanent or occasional, the amount, etc. Concerning CDD procedures in case of wire transfers, the current AML law does not impose any special requirements in that respect, but it covers this issue in the context of general identification requirements, which still provide for the threshold above the FATF de minimis threshold (but no threshold applies if a transaction is suspicious). However, due to the obligatory standard procedures, laid down by the banking supervisor in regard to payment systems, Slovenian banks must obtain from a customer a certain set of data (identification) when processing the outgoing payments, regardless of the threshold, otherwise the payment cannot be performed. On incoming payments side, the threshold is observed and the banks cannot process the transfers that exceed the threshold as determined by the valid AML law (3 million SIT) unless the sender is known. Under the new Slovenian AML/CFT law, ID procedures for wire transfers will apply at a threshold as set forth in the third EU Directive and the draft EU Regulation on Information on the Payer Accompanying Transfers of Funds, which is aimed to transpose SR VII uniformly throughout the EU.
Measures taken to implement the recommendations since the adoption of the first progress report	As announced in the first progress report, the latest international standards on the countering of the financing of terrorism are transposed into Slovenian legislation by the new preventive law. Accordingly, all entities that are subject to the APMLFT are required to undertake CDD measures, apart from under some other circumstances listed, always when reasons for suspicion of money laundering or financing of terrorism exist in connection with a transaction or a client. The obligation of identification in the case of suspicion of money laundering or financing of terrorism is a general requirement, which must be applied irrespective of whether the customer relationship is permanent or occasional, the amount, etc. The Prevention of Money Laundering and Terrorist Financing Act stipulates: *Article 8* *(Obligation to carry out customer due diligence)* *(1) An organisation shall apply customer due diligence in accordance with the terms and conditions provided by the present Act in the following cases:* *1. when establishing a business relationship with a customer;* *2. when carrying out a transaction amounting to EUR 15,000 or more, whether the transaction is carried out in a single operation or in several operations which are evidently linked;* *3. when there are doubts about the veracity and adequacy of previously obtained customer or beneficial owner information;* 4. *whenever there is a suspicion of money laundering or terrorist financing in respect of a transaction or customer, regardless of the transaction amount.* *...* As far as CDD procedures in case of wire transfers are concerned, it should be noted that Special

	Recommendation VII on wire transfers is transposed uniformly throughout the European Union by Regulation (EC) 1781/2006. Given that the regulation is directly applicable in the territory of the Republic of Slovenia, the Slovenian government only issued a decree, which lays down penalties applicable to infringements of the provisions of the regulation and the competent authorities for the monitoring of the implementation of the regulation. Furthermore, the Decree determines the transfer of funds for which Regulation (EC) 1781/2006 does not apply in Slovenia. The Bank of Slovenia, as the competent authority for the monitoring of the implementation of Regulation (EC) 1781/2006 and deciding on offence proceedings, carried out the following activities in connection with the implementation of the requirements of the regulation: - during on-site examinations the Bank of Slovenia focused particular attention on the activities being carried out in order to implement the requirements of Regulation (EC) 1781/2006 - given that the requirements of Regulation (EC) 1781/2006 have not been incorporated into law, different interpretations of the requirements were found at banks, therefore the Bank of Slovenia decided to add recommendations for the implementation of those requirements to the guidelines. In so doing, Bank of Slovenia consider the document *Common understanding of the obligations imposed by EU Regulation 1781/2006* which was created by the AMLTF committee at the CEBS.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 5 (Customer due diligence) II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL report	*Lack of obligation to conduct CDD in case of suspicion of financing of terrorism*
Measures reported as of 31 August 2006 to implement the recommendation of the report	As already noted above, a new preventive law will bring Slovenian legislation in line with the latest international standards on the countering of the financing of terrorism. CDD obligations for the categories of DNFBPs as covered by the draft law are the same as those for financial institutions. *See also the section on Recommendation 12.* Concerning the treatment of politically exposed persons, the obligation to undertake the enhanced CDD measures will apply after the introduction of the new preventive law. The enhanced requirements for PEPs will most likely apply only to those who reside outside Slovenia. *See also the section on Recommendation 6.*
Measures taken to implement the recommendations since the adoption of the first progress report	As explained above, all entities subject to the APMLFT, including DNFBPs, are required to undertake CDD measures always when reasons for suspicion of money laundering or financing of terrorism exist in connection with a transaction or a client. The obligation of identification in the case of suspicion of money laundering or financing of terrorism is a general requirement and must be applied irrespective of whether the customer relationship is permanent or occasional, the amount, etc.

[3] i.e. part of Recommendation 12.

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Compliant	
Measures reported as of 31 August 2006 to implement the recommendation of the report	Under the Slovenian AML legislation record keeping requirements are determined in a more strict manner than recommended by international standards. The basic retention period is set at 10 years after the transaction is executed or the account is closed or the business contract is terminated. According to the third round evaluation report the recommendation 10 was assessed as compliant and there have been no changes regarding this issue since the last evaluation. With the new AML/CFT law new requirements will be introduced regarding storing of the information relating to the newly established obligations to undertake CDD measures in the case of suspicion of terrorist financing and to pay special attention to complex or unusually large transactions. In those cases institutions subjected to the new AML/CFT law will as well be obliged to keep records for ten years. As noted earlier, with regard to wire transfers there will be a requirement in the new preventive law that the transactions shall be at all stages accompanied by accurate and meaningful information about the sender, as set forth in a draft EU Regulation on Information on the Payer Accompanying Transfers of Funds. Unlike the EU regulation, which determines that payment service providers will have to keep records of any information on the sender or receiver respectively for five years, the new Slovenian AML/CFT law will most likely prescribe longer data retention periods (10 years) on the basis of the third EU Directive 2005/60/EC.
Measures taken to implement the recommendations since the adoption of the first progress report	No changes concerning the basic retention period of 10 years have taken place since the adoption of the first progress report. As regards the information relating to the newly established obligations to undertake CDD measures in the case of suspicion of terrorist financing and to pay special attention to complex or unusually large transactions, entities subjected to the APMLFT are in those cases obliged to keep records for ten years as well. For wire transfers however Regulation (EC) 1781/2006 applies. It determines that payment service providers have to keep records of any information on the sender or receiver respectively for five years. The new Slovenian AML/CFT law does not prescribe longer data retention periods.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 10 (Record keeping) II. Regarding DNFBP[4]	
Measures reported as of 31 August 2006 to implement the recommendation of the	No changes concerning record keeping requirements have taken place since the last evaluation, they are, however, envisaged for the near future. As already explained under Recommendation 5, terrorist financing and PEPs will be covered by the new Law on Prevention of Money Laundering and Financing of Terrorism, which is still under preparation.

[4] i.e. part of Recommendation 12.

report	
Measures taken to implement the recommendations since the adoption of the first progress report	No changes concerning the basic retention period of 10 years have taken place since the adoption of the first progress report (*see also the information under Recommendation 10 regarding financial institutions*). As announced in the first progress repost, terrorist financing and PEPs are now fully covered by the new AML/CFT, which entered into force in July 2007 or January 2008 respectively.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Measures reported as of 31 August 2006 to implement the recommendation of the report	Terrorist financing will be covered in suspicious transactions reporting after the introduction of the new preventive law, which is still under preparation. The new law will require that obliged entities report to the FIU when they suspects or have reasonable grounds for suspicion that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. The obligation to make a suspicious transaction report will also apply to attempted transactions. The forthcoming AML/CFT law will also introduce changes regarding "safe harbour" provisions that will clearly cover criminal liability.
Measures taken to implement the recommendations since the adoption of the first progress report	By the adoption of the new AML/CFT law terrorist financing is now covered in suspicious transactions reporting. The APMLFT provides for express provisions that impose the obligation of reporting any transaction suspected of being related to either money laundering or the financing of terrorism, regardless of the amount of the transaction. The obligation to make a suspicious transaction report also applies to attempted transactions. *Article 38* *(Reporting obligation and deadlines)* *...* *(3) Notwithstanding the provisions of the preceding paragraphs of this Article, the organisation shall furnish the office with the data referred to in paragraph 1 of Article 83 of this Act where reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or transaction, prior to effecting the transaction, and shall state the time limit in which the transaction is to be carried out. Such report may also be submitted by telephone; however, the written report shall be sent to the office the next working day at the latest.* *(4) The reporting obligation concerning the transactions referred to in the preceding paragraph shall also apply to an intended transaction, irrespective of whether it is effected at a later date or not.* *(5) Notwithstanding paragraphs 3 and 4 of this Article, the auditing firms, independent auditors, legal entities and natural persons performing accounting or tax advisory services shall report all cases where the customer seeks advice for money laundering or terrorist financing purposes to the office*

	immediately or not later than within three business days of seeking such advice. *(6) If in cases referred to in paragraphs 3 and 4 of this Article and due to the nature of the transaction or because the transaction was not completed, or due to other justified reasons, the organisation cannot follow the described procedure, it shall furnish the data to the office as soon as is practicable or immediately after the suspicion of money laundering or terrorist financing is raised. The organisation shall explain in the report the reasons for not acting in accordance with the described procedure.* *(7) The organisation shall forward to the office the data referred to in paragraphs 1, 3, 4 and 5 of this Article in the manner prescribed in the rules issued by the minister responsible for finance.* *...* Regarding the "safe harbour" the third paragraph of Article 77 of the APMLFT provides the following provision, which clearly covers also criminal liability: *Article 77* *(Exemptions from the principle of classification)* *(1) When forwarding data, information and documentation to the Office under this Act, the obligation to protect classified data, business and bank secrecy and professional secrecy shall not apply to an organisation, state authority or any other holder of public authority, court, prosecutor's office, lawyer, law firm, notary or their staff.* *(2) The organisation, lawyer, law firm, notary and staff shall not be held liable for the damage caused to customers or to third persons if, in compliance with the provisions of this Act or the ensuing regulations, they:* *1. submit to the Office data, information and documentation on their customers;* *2. obtain and process data, information and documentation on their customers;* *3. implement an order on temporary suspension of the transaction or the instruction issued in connection with the said order;* *4. implement a request by the Office for the ongoing monitoring of the customer's financial transactions.* *(3) The staff of organisations, law firms and notaries shall not be held criminally or disciplinarily liable for the breach of obligation to protect classified data, business and bank secrecy and professional secrecy due to:* *1. their submission of data, information and documentation to the Office in accordance with the provisions of this Act or the ensuing regulations;* *2. their processing of data, information and documentation obtained in accordance with this Act, for the purpose of verifying customers and transactions in respect of which there are grounds to suspect money laundering or terrorist financing.*
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[5]	
Recommendation of the MONEYVAL report	• *Financing of terrorism not covered* • *Deficient reporting from DNFBP*
Measures reported as of 31 August 2006 to implement the recommendation of the report	As for financial institutions, the same applies to DNFBP. The draft Law on Prevention of Money Laundering and the Financing of Terrorism, which is still under preparation, provides for express provisions that will impose the obligation of reporting any transaction suspected of being related to either money laundering or the financing of terrorism. Terrorist financing will be covered in suspicious transactions reporting after the introduction of the new preventive law. Regarding the lack of reporting from DNFBPs, several steps have been taken to assure a more effective system for monitoring and ensuring compliance with AML/CFT standards, which could promote greater awareness and competence of DNFBPs to acknowledge potential threats of money laundering or financing of terrorism in the non-financial sector. A greater emphasis has been put lately on real estate agencies, particularly in respect of awareness raising and collecting information on developments in the sector in order to better assess trends and vulnerability to ML and FT. However, for the time being no concrete measures have been taken yet and no increase in STR reporting from DNFBP has been noticed. As mentioned above, changes regarding "safe harbour" provisions have been drafted as well.
Measures taken to implement the recommendations since the adoption of the first progress report	As noted above, the second paragraph of Article 38 the APMLFT imposes to all obliged entities, listed in Paragraph 1 of Article 4 of the APMLFT, to forward the relevant data to the OMLP where reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or transaction. Additionally auditing firms, independent auditors, legal entities and natural persons performing accounting or tax advisory services are obliged to report to the OMLP all cases where the customer seeks advice for money laundering or terrorist financing purposes (Paragraph 5 of Article 38 of the APMLFT). To lawyers, law firms and notaries, tasks and obligations of which are provided in Chapter III of the APMLFT, slightly different provisions are applied: CHAPTER III TASKS AND OBLIGATIONS OF LAWYERS, LAW FIRMS AND NOTARIES ... ... *Article 49* *(Reporting data on clients and transactions in respect of which reasonable grounds to suspect money laundering or terrorist financing exist)* *(1) When, in carrying out business referred to in Article 47 of this Act, reasons for suspicion of money laundering or terrorist financing exist in connection with the client or transaction, the lawyer, law firm or notary shall report such suspicion prior to effecting the transaction and shall state the time limit in which the transaction is to be carried out. Such report may also be submitted by telephone; however, the written report shall be sent to the office the next working day at the latest.* *(2) The reporting obligation concerning the transactions referred to in the preceding paragraph shall*

[5] i.e. part of Recommendation 16.

	also apply to an intended transaction, irrespective of whether it is effected at a later date or not. *(3) If, in cases referred to in paragraphs 1 and 2 of this Article and due to the nature of the transaction, or because the transaction was not completed or due to other justified reasons, the lawyer, law firm or notary cannot follow the described procedure, they shall furnish the data to the office as soon as is practicable or immediately after the suspicion of money laundering or terrorist financing is raised. The lawyer, law firm or notary shall explain in the report the reasons for not acting in accordance with the described procedure.* *(4) The lawyer, law firm or notary shall report all cases where the client seeks advice for money laundering or terrorist financing purposes to the office immediately or not later than within three business days of seeking such advice.* *(5) The lawyer, law firm or notary shall forward to the office the data referred to in paragraph 3 of Article 83 in the manner prescribed in the rules issued by the minister competent for finance.* *Article 50* *(Exceptions)* *(1) The provisions of paragraphs 1 and 2 of Article 49 of this Act shall not apply to the lawyer, law firm or notary with regard to the data obtained from or about the client in the course of establishing the client's legal position or when acting as the client's legal representative in a judicial proceeding, including advice on instituting or avoiding such proceeding, irrespective of whether such data is obtained before, during or after such proceedings.* *(2) Subject to the conditions referred to in paragraph 1 of this Article, the lawyer, law firm or notary shall not be obliged to forward the data, information and documentation on the basis of a request from the office referred to in paragraphs 1 and 2 of Article 55 of this Act. In such case, they shall immediately and not later than within 15 days of receipt of the request inform the office in writing about the reasons for non-compliance with the office's request.* *(3) Notwithstanding the other provisions of this Act, the lawyers, law firms or notaries shall not be obliged to report to the office the cash transactions referred to in paragraph 1 of Article 38 of this Act, unless reasons for suspicion of money laundering or terrorist financing exist in connection with the transaction or client.* As far as the lack of reporting from DNFBPs is concerned it can be noted that an improvement has been achieved in the recent period, principally on account of activities performed after the adoption of the new AML/CFT law, for example, informing on the new provisions of the APMLFT and more frequent training sessions for DNFBPs. In 2007 and 2008 the OMLP namely noted an increase in the number of suspicious transactions reported by DNFBPs. In the future even more emphasis will be given to awareness raising, training and supervision. Additionally, the situation is expected to improve also after issuing sector-specific guidelines, as required by the APMLFT.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation II (Criminalise terrorist financing)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*Bring Art. 388a PC fully in line with SRII and its IN by completing the list of terrorism related offences, expressly provide for funding of terrorist organisations and individuals, and express exclusion of a required link with specific terrorist acts.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	The list of terrorism related offences, contained in Paragraph 1 of Article 388.a of the Criminal Code, is not definitive, since besides the listed articles from the Criminal Code any other criminal offence could also be terrorism related if its "… objective is to destroy the constitutional order of the Republic of Slovenia, cause serious disruption to public life or the economy, cause death or serious physical injury to persons not actively involved in armed conflict, to intimidate people or force the state or an international organisation to carry out an act or not to carry out an act …". Funding of terrorist organisations is criminalised through Article 297 of the Criminal Code, which determines the criminal offence of criminal association, in connection with the provisions of the General Part of the Criminal Code. Namely, the General Part of the Criminal Code determines forms of participation in a criminal offence (complicity, criminal solicitation and criminal support) and sets out conditions for criminal liability and punishability of accomplices. According to Article 27 of the Criminal Code any person who intentionally supports another person in the committing of a criminal offence is punished as if he himself had committed it or his sentence could be reduced, as the case may be. Support in the committing of a criminal offence is deemed to be constituted, in the main, by the following: counselling or instructing the perpetrator on how to carry out the offence; providing the perpetrator with instruments of crime; the removal of obstacles for the committing of crime; a priori promises to conceal the crime or any traces thereof; concealment of the perpetrator, instruments of crime or objects gained through the committing of crime. Irrespective of above-stated, the criminal offence of financing of terrorist activities, determined in Article 388.a of the Criminal Code, will be examined closely in the course of preparation of the Law on Amendments to the Criminal Code, which is scheduled to be finished by the year 2007. In deciding whether to amend Article 388.a the recommendations of the MONEYVAL experts will also be taken into consideration.
Measures taken to implement the recommendations since the adoption of the first progress report	The criminal offence of terrorist financing was significantly changed in the new Criminal Code and it is now regulated in Article 109 (which replaced Article 388 of the former Penal Code) with the following wording: *Article 109* *Financing of Terrorist Activities* *(1) Whoever provides or collects money or property in order to partly or wholly finance the committing of offences under Article 108 of this Penal Code shall be sentenced to imprisonment between one and ten years.* *(2) Whoever commits an offence from the preceding paragraph shall be subject to the same penalty even if the money or property provided or collected was not used for committing the criminal offences specified in the preceding paragraph.* *(3) If an offence from the preceding paragraphs was committed within a terrorist organisation or group to commit terrorist acts, the perpetrator shall be sentenced to imprisonment between three and fifteen years.* *(4) Money and property from the preceding paragraphs shall be seized.*

Article 108
Terrorism

(1) Whoever with the intention to destroy or severely jeopardise the constitutional, social, or political foundations of the Republic of Slovenia or another country or international organisation, to arouse freight among the population or to force the Government of the Republic of Slovenia or another country or international organisation to perform or stop performing something, to perform or threaten to perform one or more of the following actions:

- *assault on life or body or human rights and freedoms,*
- *taking hostages,*
- *considerable destruction of state or public buildings or representations of foreign states, transport system, infrastructure, information system, secured platforms in the continental shelf, public place or private property,*
- *hijacking of an aircraft, ship or public transport,*
- *production, possession, purchase, transport, supply or use of weapons, explosives, nuclear, biological or chemical weapons,*
- *research and development of nuclear, biological or chemical weapons,*
- *endangering security by releasing hazardous substances or causing fires, floods or explosions,*
- *disturbance or termination of supply with water, electrical energy or other basic natural resources, which could endanger human life,*

shall be sentenced to imprisonment between three and fifteen years.

(2) Whoever wants to achieve the purpose referred to in the previous paragraph by using or threatening to use nuclear or other radioactive substance or device, by damaging a nuclear facility by releasing radioactive substance or enabling its release, or who by threatening or using force demands nuclear or other radioactive substance, device or facility shall be sentenced to imprisonment of up to fifteen years.

(3) Whoever prepares or helps to prepare criminal offences referred to in the previous paragraphs by illegally obtaining the required means to commit these criminal offences or by blackmailing prepares someone else to participate in these criminal offences, or whoever falsifies official or public documents required to commit these criminal offences shall be sentenced to imprisonment between one and eight years.

(4) If the act under paragraphs 1 or 2 results in death of one or more persons, the perpetrator shall be sentenced to imprisonment between eight and fifteen years.

(5) If the perpetrator in committing offences under paragraphs 1 or 2 of this Article intentionally takes the life of one or more persons, he shall be sentenced to imprisonment of at least fifteen years.

(6) If the act under paragraphs 1 or 2 of this Article was committed by a criminal organisation or group, which has the intention to commit criminal offences (hereinafter, terrorist organisation or group) specified in these paragraphs, it shall be sentenced to imprisonment between eight and fifteen years.

(7) Whoever participates in a terrorist organisation or group, which has the intention to commit criminal offences under paragraphs 1, 2, 4 or 5 of this Article, shall be sentenced to imprisonment of

no more than eight years.

(8) Any person who establishes or leads the organisation referred to in the previous paragraph shall be sentenced with imprisonment of at least fifteen years.

With regard to the deficiency concerning the implementation of the SRII, namely that Slovenian Penal Code does not define as terrorism all criminal offences that are listed in the explanatory note to SR II, it can be established that the new wording of the relevant articles abolished that deficiency. Article 109, which refers to the financing of terrorism, relies to the definition of terrorism from the Article 108, stating in the third bullet point of Paragraph1 also "*considerable destruction..... secured platforms in the continental shelf",* while in the fifth and sixth bullet point of the same paragraph among terrorist acts it states also the production, possession, purchase, transport, supply or use of nuclear weapons, its research and development. In the seventh bullet point of the same paragraph endangering security by releasing hazardous substances has also been incriminated, while Paragraph 2 of Article 108 incriminates the use or threat to use the nuclear or other radioactive substance or device, by damaging a nuclear facility by releasing radioactive substance or enabling its release, or who by threatening or using force demands nuclear or other radioactive substance, device or facility.

As regards the issue that the Slovenian legislation does not contain the definition of the "terrorist organization" and "terrorist", in our opinion this subject has been appropriately governed by the wording of Articles 108 and 109 of the Criminal Code (the same wording was used already in the previous Penal Code). These two articles namely cover all required forms by using the word "whoever", meaning every natural person and – given that on the basis of Article 25 of the Criminal Liability of Legal Entities Act also legal persons have been liable for the criminal offences from Articles 108 and 109 of the Criminal Code – also legal persons. Cases, where the criminal offence was committed by the terrorist organization, have been covered by Paragraph 6 of Article 108 the Criminal Code. In addition, Article 2 of the APMLFT provides for the following definitions:

Article 2
(Money laundering and financing of terrorism)

...
(2) For the purposes of this Act, financing of terrorism shall mean direct or indirect provision or collection of funds or other property of legal or illegal origin, or attempted provision or collection of such funds or other property, with the intent that they be used or in the knowledge that they are to be used in full or in part by a terrorist (hereinafter: terrorist) or terrorist organisation.

(3) For the purposes of this Act, offence shall mean any offence defined in Article 2 of the Act Ratifying the International Convention for the Suppression of the Financing of Terrorism (Official Gazette of the Republic of Slovenia – MP, No. 21/04).

(4) For the purposes of this Act, a terrorist shall mean a natural person who:
- *commits or intends to commit a terrorist act by any means;*
- *is involved in the commission of a terrorist act as an accessory, instigator or aide;*
- *organises a terrorist act to be committed; or*
- *contributes to a terrorist act of a group of people operating to achieve a common goal, provided such contribution is intentional and with the purpose to perpetuate the terrorist activity, or provided that he/she understands the group's intent to commit a terrorist act.*

	(5) For the purposes of this Act, a terrorist organisation shall mean any group of terrorists who: - *commit or intend to commit a terrorist act by any means;* - *participate in committing a terrorist act;* - *organise a terrorist act to be committed; or* - *contribute to a terrorist act of a group of people operating to achieve a common goal, provided such contribution is intentional and with the purpose to perpetuate the terrorist activity, or provided that they understand the group's intent to commit a terrorist act.* Another reproach addressed to Slovenia, namely that the relevant article does not stipulate that the funds intended for the financing of terrorism are not necessarily connected with the specific terrorist act, also refers to Article 109 of the Criminal Code. According to our opinion, the article does not reestablish a need for the law enforcement authorities to prove the connection with the concrete criminal offence in the case of the indictment for financing of terrorism. Namely, all that afore mentioned articles demand from the law enforcement authorities is: - the proof of the fact, that the perpetrator collected the money or property and - the proof of intention, that the perpetrator will use that money or property partially or wholly to commit the criminal offences stipulated in Article 108 of the Criminal Code. The article must in this case refer to Article 108 which determines terrorist criminal activities. Article 109 of the Criminal Code is to be understood as that it refers to any not necessarily beforehand determined criminal offences, which can be seen also by the use of plurality ("the committing of offences under Article 10") at proving of the terrorist activities. It is hard to imagine that the court would on the basis of this article discharge a person for whom it has been proven that he/she intentionally financed for example the association, which would than forward the funds to the terrorist cell for performing undetermined criminal offences, stipulated in Article 108 of the Criminal Code, not guilty. In addition to the above reproaches, another statement has been subject to the recommendations made in the third round assessment, namely that the financing of terrorist organizations or terrorist can not base just on the concept of assistance, co-perpetrating or criminal associating. The implementation of this criterion can be clearly seen from the wording of Article 109 of the Criminal Code, which has such kind of assistance by committing the criminal offence of terrorism determined as a specific criminal offence. Namely, whoever provides or collects money or property in order to partly or wholly finance the committing of offences, has fulfilled the legal elements of the criminal offence under this article ("Financing of Terrorism") and therefore for the same criminal offence a person could not be reproached with the participation in committing the criminal offence of terrorism. In the absence of such article, in order to sentence such perpetrator, the participation in committing the criminal offence of terrorism together with all the elements demanded by the general part of the Criminal Code in regard to the participation in a criminal offence, should be proven.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*Financing of terrorism needs covering in STR reporting.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	Reporting of suspicious transactions in relation to financing of terrorism is not covered yet, but will be included in the forthcoming legislation. By the new preventive law, which is under preparation, financial institutions will be required to report to the FIU whenever they will suspect or have reasonable grounds for suspicion that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. After the enforcement of the new law, the supervisory authorities will, in cooperation with associations of obliged entities, compile indicators to identify suspicion of financing of terrorism and amend the existing lists of indicators for recognizing suspicious transactions. *See also the section on Recommendation 13.*
Measures taken to implement the recommendations since the adoption of the first progress report	Upon entry into force of the APMLFT reporting of suspicious transactions in relation to financing of terrorism is now covered in Slovenian legislation. *For further information please see the section on Recommendation 13.* By the time of writing this progress report only one transaction with suspicion of financing of terrorism has been reported to the OMLP. The competent supervisory authorities, in cooperation with the associations of obliged entities, have already compiled indicators to identify suspicion of financing of terrorism and amend the existing lists of indicators for recognizing suspicious transactions.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Recommendation of the MONEYVAL Report	*Financing of terrorism needs covering in STR reporting.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	The above obligation to report suspicion of linkage with terrorism, terrorist acts, etc, will apply equally to DNFBP. *See also section on Recommendation 13.*
Measures taken to implement the recommendations since the adoption of the first progress report	As already explained under Recommendation 13, Paragraph 2 of Article 38 or Paragraph 1 of Article 49 of the APMLFT respectively imposes to obliged entities to forward the relevant data to the OMLP where reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or transaction. All suspicious transactions, including attempted transactions, have to be reported regardless of the amount of the transaction. In addition, lawyers, law firms, notaries auditing firms, independent auditors, legal entities and natural

	persons performing accounting or tax advisory services shall report all cases where the client seeks advice for money laundering or terrorist financing purposes to the OMLP immediately or not later than within three business days of seeking such advice.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

3. Other Recommendations

In the last report the following FATF recommendations were rated as "partially compliant" (PC) or "non compliant" NC (see also Appendix 1). Please, specify for each one which measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 6 (Politically exposed persons)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Issue guidance on PEPs.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	No provisions implementing Recommendation 6 are in force at the time of the preparation of this progress report. Namely, regarding the subject of politically exposed persons (PEPs), Slovenia currently pursues the third EU Directive and recently adopted EU implementing measures to that Directive, which, besides other things, lay down the clarification of what should be understood by "politically exposed persons". Measures on enhanced customer due diligence (CDD) in respect of transactions or business relationships with PEPs residing abroad will be implemented by the forthcoming new Slovenian AML/CFT law. No final decision on extension of enhanced CDD requirements to PEPs that hold prominent public functions domestically has been taken yet. The OMPL is still considering a possibility to regulate PEPs in more detail by secondary legislation (a regulation or some other enforceable mean). Notwithstanding this decision, after the adoption of envisaged provisions within the new law, PEPs will be addressed in any case in guidelines that the OMLP and supervisory authorities are generally empowered to issue under their area of responsibility.
Measures taken to implement the recommendations since the adoption of the first progress report	The new AML/CFT law, adopted in 2007, implemented, inter alia, the recommendation regarding the subject of politically exposed persons (PEPs). Article 31 of the APMLFT lays down the definition of a "foreign politically exposed persons" and provides measures on enhanced customer due diligence (CDD) in respect of transactions or business relationships with foreign PEPs. The requirement to apply enhanced CDD requirements has not been extended in relation to PEPs that hold prominent public functions domestically. Regarding the PEP issue it is necessary to clarify the definition of a foreign PEP stipulating that foreign PEPs are persons holding or having held a prominent public position, including their family members

	and close associates. Here the APMLFT summarises the definition of a PEP, as proceeds from the third EU Directive, and the definition, as provided by FATF. Accordingly, foreign PEPs are: - persons with permanent residence abroad, and - persons occupying a prominent public position abroad (regardless of the residence). Article 31 of the preventive law also stipulates that an obliged entity must define an appropriate procedure for determining whether a customer is a PEP, considering the guidelines of the relevant supervisory authority. In defining the procedure for determining whether a customer is a PEP, the Bank of Slovenia took a risk-based approach, based on which it assessed that customers with permanent residence abroad represented higher risk than customers with permanent residence in Slovenia. In accordance with this the following recommendations have been made to banks: - if a customer has permanent residence abroad, it is recommended that the bank give the customer a statement to sign clarifying whether he/she is a PEP; - if a customer has permanent residence in Slovenia, it is recommended that the bank judge whether the customer could be a PEP on the basis of publicly available information and on the basis of information obtained about the customer (e.g. information about the customer's activities); - in addition to the prescribed procedure, the bank may also determine in any other manner whether a customer is a PEP (e.g. internet searches, enquiries on the PEP commercial database), in these cases the bank is obliged to ensure the traceability of the procedure; - the requirement to determine the political exposure of customers also relates to existing customers; the procedure for determining whether an existing customer is a PEP is conducted within the on-going monitoring of the business relationship. The definition of political exposure relates to a customer; the law however does not clearly stipulate how banks should act in the case of legal persons. The Bank of Slovenia recommended that also in these cases banks should establish an appropriate procedure for determining the political exposure of a customer, where information that the beneficial owner, legal representative or agent is a PEP should affect the risk profile of such a customer (a legal person).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 8 (New technologies and face-to-face business)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*During the last evaluation it was unclear how businesses issuing and performing operations with debit and credit cards are implementing preventive measures.*
Measures reported as of 31 August 2006 to implement the recommendation of the	No particular clarifications can be provided on this issue. In Slovenia, banks and other legal entities issue and perform operations with debit and credit cards. Debit cards for withdrawal of money and purchase of products and services are based on the immediate debiting of the card owner's bank account and are issued only by banks, licensed and supervised by the Bank of Slovenia. Credit cards

report	for purchase of products and services are issued also by other legal entities, mostly commercial ones (there were 8 domestic legal entities and 14 foreign operators in August 2006). Their cards are not used to withdraw cash and are based on a credit relationship. Pursuant to Slovenian legislation in force these legal entities are included in the AML system, too, and are subjected to AML requirements and to the control of the OMLP. In accordance to *Regulation on reporting on new payment instruments* (Official Gazette of the RS, No. 135/2003), businesses issuing and performing operations with payment cards have to report quarterly also to the Bank of Slovenia on the transactions performed with payment cards. In practice, however, no further guidelines (other than OMLP's written explanations on request) regarding business specific ID procedures, indicators for recognising suspicious transactions or other requirements have been delivered. In any case, the need for internal policies within financial institutions and other obliged entities to prevent the misuse of technological developments in money laundering or terrorist financing schemes remains to be addressed by the new AML/CFT provisions.
Measures taken to implement the recommendations since the adoption of the first progress report	Legal persons other than banks can also be card issuers. Here attention should be drawn to the Bank of Slovenia regulation relating to the submission of data on the use of advanced payment instruments, as reported already in the first progress report. In accordance with this regulation, other legal persons are obliged to report to the Bank of Slovenia about the issue and use of payment cards (quarterly reporting of volume and immediate reporting in the event of changes and upon the issue of new cards are envisaged). According to the most recent report on the issuers of payment cards, they comprise 20 banks and savings banks, and 15 other legal persons (e.g. Mercator d.d., Petrol d.d., Mobitel d.d., Diners Club Slo d.d.). Whereas the risk associated with debit and credit cards remains to be considered low, no further guidelines (other than OMLP's written explanations on request) regarding business specific ID procedures, indicators for recognising suspicious transactions or other requirements have been delivered to those business yet.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 12 (DNFBP – Rec. 5, 6, 8 – 11)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*PEPs needs covering in law, regulations or by other enforceable means.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	Measures on enhanced customer due diligence (CDD) in respect of transactions or business relationships with PEPs residing abroad will be implemented by the forthcoming new AML/CFT law. *See also the section on Recommendation 6.* Provisions to perform enhanced CDD procedures in case of PEPs will apply to DNFBPs as well. It is not clear yet if size of the obliged entity will be employed for supervisory assessment of effectiveness of enacted procedures for determination whether a (potential) customer is to be considered a PEP. For very small undertakings, there might be no requirement for written procedures.
Measures taken to implement the recommendations since	The requirements of the new AML/CFT law to perform enhanced CDD procedures when entering into a business relationship or carrying out a transaction amounting to EUR 15,000 or more with a customer who is a PEP apply to DNFBPs as well. *See the section on Recommendation 6 and Questions related to*

the adoption of the first progress report	*the Third EU Directive.* According to Article 31 of the APMLFT the obliged entity shall establish an appropriate procedure to determine whether a person is a foreign PEP. It shall define such procedure in its internal act while taking account of the guidelines of the competent supervisory body. By the time of writing this report, in regard of PEPs only the Slovenian Audit Institute issued guidance for entities under its responsibility; that is for auditors. Guidelines for casinos and organisers regularly offering sport wagers have been under preparation as well, reported the Office for Gaming Supervision recently.
Recommendation of the MONEYVAL Report	*FT needs covering in this context.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	As noted earlier, the new AML/CFT law will cover the latest international standards on the countering of the financing of terrorism. According to that law, being drafted, also DNFBPs will be required to undertake CDD measures when there will be a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds. *See also the section on Recommendation 5.*
Measures taken to implement the recommendations since the adoption of the first progress report	As already explained under Recommendation 5, according to Article 8 of the APMLFT all entities that are subject to the APMLFT, including DNFBPs, are required to undertake CDD measures, apart from under some other circumstances listed, always when reasons for suspicion of money laundering or financing of terrorism exist in connection with a transaction or a client. The obligation of identification in the case of suspicion of money laundering or financing of terrorism is a general requirement, which must be applied irrespective of whether the customer relationship is permanent or occasional, the amount, etc.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*General requirement needed for financial institutions to ensure that their foreign branches observe AML/CFT measures consistent with home country requirements.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	According to the Action Plan, a general requirement for financial institutions to ensure that their foreign branches and subsidiaries observe AML/CTF measures consistent with home country requirements will be introduced by the forthcoming new AML/CFT law. In the case of internationally active banks the Bank of Slovenia in practice already checks (also with the participation in on-site examinations conducted together with the host supervisory authorities) the compliance with that recommendation.
Measures taken to implement the recommendations since the adoption of the first progress report	In accordance with the Third EU Directive, Article 39 of the APMLFT introduces the obligation for financial institutions to apply the same measures for detection and prevention ML/TF in their foreign branches and majority-owned subsidiaries as there exist in the home country (unless explicitly contrary to the legislation of the foreign country). If the legislation of the third country does not allow performing measures of detection and prevention of ML/TF in the same extent as stipulated by AMPLTF, the financial institution must immediately inform the OMLP and take appropriate measures to eliminate the risk of ML/TF. Financial institutions also inform their foreign branches and subsidiaries on internal procedures relating to the detection and prevention of ML/TF, especially those

	referring to CDDs, reporting obligations, keeping records, internal control. *Article 39* *(Obligation to apply measures in third countries)* *(1) The organization shall ensure that its branches and majority-owned subsidiaries located in third countries apply the measures for detecting and preventing money laundering and terrorist financing stipulated by the present Act to the same extent, unless explicitly contrary to the legislation of the third country.* *(2) If the legislation of a third country does not allow for the application of measures for detecting and preventing money laundering or terrorist financing to the same extent as stipulated by this Act, the organization shall forthwith inform the office thereof and take appropriate measures to eliminate the risk of money laundering or terrorist financing.* *(3) Organizations shall inform their branches and majority-owned subsidiaries located in third countries of internal procedures relating to the detection and prevention of money laundering and terrorist financing, in particular with respect to customer due diligence, reporting obligations, keeping records, internal control and other relevant circumstances relating to the detection and prevention of money laundering and terrorist financing."*
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 27 (Law enforcement authorities)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*More law enforcement resources are required to focus on police-generated money laundering cases, or a reorientation of police investigations giving more priority to properly resourced asset detection and recovery.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	The Police provided the following information on the measures it has taken to give effect to recommendations made in the third round assessment. • The Criminal Investigation Police Directorate (within the General Police Directorate) issued guidance for writing initiatives that are sent to the OMLP pursuant to Article 20 of the valid LPML and on the basis of which the OMLP may start investigating a case in which a transaction or a particular person raises a suspicion of money laundering. The purpose of a clear guidance is to facilitate preparation of substantiated written initiatives and to increase police-generated money laundering investigations in major proceeds-generating cases. • Furthermore, arrangements governing preferential treatment of money laundering offences within the Criminal Investigation Police provided by Article 252 of the Penal Code have been finalised in May 2006. Operational instructions for the Financial Crime Division, which is primarily responsible for conducting preliminary investigation in money laundering cases, as well as in other economic crimes, were also adopted recently. • In the most recent period the coordination and cooperation regarding investigations of money laundering cases between the Criminal Investigation Police and local Criminal Investigations Police Sections have improved.

	• Concerning the human resources available to relevant police units dealing with money laundering cases there has been no increase since the last evaluation. As of August 2006 the Financial Crime Division within the Criminal Investigation Police Directorate centrally had four officers in all. The Criminal Investigation Police at the General Police Directorate however envisages changes of the present Rules on Organisation and Systematisation of the Police already in 2006 and subsequently an appointment of one additional officer within the Criminal Investigation Police Directorate.
(Other) changes since the last evaluation	In March 2006 The Slovenian Parliament adopted the Resolution on Prevention and Suppression of Criminality. Pursuant to the Resolution the Government of the RS must prepare the National Programme on Prevention and Suppression of Criminality by January 2007. A working group, which was set up for this purpose, has already drafted the five-year programme that shall define concrete tasks and measures of state authorities and other institutions. The OMLP also takes part in the inter-ministerial coordination of the document as currently in progress. Some significant activities proposed in the draft are the following: • drawing up of a standardized methodology for recording criminality and establishment of a network among the Police, Prosecutors and Courts registers; • extension of responsibilities for investigation of economic criminality to other supervisory authorities; • setting up of joint investigation units, members of which shall be representatives of various institutions combating economic criminality; • establishment of an interdepartmental working group empowered to coordinate measures aimed at detection, temporary securing of proceeds and confiscation of illegally acquired property benefits.
Measures taken to implement the recommendations since the adoption of the first progress report	With regard to the recommendation, that beside the OMLP also the police investigations should initiate suitable researches of suspicious transactions (directed by state prosecutors) and that investigations should also be diverted to the discovering and recovery of the assets, some progress concerning the activities of the Group of State Prosecutors for the Fight Against Organized Crime has been made in the last two years. In addition, the District State Prosecutor Offices, which directed the preliminary criminal procedure and demanded court investigations, have also taken an active role; the proceedings however have not come to an end yet. Nevertheless, these open proceedings show that the state prosecutor offices are aware of their responsibility in the field of the criminal offence of money laundering. The activities of state prosecutors have in the last working period been dedicated to so called "missing trader" companies and fictive financial transactions (also in the cases not involving the criminal offence of money laundering). According to information provided by the Police, the following actions have been taken to focus on police generated money laundering cases and asset recovery: - preparation of the modification of the guidelines referring to the confiscation of the illegally derived assets, - up to date recording to the central database (FIO) of the operational information concerning transactions suspected to be connected with money laundering, - training for the employees of the Crime Police Sector within the Police Directorate in charge of organized crime (especially drugs), with the focus to increase (i) the detection of suspected criminal offences containing the elements of money laundering and (ii) initiatives for further investigations, - update of the network of the contact persons on the Crime Police Sector within the Police Directorate at the regional level. The results of the afore mentioned activities are as follows: - increased number of performed financial investigations (there were 35 investigations in 2006,

	70 in 2007 and 51 until the end of June 2008), - increased number of filed criminal reports due to the suspicion on money laundering, - increased number of initiatives for the securing of the request for the confiscation of proceeds. As regards the organizational side of the Police, the Organized Crime Sector was reorganized and consequently the Financial Crime Department was renamed to the Financial Crime and Money Laundering Department in 2007. In the second half of the year 2008, a new crime inspector was employed to coordinate work in the field of money laundering. Prior that the work was coordinated by the head of the department of the Financial Crime Department. No new or revised internal acts concerning the prevention of money laundering and terrorist financing have been adopted in the last two years.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	With the purpose to direct the efforts of the state institutions and civil society to reduction of the criminality the Parliament adopted the Resolution on National Program of Prevention and Fight against Criminality for the period 2007-2011 (Official Gazette of the Republic of Slovenia No. 40/2007) in April 2007. As already described in the first progress report, the resolution determines concrete actions for the particular authorities. As regards the implementation of the resolution, the following measures, mostly in the field of economic crime, have already been performed: - drafting of changes in legislation in order to spread the powers for investigating economic crime also to other supervisory authorities such as customs and tax administration (as mentioned earlier in the general overview, the draft act on criminal procedure provides for provisions on the basis of which some police powers can be exercised by those two authorities); - preparation of standards for the establishment of multidisciplinary groups for the detection and investigation of more complex criminal offences of economic criminality. - improving of the structure of police staff .

Special Recommendation VIII (Non-profit organisations)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Urgent review of the risks in the NPO sector is required and consideration given to effective and proportional oversight.*
Measures reported as of 31 August 2006 to implement the recommendation of the report	As noted earlier, following the measures adopted in the Action Plan a comprehensive review of *non-profit sector* has been undertaken. The Ministry of Interior - Internal Administrative Affairs Directorate, in cooperation with the Criminal Investigation Police within the General Police Directorate, Slovenian Intelligence and Security Agency, Agency for Public Legal Records and Related Services, and OMLP, analysed the non-profit sector and on the basis of obtained information tried to assess potential threats to non-profit organisations (hereinafter: NPOs) from the point of view of terrorist financing. Members of an interdepartmental working group, which was set up for that purpose, included also Ministry of Finance, Ministry of Health, Ministry of Labour, Family and Social Affairs Ministry of the Environment and Spatial Planning, Ministry of Justice and Office of the Government of the RS for Religious Communities. In the context of the study the working group reviewed the adequacy of laws and regulations currently in force that regulate establishing, functioning and monitoring of non-profit sector. Furthermore, activities, size, types (e.g. legal personality) and other relevant features of NPOs that exist in Slovenia were analysed. Funding and financial management of NPOs were addressed as well. Finally, the group assessed the sector's potential vulnerabilities to terrorist activities. The findings show that non-profit sector in Slovenia has been regulated by numerous laws, some of which are rather outdated. Additionally, there is no adequate authority that would systematically deal with monitoring and regulating of such a huge field as it is the non-profit sector. It was noted, at the

	same time, that many relevant laws have been revised recently and amendments to those laws are under preparation or in adoption process. Updated acts are supposed to regulate non-profit organisations in a respective manner and first of all in the light of recent developments. Furthermore, the study reveals that the Slovenian prosecution authorities had over past years indeed detected reasons for suspicion of financing of terrorism, however, these reasons were never confirmed to the extent that they could be transformed into reasonable grounds for suspicion or even reasoned suspicion of committing the criminal offence of terrorist financing. Consequently, in Slovenia no terrorist financing linked criminal offence has been dealt with in the past decade. Notwithstanding that fact, the working group delivered certain opinions on the basis of the assessment and proposed further measures that can positively contribute to higher degree of transparency, accountability and integrity of NPOs and consequently protect the non-profit sector from terrorist abuse. The report on the study was presented to the Government within the framework of the Progress Report on the Action Plan Implementation in July 2006 and is available in Slovene language only.
Measures taken to implement the recommendations since the adoption of the first progress report	In addition to the information provided in the first progress report, the following developments in regard to non-profit sector can be reported. The Analysis of Risks of the Use of the Non-Profit Sector for Financing of Terrorism, performed by the interdepartmental working group in 2006, has been submitted twice to the Government of the Republic of Slovenia for further proceedings. With the analysis the Ministry of Interior tabled also draft conclusions, with which the Government would bind particular ministries or their constitutive bodies to perform certain actions to remedy the situation regarding the establishment and operating of non-profit organizations (NPOs). The foreseen steps were as follows: Ministry of Public Administration: - shall study how to ensure the systematic monitoring and solving of questions related to the activities of NPOs, which will assure adjusted development and transparency of this sector (statistical monitoring, adjustment of the legislation) - by preparing a new Institutes Act shall ensure the adjustment of that law with the Minor Offences Act and above all shall regulate the supervision above the provisions of the act. Ministry of Finance: - by preparing the amendments to the Accounting Ac shall assure the adjustment of that law with the Minor Offences Act and adequately determine the financial and material operations of the non-profit legal persons of private law. Office for Money Laundering Prevention: - shall study the possibility of changing Article 20 of the Law on the Prevention of Money Laundering (*Note: in force before the enforcement of the new APMLFT*) in a way, that it will enable that when there are grounds to suspect money laundering or terrorist financing in connection with the operation of a non-profit organisation, its members or persons associated with them, the OMLP may collect and analyse data also on the basis of a reasoned written initiative by authorities performing supervision of NPOs' operations, namely the Court of Audit of the Republic of Slovenia, the Internal Affairs Inspectorate of the Republic of Slovenia and other inspecting bodies competent for the supervision of the activities of NPOs. *See below Paragraph 2 of Article 60 of the APMLFT;* - through training shall acquaint the inspectors of supervisory bodies with their role in the field of the prevention of money laundering and terrorist financing; - shall acquaint entities, subject to the AML/CFT law, with the legislation regulating non-profit sector, including risks for money laundering and terrorist financing associated with NPOs, and with means by which they can acquire necessary data on a particular NPO from official registers of

NPOs.

In spite of all efforts of the Ministry of Interior, the inter-ministerial co-ordination failed and therefore the document has not been discussed and adopted by the Government. Some of the proposed duties have been accomplished anyway.

Firstly, in drawing up a new Societies Act (Official Gazette of the Republic of Slovenia, No. 61/06), which came into force on 28 June 2006, the Ministry of Interior, in charge of status questions of the societies and institutions, consistently took into consideration the recommendation made in the assessment report to ensure the effective supervision of the implementation of the provisions of the Societies Act. Therefore the law introduces the inspectoral oversight of the implementation of the provisions, violations of which represent administrative offences, namely:

- whether a society performs the activity determined in its basic act (the statute),
- if a society manages its assets and profit in a legal manner,
- whether in its basic act a society has determined the rules of operating, accounting and keeping the business books.

In addition to the ban on the setting up a society exclusively for purpose of gaining a profit, the new act explicitly prohibits the establishment of a society, the purpose, goals or activity of which aim at (i) the violent change of the constitutional order, (ii) the committing the criminal offences or the incitement to national, racial, religious or other discrimination, the inflaming of national, racial, religious or other hatred and intolerance or (iii) the incitement to violence or a war or those. Under the new provisions not only new societies with controversial goals are not allowed to be established or registered but also operations of already registered societies shall be prohibited by the court.

The implementation of the new Societies Act and the consistent supervision of the activities and financial operations of societies positively contribute to higher degree of transparency, accountability and integrity of NPOs and consequently reduce risks that the non-profit sector will be abused for money laundering or financing of terrorism.

Secondly, as already noted above, the new Prevention of Money Laundering and Terrorist Financing Act provides the following provision:

Article 60
(Initiators)

(1) Notwithstanding the provisions of paragraphs 3, 4 and 6 of Article 38 and paragraph 1 of Article 49 hereof, if a transaction or a particular person raises suspicion of money laundering or terrorist financing, the Office may start collecting and analysing data, information and documentation also on the basis of a written and reasoned initiative from the court, prosecutor's office, police, Slovenian Intelligence and Security Agency, Intelligence and Security Service of the Ministry of Defence, Court of Auditors, the authority responsible for the prevention of corruption, Office of the Republic of Slovenia for Budgetary Supervision, or Customs Administration of the Republic of Slovenia. The initiative must contain at least the information referred to in paragraph 1 of Article 83 hereof.

(2) When there are grounds to suspect money laundering or terrorist financing in connection with the operation of a non-profit organisation, its members or persons associated with them, the Office may collect and analyse data, information and documentation on the basis of a reasoned written initiative by the inspectorate responsible for internal affairs, as well as other inspection authorities responsible for supervision over the operation of non-profit organisations.

	(3) The Office shall refuse the initiative referred to in paragraphs 1 and 2 of this Article if the initiative fails to state substantiated grounds for suspicion of money laundering or terrorist financing. The Office shall inform the initiator of the refusal in writing, stating the reasons for which the initiative has not been tabled for discussion.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

4. *Specific Questions*

In relation to FATF recommendation 5, please describe whether criteria 5-7 of the methodology (which requires financial institutions to conduct ongoing due diligence on the business relationship) have been reflected in law or secondary legislation.
For the time being, procedures for ongoing due diligence are applied to foreign legal entities. According to the LPML currently in force, banks are obliged to perform afresh identification on a yearly basis in case of performing transactions over the limited threshold (3 million SIT). During afresh identification process banks need to get the data about a company (name of the company, address, unique ID number) and the data about the person who holds over than 20% of ownership or control function (name and surname, address, date and place of birth). During afresh identification banks also need to get a new authorization for a person who executes transactions. Procedures for ongoing due diligence on business relationships of other clients have not been prescribed. The Bank of Slovenia was involved in the process of preparing criteria for implementation of IT support for detecting suspicious activities. The Banking Association of Slovenia issued common criteria for implementation of IT support for detecting suspicious activities (criteria were issued in 2004 and revised in 2006). The basic idea lies in the bank's obligation to produce a list of transaction on a monthly basis considering adopted criteria. These lists should serve as a sort of indicator for recognising unusual activities and should represent a basis for further analysis in detecting suspicious activities. At the same time, the Bank of Slovenia constantly points out the importance that banks obtain the relevant data on the client's business activity and on the purpose for opening an account. With regard to this issue, Bank of Slovenia highlights the importance of comparing the data on the actual client's activity with the data on the client's activity as declared when opening an account. The Bank of Slovenia has also advised banks to segregate clients according to the assessed level of client's risk. Following such risk-based categorisation, a bank should perform the level of on-going due diligence in accordance with the risk attributed to a certain group of clients. This "non-formal" proposal will be also discussed with banks and the OMLP in the process of implementation of the third EU Directive.
Were there any changes made in relation to the administrative procedure for freezing terrorist related accounts? In particular, since the last evaluation visit, were there any guidance or instructions developed on procedures, as well as on the rights and obligations for account holding institutions under freezing mechanisms.
Following the special recommendation (SR III) on the implementation of freezing measures with

regard to terrorism on the basis of relevant UNSC resolutions, the Ministry of Foreign Affairs, which is responsible for the legal regulation of restrictive measures in Slovenia, has drafted a new Restrictive Measures Act (RMA). The draft act regulates, *inter alia*, the procedure to be followed when persons whose funds have been frozen seek access to those funds for the payment of basic expenses and for other legally permitted reasons under UNSC resolutions and/or EU regulations. In such cases general administrative procedure is to apply, with some modifications. The draft RMA thus provides for the authorities, competent for requests to unfreeze funds, sets the consultative role of the inter-institutional coordination group in the unfreezing procedure, and provides for shorter procedural time limits given the need for fast decision-making in cases of unfreezing funds, The draft RMA has already gone through government and public consultation and is expected to be adopted by the National Assembly by the end of 2006.

Have there been any changes to the resources needed for monitoring and ensuring compliance by DNFBPs?

Several steps have been taken regarding monitoring and ensuring compliance by non-financial organisations and professions since the last evaluation.

Concerning human resources, the OMLP has strengthened its staff since beginning of 2005. The position open at the time of the evaluation was occupied in May 2005 and one additional person for conducting supervision and administrative proceedings of financial institutions and DNFBPs was employed recently.

Given the high number of DNFBPs subject to monitoring the application of AML measures and the resources available, the OMLP takes risk into account when conducting supervision and monitoring. As mentioned earlier, on the basis of risk assessment an emphasis has been put lately on real estate agencies, particularly in respect of awareness raising and collecting information on developments in the sector in order to better asses trends and vulnerability to ML and FT.

As it is not feasible to further strengthen the OMLP's resources in relation to the role in monitoring of obliged entities with no prudential supervisor, supervisory powers will be shifted with the introduction of the new AML/CFT law. The draft foresees two additional supervisors for DNFBP sector: traders in goods in value of over 15.000 EUR shall be controlled for AML/CFT purposes by tax authorities, and real estate agents and travel agencies shall be controlled by the Market Inspectorate. Monitoring of the professions remains an open issue.

It is perhaps worth mentioning at this point that Slovenia is seriously considering to introduce a provision that would prohibit retailers (traders in goods in value of over 15.000 EUR) from receiving cash payments over 15.000 EUR. After consulting several competent authorities it is considered appropriate to introduce such prohibition by the new AML and CFT law. No final decision on this issue has been taken yet.

Additional questions since the 1st progress report

What procedures are in place to freeze assets under SR.III which relate to so-called EU internals? Have any such orders been made?

Under Article 3 of the Act Relating to Restrictive Measures Introduced or Implemented in Compliance with Legal Instruments and Decisions Adopted within International Organisations (OJ RS, No. 127/06), the Government is authorised to adopt regulations on the introduction of restrictive measures. If such measures are to be introduced by Slovenia without there being an international obligation to do so (UNSC resolution, EU legal act), the Permanent Coordination Group for Restrictive Measures (an inter-ministerial group) has to be consulted on the proposed regulation. It seems that the »EU internals« would fit into this category. No such freezing measures have been adopted as regards the »EU internals«.

Please indicate concrete steps which have been taken to speed up money laundering cases in the judicial system since the adoption of the 1st progress report.

To speed up money laundering cases in the judicial system the Ministry of Justice has prepared the project "Lukenda", which was initiated in 2006; its final version was confirmed by the decision of the Government of the Republic of Slovenia on 28 November 2007. The strategic goals of the project "Lukenda" have been (i) an increase of the efficiency of the judicial system and (ii) abolition of the judicial arrears until the end of the year 2010. The project has been performed in all judicial authorities, including all other bodies which can in different way contribute to the reduction of judicial arrears. By the end of the first half of 2008 the project was successfully performed in more than 51% of all Slovenian courts.

The principal measures for the higher efficiency of the courts and abolition of the judicial arrears have been (i) assurance of the working space conditions in accordance with the strategy of the working space conditions of the judicial system, (ii) assurance and organization of the additional human resources and (iii) extensive changes of the processional and organizational legislation. Furthermore, the project enabled clearer, faster and cheaper judicial operations, providing to persons the right for a trial without unnecessary postponement.

Additionally, the following actions have taken place to increase the efficiency of the judicial authorities: the underlying for the complete IT support of courts was prepared, the additional training for judges, state prosecutors and presidents of courts has been ensured and better running of the courts was anticipated. Those measures positively influenced also the hearings of money laundering cases in front of Slovenian courts.

Within the activities of the "Centre for Education in Justice" and the legal school for judges in the year 2006 the topic of the criminal offence of money laundering was introduced together with the contents of the criminal offence of money laundering and the activities of the OMLP. In the same year, also the seminar on the fight against organized evasion of the tax added value and the workshop on recognizing of the differences between certain criminal offences against property and economy were organized. In the year 2007, different activities took place among others also seminar on the "Globalization of Money Laundering", programme on economic crime, several topics were discussed at the seminar for prosecutors such as new forms of criminal offences which prejudice the budget, tax evasions as the predicate criminal offence for money laundering, systematic concealments in the field of the tax added value and illegal gambling.

Has the FIU taken further steps to exploit the CTRs received?

Notwithstanding the recommendation made in the assessment report, the OMLP has not increased the number of employees in the Analysis Service due to the limited budget and the prohibition of the increase of the number of employees in the public administration. The efforts within the OMLP were directed towards more effective processing and utilization of data from the cash transactions database in the framework of the existent organisation of work.

In the year 2005 the Analysis Service intended more time for monitoring of cash transactions, which were reported to the OMLP by obliged entities and customs authorities, and in 2006 it introduced systematic "three month analyses" of cash transactions database; to wit separately for natural persons, domestic legal persons and foreign enterprises. These efforts resulted in greater number of cases of suspicious transactions opened within the OMLP; in the period 2005 – 2008 the OMLP began investigations in 33 cases of suspicious transactions, based on 52 cash transaction reports. By the end of October 2008, 33% of all opened investigations were concluded: in one case a "notification of

suspicious transactions" was forwarded to the Police, in three cases an "information on suspicion of other crimes but ML/FT" was forwarded to the competent authority, seven cases were closed and put to file (*ad acta*) within the OMLP.

In addition to the regular analyses described above, the Analysis Service also conducts at times analyses of performances of large cash transactions in different sectors of obliged organisations (for example, in insurance sector, gaming sector, etc.). Analyses like this also served as the basis for provisions of the new PMLFTA concerning the obligation of reporting of cash transactions to the Office.

Please explain what further steps have been taken by law enforcement to focus on police generated ML cases and asset recovery, and with what result?

As already presented under Recommendation 27, the Police took the following steps to focus on police generated money laundering cases and asset recovery:

- preparation of the modification of the guidelines referring to the confiscation of the illegally derived assets,
- up to date recording to the central database (FIO) of the operational information concerning transactions suspected to be connected with money laundering,
- training for the employees of the Crime Police Sector within the Police Directorate in charge of organized crime (especially drugs), with the focus to increase (i) the detection of suspected criminal offences containing the elements of money laundering and (ii) initiatives for further investigations,
- update of the network of the contact persons on the Crime Police Sector within the Police Directorate at the regional level.

Furthermore, some progress with regard to the activities of the Group of State Prosecutors for the Fight Against Organized Crime has been made in the last two years. Additionally, the District State Prosecutor Offices, which directed preliminary criminal procedures and demanded court investigations, have also taken significant actions; the proceedings however have not come to an end yet. Regardless of the later fact, open proceedings show that the state prosecutor offices are aware of their responsibility in the field of the criminal offence of money laundering. The activities of state prosecutors have in the last working period been dedicated to so called "missing trader" companies and fictive financial transactions (also in the cases not involving the criminal offence of money laundering).

For overall information please see the Section on Recommendation 27.

Please explain what further steps have been taken to monitor and / or supervise those parts of the NPO sector which account for a significant portion of the financial resources under the control of the sector and a substantial share of the sector's international activity.

As described under Special Recommendation VIII, the new Societies Act (Official Gazette of the Republic of Slovenia, No. 61/06), enforced in June 2006, reflects the recommendation that the effective and proportional supervision of the implementation of the provisions of the Societies Act should be ensured. The law introduces the inspectoral oversight in regard of the provisions, violations of which represent administrative offences, being:

- whether a society performs the activity determined in its basic act (the statute),
- if a society manages its assets and profit in a legal manner,
- whether in its basic act a society has determined the rules of operating, accounting and keeping the business books.

In addition to the ban on the setting up a society exclusively for purpose of gaining a profit, the new act explicitly prohibits the establishment of a society, the purpose, goals or activity of which aim at (i) the violent change of the constitutional order, (ii) the committing the criminal offences or the incitement to national, racial, religious or other discrimination, the inflaming of national, racial, religious or other hatred and intolerance or (iii) the incitement to violence or a war or those. Under the provisions in force now only new societies with controversial goals are not allowed to be established or registered but also operations of already registered societies shall be prohibited by the court.

The implementation of the new Societies Act and the consistent supervision of the activities and financial operations of societies positively contribute to higher degree of transparency, accountability and integrity of NPOs and consequently reduce risks that the non-profit sector will be abused for money laundering or financing of terrorism.

The second outcome that it is worth mentioning is the adoption of the new APMLFT, which in Paragraph 2 of Article 60 introduces a new provision, namely that when there are grounds to suspect money laundering or terrorist financing in connection with the operation of a NPO, its members or persons associated with them, the OMLP may collect and analyse data, information and documentation on the basis of a reasoned written initiative by the inspectorate responsible for internal affairs, as well as other inspection authorities responsible for supervision over the operation of non-profit organisations.

See also the section on Special Recommendation VIII.

Please explain how the requirement on financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks is implemented? Is this covered by law, regulation or other enforceable means?

Under Article 36 of the APMLFT law banks are prohibited from entering into or continuing a correspondence relationship with a bank operating as a shell bank or any other similar credit institution that is known to allow the use of its accounts by shell banks.

In the guidelines, issued for the banking industry, the Bank of Slovenia recommended that in the case of a correspondence relationship with a foreign bank situated in a third country, the bank (as the entity subjected to the APMLFT) should obtain a written statement that the foreign bank is not operating as a shell bank, and that it does not enter into commercial relations with shell banks.

5. *Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)*[6]

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	The Third Directive and the Implementation Directive have been fully implemented since 21 July 2007, when the new AML/CFT law came into force. Some provisions related to CDD measures however only apply since 21 January 2008. The Prevention of Money Laundering and Terrorist Financing Act provides: *Article 1* *(Contents of the Act and transposed EU directives)* *(1) This Act shall stipulate measures, competent authorities and procedures for detecting and preventing money laundering and terrorist financing.* *(2) This Act shall transpose the following directives of the European Communities into the legislation of the Republic of Slovenia:* *1. 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 (OJ L No. 309 of 25 November 2005, p. 15; hereinafter: Directive 2005/60/EC);* *2. Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedure and for exemption on grounds of financial activity conducted on an occasional or very limited basis (OJ L No. 214 of 4 August 2006, p.29).*

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[7] (please also provide the legal text with your reply)	The legal definition of beneficial owner as included in the new AML/CFT law corresponds to the definition of beneficial owner in the Third Directive. The Prevention of Money Laundering and Terrorist Financing Act provides: *Article 3* *(Definition of other terms)* ... 12. *For the purposes of this Act, the term beneficial owner shall include the following:* - *a natural person who ultimately owns or supervises or otherwise exercises control over a customer (provided the party is a legal entity or other similar legal subject), or* - *a natural person on whose behalf a transaction is carried out or services performed (provided the customer is a natural person).*

[6] For relevant legal texts from the EU standards see Appendix II

[7] Please see Article 3(6) of the 3rd Directive reproduced in Appendix II

	Article 19 *(Beneficial owner of a customer)* *(1) Pursuant to this Act, the beneficial owner of a corporate entity shall be:* *1. any natural person who owns through direct or indirect ownership at least 25% of the business share, stocks or voting or other rights, on the basis of which he/she participates in the management or in the capital of the legal entity with at least 25% share or has the controlling position in the management of the legal entity's funds;* *2. any natural person who indirectly provides or is providing funds to a legal entity and is on such grounds given the possibility of exercising control, guiding or otherwise substantially influencing the decisions of the management or other administrative body of the legal entity concerning financing and business operations.* *(2) For the purposes of this Act, the beneficial owner of other legal entities, such as foundations and similar foreign law entities which accept, administer or distribute funds for particular purposes, shall mean:* *1. any natural person who is the beneficiary of more than 25% of the proceeds of property under management, where the future beneficiaries have already been determined or can be determined;* *2. a person or a group of persons in whose main interest the legal entity or similar foreign law entity is set up and operates, where the individuals that benefit from the legal entity or similar foreign law entity have yet to be determined;* *3. any natural person exercising direct or indirect control over 25% or more of the property of a legal entity or similar foreign law entity.*

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	The new AML/CFT law provides for several provisions and/or tools on the basis of which financial institutions have been permitted to use risk-based approach. Firstly, the risk-based approach is introduced in the AML/CFT law by the obligation that a financial institution shall prepare a risk analysis and establish a risk assessment for individual groups or customers, business relationships, products or transactions with respect to their potential misuse for money laundering or terrorist financing (Article 6 of the APMLFT). Such risk analysis shall be drawn up in accordance with guidelines issued by and within the powers of the competent supervisory body. The procedure to establish risk assessment shall reflect the specific features of the financial institution and its operations (e.g. its size and composition, scope and structure of business, types of customers doing business with the financial institution, and types of products offered by the financial institution). The risk assessment than serves for the selection of the appropriate CDD procedure, that is in order to determine whether normal CDD can be applied or enhanced CDD is needed. Simplified CDD, which may be applied by financial institutions, is triggered by relevant cases and criteria and is not directly subject to risk assessment by the financial institution (Article 33 of the APMLFT). *Article 6* *(Risk of money laundering and terrorist financing)* *(1) Risk of money laundering or terrorist financing shall mean the risk that the customer would misuse the financial system for money laundering and terrorist financing or that a business relationship,*

transaction or product would be used, directly or indirectly, for money laundering or terrorist financing.

(2) An organisation shall prepare a risk analysis and establish a risk assessment for individual groups or customers, business relationships, products or transactions with respect to their potential misuse for money laundering or terrorist financing.

organisation shall draw up the risk analysis referred to in the preceding paragraph in accordance with guidelines issued by and within the powers of the competent supervisory body referred to in Article 85 of this Act.

(4) In respect of point 4 of paragraph 1 of Article 33 of this Act, only persons meeting the criteria set in the rules issued by the minister responsible for finance may be treated by an organisation as customers assessed as representing a low risk of money laundering or terrorist financing. The minister shall take account of the technical criteria adopted by the European Commission pursuant to Article 40 of Directive 2005/60/EC and related data from the office and supervisory bodies.

(5) The risk analysis or the procedure to establish risk assessment referred to in paragraph 2 of this Article shall reflect the specific features of the organisation and its operations (e.g. its size and composition, scope and structure of business, types of customers doing business with the organisation, and types of products offered by the organisation).

Furthermore, a risk assessment is conducted to establish the extent of each of the four measures that comprise the so called normal CDD procedure. Subject to guidelines issued by the competent supervisory body, a financial institution will decide on the basis of its own risk analysis, for example, how it will monitor business activities undertaken by the customer or verify, if at all, the identity of a beneficial owner.

Article 20
(Determining the beneficial owner of a legal entity or similar foreign law entity)

...
(4) The organisation shall obtain data on the ultimate beneficial owner of a legal entity or similar foreign law entity. With regard to the risk of money laundering or terrorist financing to which the organisation is exposed in conducting business with such customer, the organisation shall verify the data to such an extent that it understands the ownership and control structure of its customer and is satisfied that it knows who the beneficial owner is.
...

Article 22
(Due diligence in monitoring business activities)

(1) The organisation shall monitor business activities undertaken by the customer through the organisation with due diligence and thus ensure knowledge of the customer, including the origin of assets used in business operations. Monitoring business activities undertaken by the customer through the organisation shall include:
1. *verification of the customer's business operations compliance with the purpose and intended nature of the business relationship established between the customer and the organisation;*
2. *monitoring and verification of the customer's business operations compliance with his/her regular*

	scope of business; *3. monitoring and updating obtained documents and data on the customer, including undertaking annual review of the customer in cases referred to in Article 23 of this Act.* *(2) The organisation shall ensure the scope and frequency of measures referred to in paragraph 1 of this Article appropriate to the risk of money laundering or terrorist financing to which it is exposed in carrying out individual transactions or in business operations with an individual customer. The organisation shall assess such risk pursuant to Article 6 of this Act.* As regards enhanced CDD, the risk assessment aims at identifying cases where the risk is high, further to those set out in Article 29 in the APMLFT, and as well as establishing the appropriate extent of the measures indicated in the AML/CFT law (where applicable). *2.2.4.1 Enhanced customer due diligence* *Article 29* *(General)* *(1) Enhanced customer due diligence shall, in addition to the measures referred to in paragraph 1 of Article 7 of this Act, include additional measures stipulated by this Act in the following cases:* *1. entering into a correspondent banking relationship with a respondent bank or similar credit institution situated in a third country;* *2. entering into a business relationship or carrying out a transaction referred to in point 2 of paragraph 1 of Article 8 of this Act with a customer who is a politically exposed person referred to in Article 31 of this Act;* *3. when, within customer due diligence, a customer was not physically present for the purpose of determining and verifying his identity.* *(2) The organisation shall apply enhanced customer due diligence procedure in all cases referred to in paragraph 1 of this Article. In addition, the organisation shall apply, by analogy, a measure or measures of enhanced customer due diligence from Articles 30, 31 and 32 of this Act in cases where pursuant to Article 6 of this Act it assesses that there is a high risk of money laundering or terrorist financing due to the nature of the business relationship, form or manner of executing the transaction, business profile of the customer, or other circumstances relating to the customer.*

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[8] are provided for in your domestic legislation (please also	The AML/CFT law provides for the same criteria for identifying politically exposed persons as defined in the Third Directive and the Implementation Directive. In respect of immediate family members, sisters and brothers of a PEP are added to the list. As regards the obligation to apply enhanced CDD when entering into a business relationship or carrying out a transaction amounting to EUR 15,000 or more with a customer who is a PEP, Slovenian rules slightly differs from the EU provisions. In addition to the EU requirement to apply enhanced CDD for any natural person who is or has been entrusted with prominent public function and resides in another Member State or in a third country, the Slovenian definition of a foreign PEP, in relation to which enhanced CDD is required, includes also a

[8] Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

provide the legal text with your reply).	person who is or has been entrusted with prominent public function in another Member State or in a third country, irrespective of his/her residence. The Prevention of Money Laundering and Terrorist Financing Act provides: *Article 31* *(Foreign politically exposed persons)* *(1) The organisation shall establish an appropriate procedure to determine whether a person is a foreign politically exposed person. It shall define such procedure in its internal act while taking account of the guidelines of the competent supervisory body referred to in Article 85 of this Act.* *(2) The foreign politically exposed person referred to in paragraph 1 of this Article shall mean any natural person who is or has been entrusted with prominent public function in the previous year and resides in another Member State or in a third country, or a person who is or has been entrusted with prominent public function in another Member State or in a third country in the previous year, including immediate family members and close associates.* *(3) Natural persons who are or have been entrusted with prominent public function shall be the following:* *1. heads of state, prime ministers, ministers and their deputies or assistants;* *2. elected representatives in legislative bodies;* *3. members of supreme and constitutional courts and other high-level judicial authorities against whose decisions there is no ordinary or extraordinary legal remedy, save in exceptional cases;* *4. members of courts of audit and boards of governors of central banks;* *5. ambassadors, chargés d'affaire and high-ranking officers of armed forces;* *6. members of the management or supervisory bodies of undertakings in majority state ownership.* *(4) Immediate family members of the person referred to in paragraph 2 of this Article shall be the following: spouse, common law partner, parents, brothers and sisters and children and their spouses or common law partners.* *(5) The close associate referred to in paragraph 2 of this Article shall mean any natural person who has a joint profit from property or business relationship or has any other close business links.* *(6) When the customer entering into a business relationship with or effecting a transaction, or when the customer on whose behalf a business relationship is entered into or a transaction effected, is a foreign politically exposed person, the organisation shall in addition to the measures referred to in paragraph 1 of Article 7 of this Act within the enhanced customer due diligence procedure take the following measures:* *1. The organisation shall obtain data on the source of funds and property that are or will be the subject of business relationship or transaction from documents and other documentation submitted by the customer. When such data cannot be obtained in the described manner, the organisation shall obtain it directly from the customer's written statement.* *2. An employee of the organisation who conducts the procedure for entering into a business relationship with a customer who is a foreign politically exposed person shall obtain the written approval of his/her superior and the responsible person prior to entering into such relationship.* *3. After a business relationship has been entered into, the organisation shall monitor the transactions and other business activities effected through the organisation by a foreign politically exposed person with due diligence.*

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	According to Paragraph 1 of Article 76 of the APMLFT the prohibition is not limited only to transaction reports but also covers ongoing ML/TF investigations, as the obliged entities and their employees are not allowed to disclose to a customer or third person: - any data, information on documentation about the customer or transaction which have been forwarded to the OMLP - information that the OMLP temporarily postponed a transaction or gave instructions, - data that the OMLP required the ongoing monitoring of the customer's transactions, - data that the investigation due to ML/TF against him/her has started. *Article 76* *(Prohibition on disclosure)* *"(1) Persons under obligation and their staff, including members of the management, supervisory or other executive bodies, and/or other persons having any access to data on the below facts, shall not disclose to a customer or third person that:* *1. the data, information or documentation about the customer or the transaction referred to in paragraphs 3, 4 and 6 of Article 38, paragraph 1 of Article 49, paragraphs 1, 2 and 3 of Article 54 and paragraphs 1 and 2 of Article 55 of this Act have been or will be forwarded to the Office;* *2. the Office, pursuant to Article 57 of this Act, temporarily suspended the transaction and/or in this regard gave instructions to the person under obligation;* *3. the Office, pursuant to Article 59 of this Act, required the ongoing monitoring of the customer's business operations;* *4. an investigation has been or is likely to be launched against him/her or a third person on grounds of money laundering or terrorist financing."* ...
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	According to Paragraph 4 of Article 76 of the APMLFT the prohibition is not applied: - if the data, information and documentation obtained by the obliged entity are needed for establishing the facts in criminal proceedings or if those data is required by the competent court and - if the data is required by the supervisory body for the purpose of supervision of implementation of the provisions of APMLFT. *Article 76* *(Prohibition on disclosure)* **...** *"(4) The prohibition on disclosure of facts referred to in paragraph 1 of this Article shall not apply:* *1. if the data, information and documentation obtained and retained in accordance with this Act by a person under obligation are necessary to establish facts in criminal proceedings, and if the submission of said data is required or imposed in writing by the competent court;* *2. if the data referred to in the preceding point are required by the supervisory body referred to in Article 85 of this Act for the supervision of implementation of the provisions of this Act and the ensuing regulations, conducted within its competencies."*

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	Pursuant to the Act on the Prevention of Money Laundering and Terrorist Financing, in cases where an infringement is committed for the benefit of a legal person, the corporate liability and the liability of the person, who occupies a leading position in that legal person, are applied.
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	Corporate liability is applied also in the case of the lack of supervision or control by persons who occupy a leading position within the legal person.

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	According to the AML/CFT law, the obliged entities that have to carry out tasks stipulated by that law, are, among others, the following: - traders in precious metals and precious stones and products made from these materials; - trader in works of art; - auctioneers. Due to the general prohibition included in the AML/CFT law, that persons pursuing the activity of selling goods in Slovenia are not allowed to accept cash payments exceeding EUR 15,000 from their customers or third persons when selling individual goods, other natural and legal persons trading in goods are not subject to the AML/CFT law. The Prevention of Money Laundering and Terrorist Financing Act stipulates: *Article 37* *(Limitations on cash operations)* *(1) Persons pursuing the activity of selling goods in the Republic of Slovenia shall not accept cash payments exceeding EUR 15,000 from their customers or third persons when selling individual goods. Persons pursuing the activity of selling goods shall also include legal entities and natural persons who organise or conduct auctions, deal in works of art, precious metals or stones or products thereof, and other legal entities and natural persons who accept cash payments for goods.* *(2) The limitation for accepting cash payments referred to in the preceding paragraph shall also apply where the payment is effected by several linked cash transactions exceeding in total the amount of EUR 15,000.* *(3) Persons pursuing the activity of selling goods shall receive payments referred to in paragraphs 1 and 2 of this Article from the customer or third party on their transaction accounts, unless otherwise provided by other Acts.*

6. *Statistics*

Money Laundering and Financing of terrorism cases

a) Statistics provided in the last progress report

2004 (for comparison purposes)												
	Investigations*		Prosecutions**		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	4	11	8	19	0	0	2	4.104.000	0	0	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

2005												
	Investigations*		Prosecutions**		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	2	5	3	7	0	0	1	565.594	0	0	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

* Number of cases, for the current year, submitted to the prosecutor's offices by the Police.

** Number of cases dealt with by the prosecutors (cases dismissed + cases for which a demand for investigation was filed + cases under investigation).

2006 (until 1.7.2006)												
	Investigations*		Prosecutions**		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	3	5	3	6	1	3	1	102.000	1	0	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

b) Please complete, to the fullest extent possible, the following tables since the adoption of the progress report.

2006												
	Investigations•		Prosecutions••		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	3	6	3	9	1	3	1	102.000	1	2 real estates	0	0
FT												

2007												
	Investigations*		Prosecutions**		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	2	2	4	13	0	0	2 1	58.000 4.760.058[1]	0	0	0	0
FT												

[1] Proceeds frozen on the basis of bilateral legal assistance.

* Number of cases, for the current year, submitted to the prosecutor's offices by the Police.

** Number of cases dealt with by the prosecutors (cases dismissed + cases for which a demand for investigation was filed + cases under investigation).

2008 (until 30.11.2008)												
	Investigations*		Prosecutions**		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	4	9	1	3	1	1	1	115.828	1	1.500.000 (1 real estate)	1	1.436.165[2]
FT												

[2] The proceeds, seized already in year 1998 and currently amounting in total to 1.436.165 EUR, were in 2008 confiscated under "i*n rem*" procedure (Article 498a of the Criminal Procedure Act).

7. STR/CTR

a) Statistics provided in the last progress report

2004 (for comparison purposes)												
Statistical Information on reports received by the FIU									Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments***		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks	34.554	74		113		9		1 (0)	0	0	0
Poste office	935										
Notaries		1									
Currency exchange	904										
broker companies		3									
Gaming saloons	39										
Savings and credit houses	71										
Investment companies		1									
casinos	767	3									
Saving banks	217	1									
Notaries		1									
Foreign FIU		9									
State agencies		18									
tourist agencies		1									
Exclude by UPPD from Cash		1									
Total	**37.487**	**113**									

*** Number of final judgments of conviction, while the data in brackets applies to final convictions in cases, instituted by the FIU.

2005											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments***		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks	38.621	75		116		32		1 (1)	0	0	0
Poste office	1.282										
Currency exchange	849										
Insurance companies		1									
broker companies		2									
Gaming saloons	85										
Savings and credit houses	9										
leasing companies		2									
casinos	1.107										
Saving banks	216	1									
State agencies		14									
Foreign FIU		11									
Exclude by UPPD from Cash		10									
Total	**42.169**	**116**									

2006 (until 1.7.2006)											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments***		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks	21.751	62		74		14		2 (0)	0	1	0
Poste office	826										
Currency exchange	381										
Insurance companies	5										
Gaming saloons	34										
Savings and credit houses	1										

*** Number of final judgments of conviction, while the data in brackets applies to final convictions in cases, instituted by the FIU.

casinos	515										
Companies trading precious metals and precious stones	6										
Saving banks	156										
Foreign FIU		2									
State agencies		8									
Exclude by UPPD from Cash		2									
Total		**74**									

b) Please complete in the fullest extent possible, the following tables since the adoption of the 1st progress report

Explanatory note:
The statistics under this section should provide an overview of the work of the FIU.
The list of entities under the heading "*monitoring entities*" is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.
The information requested under the heading "*Judicial proceedings*" refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.
"C*ases opened*" refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term "cases open" is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2006															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	46.019	123		165		37		2	7			1	3		
Post office	1734	2													
Currency exchange	782														
Casinos	935														

Gaming salons	90														
Saving banks	388	2													
Savings and credit houses	6														
broker companies															
Companies trading with gems	9														
Insurance	3														
Notaries															
State agencies		18													
Foreign FIU		12													
Excluded by OMLP from CT		8													
Total	**49.966**	**165**													

2007															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	40.937	157													
Post office	2.028	2													
Currency exchange	5														
Casinos	932														
Gaming salons	146														
Saving banks	547	5													
Savings and credit houses	8														
broker companies	5														
Companies trading with precious metals and gems	2			192		70		1	1						
Insurance	4														
Bank of Slovenia	3														
Notaries		1													
State agencies		10													
Foreign FIU		10	1												
Opened by OMLP from Cash		6													
Total	**44.617**	**191**	**1**												

2008 (until 30.11.2008)																
Statistical Information on reports received by the FIU								Judicial proceedings								
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				convictions				
								ML		FT		ML		FT		
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	cases	persons	
commercial banks	10.115	167														
Post office	560	2														
Currency exchange	1															
Casinos	476															
Gaming salons	64															
Saving banks	152	10														
Savings and credit houses	2															
broker companies		1		229		60						1	1			
Accountants		1														
Tax advisers		1														
Lawyers																
State agencies		28														
Foreign FIU		9														
Opened by OMLP from Cash		10														
Total	**11.370**	**229**														

c) AML/CFT sanctions imposed by supervisory authorities.

Please complete a table (as beneath) for administrative sanctions imposed for AML/CFT infringements in respect of each type of supervised entity in the financial sector (eg, one table for banks, one for insurance, etc). If possible, please also indicate the types of AML/CFT infringements for which sanctions were imposed in text beneath the tables in your reply.

If similar information is available in respect of supervised DNFBP, could you please provide an additional table (or tables) covering administrative sanctions on DNFBP, also with information as to the types of AML/CFT infringements for which sanctions were imposed in text beneath the tables in your reply.

Please adapt the tables, as necessary, also to indicate any criminal sanctions imposed on the initiative of supervisory authorities and for what types of infringement.

Administrative Sanctions

	2004 for comparison	2005 for comparison	2006 (until 22 June 2006)	2006 (since 22 June 2006)	2007	2008
Number of AML/CFT violations identified by the supervisor	**17**	**9**	**4**	**12**	**17**	**11**
Type of measure/sanction*						
Written warnings	/	/	**5*** **		**4**	**5**
Fines	**7**	**4**	**3*** **		**3**	
Removal of manager/compliance officer	/	/	/	/	/	/
Withdrawal of license	/	/	/	/	/	/
Other**						
Total amount of fines	**27.353,53**	**25.371,39**	**28.167,25*** **		**18.778,14**	**6.400,00**
Number of sanctions taken to the court (where applicable)	**17**	**9**	**4**		/	/
Number of final court orders	**7**	**4**	**14*** **		**16**	**1**
Average time for finalising a court order	**2,5 years**	**2 years**	**2 years *** **		**1 year**	**1 year**

*** Please amend the types of sanction as necessary to cover sanctions available within your jurisdiction**
**** Please specify**

Note: The data marked with * refer to the whole year 2006 (from January 1 until December 31).**

A column for the year 2006 is added in the Table "Administrative Sanctions", so that the data for this year is divided in two periods, that is until 22 June 2006 and after 22 June 2006. On 22 June 2006 the OMLP namely became the administrative authority and as such competent for taking decisions on the administrative offences in respect of the Law on the Prevention of Money Laundering and later, on 21 July 2007, in respect to the new Act on the Prevention of Money Laundering and Terrorist Financing.

The afore mentioned circumstance is also responsible for the partial deformation of the data and aggravating comparison, as until 22 June 2006 the OMLP just filed so called bills of indictment to competent courts while after that date the decisions on administrative sanctions have been taken by the OMLP itself. Since June 2006 courts have been taking decisions on the subject only in the case of the complaint of the violator against the provision of the Office for Money Laundering Prevention. As a consequence, there have been no cases in the years 2007 and 2008, filed by the Office to the court (meaning there were no accusing proposals), but the courts have been solving the accusing proposals, sent by the OMLP in the previous years (before 22 June 2006, when the OMLP was not the administrative authority). For that reason the difference in data of the columns on "Number of AML/CFT violations identified by the supervisor", "Number of sanctions taken tot the court (where applicable)" and "Number of final court orders" results in the table. The data for the year 2008 is also not complete, as some cases have not been concluded yet. Consequently, by the end of the year 2008 the final number of sanctions will be higher than the number given in the table.

As far as DNFBPs are concerned, in 2008 the Office for Gaming Supervision issued (i) one order to pay because of committing the administrative offence according to Point 16, Paragraph 1 of Article 92 of the APMLFT and (ii) one administrative provision to abolish irregularities due to the violation of Point 10 of the Decree on conditions which has to be fulfilled by the organisers regularly offering classical gaming (Official Gazette of the Republic of Slovenia, No. 70/00) in relation to Article 51 of the APMLFT.

According to the data of the Slovenian Audit Institute no implemented measures or sanctions resulted from supervision within the last two years. In 2007 and 2008 the activities of the Institute were mostly focused on (i) informing audit companies and authorized auditors on novelties in the field of the prevention of money laundering and terrorist financing (September 2007), (ii) the preparation of the sampling book of rules, that should be adopted by the audit companies with regards to the new AML/CFT law (November and December 2007) and (iii) the organization of the seminar on prevention of money laundering and terrorist financing for the authorized persons of audit companies (January 2008).

According to the new Auditing Act (Official Gazette of the Republic of Slovenia, No. 65/2008), the Agency for the Public Supervision over Auditing has been established and an oversight programme for 2008 and 2009 has already been determined. Only in the context of such on-site supervision the institute will be able to more precisely perform control over the implementation of the APMLFT in audit companies. On the basis of eventual noncompliance encountered during the on-site supervision the Institute will provide further guidance for achieving necessary improvements.

APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	No text required.
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1 & 2)	Create case law by confronting the courts with as many money ML prosecutions as possible and thus challenge the present jurisprudence on the evidential requirements. Ultimately consider legislative action to remedy the situation.
Criminalisation of Terrorist Financing (SR.II)	Bring art. 388a PC fully in line with SRII and its IN by completing the list of terrorism related offences, expressly provide for funding of terrorist organisations and individuals, and express exclusion of a required link with specific terrorist acts.
Confiscation, freezing and seizing of proceeds of crime (R.3)	Increase the results of criminal asset recovery (by bringing as many money laundering prosecutions as possible to create a clear jurisprudential framework as recommended above [R.1 and R.2]). Law enforcement should give more priority to asset detection and asset recovery.
Freezing of funds used for terrorist financing (SR.III)	The administrative procedure of freezing suspected terrorism related accounts as a result of the relevant UN Resolutions should be fully elaborated, including rules regarding unfreezing and the rights and obligations of the financial institutions and the account holders.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	The FIU needs to be empowered to receive financing of terrorism disclosures More resources required for supervision and analysis of CTRs .
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	- More law enforcement resources are required to focus on police-generated money laundering cases, or a reorientation of police investigations giving more priority to properly resourced asset detection and recovery. - Prosecutors should be more willing to test the law and bring ML prosecutions. The numbers of sufficiently trained prosecutors to deal with the new focus on asset recovery (and ML) should be reviewed. - Consideration should be given to more judicial

	training in financial crime and judicial specialisation. - Serious efforts needed to speed up the judicial process in ML cases.
3. Preventive Measures – Financial Institutions	
Risk of money laundering or terrorist financing	- Risk of financing of terrorism needs addressing in legislation.
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	- Produce consistent guidance to ensure same ID standards apply across the financial market. - Issue guidance on PEPs. - Introduce the obligation to conduct CDD in case of financing of terrorism suspicion and bring in line threshold to conduct CDD in case of wire transfers (see SR.VII).
Third parties and introduced business (R.9)	No recommendations.
Financial institution secrecy or confidentiality (R.4)	No recommendations.
Record keeping and wire transfer rules (R.10 & SR.VII)	ID procedures in wire transfers need to comply with the relevant thresholds in the international standards.
Monitoring of transactions and relationships (R.11 & 21)	Recommendation 11 should be covered in law.
Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	- Financing of terrorism needs covering in STR reporting. - "Safe harbour" provisions should clearly cover criminal liability.
Internal controls, compliance, audit and foreign branches (R.15 & 22)	- Specific provisions on employee screening and more clarification of the compliance officer's powers and roles required. - General requirement needed for financial institutions to ensure that their foreign branches observe AML/CFT measures consistent with home country requirements.
Shell banks (R.18)	Undertake, as necessary, a review of existing correspondent relationships to ensure non are with shell banks, including a review on respondent foreign financial institutions as to whether respondent foreign financial institutions do not allow their accounts to be used by shell banks.
The supervisory and oversight system - competent authorities and SROs (R. 17, 23, 29 & 30).	- Even greater focus on supervision to address under-reporting in non-banking financial sector and DNFBPs. - Speed and effectiveness of administrative sanctioning regime should be reviewed, and, as necessary,

	changes made.
Financial institutions - market entry and ownership/control (R.23)	No specific action required.
AML/CFT Guidelines (R.25)	The production of more targeted sector specific AML guidelines and indicators and the production across the board of indicators on FT.
Ongoing supervision and monitoring (R.23, 29 & 32)	- Perceptions of the risk of ML still need further strengthening across the whole financial sector. - Clearer specification of the precise statistical data required for publication would assist.
Money value transfer services (SR.VI)	No specific action required.
4. Preventive Measures – Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	- PEPs needs covering in law, regulations or by other enforceable means. - FT needs covering in this context.
Monitoring of transactions and relationships (R.12 & 16)	- Terrorist financing and PEPs need covering. - More emphasis on identifying complex and unusual transactions.
Suspicious transaction reporting (R.16)	- FT needs covering. - "Safe harbour" provisions need to clearly provide for criminal activity.
Internal controls, compliance & audit (R.16)	Greater clarification of the role of compliance officers and the width of the exemptions from organising internal control.
Regulation, supervision and monitoring (R.17, 24-25)	Further assessment of the risks in this sector required and more resources needed to ensure an effective system monitoring compliance with AML/CFT standards.
Other designated non-financial businesses and professions (R.20)	No further action recommended.
5. Legal Persons and Arrangements & Non-Profit Organisations	
Legal Persons – Access to beneficial ownership and control information (R.33)	No recommendations.
Legal Arrangements – Access to beneficial ownership and control information (R.34)	No recommendations.
Non-profit organisations (SR.VIII)	Urgent review of the risks in the NPO sector is required

	and consideration given to effective and proportional oversight.
6. National and International Co-operation	
National co-operation and coordination (R.31)	No recommendations.
The Conventions and UN Special Resolutions (R.35 & SR.I)	No recommendations.
Mutual Legal Assistance (R.32, 36-38, SR.V)	-Ventilate statistics in criminal and civil cases, assistance granted or refused, ingoing or outgoing, nature of the offence, ML or TF related. - Start discussions on an asset forfeiture fund.
Extradition (R.32, 37 & 39, & SR.V)	More specification in statistics.
Other Forms of Co-operation (R.32 & 40, & SR.V)	Ensure that supervisors are engaging in international assistance and that meaningful annual statistics are kept showing requests granted, refused etc.
7. Other Issues	
Other relevant AML/CFT measures or issues	
General framework – structural issues	Basically everything is in place, certainly in terms of legal framework, to produce results in terms of convictions and asset recovery. The TF legal framework still needs to be tested, but should be effective once the text of the offence is fully compatible with SRII. The absence of real law enforcement results in nearly 10 years of implementation of the anti-money laundering regime is becoming alarming.

APPENDIX II

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;

(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;

(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2

Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:

(a) heads of State, heads of government, ministers and deputy or assistant ministers;

(b) members of parliaments;

(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;

(d) members of courts of auditors or of the boards of central banks;

(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;

(f) members of the administrative, management or supervisory bodies of State-owned enterprises.

None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.

The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:

(a) the spouse;

(b) any partner considered by national law as equivalent to the spouse;

(c) the children and their spouses or partners;

(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:

(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;

(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.