

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 22 November 2017

C198-COP(2017)PROG1-MD

## **CONFERENCE OF THE PARTIES**

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

### **FOLLOW UP REPORT REPUBLIC OF MOLDOVA<sup>1</sup>**

Directorate General of Human Rights and Rule of Law - DGI

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<sup>1</sup>Adopted by the Conference of the Parties to CETS 198 at its 9<sup>th</sup> meeting, (Strasbourg, 21-22 November 2017).

## Introduction

This questionnaire for the follow-up report has been drawn up by the Conference of the Parties to seek the progress made by the Party in meeting the deficiencies identified in the assessment report adopted.

## Specific questions

### A. Measures to be taken at national level

#### I. General provisions

#### Article 3 – Confiscation measures

##### Recommendations:

To provide for a general applicable definition of “goods” in the General Part of the CC or clarify this issue through appropriate tools, in order to ensure a uniform jurisprudence on the matter.

To take measures to extend the possibility to confiscate instrumentalities used and those intended to be used to commit a criminal offence also to those which do not belong to the perpetrator and are legally obtained.

To review Article 106 of the CC and take measures, as appropriate, to clarify that confiscation of property the value of which corresponds to all proceeds and laundered property is possible.

To consider improving the quality and scope of statistics (so as to enable it to assess the actual effectiveness of confiscation measures in ML, TF and all predicate offences) and to ensure that the provisions on confiscation and provisional measures are properly and effectively applied.

##### Measures adopted and implemented:

*Please, provide a brief update on the legislation adopted to meet the recommendations in relation to confiscation measures. Please provide statistics and any information which demonstrates effective implementation.*

New amendments to the Criminal Code and Criminal Procedure Code were adopted by the Parliament aiming at implementing all the recommendations of the 4th round MER on Moldova and those of the assessment report on Moldova of the Conference of the Parties to the CETS 198 with regard to special confiscation, seizure, terrorism, financing of terrorism and corporate criminal liability. The Law was adopted by the Parliament on 07.04.2016 and published in the Official Monitor on 06.05.2016 (Law 60 of 07.04.2016 - in force since the moment of publication).

In order to provide for a general applicable definition of “goods” in the General Part of the CC, the Law 60 of 07.04.2016 for amending and completing some legislative acts introduced the new article 132<sup>1</sup> in the CC, that defines the notion of „goods”. In accordance with the above mentioned article:

*„Article 132<sup>1</sup> Goods*

*Goods, within the meaning of art. 106 (which refers to the confiscation of property), 243 (regarding the money laundering offence) and 279 (regarding the financing of terrorism offence), include financial means, any category of values (assets), whether corporeal or incorporeal, movable or immovable, tangible or intangible and acts or other legal instruments in any form, including electronic or digital, evidencing title or interest in such values (assets).”*

The Law 60 of 07.04.2016 amended the confiscation regime provided in the article 106 of the CC as follows:

*„Art. 106 Special confiscation*

*(1) Special confiscation is the forced and free transfer to the state property of the goods specified in par. (2). If these goods do not exist anymore, cannot be found or cannot be recovered, their corresponding value is confiscated.*

*(2) The following goods (including foreign exchange values) shall be subject to special confiscation:*

*a) used or intended to be used to commit an offence;*

*b) resulted from offences, as well as any incomes from these goods;*

*c) provided to determine the commission of an offence or to pay the perpetrator;*

*e) possessed contrary to legal provisions;*

*f) converted or transformed, partially or integrally, from goods resulting from offences and from revenues accrued from such goods;*

*g) which constitute the object of money laundering or financing terrorism offences.*

*(2<sup>1</sup>) If the goods resulting from offences and the revenues from these goods have been mixed with the legally obtained goods, the part of the goods or their equivalent value that corresponds to the value of the goods resulting from offences and the revenues from these goods is confiscated.*

*(3) If the goods mentioned at paragraph (2) letter a) and letter b) belong or were onerously transferred to a person who did not know or shouldn't have known about the purpose of using or the origin of the goods, their corresponding value is confiscated. If the goods mentioned in this paragraph were transferred free of charge to a person who did not know or shouldn't have known about the purpose of using or the origin of the goods, the goods are confiscated.*

*(4) Special confiscation may be applied even in cases when a criminal punishment is not established for the perpetrator.*

*(5) Special confiscation is not applied in the case of crimes committed through a press agency or any other type of mass media.”*

Die to amendments to Article 106 of the CC, letter d) was excluded, being covered fully by the text of the letter b).

The new amendments bring the desired clarity with regard to the confiscation of instrumentalities used and those intended to be used to commit an offence which do not belong to the perpetrator and are legally obtained.

The new wording ensures that the confiscation will be applied regardless whether the goods belong to the perpetrator or a third party (especially mala fide third party, as there are special provisions on the goods transferred to the bona fide third party).

The new para. (3) was introduced in order to clarify how to apply the confiscation regime when the good were transferred (onerously and free of charge) to a bona fide third party - who did not know and shouldn't have known about the origin and the purpose of using the goods. Thus, when the goods were transferred free of charge to a bona fide third party, they will be confiscated. When they were transferred onerously, their equivalent value will be confiscated.

In order to clarify that confiscation of property the value of which corresponds to all proceeds and laundered property is possible, the second sentence from the para. (1) of the art.106 of the CC sets the obligation to confiscate the corresponding value of any goods liable to confiscation, if the latter do not exist anymore, cannot be found or cannot be recovered.

**Statistics on confiscation:**

Special Confiscation is mandatory, that is why it applies to all categories of offences. The following statistics can be provided in relation to the confiscated property. For more statistics, please consult the Annex of this document.

**Statistics on confiscation for 2015**

<b>Nr.</b>	<b>Criminal Code offence</b>	<b>Number of convicted persons with the application of special confiscation</b>	<b>Total value of confiscated assets</b>
1.	Theft, Robbery, Burglary	1	<b>MDL</b> – 2.236.799;
2.	Illegal trafficking in narcotics	3	<b>EUR</b> – 4.540; <b>USD</b> – 400;
3.	Smuggling	12	<b>Cars</b> – 3;
5.	Other offences	39	<b>Other assets</b> – firearms and ammunition, phones, computers, cigarettes

### Statistics on confiscation for 2016

Nr.	Criminal Code offence	Number of convicted persons with the application of special confiscation	Total value of confiscated assets
1.	Theft, Robbery, Burglary	1	<b>MDL – 1.754.151,42 ;</b> <b>EUR – 8.670;</b> <b>USD – -;</b> <b>UAH- 2.312;</b> <b>Cars – 1</b> <b>Assets in value of – 892.678,74 MDL;</b> <b>Other assets – firearms and ammunition, phones, computers, cigarettes</b>
2.	Illegal trafficking in narcotics	5	
3.	Smuggling	14	
5.	Other offences	18	

### Statistics on confiscation for 2017(6 months)

Nr.	Criminal Code offence	Number of convicted persons with the application of special confiscation	Total value of confiscated assets
1.	Theft, Robbery, Burglary	-	<b>MDL – 3.187.733,10 ;</b> <b>EUR –20.360 ;</b> <b>USD – 612;</b> <b>Cars --;</b> <b>Assets in value of – 997.822 MDL.</b>
3.	Illegal trafficking in narcotics	2	
4.	Smuggling	7	
5.	Other offences	11	

### **Statistics on confiscation (provided by Anticorruption Prosecutor Office according the convictions in the first instances)**

	2014	2015	2016	8 months 2017
Number of convictions with the application of confiscation	3	4	8	29
Total value of confiscated assets	206.495 MDL	610.200 MDL	481.668.465 MDL	2.436.365 MDL

## Article 6 – Management of frozen or seized property

### Recommendations:

To carry out a stock taking exercise of the current measures in place and take further legislative and institutional measures to address the issues mentioned above, so as to ensure an adequate implementation of Article 6 of the Convention.

To revisit procedures in place and to ensure that a clear procedure for managing seized (and frozen) property is set out, in line with the requirements of Article 6.

To consider developing its data and statistics maintained regarding the “chain” of identified proceeds of crime, instrumentalities and other categories of assets which may be confiscated, starting from identification during criminal investigation phase, seizures, and confiscation ordered by courts and last the effective valorization of confiscated assets.

### Measures adopted and implemented:

*Please, provide a brief update on the measures taken to ensure proper management of frozen or seized property, according with article 6 CETS No. 198. Please provide relevant legal provisions and statistics which demonstrate effective implementation.*

In accordance with the confiscation regime amendments to the CC, the Law 60 of 07.04.2016 envisages amendments to the regime of seizure that is set out in the CPC (art.202 - 210). The latter improved the regime of seizure in order to widely apply the sequestration of goods or their equivalent liable to confiscation.

In order to improve as well the regime of the search of proceeds of crime or their equivalent and the regime of their managing, the Law 49 of 30.03.2017 for completing some legislative acts established a new article 207<sup>1</sup> and a new chapter „The criminal assets recovery” (art.229<sup>1</sup> - 229<sup>7</sup>) in the CPC, that set out the procedures of performing the parallel financial investigation and managing proceeds of crime.

According to these new provisions the management of these assets is performed by the Ministry of Finance or by the new created Agency for Criminal Assets Recovery within the National Anticorruption Centre. The latter was established by the Law 48 of 30.03.2017, entered into force on 19.05.2017. The technical mechanism is the subject of further development and approval by the Government. The purpose of the Law is to develop capacities and tools in order to recover criminal assets, in particular in connection with corruption and money laundering crimes, by establishing the Agency for Criminal Assets Recovery and creating the necessary legal framework for criminal investigation, accumulation of evidence by means of parallel financial investigations, interdepartmental cooperation and international legal assistance, as well as the preservation, evaluation, administration and return of criminal assets.

Regarding the data and statistics:

The Agency for the Recovery of Criminal Goods ensures the maintenance of a single record of information on the managed preserved criminal assets, inclusively by creating a specialized database for this purpose (art.12 of the Law on the Agency for Criminal Assets Recovery).

Due to the recent establishment of the unit, there are no statistics available on its activity.

## **Article 7 – Investigative powers and techniques**

### Recommendations:

To take additional measures in order to fully implement the relevant aspects under Article 7 of the Convention, and in particular to:

a. ensure that monitoring of accounts is permissible in respect of all the relevant criminal offences in accordance with the Convention's provisions.

b. review the legal framework so as to clearly prohibit any disclosures by banks to customers or third persons that information has been sought or obtained at pre-investigative stage;

To consider any further practical measures to expedite the processes through which law enforcement authorities may determine whether a natural or legal person is a holder or beneficial owner of accounts in Moldova.

### Measures adopted and implemented:

*Please, provide a brief update on the relevant legislative and other measures adopted in relation to investigative powers and techniques. Please provide relevant legal provisions and statistics which demonstrate effective implementation.*

As it was stated in the Assessment Report of the Conference of the Parties to CETS no.198 on the Republic of Moldova from 01.10.2014, „the Article 132/1 of the CPC sets out the scope of the special investigative activity and establishes that the special measure enumerated in Article 132/2 could be undertaken only in cases of serious crimes, extremely serious crimes and exceptionally serious crimes.” But the wording of the art.132/1 para (2) p.2) of the CPC ends with the text „with the exceptions set out by the law”. In this respect, the special investigative techniques of monitoring and control of the financial transactions and the access to the financial information are liable to be performed, as exception settled by the art.134/2 para (2) of the CPC, within the investigations of crimes named in the exhausted list provided by the para (2). These offences are prescribed by the articles 158, 165, 165<sup>1</sup>, 189-192, 196, 199, 206, 208, 209, 217–217<sup>5</sup>, 220, 236, 237, 239–248, 251–253, 255, 256, 278, 279, 279<sup>1</sup>, 279<sup>3</sup>, 283, 284, 290, 292, 301<sup>1</sup>, 302, 324–327, 330<sup>1</sup>, 333, 334, 343, 352, 361 și 362<sup>1</sup> of the CPC.

The art.279<sup>3</sup> „The travelling abroad in terrorist scope” was introduced as a new offence in the CC and in the latter list by the Law 119 of 23.06.2017.

*Regarding the non-disclosure provisions:*

On 30 of December 2016 the Government adopted the decision N 1458 on approving the draft Law on preventing and combating money laundering and financing of terrorism.

Consecutively the debates and examination of this law has been moved in Parliament of Republic of Moldova, which on 30 of March 2017 after complex examination has adopted in first reading the draft Law on preventing and combating money laundering and financing of terrorism.

The scope of the Law is to transpose the provisions of IVth EU Directive (Directive (EU) 2015/849 of the European Parliament and the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or financing of terrorism, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC), to implement the requirements of FATF 40 Recommendations (2012) and consecutively to redress remains deficiencies in relation to key and core FATF recommendations R5, R13, R23, SRI, SRIII and SRIV (2004) identified by IVth MONEYVAL Mutual Evaluation Report of Republic of Moldova.

In accordance with the provision of the new AML/CFT Law, "Obligated entities, their directors, employees and their representatives shall not disclose to the customer concerned or to other third persons the fact that information has been transmitted in and to the Office for Prevention and Fight against Money Laundering in accordance with the Law on preventing and combating money laundering and terrorist financing and or that a money laundering or financing of terrorism analysis is being, or may be, carried out (art. 12 para. (1))".

In accordance with art. 14 para. (3) of the Law on the Agency for the Recovery of Criminal Goods:

„Relevant data providers are prohibited from informing natural and legal persons, including beneficial owners, that their data is to be transmitted or has been transmitted to the Agency for the Recovery of Criminal Goods. Relevant data providers will submit a written statement about the non-disclosure of the information submitted to the Agency and the fact that they have been informed of the criminal liability under art. 315 of the Criminal Code" (which establishes liability for disclosing data from a criminal investigation).

*Regarding the practical measures to expedite the processes through which law enforcement authorities may determine whether a natural or legal person is a holder or beneficial owner of accounts in Moldova: In accordance with the new AML/CFT law approved in the thirst reading,art.14, Transparency rules it was stated the following obligation to the State Registration Chamber "1. SE "State Registration Chamber" shall identify the beneficial owners at state registration of legal entities and individual entrepreneurs. 2. SE "State Registration Chamber" shall maintain and update annual data on beneficial owners using diverse and independent sources.3. Legal entities and individual entrepreneurs are obliged to submit to SE "State Registration Chamber" the requested information on beneficial owners. 4. Legal entities and individual entrepreneurs are obliged to inform promptly the SE "State Registration Chamber" on the change of the beneficial owners.*



5. State registration of legal entities and individual entrepreneurs shall not occur in the absence of data on the beneficial owner and/or information submitted is not true. 6. The data gathered by the SE "State Registration Chamber", including on beneficial owners shall be available upon request to the Office for Prevention and Combating of Money Laundering, supervisory bodies of reporting entities and reporting entities referred to in Article 4 only on enforcement of this law." In accordance with the chapter IV of the new AML/CFT Law, art.19, para. (1) "For enforcement of this law, the Office for Prevention and Combating of Money Laundering shall perform the following duties: "a) Receives, records, analyzes, processes and disseminate to competent authorities the information on the suspicious activities and transactions of money laundering, offenses associated with money laundering and terrorism financing, submitted by reporting entities, and other relevant information obtained under this law; b) Notifies promptly the competent law enforcement bodies once there were reasonable suspicions on money laundering, terrorism financing or other offenses that have resulted in obtaining of illicit income, as well as the Office for Prevention and Combating of Money Laundering in what concerns terrorism financing;"

## **Article 9 – Laundering offences**

### Recommendations:

To issue guidance for the judiciary in respect of money laundering cases to familiarize in particular investigators, prosecutors with the mandatory requirements of article 9 paragraphs 5 and 6 of the Convention so that they can challenge the courts with such cases.

To continue strengthening the understanding of practitioners on the mandatory provisions of the Convention under article 9 through on-going multidisciplinary training of judges and prosecutors on these aspects.

### Measures adopted and implemented:

*Please, provide a brief update on the relevant legislative and other measures adopted in relation to money laundering offence. Please provide relevant legal provisions and examples, cases or statistics which demonstrate effective implementation.*

Within the recently launched joint EU/CoE project "Controlling Corruption through Law enforcement and Prevention" CLEP Project , it were included as long term actions referring to consolidation the operational capacities of the judiciary and continuing strengthening the understanding of the practitioners of the provision of Convention by ongoing multidisciplinary training of judges and prosecutors.

## Article 10 – Corporate liability

### Recommendations:

To take further measures, as appropriate, to facilitate the understanding of the scope of liability of legal persons at domestic level, by clarifying, in a consistent manner, who is the natural person who has a leading position within the legal person with a view of establishing the liability of legal person, in order to cover all the hypothesis described by article 10 (1) of the Convention.

To take additional steps to facilitate the use of corporate liability mechanisms by judicial authorities (guidance documents, instructions etc.) in money laundering cases, in the various circumstances envisaged by Article 10 of the Convention (including in case of lack of supervision).

### Measures adopted and implemented:

*Please, provide a brief update on the relevant legislative and other measures adopted for the corporate liability of legal persons. Please provide relevant legal provisions and statistics or other relevant information which demonstrate effective implementation together with examples of criminal, administrative or civil sanctions imposed.*

New amendments to the Criminal Code and Criminal Procedure Code, provided by Law 60 of 07.04.2016, aimed the implementation of the recommendations of the 4th round MER on Moldova and those of the assessment report on Moldova of the Conference of the Parties to the CETS 198 with regard to corporate criminal liability.

Article 21 para. (3) CC RM (amended by the Law N. 60 from 7th of April 2016 for amending and completing some legislative acts) establishes the liability of legal person. For the purpose of this article:

*„(3) A legal entity, except for public authorities, shall be subject to criminal liability for an act set forth in criminal law, if it is guilty of failure to comply or improper compliance with direct legal provisions defining obligations or prohibitions to perform a certain activity, and at least one of the following conditions is applicable:*

- a) the act was committed for the benefit of the legal entity by a natural person who has a leading position within the legal entity, acting either individually or as part of an organ of the legal entity;*
- b) the act was admitted, authorized, approved or used by the natural person who has a leading position within the legal entity;*
- c) the act was committed by the lack of supervision or control by the natural person who has a leading position within the legal entity.”*

The new para (3<sup>1</sup>) introduced at the article 21 of the CC defines who is the natural person who has a leading position within the legal person with a view of establishing the liability of legal person:

*„(3<sup>1</sup>) The natural person is considered to have a leading position within the legal entity, if it has at least one of the following functions:  
a) a power of representation of the legal entity;  
b) an authority to take decisions on behalf of the legal entity;  
c) an authority to exercise control within the legal entity.”*

**Statistics:**

	2013	2014	2015	2016	8 months 2017
Nr. of conviction cases	10	33	38	18	10
Nr. of convicted legal persons	19	35	40	19	12

## **International co-operation**

### **I. Investigative assistance**

#### **Article 17 – Requests for information on bank accounts**

##### Recommendations:

The Moldovan legal framework and procedures in place for implementing Article 17(1) of the Convention would need to be further expanded and clarified in order to ensure that they can be fully implemented. Further clarifications and clear procedures should be available to give certainty to other Parties in respect of firstly, which Moldovan authority they should address to identify whether a financial institution in Moldova holds accounts of a natural or legal person under investigation and based on which procedure, and secondly then the aspects related to MLA requests and related conditions for executing a request for banking information and documentation.

##### Measures adopted and implemented:

*Please, provide a brief update on the legislation, regulations or other measures adopted to meet the recommendations in relation to requests for information on bank accounts. Please provide relevant legislative provisions or describe the process/procedure together with statistics which demonstrates effective implementation.*

The national authorities in order to strengthen the AML/CFT regime and to create clear procedure of the enforcement of the legal provision via enhancing the legal framework as well as developing international cooperation mechanism, within the context of the article 17 of the Convention were elaborated and are in process of finalization a Project Fish for EU TWINING PROJECT that has as one of the objectives the development of the international cooperation.

In order to establish the clear understandable guidance for prosecutors in the field of financial investigations including receiving of information on bank accounts, the General Prosecutor of Moldova issued Order nr. 11-3d/17-1854 from 18.05.2017.

## **Confiscation**

### **Article 23 – Obligation to confiscate**

Recommendations:

To ensure that specific measures are in place in accordance with Article 23 paragraph 5 of the Convention and that it can co-operate to the widest extent possible under domestic law with Parties that seek assistance in the execution of measures equivalent to confiscation leading to the deprivation of property which are not criminal sanctions, within the meaning of the Convention's provisions.

Measures adopted and implemented:

*Please, provide a brief update on the legislation or other measures adopted for the co-operation or assistance on the execution of measures equivalent to confiscation.*

A new created Agency for Criminal Assets Recovery within the National Anticorruption Centre, established by the Law 48 of 30.03.2017, entered into force on 19.05.2017 is responsible for international cooperation and assistance in the field of identification and seizure of property according to the request of foreigner counterpart.

**Article 25 – Confiscated property**

Recommendations:

Moldova should ensure that its domestic law or administrative procedures enable it to give special consideration to concluding agreements or arrangements on asset sharing with other Parties.

Measures adopted and implemented:

*Please, provide a brief update on the legislation, or other measures adopted to meet the recommendations in relation to confiscated property. Please provide relevant legislative provisions or statistics which demonstrates effective implementation.*

According to new provisions of the CPC, article 229<sup>5</sup> para. (2), introduced by the Law 49 of 30.03.2017, criminal assets that are abroad, shall be repatriated to the Republic of Moldova, and those that are in the Republic of Moldova related to offenses committed abroad, may remain in the Republic of Moldova or be transmitted to the appropriate foreign state in the framework of international legal cooperation.

In accordance with the art. 13 of the Law 48 of 30.03.2017 on the Agency for the Recovery of Criminal Goods:

„(1) The Agency for the Recovery of Criminal Goods shall send and receive information and documents, exchange information and documents, ex officio or upon request, with foreign and / or international authorities competent in the field of recovery of criminal assets, regardless of their status, on reciprocity principles or cooperation agreements, subject to compliance with applicable national and international standards in the field of personal data protection.

(2) The Agency for the Recovery of Criminal Goods communicates with the foreign competent authorities on the value of criminal assets repatriated to the Republic of Moldova or, as the case may be, in other states, taking into account the contribution and expenses incurred in connection with the prosecution of criminal assets, the accumulation of evidence. The administration and recovery of criminal assets that are preserved or confiscated, on the basis of reciprocity or in accordance with the provisions of international agreements.”

## **II. Refusal and postponement of co-operation**

### **Article 28 – Grounds for refusal**

#### Recommendations:

To consider developing a general reference material or practical guidelines with cover the practical aspects of mutual legal assistance which can be provided to State Parties to CETS no°198, with commentaries of relevant legal provisions and how these may be applied in the context of the grounds for refusal of requests. This would enable to clarify whether the two provisions set out above may impact on requests made on the basis of the Convention.

#### Measures adopted and implemented:

*Please, provide a brief update on the legislation, or other measures adopted to meet the recommendations in relation to grounds for refusal.*

No progress.

### **III. Procedural and other general rules**

#### **Article 34 – Direct communication**

##### Recommendations:

To consider using the option set out in Article 34(2) enabling urgent requests to be sent directly by the judicial authorities of the requesting Party to the authorities of the requested Party, with a copy to central authorities.

##### Measures adopted and implemented:

*Please, provide a brief update on the legislation, or other measures adopted to meet the recommendations in relation to direct communication between authorities. Please provide relevant legislative provisions or statistics which demonstrates effective implementation.*

In accordance with the art. 13 of the Law 48 of 30.03.2017 on the Agency for the Recovery of Criminal Goods:

„(1) The Agency for the Recovery of Criminal Goods shall send and receive information and documents, exchange information and documents, ex officio or upon request, with foreign and / or international authorities competent in the field of recovery of criminal assets, regardless of their status, on reciprocity principles or cooperation agreements, subject to compliance with applicable national and international standards in the field of personal data protection.

(2) The Agency for the Recovery of Criminal Goods communicates with the foreign competent authorities on the value of criminal assets repatriated to the Republic of Moldova or, as the case may be, in other states, taking into account the contribution and expenses incurred in connection with the prosecution of criminal assets, the accumulation of evidence. The administration and recovery of criminal assets that are preserved or confiscated, on the basis of reciprocity or in accordance with the provisions of international agreements.”

### **IV. Co-operation between Financial Intelligence Units**

#### **Article 46 – Co-operation between FIUs**

##### Recommendations:

To consider further implementing steps to reflect the requirements of paragraphs 6 and 12 of Article 46 in the AML/CFT Law and implementing regulations.

Moldova should also consider introducing any further practical measures to expedite the processes through which law enforcement authorities may determine whether a natural or legal person is a holder or beneficial owner of accounts in Moldova.

Measures adopted and implemented:

*Please, provide a brief update on the legislation, or other measures adopted to meet the recommendations of co-operation between FIUs. Please provide examples or statistical data which demonstrates effective implementation.*

In order to implement the recommendation received the following updates were included in the new AML/CFT Law that obliged the national public authority “State registration Chamber” to act as a reporting entity, under the art. 4, para. (4) and to effectuate the following measures: SE “State Registration Chamber” shall identify and periodically update the information on the beneficial owners of natural and legal persons during their registration, record of changes in the constituent documents of legal entities, state registration of reorganized legal persons and exclusion of legal persons from the State Register. A separate article in the AML/CFT Law, art.14 is referring to the transparency rules: **Article 14.** *“Transparency rules. SE “State Registration Chamber” shall identify the beneficial owners at state registration of legal entities and individual entrepreneurs. SE “State Registration Chamber” shall maintain and update annual data on beneficial owners using diverse and independent sources. Legal entities and individual entrepreneurs are obliged to submit to SE “State Registration Chamber” the requested information on beneficial owners. Legal entities and individual entrepreneurs are obliged to inform promptly the SE “State Registration Chamber” on the change of the beneficial owners. State registration of legal entities and individual entrepreneurs shall not occur in the absence of data on the beneficial owner and/or information submitted is not true. The data gathered by the SE “State Registration Chamber”, including on beneficial owners shall be available upon request to the Office for Prevention and Combating of Money Laundering, supervisory bodies of reporting entities and reporting entities referred to in Article 4 only on enforcement of this law. The Ministry of Justice shall determine the manner to identify the beneficial owners, of record-keeping information about the beneficial owners and rules for access to this information by third parties.”*

In accordance with the provision of the draft AML/CFT Law (nr. 22 of 3 February 2017), which passed the first reading in the Parliament, art.17 establishes the legal framework of national and international cooperation:

*Point 11: The Office for Prevention and Fight Against Money Laundering and Oversight Bodies may refuse the request for information if it is not finalized in accordance with the provisions of this law or the applicant applies standards in the field of prevention and combating money laundering and terrorism financing that are lower than those provided by this law.*



Paragraph 4: *At the international level, the Office for Prevention and Fight Against Money Laundering can perform, on its own or upon request, the submission, receiving or exchanging information and documents with similar Offices in other jurisdictions, irrespective of their status on the principle of reciprocity or on the basis of cooperation agreements, provided the similar requirements of confidentiality under this law.*

The FIU provides feedback to the foreign FIUs based on the request received. After having carried out the analysis in the process of drafting the new AML/CFT Law, the provision to provide for feedback is included in the legal substance of Art.17 of the draft Law.

#### **Article 47 – Internal co-operation for postponement of suspicious transactions**

##### Recommendations:

To consider introducing in the AML/CFT Law the already existing measures related to the postponement of suspicious transaction.

##### Measures adopted and implemented:

*Please, provide a brief update on the legislation or other measures adopted to meet the recommendations of co-operation for postponement of suspicious transactions. Please provide information which demonstrates effective implementation.*

In order to implement the received recommendation it was introduced a new provision in the AML/CFT Law on the prevention and fight against Money Laundering and Terrorist Financing (nr. 22, 3 February 2017), Chapter V, art.20” Safety precautions”

(1) The reporting entities, the Office for Prevention and Combating of Money Laundering, supervisory bodies and law enforcement bodies in accordance with the functional skills shall apply effective measures for the identification, tracing, stopping, seizing and confiscation of the assets which came from money laundering, associated offenses, terrorism financing and financing the proliferation of mass destruction weapons.

(2) The Office for Prevention and Combating of Money Laundering in case of establishing the suspicions of money laundering based on the information received in accordance with this law, including requests of similar services from other jurisdictions, in order to apply safety precautions, shall issue decisions to stop the execution by the reporting entities of the suspicious activities or transactions, to apply restrictions on goods suspected of being associated with money laundering for a period of up to 30 working days, and shall inform the natural person or legal entity subject to seizure.

It is expected that this Law will be approved and enter into force by December 2017, as it has just passed the first reading in the Parliament.

Please refer to the following statistical data, as well as the statistics in the Annex to this document:

Nr.	0	2	0
(3) Decision of foreign FIUs received for postponement of transactions	2015	2016	2017 (09 moths)
Decision sent to foreign FIUs for postponement of transactions	2015	2016	2017 (09 moths)
Nr.	2	1	2



Art. 165 Trafficking of human beings	37	39	46	26	47	51	77	54	86	56	109	18
Art. 168 Forcing to labor	-	-	-	-	-	-	-	-	-	-	-	-
Art. 206 Trafficking of children	9	11	9	7	11	13	25	9	26	12	24	9
Art. 362 <sup>1</sup> Organization of illegal migration	-	-	-	-	-	-	-	-	-	-	-	-
Art. 208 Attract of minors to the criminal activity or determination for committing the immoral acts	-	-	-	-	-	-	-	-	-	-	-	-
<b>Sexual exploitation, including sexual exploitation of children</b>												
Art. 206 Trafficking of children	9	11	9	7	11	13	25	9	26	12	24	9
Art. 208 <sup>1</sup> Children's pornography	-	-	-	-	-	-	-	-	-	-	-	-
Art. 208 <sup>2</sup> Recourse to children's prostitution	-	-	-	-	-	-	-	-	-	-	-	-
Art. 220 Pimping	-	-	-	-	-	-	-	-	-	-	-	-
<b>Illicit trafficking in narcotic drugs and psychotropic substances</b>												
Art. 217 Illegal circulation of narcotic and psychotropic substances or their analogues without sale purpose	945	920	736	351	719	685	398	678	447	606	476	337
Art. 217 <sup>1</sup> Illegal circulation of narcotic and psychotropic substances or their analogues in sale purpose	-	-	-	-	-	-	-	-	-	-	-	-

Art. 217 <sup>2</sup> Illegal circulation of precursors in purpose of production or processing of the narcotic or psychotropic substances or their analogues	-											
	-	-	-	-	-	-	-	-	-	-	-	-
Art. 217 <sup>3</sup> Illegal circulation of materials or machinery for production or processing of the narcotic or psychotropic substances or their analogues	-	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-	-	-
Art. 217 <sup>4</sup> Theft or extortion of narcotic or psychotropic substances	-	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-	-	-
Art. 217 <sup>5</sup> Public illegal consuming or organization of illegal consuming of the narcotic or psychotropic substances or their analogues	-	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-	-	-
Art. 217 <sup>6</sup> Deliberate illegal introduction in body of another person, without he's/she's consent of the narcotic or psychotropic substances or their analogues	-	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-	-	-
Art. 218 The illegal prescription of narcotic or psychotropic substances												
<b>Illicit arms trafficking</b>												
Art. 290 Illegal carrying, storage, acquisition, manufacturing, repairing and sale of firearms and ammunition	<b>75</b>	<b>64</b>	<b>75</b>	<b>27</b>	<b>57</b>	<b>48</b>	<b>32</b>	<b>59</b>	<b>24</b>	<b>62</b>	<b>34</b>	<b>16</b>
	-	-	-	-	-	-	-	-	-	-	-	-
Art. 292 Manufacturing, purchase,												

processing, storage, shipment, usage or neutralization of the explosive and radioactive materials												
<b>Illicit trafficking in stolen and other goods</b>	-	-	-	-	-	-	-	-	-	-	-	-
<b>Corruption and bribery</b>												
Art. 191 (2) d) The embezzlement of other's property, committed by use of official responsibilities	<b>102</b>	<b>79</b>	<b>106</b>	<b>37</b>	<b>49</b>	<b>43</b>	<b>76</b>	<b>64</b>	<b>144</b>	<b>93</b>	<b>147</b>	<b>32</b>
	-	-	-	-	-	-	-	-	-	-	-	-
Art. 256 Receiving of illicit remuneration from citizens for the performance of works related to providing services to people	<b>53</b>	<b>46</b>	<b>57</b>	<b>33</b>	<b>63</b>	<b>45</b>	<b>76</b>	<b>64</b>	<b>94</b>	<b>64</b>	<b>110</b>	<b>46</b>
Art. 324 Passive Corruption + art. 325 Active corruption	-	-	-	-	-	-	-	-	-	-	-	-
Art. 326 Traffic of influence	<b>38</b>	<b>38</b>	<b>19</b>	<b>14</b>	<b>33</b>	<b>30</b>	<b>41</b>	<b>25</b>	<b>47</b>	<b>26</b>	<b>48</b>	<b>10</b>
Art. 327 Misuse of official powers or misuse of service	<b>2</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>6</b>	<b>2</b>	<b>4</b>	<b>2</b>	<b>1</b>
Art. 333 Taking of the bribe	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Art. 334 Giving of the bribe	<b>8</b>	<b>4</b>	<b>8</b>	<b>3</b>	<b>5</b>	<b>2</b>	<b>13</b>	<b>5</b>	<b>15</b>	<b>10</b>	<b>16</b>	<b>4</b>
Art. 335 Abuse of duties (service)												
<b>Fraud</b>												
Art. 190 Fraud	<b>300</b>	<b>226</b>	<b>325</b>	<b>168</b>	<b>343</b>	<b>252</b>	<b>744</b>	<b>321</b>	<b>800</b>	<b>311</b>	<b>840</b>	<b>188</b>
Art. 196 Causing of material damage through by deception or misuse of	-	-	-	-	-	-	-	-	-	-	-	-

trust	<b>34</b>	<b>25</b>	<b>15</b>	<b>9</b>	<b>24</b>	<b>22</b>	<b>7</b>	<b>16</b>	<b>7</b>	<b>4</b>	<b>11</b>	<b>2</b>
Art. 238 Obtaining a credit by fraud	-	-	-	-	-	-	-	-	-	-	-	-
Art. 255 Deceiving of customers												
<b>Counterfeiting currency</b>												
Art. 236 The manufacturing or bringing into circulation of counterfeited money and securities	<b>16</b>	<b>24</b>	<b>13</b>	<b>6</b>	<b>8</b>	<b>12</b>	<b>14</b>	<b>9</b>	<b>9</b>	<b>29</b>	<b>3</b>	<b>12</b>
Art. 237 Fabrication or distribution of cards or other false pay checks	-	-	-	-	-	-	-	-	-	-	-	-
<b>Counterfeiting and piracy of products</b>	-	-	-	-	-	-	-	-	-	-	-	-
<b>Environmental crime</b>	<b>4</b>	<b>3</b>	<b>7</b>	<b>3</b>	<b>7</b>	<b>9</b>	<b>2</b>	<b>8</b>	<b>5</b>	<b>9</b>	<b>7</b>	<b>10</b>
Art. 136 Ecocide												
Art. 223 Violation of the environmental security requirements												
Art. 224 Violation of the rule of circulation of toxic, radioactive and bacteriological materials												
Art. 225 Concealment or deliberate presentation of unauthentic data regarding pollution of the environment												
Art. 226 Non-fulfillment of obligations regarding elimination of consequences of environmental violations												
Art. 227 Soil pollution												
Art. 228 Violation of soil protection												

requirements Art. 229 Water pollution Art 230 Air pollution Art. 231 Illegal clearing of forest vegetation Art. 232 The destruction of or damage to large forest tracts Art. 233 Illegal hunting Art. 234 Illegal fishing, hunting or other water exploitation Art. 235 Violation of the regime of protection and administration of natural areas protected by the state												
<b>Murder, grievous bodily injury</b>												
Art. 145 Deliberate murder	<b>160</b>	<b>158</b>	<b>142</b>	<b>73</b>	<b>137</b>	<b>146</b>	<b>88</b>	<b>166</b>	<b>76</b>	<b>156</b>	<b>77</b>	<b>67</b>
Art. 146 Murder committed in a state of affect	-	-	-	-	-	-	-	-	-	-	-	-
Art. 147 Murder of a newborn infant by the mother	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
Art. 148 Manslaughter with the person's consent (euthanasia)	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Art. 151 Deliberate gross bodily or health harm	<b>206</b>	<b>211</b>	<b>233</b>	<b>96</b>	<b>200</b>	<b>202</b>	<b>119</b>	<b>158</b>	<b>119</b>	<b>169</b>	<b>137</b>	<b>93</b>
Art. 156 Deliberate gross or medium bodily or health harm inflicted in state of affect	-	-	-	-	-	-	-	-	-	-	-	-



<b>Kidnapping, illegal restraint and hostage-taking</b>												
Art. 164 Kidnapping	21	24	32	11	29	32	33	51	33	45	46	17
Art. 164 <sup>1</sup> Kidnapping of the minor by his close relatives	-	-	-	-	-	-	-	-	-	-	-	-
Art. 166 Illegal deprivation of liberty	17	23	15	9	19	14	47	46	45	43	45	22
Art. 280 Taking hostages	1	1	0	0	0	0	2	4	0	0	0	0
Art. 137 part.2 let.b) Inhuman treating with taking hostages	-	0	0	0	0	0	0	0	0	0	0	0
<b>Robbery or theft</b>												
Art. 186 Theft	2273	1449	2085	898	1922	1201	1458	1362	1690	1300	1928	699
Art. 187 Robbery	483	481	450	221	438	425	287	427	322	455	361	229
Art. 188 Burglary	146	193	154	50	108	141	85	147	92	104	101	18
<b>Smuggling</b>												
Art. 248 Smuggling	34	37	31	24	41	59	52	88	69	70	86	39
Art. 249 Evading customs payments	-	-	-	-	-	-	-	-	-	-	-	-
<b>Extortion</b>												
Art. 189 Blackmail	14	15	13	6	12	12	6	11	30	16	35	18
<b>Forgery</b>	-	-	-	-	-	-	-	-	-	-	-	-
<b>Piracy</b>	-	-	-	-	-	-	-	-	-	-	-	-
<b>Insider trading and market manipulation</b>	-	-	-	-	-	-	-	-	-	-	-	-
<b>Other: Please Specify</b>	-	-	-	-	-	-	-	-	-	-	-	-